

conscience

Vol. 10 No. 3

Newspaper of the Hofstra School of Law © 1982

November, 1982



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Two NLO Profs Narrowly Escape Contract Termination

by Peter Shafran and Joe Cassidy

The Neighborhood Law Office (NLO) instructors, Richard Neumann and Alice Moray, were granted new contracts after a faculty committee reportedly recommended the contracts not be renewed. The new contracts run from September, 1983 until August, 1984.

According to Betty Cambridge, an NLO intern, Professors Neumann and Moray called a meeting of student interns to tell them that the faculty probably would not renew their employment contracts. Cambridge said that the instructors felt they were being evaluated by standards "so high, that they would have to be superstars in order to retain their jobs." Cambridge added that they had been evaluated as "excellent" in all categories except in one category in which they received a "good."

Several student interns charged that the faculty was trying to undermine the clinic. Don Walsh, a student intern, stated that, "One of the main reasons I came to this law school was because it had a strong clinical program. However, it seems that some of

the faculty disregards the stability of the clinic and thereby undermine the value of the student's experience."

Had these contracts not been renewed the NLO clinic would have been staffed by newly-hired clinician Ken Rothstein. Cambridge stated, "This would have been setting up the clinic for failure. Since all the students would be new [September, 1983], it would have been the blind leading the blind."

According to Dean Schmertz, the "configuration" of the clinical program is up for review. Schmertz said that the faculty is interviewing for the Director of Clinical Programs, the only clinical position on a tenure track. Schmertz said they were "looking for someone with imaginativeness." Schmertz also stated that "in reviewing the programs the faculty would seek input from the entire law school community."

At the center of the controversy are the standards used to review clinicians. These standards (see p.7) were specially designed by a law school faculty committee. The professors were evaluated by the Community Legal Assistance Corporation (CLAC) Executive Committee and the Faculty Appoint-

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Law Yearbook May Be Saved

by Pete Aloe

PocketPart, the Hofstra Law School yearbook, appeared all but dead from a lack of student interest when second year student Robert Wilk decided to try to save the book. But the chances of a successful rescue were dampened when the student government voted not to fund the book.

Wilk became interested in the yearbook after he read in last month's *Conscience* that *PocketPart* was about to die due to a lack of student interest. Wilk, who graduated from Hofstra, asked undergraduate Larry Deckel to coordinate the yearbook. Deckel had been the club's editor of the undergraduate yearbook, *Nexus*, until he and several other *Nexus* editors were fired by the *Nexus* editor-in-chief in a personality dispute. According to Wilk, Deckel would serve as the "defacto editor-in-chief."

Deckel has been an editor on *Nexus* for over two years. Wilk also claims to have a photography editor and a photographer to help publish *PocketPart*.

Wilk came before the Student Government with a five thousand dollar budget request. The request was for \$4,700 printing; \$200 photography; \$50 recruiting; and \$50 administrative expense. Wilk said that there would be no revenues since the revenues from the '83 book would go to support the '84 book.

Wilk told student government that his hope was to set up the yearbook so that it would be a permanent institution at the Law School. Wilk pointed out that the yearbook was the only result of the student activity fee that would have benefits past the current year.

According to Wilk, the '83 book would be run by former *Nexus* members, who would have the support of law students "learning the ropes." Wilk projected that by 1984, the yearbook could be run by law students, with *Nexus* members serving as outside advisors. Wilk's request, however, failed to garner a

single vote from the student government members. According to Student Government President Jordan Fox, "it was too little, too late." Fox pointed out that Wilk failed to get his budget request in before the deadline and failed to convince student government that he could actually "pull it off." "If we had a lot of money running around, we probably could fund it," added Fox, "but we just don't have the money."

Second-year representative George Patsis expressed his view that the yearbook should be run only by law students. "The interest really ought to come from within the Law School," maintained Patsis. Patsis also expressed the fear that student government would become embroiled in an undergraduate student political fight by taking editors who had been fired from *Nexus*. Treasurer Kathy Sagos also said that she didn't think Wilk was willing to put in the time necessary after Wilk, responding to her question, said that he hoped to put in as little time as needed.

According to Wilk, the yearbook is still not dead, however. Wilk and Fox approached Vice Dean Rabinowitz with the possibility of the administration funding the book.

Wilk told *Conscience* that he discovered \$1,600 left over in the *PocketPart* account. Wilk said that with that \$1,600, plus additional funds from the administration, there is still a possibility of putting out a book. As of this writing, the administration is studying Wilk's proposal.

At this time, Wilk is hoping to be able to publish a yearbook by this April. Last year's yearbook, Wilk said, lost a lot of credibility because it has not yet come out. The '82 yearbook is now expected to come out sometime around Thanksgiving.

"I think if we have a well run yearbook," said Wilk, "people will get excited and want to get involved. I'm certainly hopeful that we can save it, but if we can't, I won't take it personally."

Dean Proposes New Law Building

by Peter Shafran

A proposal for a new law school building was revealed by Dean Schmertz at a Student Government sponsored forum between law school deans and student organization leaders on October 19.

"While we don't have any official plan for the construction of a new building we do have a proposal with all kinds of components, which would result in an entirely new building or another building," Schmertz said. He explained that his proposal hinges upon the economy, an educated assessment by the University Board of Trustees and the law school administration and whether enough funds could be obtained.

"Because the New York Dormitory Authority will not have available funding (due to budget cuts), this plan would consequently require a large amount of private funding," Schmertz said. Funding would be solicited from four major sources, including alumni, professional groups, foundations, and the business community.

"Ultimately, I would like to have a brand new prestigious law building and center, but we don't have the funds and their sources just aren't there. We need initial indications for success; that threshold condition is what we're working on."

In the meanwhile, the Dean announced that additional space will be available to student groups by the second week of the coming spring semester. He indicated new space will be made available on either two floors in Roosevelt Hall or, alternatively, on the third floor of Memorial Hall.



Dean Schmertz

In the wake of the discussion about a new building, Assistant Dean Douglas was asked about the "climate" problem in the existing structure. Douglas quoted Charlie Rubell, Assistant Director of the Plant Department, as saying that the machinery operating the heating/ventilation/air conditioning system is inappropriate for this building. "There is an outstanding order to upgrade the equipment," Schmerz said, adding that Douglas presented a list of necessary improvements to President Shuart that it is currently being "priced out." Schmertz summed up, "we know what has to be done; we're making a real effort."

The next topic of discussion focused on

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Fox Fights For Twin Oaks

by Winnie Gilmore

Jordan Fox, President of the law school's Student Government Association, filed a detailed memorandum with university officials in an attempt to get Twin Oaks tenants refunds because of the department's "specific lack of services." In response to Fox's memo, Executive Dean of Students Mark Dion met with Fox on Oct. 27, but turned down almost all of Fox's demands.

Fox hoped to get refunds for the student tenants because of the inconvenience and discomfort they suffered as a result of University "malplanning." Fox said that these refunds are not sought as a penalty to the University, but rather to reimburse the tenants with money the University saved when air conditioning units were not installed as promised. Fox estimates the energy savings to run about \$26.00 per resident.

Fox also argued for a return of the non-refundable deposits for those students who opted out of their Twin Oaks lease. Fox claims that since the University did not live up to their commitment to supply residential air conditioning, students relying on that service should not be penalized for seeking it elsewhere.

Dion turned down Fox's request for the refund, but said that he would consider providing refunds for students who had asked to

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Conscience is published monthly by the students of Hofstra Law School, Hempstead, New York 11550. *Conscience* is distributed to Hofstra students and law alumni. Application for second class mailing privileges pending at Hempstead, New York. Copies that are undeliverable should be returned to the School of Law.

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Fire Safety System Checks Out

by Rob Reichman and Sabato Caponi

Fire prevention safety system at Hofstra, a hot topic since the Oct. 4 air conditioning system malfunction at the Law School, complies with current regulations, a spot check by *Conscience* has revealed.

According to Hofstra President James Shuart, "We have a 24-hour-a-day control" by Public Safety and the Plant Department, and "have taken all the steps required by the Nassau County Fire Marshal."

The equipment, annually inspected by the Fire Marshal, includes heat sensitive fire detectors, audible fire alarms, and manual fire alarm pull boxes "that must be installed and in good working order," said Thomas Tilley, a Supervising Inspector for the Nassau County Fire Marshal. He added that "you'll always find something wrong," but asserted that most defects, such as an occasional loose wire or worn alarm bell clapper, are minor and easily corrected. Tilley said that during a recent inspection, some minor defects had been found in the Hofstra fire detection systems, but they were quickly rectified.

While Hofstra meets all fire prevention and safety regulations, a law went into effect Apr. 1, 1982 requiring that smoke detectors be installed by Jan. 1, 1985 in all public areas capable of holding 100 or more persons. Hofstra has yet to install all the necessary smoke detectors. Many of the classrooms in the law school, though equipped with heat sensitive fire detection systems, will be directly affected by the new law.

New York State requires that Hofstra test its fire alarms three times a year to ensure that all are in working order. In the past the Plant Department was responsible for periodically inspecting the fire safety apparatus, but Public Safety will assume responsibility for inspections in the near future. Public Safety Supervisors will be given training on inspection procedures beginning Nov. 1, 1982, according to Deputy Director of Public Safety John Fitzgerald.

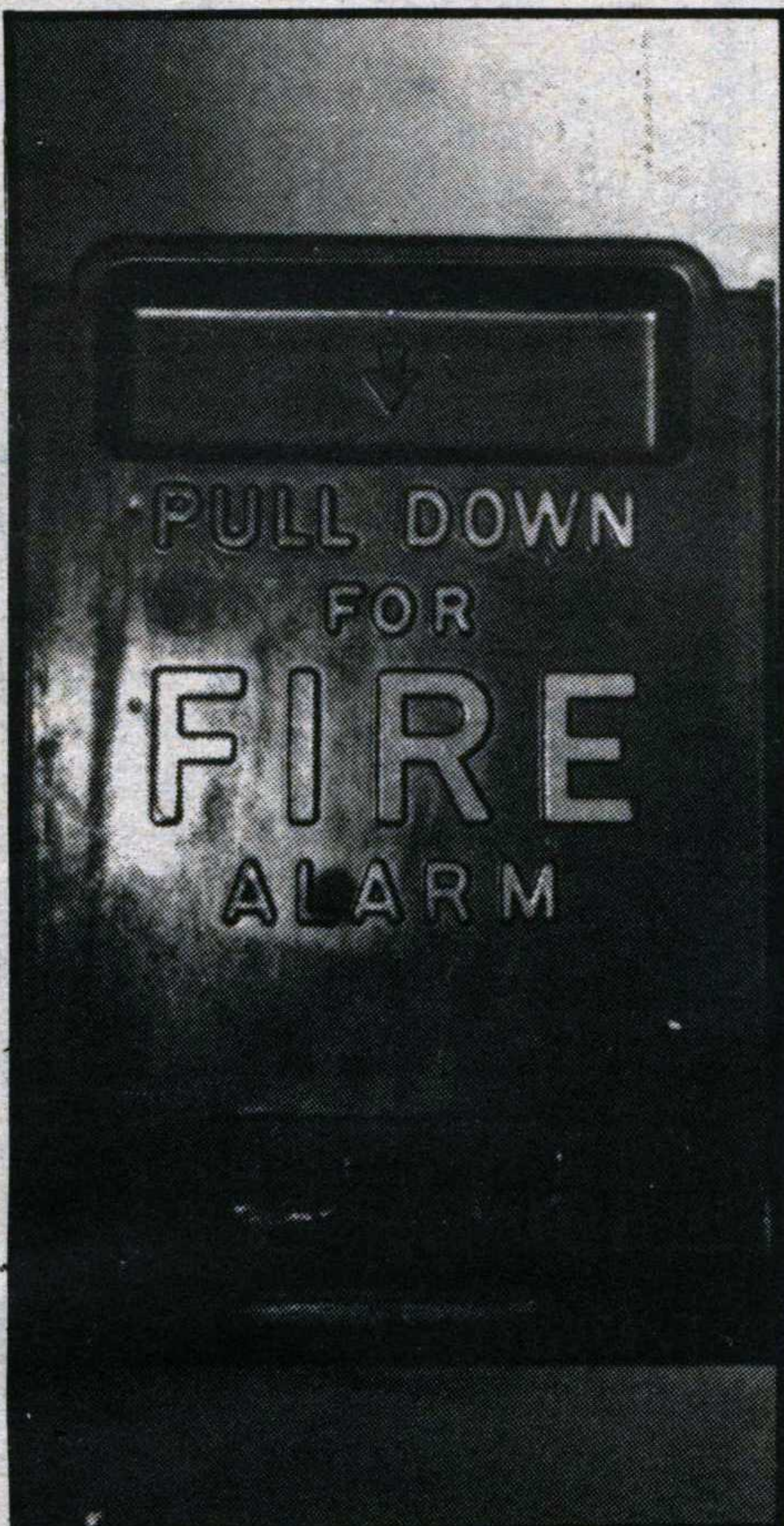


Photo by Tracey Epstein

Charles Churchill, Facilities Manager at the University said his department oversees inspection of fire extinguishers, fire doors, and emergency lights, a job previously done by the Plant Department. Visual inspections are conducted in dormitories on a bi-weekly basis and in academic buildings on a monthly basis by paid student aides. Churchill said that small trash can fires and abuses, such as using fire extinguishers in "water fights," deplete the extinguishers. He added that "The law requires that fire extinguishers be checked once a year but obviously that's not enough for Hofstra purposes."

A.R.A. Settles Sex Discrimination Suit

by Anthony Colleluori

In December 1981, second-year law student Betsy Perry was hired by ARA Services, Inc. as a sandwich-maker at the cafeteria facilities at Hofstra. Performing her duties satisfactorily and having a perfect attendance record, one would think Betsy was the model employee. Nonetheless, on Feb. 4, 1982, Betsy was fired. The reason for this discharge was that Betsy failed to purchase the uniform ARA requires for female workers.

According to Miss Perry, she was informed in late January that she would have to purchase a white uniform for which she would be reimbursed up to \$10.00 by ARA. Men's uniforms were given to them free of charge. Additionally, the men's uniforms were laundered by ARA at no charge. Women were paid 15 cents per hour more than men to defray cost of laundering their uniforms, a job which the women had to do themselves. As the cost of a new uniform and laundering expenses would severely deflate her budget, Miss Perry offered to give up the 15 cents extra per hour if she could wear the men's uniforms. Her request was denied. After she was fired, Betsy was referred by the ACLU to the State Division of Human Rights where she found she could file a complaint against ARA. Working with former Hofstra Law Professor Susan Cooney, Betsy filed a complaint and a hearing date was set.

Miss Perry's case rested on the Civil Rights Act of 1964, § 703 (A)(1) as amended 42 U.S.C.A. § 2000 e-2 (A)(1). This section provides that it is an unlawful employment practice for an employer to refuse to hire or discharge an individual, or to discriminate against an individual because of race, color, religion, sex, or national origin. Miss Perry noted that the \$10 per uniform allotted by ARA was between \$10 and \$15 less than the average cost of a uniform. Additionally, the 15 cents offered per hour to compensate her for the laundering of the uniform was found to be almost 50 percent less than the cost of laundering the uniform based on 18 hours per week of work.

At her hearing, the State Division of Human Rights found Miss Perry to have a cause of action and offered to represent her in state Supreme Court in an action against ARA. Instead, ARA and Miss Perry settled at a reconciliation hearing held by the Division of Human Rights. By terms of the agreement, Miss Perry is not permitted to disclose the award of the settlement. Attempts to reach Mr. Harry Martin, Miss Perry's manager, were unsuccessful as he is no longer employed by ARA. Also, ARA representatives at Hofstra claimed they too were under a gag order by terms of the agreement, and refused to comment on the case or on ARA's clothing practices. Sources preferring not to give their names have said the case has not changed ARA's policy at this time.

Dean Proposes New Law Building

Schmertz, cont. from page 1

minority recruitment, which Assistant Dean Douglas asserted is "uppermost in my mind." Douglas remarked that he is meeting with Karen Grant, President of Balsa, to devise an appropriate plan. He outlined the facets of the plan whereby representatives of the law school would visit undergraduate institutions, such as Howard University in Washington, "where there is a likelihood for communication with applicants."

Douglas alluded to his recent visits to such schools as Boston University, Northeastern, University of Pennsylvania and his alma mater, Cornell, as places where he "affirmatively sought out ways to attract minorities." Douglas also pointed to his presentation to Balsa, the next day, as one way to involve members of the law school community.

Dean Schmertz informed the assembly that he'd like to see the whole recruitment project integrated into a "single institutional campaign," in cooperation with the University's placement service. He offered that the law school could "piggy back with their mailings, use their data bank and even obtain

some funding to support this effort." Schmertz also suggested the establishment of a faculty/student committee to research the problem and propose alternative plans.

Observing this year's efforts by the Placement Office, Schmertz pointed to the addition of several new firms to the fall interview schedule as a dramatic improvement over last year. He cautioned, however, that placement is a "relatively slow process. It's a matter of seniority — the school needs additional exposure. Our graduates and our faculty have to demonstrate how good they are."

"Our placement efforts have not done well outside the New York metropolitan area," Schmertz said. In a move to alter that situation, Schmertz has organized an advisory council, consisting of personal acquaintances committed to him, to further the placement objectives of the law school. While conceding that his "council" does not have many minority or women members, he urged that the council is "flexible — more will be added." Schmertz maintained that his "overall game plan is to increase our notoriety, in a positive sense."



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Douglas Recruits for Hofstra

by Erica Lieberman

Assistant Dean Robert L. Douglas is on the road again. In an effort to boost Hofstra's recruitment program, Douglas has embarked on a journey that has taken him from Boston to California.

Douglas' hectic schedule resembles that of a travelling salesman: Mon., Nov. 8—Arizona State; Tues, Nov. 9—University of California at San Diego; Thurs., Nov. 10—Stanford; Fri., Nov. 11—Berkeley. The parallel is appropriate. Hofstra is being sold to students throughout the country who might otherwise remain unaware of what Hofstra Law School has to offer. To date, Douglas has visited Cornell, Boston University, Northeastern, and the University of Pennsylvania where he has spoken with pre-law students and advisors. On a typical day, the Assistant Dean speaks to as many as ninety students, as he did at Boston University. As mentioned before, he will be heading west to Arizona and California, and is currently in the Washington, D.C. area visiting George Washington University, University of Virginia, and Howard University.

In addition to meeting with the students, Douglas plans a follow-up program. All students met with will be sent a letter and a Hofstra catalogue. Seniors will receive an application along with the follow-up packet.

Due to the enormity of the task he has undertaken, Douglas' one-man recruitment effort cannot possibly reach as many students as desired. To increase Hofstra's visibility, the Assistant Dean has requested a computer print-out from the LSAT people. The print out provides 14,000 names of students who have taken the LSAT. These students will also receive a Hofstra Law information packet.

Also in the area of recruitment, the deans of the law school met with Mark Dion, the Dean of Student Services at the University. The purpose of the meeting was to allow the law school to take advantage of the University's experience with recruitment matters. Douglas stated that it will be helpful to establish a good working relationship with other departments of the university.

Although Douglas has generally expressed enthusiasm for the recruitment program, he did cite some problems. Most schools usually have 2-3 representatives travelling to other campuses while Douglas stands as Hofstra's lone ambassador. Hofstra also lacks the slick brochures and pamphlets handed out by other schools so Douglas instead totes copies of the *Law Review* to show students. To alleviate this latter situation, pamphlets are in the process of being designed.

As for other news, Douglas stated that the school has received very positive feedback with respect to the Alumni missing persons list printed in *Conscience* last issue. On Dec. 8, the Annual Alumni Cocktail Party will be held at The Cornell Club, 155 East 50th St., New York, beginning at 6:00 pm. Douglas hopes to see a large turnout of Alumni and faculty.

A final note: the Assistant Dean wants students to submit a list of names of undergraduate professors at schools who teach courses that tend to attract students. In turn, these teachers will be sent information that can be dispensed to students who show an interest in attending law school. Law students can drop off a list stating their name, undergraduate university and the names and addresses of the faculty members with whom Hofstra should be establishing a liaison.

Rebirth of Hofstra's NLG

by Hofstra Chapter,
National Lawyers Guild

The Hofstra Chapter of the National Lawyers Guild is off to a good start this year. Formerly a very active chapter, Hofstra's Lawyers Guild section had waned in recent years. The enthusiastic interest of students this year, however, should make for an active, successful revival of our chapter.

For those unacquainted with the Guild, their Statement of Purpose appears below. The Guild was originally formed 45 years ago in New York City as an alternative to the all-white, anti-labor American Bar Association. Today, there are over 7,000 members in 90 chapters around the country. The Guild works to put progressive political ideas into legal action. The Guild Statement of Purpose is as follows:

The National Lawyers Guild is an association dedicated to the need for basic change in the structure of our political and economic system. We seek to unite the lawyers, law students, legal workers and jailhouse lawyers of America in an organization which shall function as an effective political and social force in the service of the people, to the end that human rights shall be regarded as more sacred than property interests. Our aim is to bring together all those who regard ad-

justments to new conditions as more important than the veneration of precedent; who recognize the importance of safeguarding and extending the rights of workers, women, farmers, and minority groups upon whom the welfare of the entire nation depends; who seek actively to eliminate racism; who work to maintain and protect our civil rights and liberties in the face of persistent attacks upon them; and who look upon the law as an instrument for the protection of the people, rather than for their repression.

Some examples of current Guild projects are a Farm Labor Organizing Committee in Ohio, an Indian Law Project in Washington, D.C., a Military Law Task Force in California, an Energy Project in New Mexico, a Political Surveillance Project in West Virginia, an Atomic Workers Health and Safety project in South Carolina, a Pregnancy Discrimination Project in Minnesota, a Brown Lung Association in South Carolina, a Central American Task Force in California, Labor Law Centers in Washington, D.C. and North Carolina, a Legal Project in Puerto Rico, and a Center for Veterans' Rights in California.

For law students, the Guild provides a match-up program to provide summer jobs in offices of Guild attorneys. They offer access to their training workshops, provide

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NEW YORK CROSSOVERS

If a corporation enters into a contract to purchase real property and then brings an action for specific performance, must you discuss the law of corporations, contracts, real property, civil procedure and equity? How do you determine the real thrust of the question? What are the examiners really looking for?

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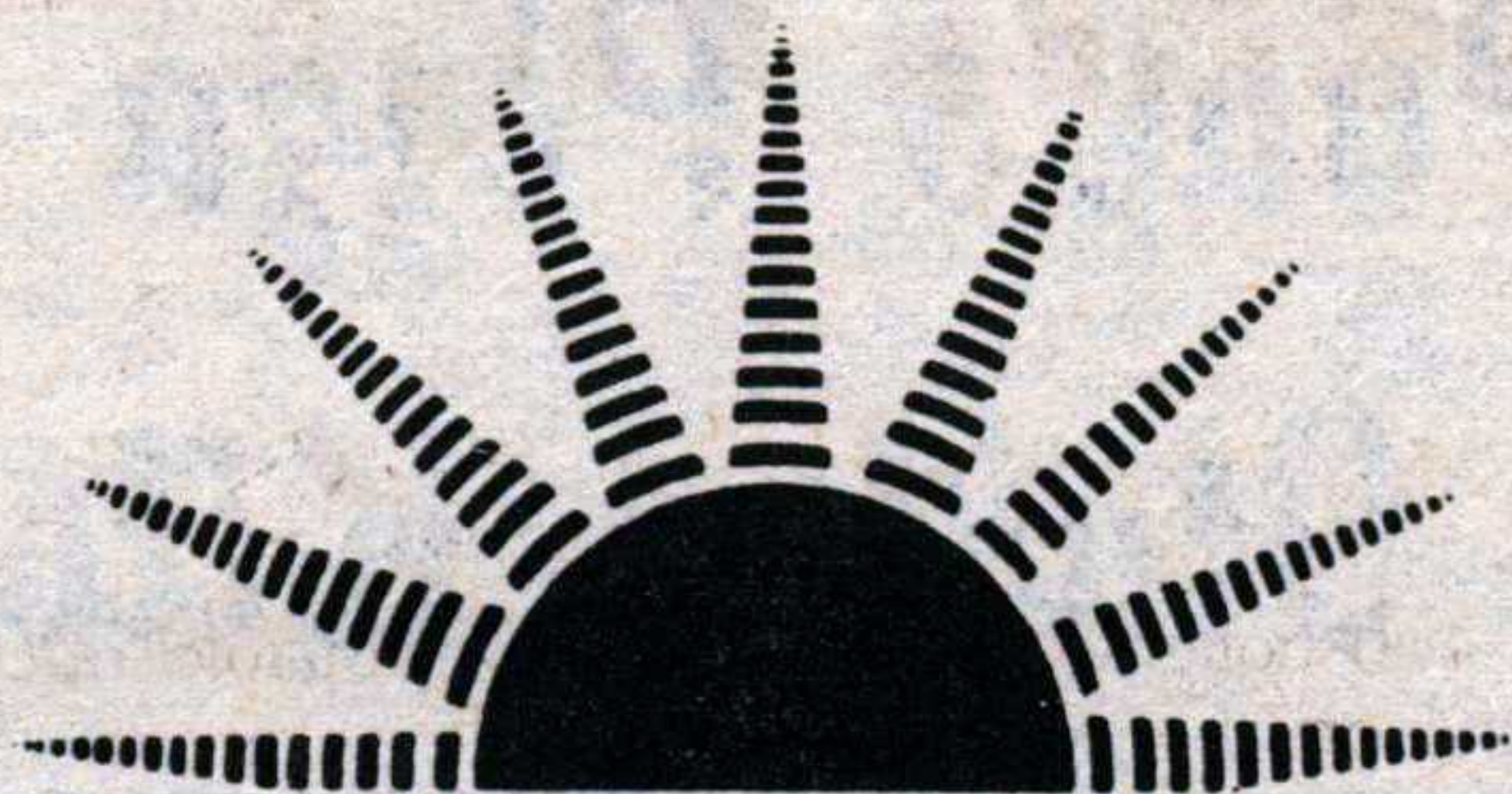
Very few law students develop these practical issue recognition and analysis techniques during their academic training.

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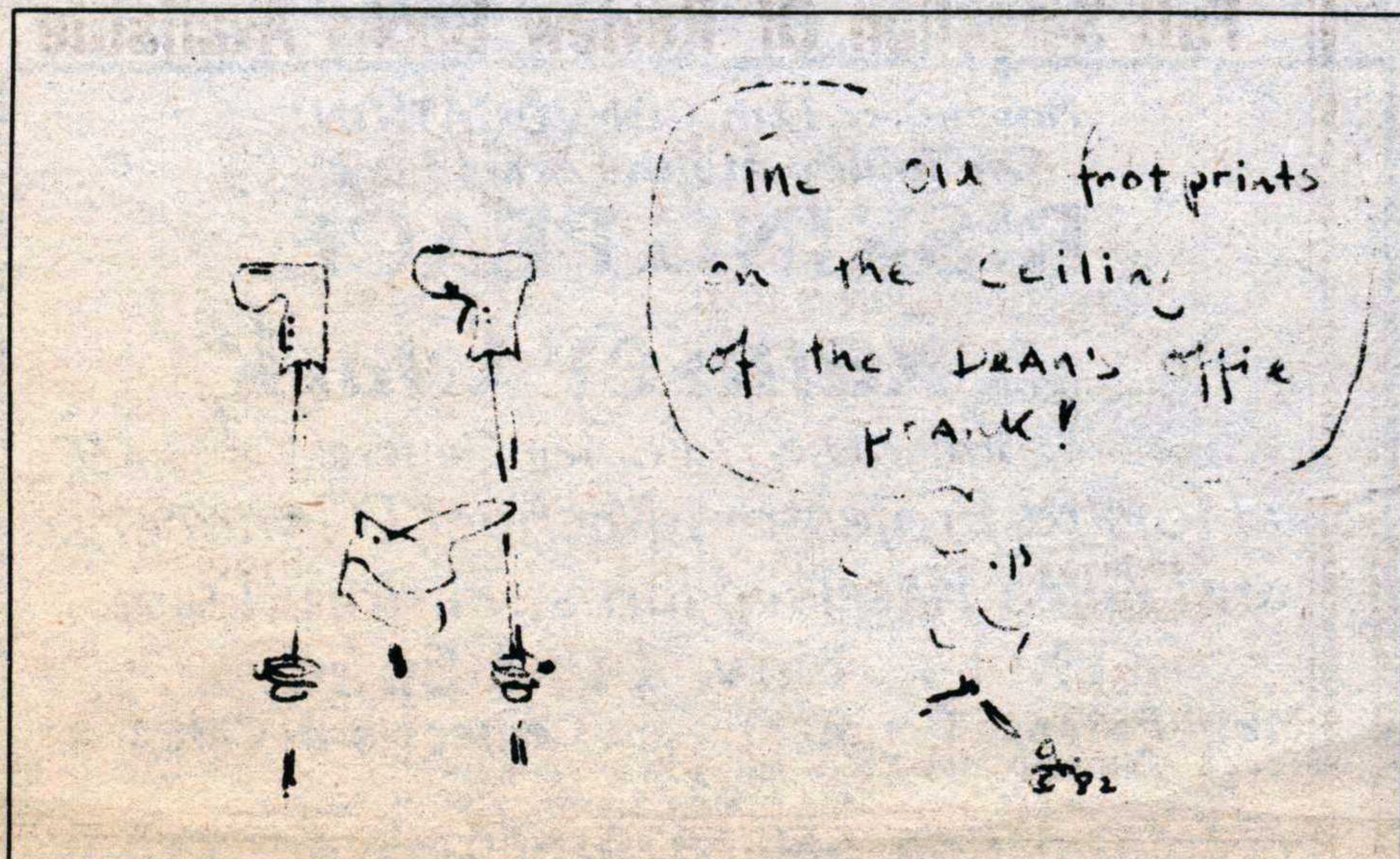
For those students who want to learn New York CPLR before the summer bar review, the Marino-Josephson/BRC course will present this spring, free to BRC enrollees, a **Forge Ahead** lecture series on New York practice by Professor Arthur R. Miller of Harvard Law School.

Recognized as one of the finest teachers in the nation, Professor Miller combines wit and clarity of expression with total intellectual command of his topics. Co-author of the prestigious treatise Wright and Miller, **Federal Rules**, a widely adopted civil procedure casebook and the **Sum and Substance of Civil Procedure**, he is also a former editor of the Harvard Law Review and a present member of the American Law Institute. In addition, Professor Miller is regularly asked by the Federal Judicial Center to address Judicial Conferences across the nation.



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RLSA Elections

by Anne Serby

The Hofstra Chapter of the Republican Law Students Association (RLSA) recently elected new officers. They are: John Ciampoli (President), John Lazarus (Executive Vice President), Jeffrey Hirsch (Vice President of Political Affairs), Frank Mann (Vice President of Academic Affairs), Eugene McElroy (Financial Vice President), Anne Serby (Vice President for Membership), Mary Kelly (Vice President for Communications), and Mary Hoare (Secretary).

John Ciampoli, President, is a third year student and is also Vice Justice of Phi Alpha Delta International Law Fraternity. Ciampoli formerly worked as legislative intern for Congressman Raymond J. McGrath, and as an aide for the City of New York, Department of Health.

Frank Paul Mann, Vice President of Academic Affairs, is a third year student. Mann is also a member of P.A.D. and the Jewish Lawyers Guild. Mann has also worked as a student aide at the Tax Certiorari Department at Nassau County (County Attorney).

Mary Frances Kelly, Vice President of Communications, is a second year student. Kelly is also a member of the Phi Alpha Delta

Law Fraternity. She worked last summer in the Criminal Justice Bureau of the New York City Police Department.

Jeff Hirsch, a third year student, is the Vice President of Political Affairs. He is also a member of the Trial Advocacy Club, the Phi Alpha Delta Law Fraternity and the Nassau County Bar Association. Hirsch, a graduate of the University of Pennsylvania, has clerked for a Nassau County District Court Judge and a State Supreme Court Judge during his first year of law school. He was employed, his second year, by two Nassau County law firms.

RLSA reports that its membership has increased by 100% from last year's due to its political activities. RLSA has also provided a variety of academic programs to the Hofstra Law School. They sponsored a writing workshop, given by Mr. Frank Schellace Esq. of the Law Department at the New York State Supreme Court. RLSA also runs an internship placement program for its members. The club has been contacting judges and other officials who will place RLSA members with internships. This spring the club plans a field trip to the law department of Solomon Brothers. The club is also hoping to field its own softball team this spring.

Environmental Law Society

by Paul Molano

The future looks bright for the recently reestablished Hofstra Environmental Law Society. The Society, which had existed in the mid-1970's, has been reorganized by Carol Casazza, a second year student and devoted environmentalist. Through Carol's efforts the society was granted funding by The Student Government Association and is ready to begin pursuing its goals.

Among the most important objectives of The Environmental Law Society are exploring career opportunities in the expanding field of environmental law, providing analysis of the position of local politicians on environmental issues and educating Hofstra law students and the entire community on local and national environmental law issues. The Society hopes to attain these objectives by drawing from the knowledge of its members on environmental issues and from outside sources which include guest speakers, presentations and projects.

One project which has been received with enthusiasm is a proposal to supplement the law library collection with resources on environmental law and to prepare a catalogue of these resources for easy access by interested students. This catalogue would increase student awareness about the urgency of environmental law issues and provide access to job related materials for those students interested in pursuing a career in environmental law.

On Wednesday, Oct. 27, The Environmental Law Society presented their first guest speaker, Walter Mugdan, Chief of the Environmental Protection Agency. Mr. Mugdan lectured on various aspects of environmental law, including the critical problem of hazardous waste on Long Island.

Mr. Mugdan is the first in a series of esteemed guests which the Society plans to present. Notice of future speakers and events will be posted. Anyone interested in, or simply curious about, environmental law is invited to attend.

Students Fight Nukes

The growing public concern about the nuclear arms race will be highly visible this fall as more than 400 colleges and universities hold teach-ins on the ways to avoid nuclear war.

The gatherings, scheduled for Veterans Day, Nov. 11, are currently slated for Portland, Boston, Atlanta, San Francisco, and Chicago, as well as hundreds of other cities. They are being sponsored by the Union of Concerned Scientists, Lawyers Alliance for Nuclear Arms Control, Physicians for Social Responsibility, and United Campuses to Prevent Nuclear War.

Last year, the Union of Concerned Scientists organized similar teach-ins on 150 campuses, meetings that drew over 100,000 participants and catalyzed public awareness of the threat of nuclear war.

"The time has come to stop talking about the problem, however," Henry Kendall of MIT, the Chairman of UCS, said. "It's time to start talking about realistic solutions."

In addition to the freeze and other solution strategies, the teach-ins will focus on the major UCS recommendation: that the United States should adopt a policy of No-First-Use of nuclear weapons.

According to Kendall, implementation of

a No-First-Use policy by the U.S. would "substantially reduce the chance that an uncontrollable nuclear conflict would develop out of a conventional war involving the U.S." Kendall believes that the U.S. must be prepared to provide for its defense, but "not in a way that risks escalation of conventional war to all out nuclear catastrophe."

UCS's recommendations on No-First-Use and other measures are outlined in a new UCS book, *Beyond the FREEZE: The Road to Nuclear Sanity*, prepared especially for the Nov. 11 teach-ins.

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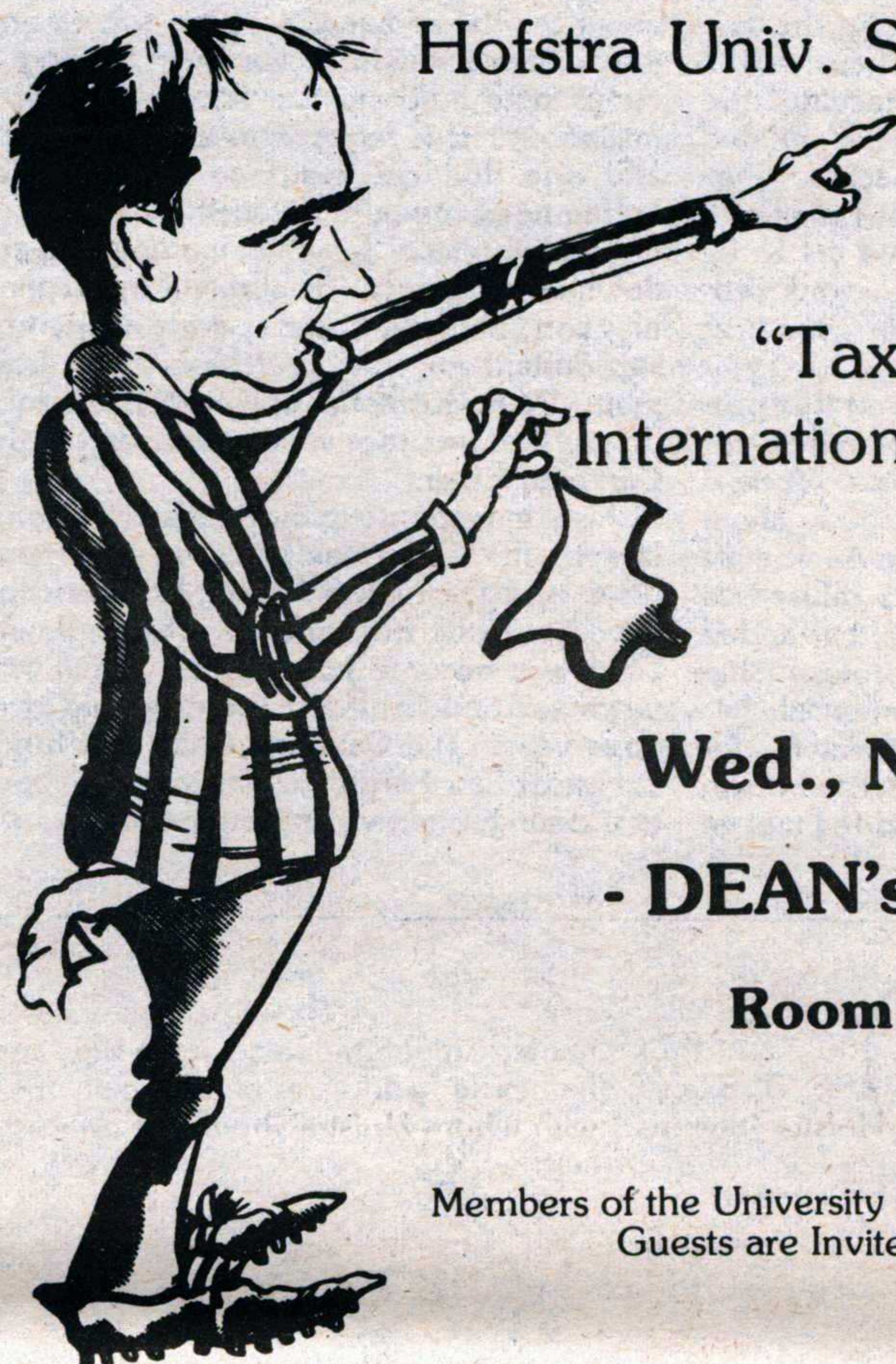
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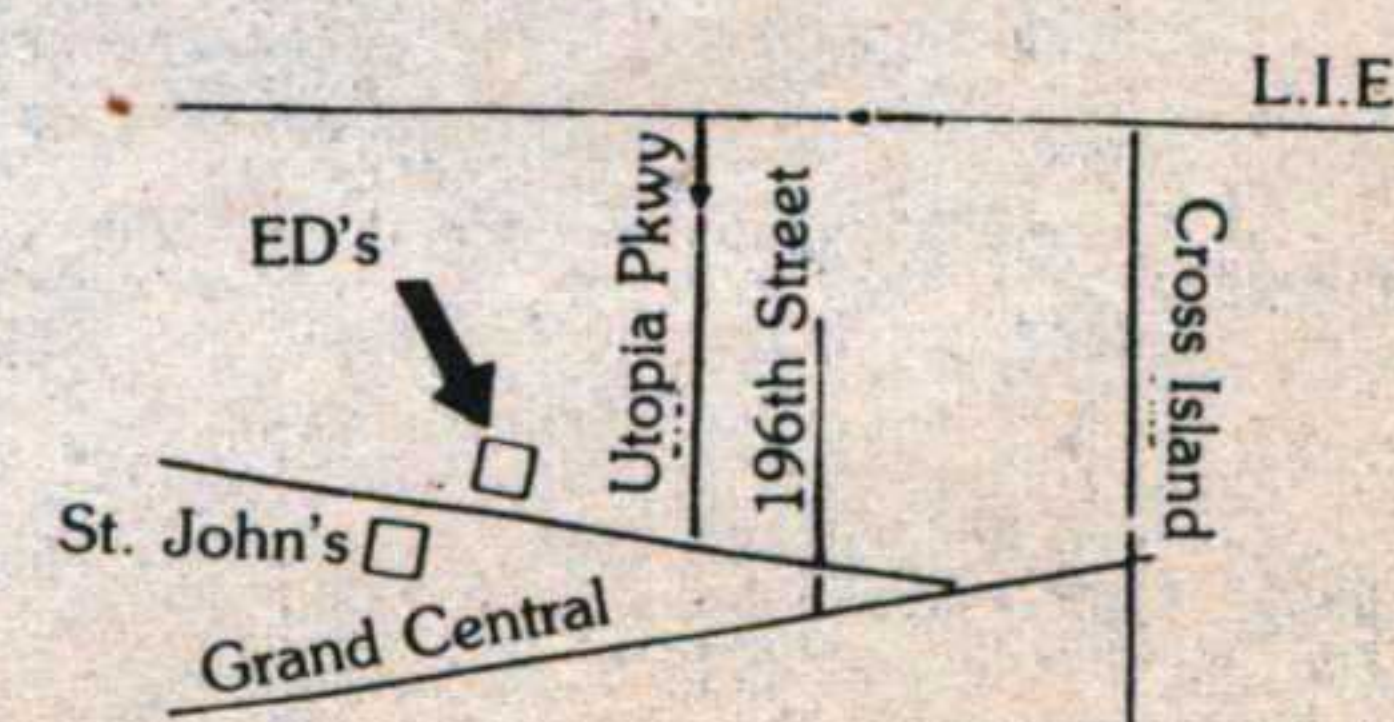
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Endowment Fund Provides Word Processor

by Peter Shafran

Dean Schmertz announced that the law school has purchased a \$7,000 word processor, available for the use of all students and faculty. Funding for the word processor comes from income produced by the Edward F. Carrough Labor Law Chair.

Schmertz explained that faculty and students working on journals will be granted top priority in the use of the machine. Further details concerning priorities and operation of the word processor have yet to be worked out. "Purchase of the word processor," Schmertz said, "was aimed at reducing secretarial time."

Dean Schmertz also announced that proposals have been made to establish new endowments, chairs, and fellowships. "A third distinguished professorship is just about completed," Schmertz stated, "in Alternative Dispute Settlements." Schmertz refused to disclose the name of the donor, but added that he is working on a fourth professorship in the field of banking and commercial law.

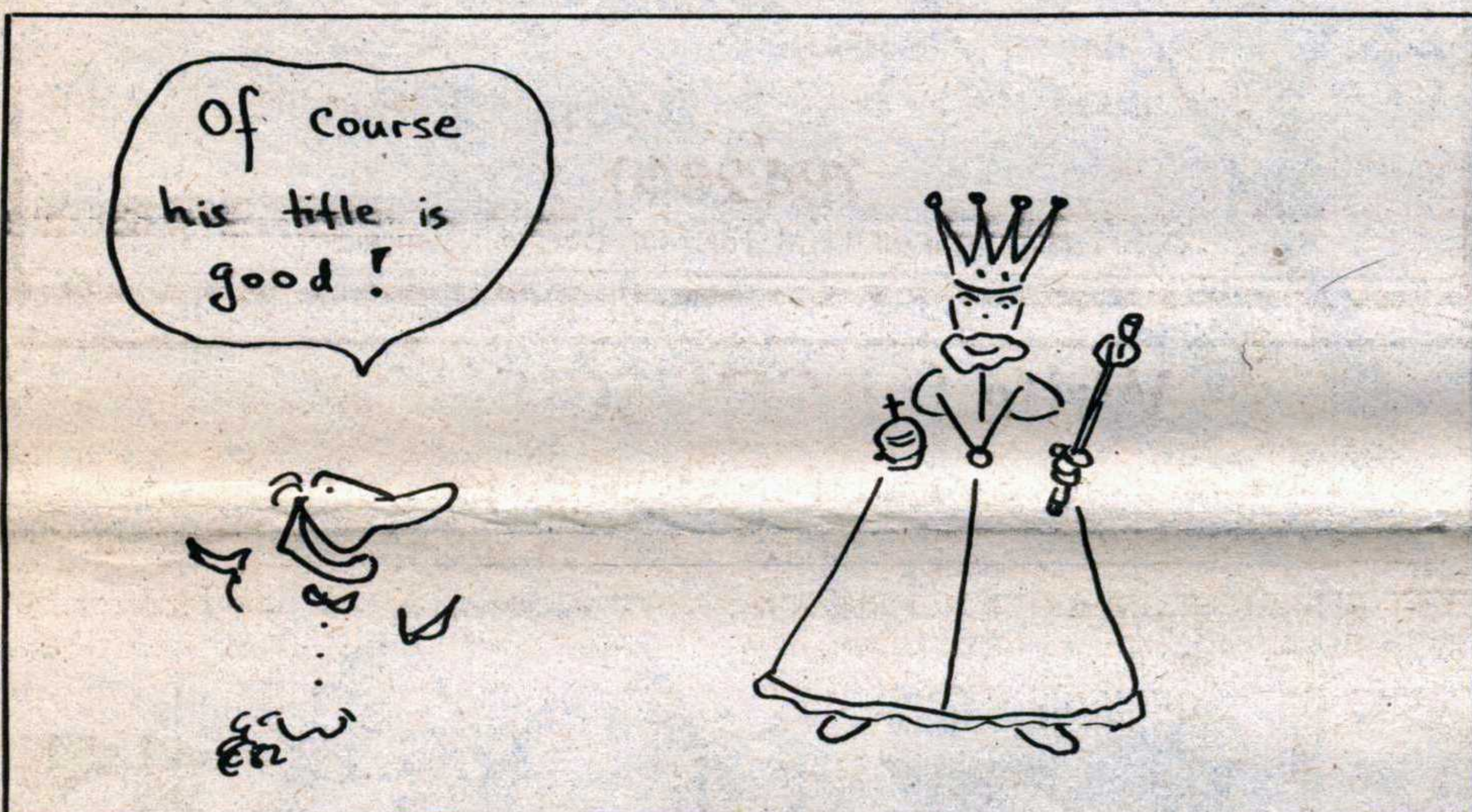
His proposal for an endowment for minority scholarships has been turned down by a foundation, but Schmertz added that he

will "resubmit [the proposal] for the new fiscal year." Schmertz said he is proposing another minority scholarship to be funded by an undisclosed private source.

The emphasis on academic chairs is twofold, explained the Dean. First, it enhances the reputation of the school and the professor who holds the chair. Second, it brings new funds to the school. A half a million dollars is required to endow a chair, and one hundred thousand dollars is required to endow a professorship.

The law school gets the income these endowments produce. In addition to creating new programs, the chairs provide an income supplement for the professors who hold them. Dean Schmertz, however, has turned down the income supplement from the Carrough Chair.

Also, in response to questions from *Conscience*, the Dean said that the Carrough Chair and the Max Schmertz Professorship have yet to be fully funded. The Carrough Chair will become fully funded within two years and the Schmertz Professorship over three years. The Carrough Chair also funds the Labor Law Forum and the salary, in part, of a distinguished visiting professorship.



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Student Government Divvies Up Budget

On October 12, Student Government allocated its \$14,700 student activity fund among itself and nine student organizations. (see chart)

Two organizations, *PocketPart* and the Democratic Law Student Association, were denied funds.

The denial of funds to *PocketPart* (see story page 1) came in the face of second year student Bob Wilk's attempt to rescue the yearbook from extinction. The two main concerns seemed to be that Wilk lacked the manpower and student interest to successfully rescue the book. Much of Wilk's most senior staff would have to come from undergraduates.

The Democratic Law Students Associa-

tion (DLSA) was turned down because the student representatives were unconvinced that DLSA had any actual plan to spend any of its \$1,425 fruitfully. DLSA requested \$800 for speakers, but did not have any commitments to bring specific speakers to campus. According to Student Government Treasurer Kathy Sagos, speakers were only funded if the group had a commitment by the speaker to come speak. Student Government did establish a general speakers fund of \$750 from which all groups could apply.

SGA President Jordan Fox also expressed displeasure with the fact that a large amount of money had been requested for travel. Said Fox, the money appears to be earmarked so that DLSA officers could travel around

the state in their capacity as officials in the Democratic Party.

Although the Student Government issued no written criteria for funding, they did announce that no funds could be used for religious purposes or to support political candidates.

BOARD SPACE STIRS CONTROVERSY

Money was not the only thing the student government decided to allocate. Student Government decided to take the authority to allocate bulletin board space among student groups. Such an allocation apparently became necessary after two clubs, the Republican Law Students and Phi Alpha

Delta, each took up an entire bulletin board with their posters. According to Phi Alpha Delta President, Tony Colletuori, "We only took board space after we received permission from Ass't. Dean Douglas, and we promised to keep the boards neat and current."

The allocation of board space did stir up some controversy. Woman Law Center head Betty Rugg objected to the fact that student funding was made contingent on each club's posting materials only in their allotted space. Republican Law Student President John Ciampoli took even stronger exception. The day after the allocations were announced, he posted on his boardspace a quote from Thomas Jefferson, "Resistance to Tyranny is obedience to God."

1982-83 Law School Student Government Budget Allocations							
	Allocated	Requested					
CONSCIENCE			JEWISH LAW STUDENTS GUILD			NATIONAL LAWYERS GUILD	
On Campus Printing	9500		Speakers	200		Supplies	20
Photography	100		Refreshments	60	1297	Speakers	100
Total	9600	12,350	Total	260		Travel	20
BLACK AMERICAN LAW STUDENT ASSOCIATION			WOMEN'S LAW CENTER			Food	30
Dues	680		Women Judge Speak			Notes	25
Metro Law Schools	90		Event	50		Total	195
Hofstra Law Day	175		Women Attorney Speak				
Conventions	375		Event	50		ENVIRONMENTAL LAW SOCIETY	
Speakers	125		NY Law Women's Cont	75	800	10/2/82 Conference	
Total	1445	5,480	NYC Lecture Series	75		(Grassroots Strategy)	11 50
PHI ALPHA DELTA			Total	250		10/27/82 Guest Sp	25
Social (1)			REPUBLICAN LAW STUDENTS ASSOCIATION			Wilderness Conf	25
3 Keys	155		*State Dues	80		1/85 5/83: Guests	50
DJ	50		Receptions	180		Supplies	20
Munchies	25		Photography	20	1380	Total	131 50
Rush			Total	200			
Materials	95		DEMOCRATIC LAW STUDENTS ASSOCIATION-No funds granted		1425	STUDENT GOVERNMENT	
Wine & Cheese	15		TRIAL ADVOCACY CLUB			Gen. Speakers fund	750
Speakers for Rush	25		Speakers	50		Emergency fund	300
Speakers	90		Nat'l Competitions	100		Receptions	100
Juvenile Justice	120		ATLA	50		Supplies & Stationery	200
Total	575	950	Total	200	450	Total	1350
						PHONES: 4-Everyone	493 50
						GRAND TOTAL	14,700
						*State dues to Republican Law Students are contingent on the club's raising \$2 dues from each member.	

Two NLO Profs Narrowly Escape Contract Termination

Continued from page 1.

ments Committee. On both those committees is a position for a clinical instructor, but that instructor is not permitted to vote. The actual decision to retain Neumann and Moray was made by the entire faculty.

While the standards adopted to review the clinicians are "strict standard[s] of review," requiring excellence in certain categories, the University-wide standards for faculty con-

tract renewal place "relative" value on "teaching, professional activity, service to the University and service to the community." [see box]

Students were relieved when news of Neumann's and Moray's contract renewal was announced. "Neumann makes himself available to students, especially minority students," Cambridge said.

CLAC Executive Committee Standards for the Renewal of Clinician's Contracts

Five-Year Review Standards

The five-year review standards — which is a "strict standard of review" — should have seven components:

- Excellence in lawyering
- Excellence in student supervision
- Excellence in teaching seminars and other classes
- Service to the school and community
- Academic or intellectual contributions of unusual or extraordinary value: contemplated by this standard are such activities as the development and initiation of a new clinical program or substantial publications and writings
- Potential for further academic or intellectual contributions of unusual or extraordinary value
- Fulfillment of some essential function in the projected clinical program.

FACULTY POLICY SERIES 15 1982

AD HOC COMMITTEES ON TENURE

II. TENURE CRITERIA

- Criteria For Teaching Faculty
- Although each tenure decision is, in

some respects, unique and may require interpretation, the following criteria are guidelines:

- Continuing excellence in teaching and in meeting academic responsibilities.
- Possession of terminal degree or demonstration of professionally recognized alternative achievements.
- Continuing productivity in some combination of the following: research, scholarly publication, professional activities, contributions to University life, contribution to the University's standing in the community.
- Fulfillment of some essential function in the long-range needs of the department and/or the University. The candidate's political ideology and/or political activities should in no way influence tenure decisions. Since tenure reflects not only the faculty members' demonstrated ability, but also the needs of the department and the University, failure to gain tenure is not necessarily indicative of the candidate's lack of ability or achievement.

Shuart Announces New Pool

Dr. James M. Shuart, President of Hofstra University, announced that an Olympic-sized swimming pool is being constructed at Hofstra's Physical Fitness Center.

The 50-meter facility was designed by Angelo Corva Associates, architects of Garden City, N.Y. When completed, Hofstra will have the only indoor, Olympic-sized pool on Long Island. The closest similar facility is located at the U.S. Military Academy at West Point.

As with all facilities at Hofstra, the pool will be totally accessible to the disabled. It will be built as a new south wing of the Physical Fitness Center, located on the North Campus in Hempstead. Features will include four diving boards (two one-meter and two three-meter), two moveable bulkheads which can divide the pool for separate activities, and complete support facilities, including locker rooms, showers and bleachers.

"Our pool will permit a complete range of recreational, instructional and competitive swimming," Dr. Shuart said. "It will add a new dimension to the quality of life at Hofstra."

Robert Getchell, Director of Athletics, said that the pool specifications will satisfy all National Collegiate Athletic Association (NCAA) regulations for swimming, diving and water polo, and olympic regulations for swimming. In addition, Mr. Getchell said, the pool has created "a great deal of excitement as a recreational facility for the Hofstra community."

Plans calls for a mid-1983 opening.

Dr. Shuart said that a fund-raising drive for the pool is underway. Further information is available at the Development Office at 516-560-6808.

Rebirth of NLG

Continued from page 4

presentations on Guild issues, and sponsor forums on alternative practices of law. These activities, plus parties and events for student members, provide "the support necessary to survive law school with principles intact."

On Oct. 6, 25 students attended the Hofstra Chapter's Organizational Meeting. Our guests were Law Student Chapter Presidents Michael Schneider from Columbia Law School and Tom Gordon from Brooklyn Law School. After sharing some of their Chapters' past activities and events, we agreed to reconvene the next week to make plans for the year. We also agreed to invite a guest speaker from the National Lawyers Guild to speak to the Hofstra community on Oct. 20 at 4 pm.

On Oct. 13, the Hofstra Chapter chose to focus on four relevant social issues for the time being: abortion; peace, disarmament, and nuclear issues; the Long Island migrant farm workers; and, minority rights including racial, gay, Hispanic, and women's issues. Students volunteered to work on each issue and plan an event. The whole Chapter will reconvene on Oct. 27.

Students who want to work on one of these issues should leave their name and phone number in the Lawyers Guild mail box in the Admissions Office and watch the Guild bulletin board in the first floor hallway for meeting notices. Students who want to work on other issues may do so through the Guild Chapter.

The National Lawyers Guild annual meeting will be at the New York Statler Hotel in Manhattan on Nov. 11-14. The theme this year is "Economic Rights As Civil Rights—Access to Justice." One of the highlights will be a 2-day Labor Skills Seminar and an Affirmative Action workshop. Law students are welcome.

Students interested in the Hofstra Chapter should watch the Guild bulletin board on the first floor for meeting times. Please come and share in our discussions on real social issues.

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Placement - The Hard Reality

by Alan Kaminsky

The current tight job market has made the placement office a center for concern as it has never been before. "We've been receiving tremendous support from the Dean," says Placement Director Hugh Christenson. "The Dean realizes that the placement office is essential to building upon the reputation of the school."

But aside from enhancing Hofstra's "reputation," the placement office is faced with the hard reality that hundreds of students and scores of alumni need its help finding jobs.

A placement office can tremendously influence a student's legal career. Christenson explains the function of the placement office as "not to find you a job, but to assist with resumes, interviewing and the job search." The "strength of our office," emphasized Christenson, "is our ability to establish a close one to one relationship with each student."

But there are about 800 students in the law school and two placement personnel, Christenson and Cheryl Ehrlich. This makes for a whopping 400-to-1 ratio. Christenson feels that although the ratios may be lower at other schools, he still feels his office can establish personal relationships with the students. The biggest problem, says Christenson, is that too few students use the placement office and too many students come into the office for the first time a month or so before they graduate and expect to have a job found for them.

According to many students, however, the real problem is that if you are not in the

top 10 percent of the class, or a member of *Law Review*, there is very little the placement people can or will do for you. Although statistics may establish some truth to that contention, Christenson states that is a misconception.

One of placement's most visible functions is to coordinate the On-Campus Recruitment Program (O.C.R.P.), which appears to primarily benefit those in the top of the class. Last year, 35 firms, government agencies and corporations interviewed on campus. This year, there was an increase to 37. The average firm or agency interviews about 20 students who are selected from amongst the qualified resumes submitted. This makes for about 740 available interviews. Christenson acknowledged that approximately 700 of those interviews, over 90 percent, went to members of the *Law Review*.

Many schools reserve interview spots for those in the middle of the class. Fordham has a lottery system for a portion of all on-campus interviews, and New York University uses a computer to match up student interests with each firm's offerings. "We are not in the same league as New York University or even Fordham," says Christenson, "Hofstra is not in a position to request recruiters to reserve interview spots for students in the middle of the class."

Christenson says he is happy with this year's O.C.R.P. program, but he expressed concern that the recession will hurt next year's program. He noted, however, that several of the firms who recruited on campus this year stated that they were "impressed" with Hofstra students.

Christenson denied that the O.C.R.P. is the primary function of the placement office. "Granted, the on-campus program can only serve a limited number of students, but on-campus interviewing is only one way of seeking employment," he said. Christenson explained that this year, the placement office sent out four thousand letters to firms, government agencies and corporations nationwide, inviting them to interview on campus or, if they were unable to do so, to receive resumes from students. Follow-up letters were then sent to those firms, and several months later, letters were sent to smaller firms inviting them to receive student resumes. Christenson also plans to personally visit several Manhattan law firms to encourage recruitment of Hofstra students. Approximately 150 firms are currently participating in the resume referral program and Christenson stated that many of these firms will review resumes from students without regard to class standing. However, many of these firms are located far from the New York metropolitan area.

Christenson advises students who are not members of the *Review* or in the top of their class to focus their job search on middle and smaller size firms both in the city and Long Island. He says resumes should be sent out to middle size firms in mid-November, and that resumes to small firms (10 or less attorneys) should not be sent out until after January 1st. "Too many students feel that if they don't have a job by December of their third year, they're in trouble. This is simply not true. Many students don't receive the full

benefits of a mailing because their mailings are ill-timed," Christenson said.

Christenson was unable to estimate how many students actually receive job offers through placement office programs, but he was able to confirm that the employment rate of the recent 1982 graduates was "keeping pace" with last year's rate.

Placement office questionnaires show that for the class of 1981, of the students who responded to the survey, 35 percent secured legally related jobs before the February prior to their graduation. Fifty-eight percent were employed at the time of graduation and the figure rose dramatically to 88 percent employment within six months after graduation. Average salaries were not known. For the recently graduated class of 1982, the statistics based on those who responded to the survey, are comparable. The responses reveal one discouraging figure: more than 50 percent of the students ranking below the bottom half of their class were unemployed at the time of graduation.

These statistics are compiled from returned questionnaires sent out to all graduates. The placement office takes surveys at various times. Christenson predicts that only 30 percent of the current third year class will have job offers before January, but cited that government studies reveal that the majority of law graduates do not find employment until after they have passed the Bar.

Alan Kaminsky is a third year student who spends most of his time looking for a job. This article is the first in a series.



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by Stephen Mendelsohn

The nation's economic picture in the second year of Reaganomics is quite distressing. Unemployment has hit 10.1% of the workforce, and millions of men and women have permanently stopped looking for a job. The health of our industry is very serious as bankruptcies and plant closures have reached record proportions. The fight against inflation, on the other hand, has shown marked success. President Reagan has taken credit for lower inflation and a resilient stock market, but he has consistently blamed the Democrats in Congress and the Carter Administration for forcing the economy into the deepest recession since the Second World War. With the Congressional elections slated for next month, the American people must separate fact from political posturing in order to decide whether to "stay the course."

The rhetoric and policies of the Reagan Administration are largely based upon the principles of supply-side economics. Supply-side theorists, such as George Gilder and Arthur Laffer, have argued that enormous tax cuts specifically aimed at business interests

are needed in order to unleash industrial investment. These free market advocates have argued that economic recovery is only possible if business is emancipated from both excessive taxation and the stranglehold of a bloated federal bureaucracy. The Reagan Administration has been an ardent supporter of these supply-side theories by sponsoring and lobbying heavily for the Economic Recovery Tax Act of 1981. The Administration quickly called the passage of the ERTA a victory, and Mr. Reagan personally promised a new era of lower unemployment, a balanced budget, and diminished inflation. Critics of the Reagan plan were summarily dismissed as being overly pessimistic.

Economic events occurring after the passage of the 1981 Act, however, have made most of the Administration's predictions appear wildly unrealistic. Double-digit unemployment and the slow death of the steel, auto, and housing industries were never thought to be part of the "course." In order to explain the failure of the record tax cut to improve employment, the Administration has attempted to place sole responsibility for the recession upon the shoulders of the Democratic Party. Unemployment figures, however, were declining at the end of the Carter Administration. When President Carter left offices in 1980, 7.4% of the workforce was unemployed as compared to 10.1% today. Mr. Reagan must bear some

responsibility for promising the American people a painless cure that has become an extremely costly recession.

One of the few bright spots in the Reagan economic record, is the rapid reduction in the rate of inflation. While it is true that inflation has reached its lowest level since 1975, Mr. Reagan can not take sole credit for this achievement. Oil and gas prices were slowly moving downward at the end of the Carter years, and this factor has removed much of the cost-push factors that had plagued the 1970's. Weakening energy prices can be traced, not to any conscious policy of the current Administration, but to greater conservation and exploration efforts that began in the late 1970's. Favorable weather conditions and enormous farm surpluses have also diminished inflationary pressures. The third factor that has contributed the most to slowing inflation is the tight money policy of the Federal Reserve Board. Under the Chairmanship of Paul Volker, the Fed. has dampened the effect of inflation by clamping extremely high rates of interest on the economy. The Reagan Administration has endorsed the Monetarist thinking of the Fed., but there are a number of economists in the government who have questioned whether Monetarism can co-exist with supply-side economics.

Another failure of Reaganomics has been

its inability to balance the federal budget. The failure of this promise helps to call into question the entire theory of Reaganomics. The purpose of the ERTA was to stimulate investment and to create full employment. Tax revenues were to be generated by a growing and burgeoning economy. Social spending reductions were instituted in order to better assist in the matching of expenditures to revenues. Unfortunately, record budget deficits created by huge defense spending and the gigantic tax cuts have been the unintended result of Reaganomics. The current estimate for the 1983 fiscal year shows a deficit in the range of \$125-150 billion dollars. The capital requirements that are necessary to finance this figure will surely help to force interest rates higher. This scenario will help to further deepen the recession. The Reagan Administration, aside from its rhetoric in favor of a balanced budget amendment to the Constitution, has completely failed to fulfill any of its budgetary promises.

After analyzing the two-year record of Reaganomics, it becomes readily apparent that the promises of the "course" are largely unfulfilled. The Administration may be criticized, not only for the questionable assumptions of supply-side economics, but for its failure to fulfill most of its naive predictions. The choice for the American people is quite clear, should we or should we not stay the course?

EX LIBRIS:

O. C. L. C.

by Ann Coates

The answer is OCLC. The question is, "Why are the card catalog files in the main reading room divided between before and after October 1, 1981?"

OCLC stands for Online Computer Library Center, a data information retrieval system encompassing over nine million bibliographic records nationwide. This not-for-profit computerized library service and research organization, based in Dublin, Ohio, operates an international network used by libraries to acquire and catalog library materials, order custom-printed catalog cards and maintain location information on library materials.

According to Ruth Guarneri, catalog librarian, Hofstra Law Library went 'on-line' as of October 1, 1981. As a result, all materials acquired after that date are processed onto magnetic tape for information storage purposes, and the catalog cards provided by the service are kept separate from the earlier, unprocessed materials. Eventually, all holdings will be entered into the data base and the catalog division will end. In the meantime, library users are urged to always consult both catalogs. The 1981 date refers to date of acquisition, not publication (e.g. a copy of Thomas Hobbes' *Leviathan* was acquired in 1982, but it is hardly a recent publication.)

It's Professor Wypyski's dream that eventually all the catalogs will be machine readable, with ready access to information on book location without the need for "in use" piles of cards. Through machine processing, in one easy step, you will be able to discover whether the book is on the shelf, on reserve or on loan. The standard catalogs will be maintained, though, just in case of a power failure.

OCLC also has a "search" aspect, based on knowledge of the author, title, publisher or one of five different catalog numbers. The computer will search through its data base from hundreds of libraries throughout the country and provide all the pertinent information, including which library has the material in its possession. Libraries that feed into the system include university, law

medicine, maritime, business, chemistry, music and manuscript libraries, to name just a few. Even foreign books in the data base will come up if they are located in a subscribing library in the United States.

An example of how the search mechanism works can be illustrated by a recent request for specialized material, The Asbestos Litigation Reporter. The machine discovered several sources of the material throughout the country, plus the fact that the Reporter had a price tag in excess of \$600 per year. Rather than acquire such a limited use item, the legal researcher can easily be put in touch with a corporation or agency library that subscribes to it. There is no inter-library loan feature at this time.

The search aspect is limited at present, however. Mrs. Guarneri points to the cataloging and acquisitions uses as top priority. Not only must present holdings be updated on the tape, all the government documents now in the federal depository file will have to be processed after the document librarian arrives in November. There are obvious time constraints, and patience as well as a recognition of priorities will serve all well.

Two other tools for research are also in the main reading room, located on either side of Gerard Giannatassio's desk. One is COM Catalog, a filmed catalog of all the University's main library acquisitions since 1975. The other is a similar reader with a record of Current Legal Index from July 1, 1980 through September 1, 1982, which supplements and updates the printed copies of the regularly bound version located in the periodicals room.

For the law student, the research tools are many and varied, but if you don't know what and where they are or how to use them, they won't serve at all. Hopefully this column each month will help you become acquainted with some of them. If you have a question, though, by all means ask anyone on the library staff. They are always most ready and willing to help.

P.S. ANOTHER LEXIS TRAINING SESSION WILL BE GIVEN IN NOVEMBER. CHECK WITH MRS. ARNDT, PROF. WYPYSKI'S ASSISTANT, FOR DATE AND TIME.

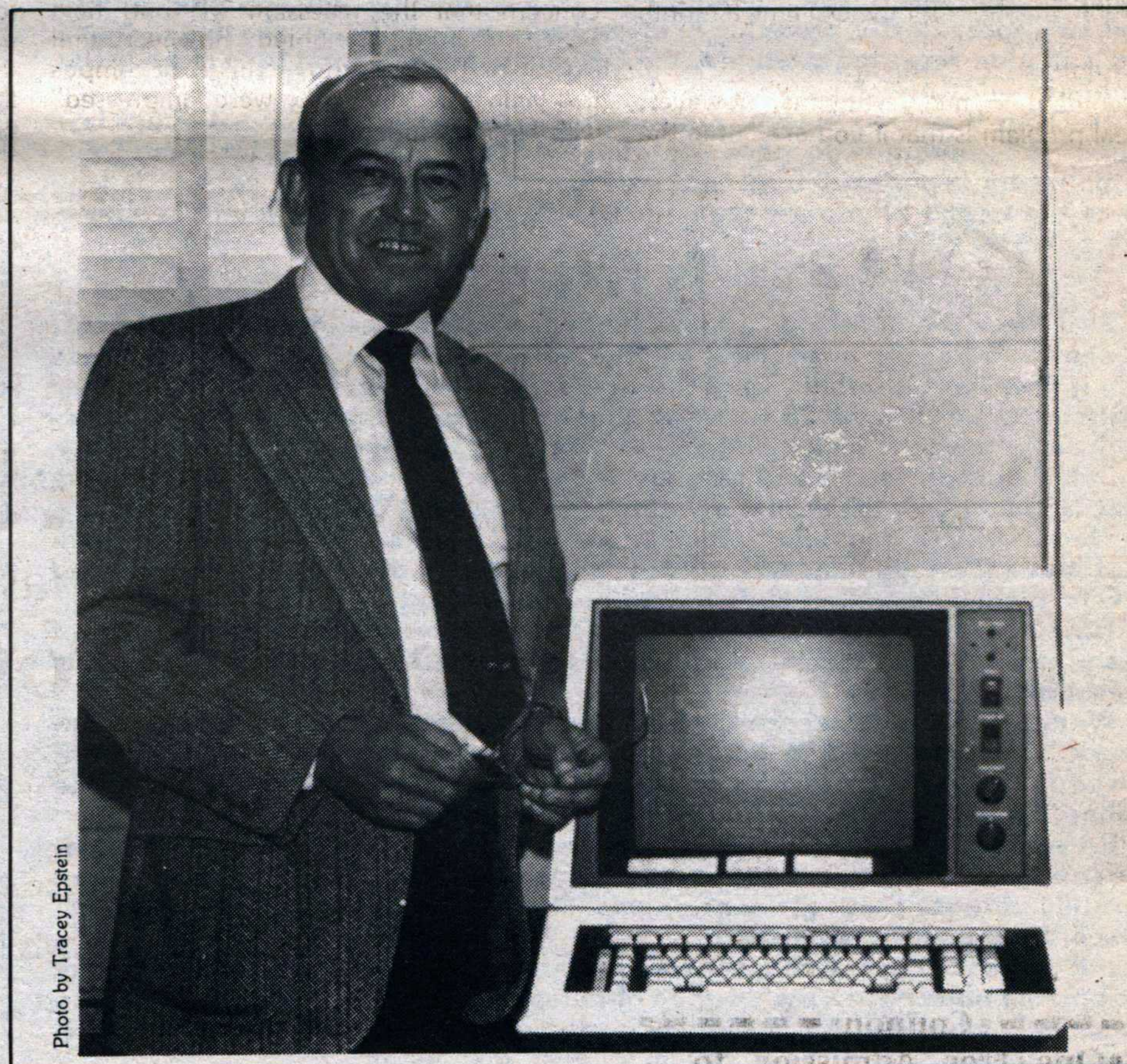
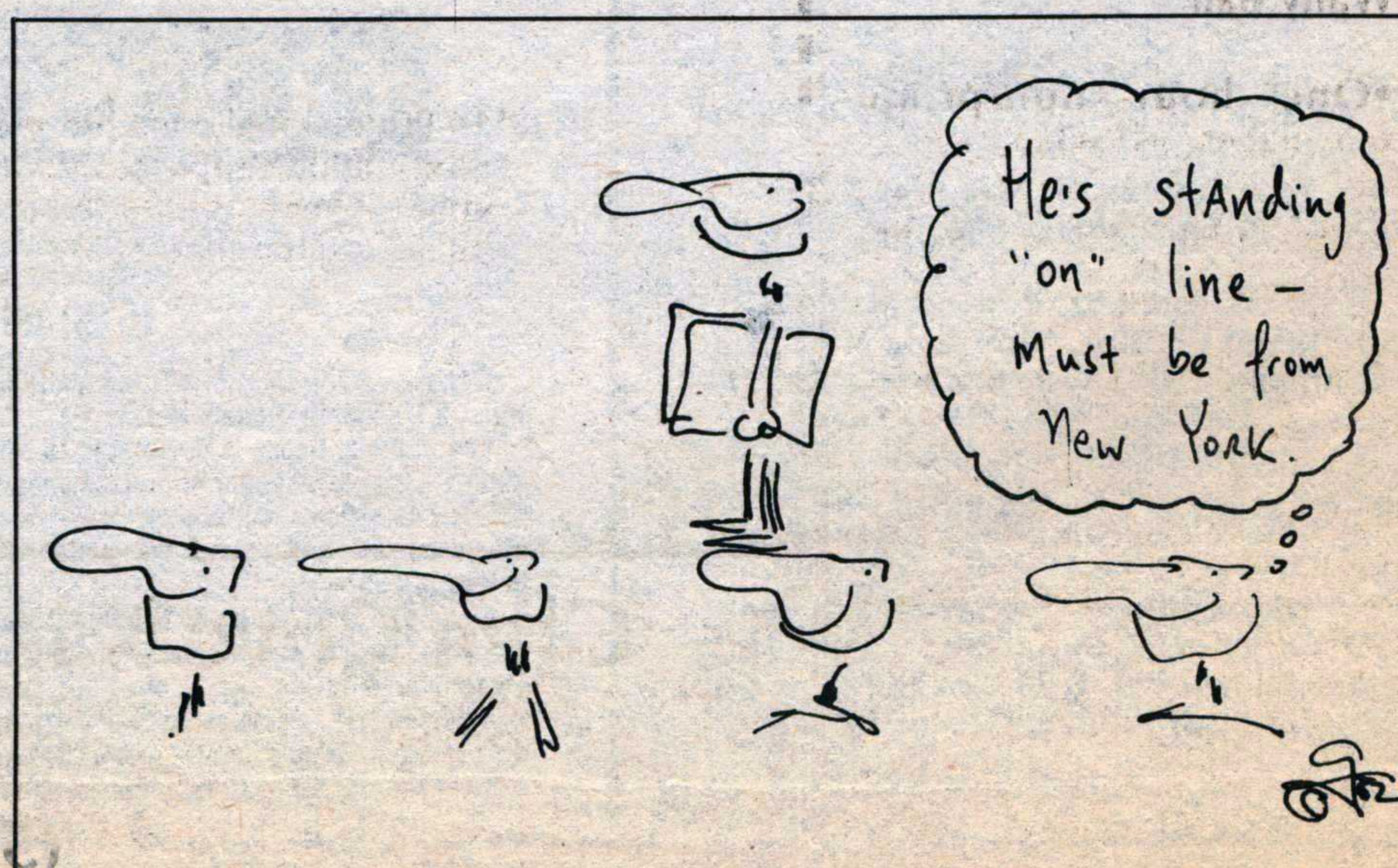


Photo by Tracey Epstein



EDITORIALS:

Treating Clinicians Fairly

The recent contract renewal of two respected clinical instructors serves to highlight the more serious issue of the health of Hofstra's clinical programs. While the faculty ultimately made the right decision in renewing Professor Neumann's and Professor Morey's contracts, the process that led to the just result was shameful.

The standards used for review were higher than the standards used for review of other academic instructors. Student input was limited to writing letters to the review committee, though the weight given these letters has been questioned. Clinical faculty members do not have voting privileges during general faculty meetings which decide the fate of their colleagues. This process seems archaic and unjust.

Standards for review of faculty contracts should be applied equally to all faculty members with the possibility for tenure positions open to all faculty members. Students should be appointed to committees along with the faculty and have an equal privilege to comment and vote. It is time the faculty recognized that while they educate students, students pay their salaries and have a right to review what they are paying for. Finally, clinical faculty members should be awarded the right to vote on an equal basis as their fellow instructors.

The Hofstra community is lucky that the decision was made to extend the contracts of two of its finer faculty members, but the next time the result could be reversed. In the future, all such important decisions should be the product of an equitable and logical process.

Building A New Law Building

Conscience applauds Dean Schmertz's proposal to build a new law building. At this stage, the plan still needs the approval of the University, and the whole project hinges on the law school's ability to attract the funds needed to construct the building.

Our current building, despite the Dean's attempts to give it a face lift, still has an unprofessional appearance for a national law school. At the law school's inception, the current Hofstra law building was intended to be temporary. A modern building which would have been erected on the site where the Netherlands dormitories now stand, was originally planned to serve as a law center. But the funds for that building fell through, and the current building became the law school's permanent home.

If Hofstra is to become a "national law school," an entirely new building must be constructed. Space constraints constrict the growth of the school. The library lacks room, professors have insufficient office space, classrooms are overcrowded, and student organizations and law journals are forced to be housed outside the building. The heating and cooling system operates sporadically, resulting in classrooms being either sweltering or freezing; and after repeated attempts, the University appears unable to remedy the problem.

As Dean Schmertz says, a professional environment is needed if the law school community is to have a professional attitude. If the University administration is serious about making Hofstra a top-rated law school, it will make the Dean's plan more than a proposal, it will make the plan a reality.

A Blow To Free Press

Last week the undergraduate student government association decided that it should have the power to pick the editor-in-chief of the undergraduate newspaper the *Chronicle*. The *Chronicle* took exception to the decision. They claimed, in an October 28 editorial, that a newspaper should be like any other club and allowed to pick its own leader. Said the *Chronicle*, "It is unjust to tell a club that their leader will be chosen on the whims of another organization that is unfamiliar with the interworkings of their [sic] group."

The *Chronicle* was right to take exception, but they missed the real reason that made the undergraduate student government's decision so offensive: an S.G.A. picked editor-in-chief contradicts any possibility for a free press.

How is there to be a free press when a student government, a major source of news, picks the one individual who has final responsibility for how that news is presented?

Would a *Chronicle* reporter, who hoped to become editor-in-chief and happened to cover a student government meeting, report the flaws of student government aggressively? Could student government's opinion influence the editor-in-chief's judgment?

Press credibility depends on a free press. And a free press is essential if people in authority, such as those in student governments, are to be subject to the scrutiny of those they represent. It was, after all, an unfettered press that exposed the crimes of Watergate.

If Hofstra is to have a credible student media, the newspapers that comprise that media must have a high degree of independence. Such independence can come only when the leaders of each medium is selected by his or her colleagues within that medium, not by student government.

LETTERS:

Dean Answers Critic

To The Editor:

This is in response to the letter to me of September 1, 1982 which was published in the October issue of *Conscience*. I share the dismay at recent federal cutbacks in providing legal services to the poor, yet I feel compelled to clarify some apparent misunderstanding about the recent developments in our Lawyering Skills course.

First, the Dean's Office neither initiated nor devised any change in the first-year program. Last year, a special committee of the faculty recommended that the Lawyering Skills course use, on an experimental basis, five different modes of teaching writing, research and other skills. The proposal was triggered by the dissatisfaction of classroom faculty with the writing and research skills of our first-year students, and by the concerns of many clinical faculty about the tremendous workload attributable to a program involving live clients. The full faculty adopted the committee's proposal at a regular faculty meeting last spring.

Second, the faculty has not yet made final decisions concerning the Lawyering Skills course. Indeed, the entire purpose of the experiment is to permit an evaluation of the effectiveness and desirability of the various methods in use this year. A special committee, consisting of faculty and students, has been appointed to conduct that evaluation and make recommendations to the full faculty on future directions for the first-year writing and research program.

Accordingly, any discussion by me of the merits of one particular approach over others is premature. Nevertheless, I will state now that I strongly believe that the primary responsibility of a law school is to provide an education of excellence to future lawyers. If we can meet this responsibility and provide legal services to the disadvantaged, we should do so. Indeed, our extensive upper-class clinical programs are achieving both goals. On the other hand, if the faculty concludes that the use of live clients in the first-year program detracts from our ability to effectively teach the broad range of writing and research skills required of every competent lawyer, I support a faculty decision to change the program accordingly.

In any event, the entire Law School community will have ample opportunity to express its views before any final decision is made and I look forward to that dialogue.

Finally, let me respond to the assertion that we are reducing our assistance to needy members of the community. The commitment of the Hofstra Law School to assist those who need and deserve legal services but who are unable to pay regular legal fees is a fundamental part of our philosophy. It is implemented not just through the work of our Clinic, but in a number of other significant ways. I know that as we teach our courses the faculty underscores the public interest impact and consequences of the law. Also, in our externship program our students take on public service activities such as work with the Legal Aid Society, with various

governmental agencies and community groups as part of their law school experience and a significant number of our graduates pursue careers in various aspects of public service law. Additionally, the faculty of this Law School is well known for its commitment to pro bono work voluntarily and by assignment from the courts on behalf of needy litigants. That commitment remains firm and is not diminished by an experimental change in our clinical program designed to seek for our students a better training program in legal research and writing.

Eric J. Schmertz

Students Defend Clinicians

Dear Editor,

We write this letter in regard to the recent contract renewal deliberations of two instructors in the NLO clinic — Alice Morey and Richard Neumann. We were amazed and upset when we heard that the initial committee recommended that their contracts not be renewed.

We were amazed because, as students in the NLO Federal Litigation Clinic, we have witnessed the excellent quality of instruction provided by Ms. Morey and Mr. Neumann. They are among the most knowledgeable and concerned professors at this school. To lose them because they do not measure up to an unrealistic set of standards would be senseless, yet it almost happened.

The committee recommendation not to renew the contracts was even more upsetting because it reflects an attitude on the part of some faculty members that the clinic is academically less valuable than the standard classroom experiences. Continuity and quality of instruction was pushed aside in favor of what we can only guess to be financial considerations and promotion of personal educational views. Until we are shown differently, we are forced to think the committee decision was made with substantial disregard to student opinion and interest.

We based our decision to come here largely on the unique educational experience we would get at the clinic and have not been disappointed. We are exposed to aspects of lawyering that classroom instruction is incapable of providing. We have gained invaluable insights into the profession and our place in it. Mr. Neumann and Ms. Morey have been a large part of our positive experience here.

We would like to extend our congratulations to them, and we hope the final faculty vote to extend their contracts is indicative of the faculty's concern for NLO and the students.

Sincerely,
Don Walsh
Lanny Bryer
Debbie Lenowitz
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conscience

November 1982

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Hofstra University School of Law
Hempstead, N.Y. 11550
(516) 560-5922

Vol. 10 No. 3

CONSCIENCE is published monthly from August to May by the students of Hofstra University School of Law.

The editorial board is committed to bringing Hofstra Law a competent, informative, lively newspaper of professional quality. We encourage everyone to write letters and articles. All submissions should be typed, triple spaced, with name, phone number and year of graduation. Submissions may be dropped off in our box in the library.

CONSCIENCE is distributed free to the Hofstra community including students, faculty and alumni. Funding comes from advertising revenue and the student activity fee. Application for second class postage permit pending at Hempstead, NY. Postmaster, please return undelivered copies to the above address. Subscriptions for others cost \$8. Re-publication of any article is prohibited without the consent of the editor-in-chief.

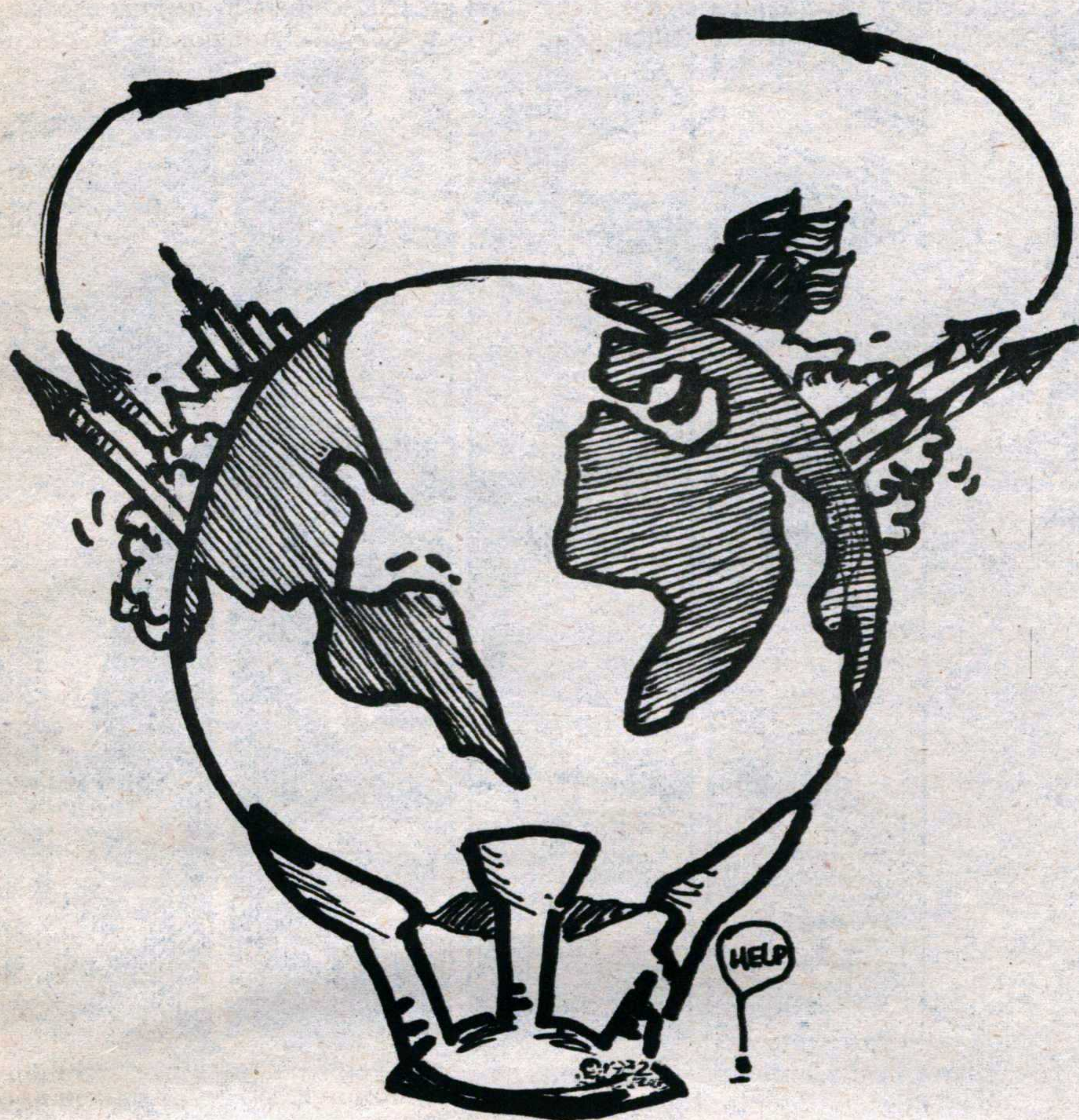
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COMMUNITY FORUM



Risking Peace

by Martin Melkonian

Before progress on arms control can be made — much less disarmament — the question of the Soviet threat must be addressed.

In my judgment it is a *real* threat, because of the size and power of the Soviet Union. Yet having said that, the threat must be put into perspective. We have heard much of "the window of vulnerability" which purports to put us at the mercy of Soviet weaponry. President Reagan has gone so far as to claim Soviet "superiority" in nuclear weapons. Therefore, according to Reagan, we need to re-arm and re-arm massively. We can't trust the Soviets and thus we need "Peace through strength."

Yet a more dispassionate look at the facts suggests a different picture. Both superpowers have vast and undeniable overkill potential. There are many more nuclear weapons than there are likely targets. True, the Soviet Union outstrips us in some areas such as the number of tanks or foot soldiers in conventional arms — and ICBM's or megatonnage in nuclear arms. But we have many more sophisticated anti-tank weapons and long-range bombers, as well as submarine launched missiles and nuclear warheads.

Nor are mere quantities the whole story. Qualitatively, most experts would put America ahead. If the recent battles in Lebanon are any guide, 86 Soviet made MIG's were destroyed by U.S. made plans which suffered only two losses. Clearly, quality and sophistication are as important as numbers.

The U.S. is now at a crossroads. The current path — following the Reagan arms buildup program — is both dangerous and costly. The planned military expenditures of \$1,600 billion (dollars), places an enormous strain on our economy. Butter must be sacrificed for these guns. Taxes recently raised, will be raised again. Inflation will reignite; our civilian industries will further deteriorate for lack of capital investment; government services will continue to be cut, resulting in the disintegration of our bridges, roads and railways. Social Security will be under-funded and ultimately cut back. The

poor will slip through the safety net so laboriously woven over the past half century. The social cost is undereducation, homelessness and even hunger.

But the mortal danger of the current course is apocalyptic. The risk of "accidental" nuclear war is growing. The Soviet response to America's arms buildup, and our response to theirs, is likely to be a strategy of launch on warning. Having only 5 minutes before new counterforce weapons reach their targets, a perceived attack would result in launching missiles upon the attacker before they are destroyed. But what if the computers err? If we or the Russians automate decision making, the holocaust could begin as Jonathan Schell suggests, because of a faulty computer chip.

The new weapons technology is a danger in another sense. New weapons, like the MX, Pershing II's and Trident II's, increase the temptation of a first strike. So little time is required for them to hit a target, delegation of authority to press the nuclear button must be diffused to lower and lower levels of the chain of command. In a crisis, unauthorized use of nuclear weapons (the Strangelove Syndrome) is possible and perhaps likely.

Another aspect of the arms race is the proliferation of nuclear weapons amongst nations and even juntas and terror groups. Unless the technology is capped, the weapons become more available, at a lower cost. A nuclear car bomb in Washington, D.C. or Moscow could set off a chain of events, ending the world. And the irony of it is that we wouldn't even know who initiated the holocaust.

Whether by accident, unauthorized use, or design, the arms race as it now proceeds, leads to the path of destruction. But what is the alternative?

There is another path. It is, risking peace. Though fraught with danger, it is the lesser risk. Risking peace means halting and reversing the arms race. The Soviets are not crazy. It is in their self-interest, as well as ours, to stop the arms race. We are in a lifeboat together in dangerous, uncharted waters.

Risking peace means a mutual freeze on testing and deployment of nuclear weapons systems now. We cannot delay. The momentum of the new arms programs

A Peace Plan For The Middle East

by Lanning Gerald Bryer

Diplomacy in the Middle East is currently in shambles. The Middle Eastern nations, along with their foreign allies, have been unable to bargain for a lasting peace because of blind self-interest and a deep-seated mistrust of one another. The historical development of this region is once again at an important crossroad. The last crossroad occurred when Sadat and Begin painfully came to terms with each other's security and political interests. Their negotiations at Camp David proved that enemies, when hard pressed, can compromise and hammer out a settlement which both sides rather live with than die without.

The military and political events of the last few months in Lebanon and Israel indicate that the time is ripe for a new peace initiative. The election of Amin Gemayel as President of Lebanon united his country more effectively than his brother before him. The Israeli Defense Forces have removed the PLO's military presence a considerable distance from their border, and all involved Middle Eastern nations, along with the rest of a sympathetic world, have tired of watching the needless and brutal human carnage of women and children whose only war crime has been to live in a battle-torn region.

Diplomats and statesmen from all Middle Eastern nations have made impassioned statements of their commitment to finding a solution for peaceful co-existence in the region. It is now time to hold the Middle Eastern statesmen and representatives accountable to their rhetorical promises to bargain in good faith for more than a temporary, patch-work peace plan.

It is evident that several points must be included in a peace plan designed to ensure peace in the Middle East. All the points must be the product of a good faith effort to compromise some self-interest by all parties.

(1) A Palestinian state must be established where the more than one million disenfranchised Palestinian refugees can settle and govern their own affairs. This Palestinian state should arise as the sum of two equal and adjoining land grants. One made by the State of Israel, in the West Bank, and the

other by the neighboring Arab nation, Jordan.

(2) All Middle Eastern nations must agree that the Palestinian state is a sovereign nation and that they will respect its borders unless a viable and justifiable national security threat presents itself.

Furthermore, the Palestinian nation must accept the full responsibility of policing its own people and prevent and punish any and all terrorist activity occurring within its own borders. A failure to make this commitment will jeopardize the success of peaceful co-existence. Most terrorist activities would dissolve with the creation of the Palestinian state. The same held true with the creation of the Jewish state.

(3) All Arab nations must compensate Jordan for relinquishing a portion of its sovereign territory. These payments should more than cover the expenses of relocating any Jordanians to other parts of Jordan. The United States should similarly make financial awards to Israel to compensate for its territorial loss.

(4) All Middle Eastern nations must make a formal stipulation, recognizing each other's right to exist and their rights as sovereign nations. All nations should then open up diplomatic channels and exchange foreign ambassadors.

(5) No Middle Eastern nation may permit its military forces to enter or remain upon the new Palestinian soil for an extended time (i.e. a few weeks) with or without the formal permission of the Palestinian government.

(6) All Middle Eastern nations must pledge financial and political support to rebuild Lebanon and help it realize its potential as a prospering sovereign nation.

The above six point plan, if endorsed in good faith by all Middle Eastern nations, would lead that battle-torn region on the road to peaceful co-existence. With due regard to the hundreds of years of mutual mistrust and hatred that has governed the impassioned minds of Middle Eastern leaders, there remains a hope that Arabs and Jews alike will finally tire of losing their friends, families and comrades on the Middle Eastern battlefields and embrace a fresh peace initiative founded on a sincere effort to compromise.

Divorce Ethics

by Anthony J. Colleluori

As I write this, I have just returned from the third of four weddings that I will attend this wedding season. As joyful as these occasions are, the budding attorney, especially the more litigious among us, must be aware that only two of these marriages will last until "Death Do Them Part." So often we look at seemingly happy couples and feel that "this won't last," and all too often we're right. Sometimes, though, we see couples that we believe will really last, and they don't. The question posed tonight between the soup and the rubber chicken was "How often is a divorce the fault of the lawyer?"

The question is not as ridiculous as it

seems. There exists a real conflict of interest for the attorney. Let's face it, the only surewinner in an action for divorce is the lawyer. The number of divorce attorneys has risen, and so have the number of divorces. The question is, which increase led to the other? It is a simple part of office economics that when a couple breaks up, the attorney is bound to make more money than if the divorce does not occur. Of course, if the case goes to trial, there are some real bucks to be made! Thus, the conflict should be obvious. The question now becomes, "How many of us will fight to save a marriage when it would be more profitable to get the divorce?" Of course, some of my colleagues

Continued on page 23

becomes their own justification. A testing and deployment freeze is verifiable with current technology. And if nations can't test new weapons, a major incentive to strike first is denied, since confidence in destroying the enemies' weapons will be low. Nuclear weapons may then be effective deterrents but ineffective for first strike purposes. The freeze is only a first step in a long walk down the path toward peace, but it is a crucial first step.

What can we, as individuals, do to lessen the danger of nuclear war? We can become empowered to act as responsible citizens in a nuclear age. We must educate ourselves. Information is available.

A good beginning is Jonathan Schell's *The Fate of the Earth*. Other useful information comes from the Center for Defense Information and from the Union of Concerned Scientists.

We must join with local organizations concerned with the arms race so that our collective voice may be heard. (UCAM at Hofstra)

And we must vote — the men in Washington represent us. We must ask them to address this most important issue.

Our lives and their lives depend upon it.

Martin Melkonian is a professor of economics at Hofstra University. He is also an advisor to UCAM at Hofstra.

Dialogue:

Prologue: On a butte overlooking a superhighway in upstate New York, a powerful looking man walks with strides that devour the ground beneath him. In the skies above, an eagle circles, seeming to reproach its master with its screeches. "Ah Paragon my friend, I do not doubt your wisdom, but we must at least try to enlighten some of these foolish humans." In his voice one can hear the passions of uninhibited laughter and profound melancholy. No fear resides in the soul of this modern superman.

Conscience is proud to present a Stan Lee creation:

Daredevil — The Man Without Fear

Dialogue

Script: Richard Tirman

Art: Gene Colan and Frank Miller

Edits: Peter Shafran

Many thanks to Dennis O'Neil and the entire Marvel Comics staff for their kind assistance and approval of this project.

My name is Ben Urich. I'm a reporter for the Daily Bugle. A few months ago I stumbled upon the biggest story of the decade. Then I declined to publish it. I kept a dossier on this blind attorney, fellow by the name of Matt Murdock. The man has a secret I still find hard to believe. When he was fifteen he saved an old man from being run over by a truck. Murdock was blinded in the accident; lucky for us. A radioactive isotope allowed him to develop his other senses to more than



philosophical aspects of the law; the definition of justice. Unfortunately though, it was a lot like the outside world. There were so many good people, idealists, but in the crush to find work many of them lost their ideals.

U: But you didn't. Why does law school turn out so many self-interested characters?

DD: It's the outside forces that shape what happens in the classroom. Everything is geared to legal analysis, corporate techniques. Law is considered a stepping-stone to the higher echelons of the corporations. These fields often attract self-interested people. Morality



compensate for the loss of his vision. His radar sense gives him eyes in the back of his head. He is Matt Murdock, Daredevil, the Man Without Fear.

Matt knows that I know his secret, but he trusts me. Still, I thought his exploits should be recorded in case one day some villain gets lucky. I asked Matt to let me interview him so that when death finally catches up with him his life can serve as an example to others. We made a deal. He keeps the manuscript in a safe deposit box and I have to quit smoking.

Urich: Thanks for coming Matt. Let's get to work on your immortality.

DD: Really Ben, I don't know what the fuss is. I enjoy being Daredevil. I don't just do it to help others, it's part of what I am.

U: Never mind. Enjoying it doesn't make you any less a hero. Tell me about the Hulk.

DD: Last time I fought him he almost killed me. But I was able to explain to him that he and Bruce Banner are the same person. Then he stopped his rampage. I fought him not because he broke any law, but because of the violence he threatened to inflict on innocents. My true concern is not so much with criminals as with victims. The problem with the Hulk, what makes him so pitiable is that he's both foe and victim. Fighting him left me churning. He was so much stronger than me, yet I didn't want to hurt him. All in all, it was an unfortunate adventure. But really Ben, if I am a hero, it's not Daredevil that makes it so, it's my legal work.

U: I can see you're going to be too modest to give me much on your adventures as DD. Alright then, let's start at the beginning. What did you think of law school?

DD: I found it both exciting and a bit of a grind. It made me more aware of my handicap but it also forced me to overcome it. I was excited by the

just gets in the way.
U: Let's get to specifics. Tell me about some courses you took and what was wrong with them.

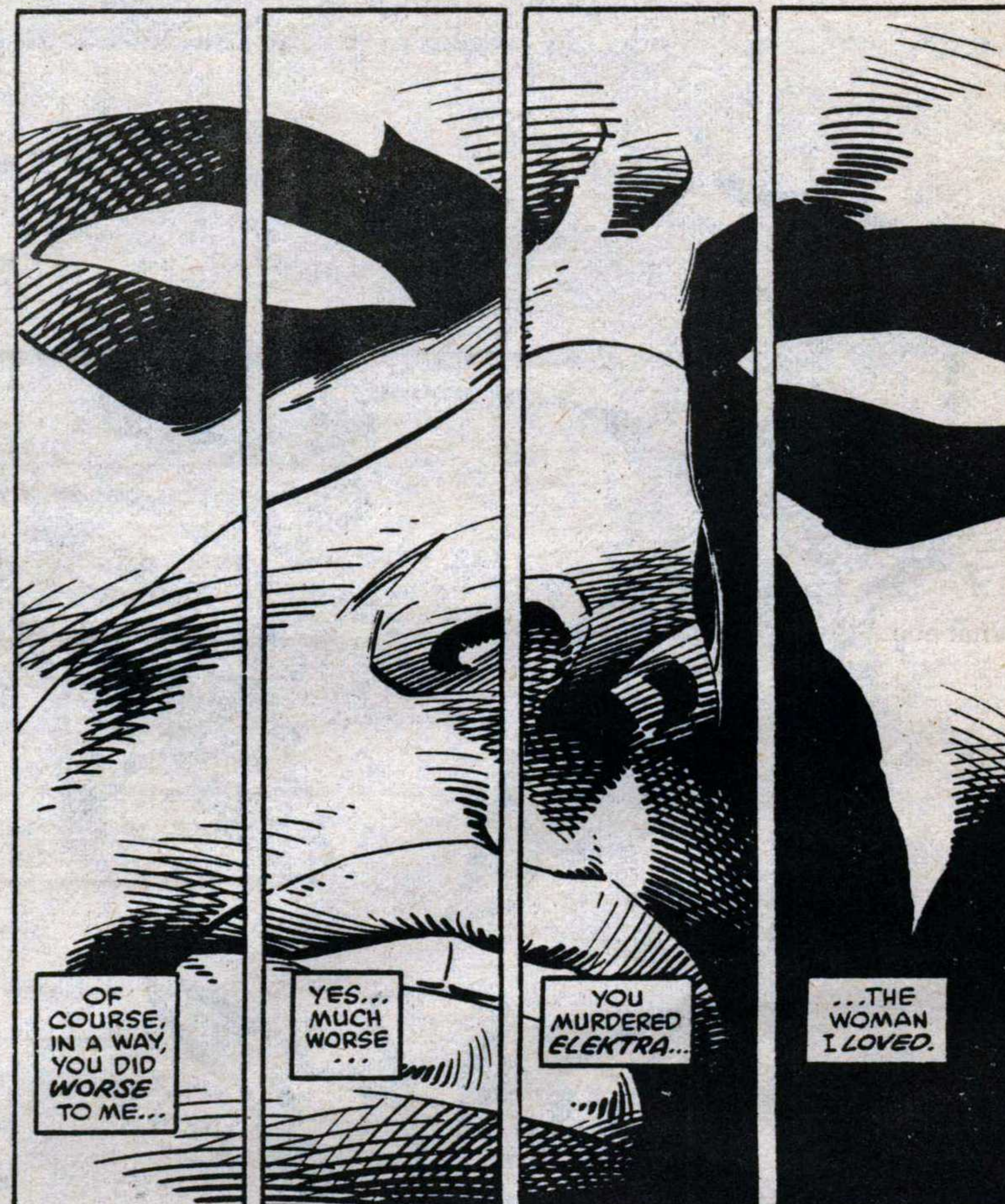
DD: I guess Torts was my favorite subject. I was intrigued by the notion of assumption of the risk, after all I do it every time I snag a flagpole with my billy club. But it's a doctrine rarely applied. The truth in the old joke that in personal injury cases the plaintiff always wins, makes it no wonder there are so many ambulance chasers.

U: What else?

DD: Criminal law, the classic example of idealism and gutter practicality co-existing. Prosecutors have to prove guilt beyond a reasonable doubt, all the elements of the crime, usually including a guilty mental state. With all these rights we acknowledge the presumption of the innocence of the accused, but when someone is convicted he goes to an infested, overcrowded prison for graduate work in crime.

U: You're in a good mood tonight. If you're so sour on the criminal justice system what is it about the law that's so important to you?

DD: The law allows me to indulge my obsession with personally aiding victims. That's why I'm a defense lawyer. I'd never change my adversarial position. As Daredevil I'm sometimes forc-



ed to take the law into my own hands. But I have my doubts. And respect for the law is potentially a far greater force for good than DD could ever be.

U: Is that why you saved Bullseye?

DD: Yes. He's the deadliest assassin I've ever encountered. In his hands anything is a deadly weapon. We were fighting in the subway. He was beaten unconscious on the tracks and

I could barely move. But I pulled him clear. It wasn't my place to play judge, jury, and executioner. Now he's badly injured but he may kill again. I'll have to live with that. But if everyone started punishing criminals without trials, the lynch mobs would stretch from here to L.A. A killing spree by Bullseye would look like a walk in the park.

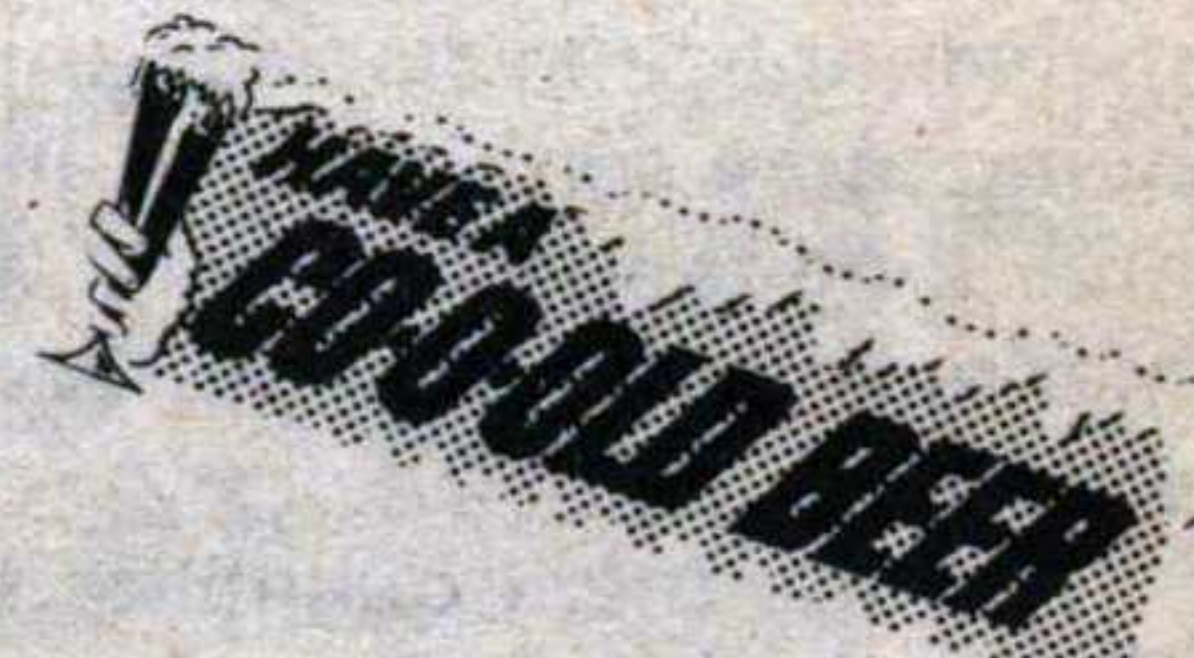


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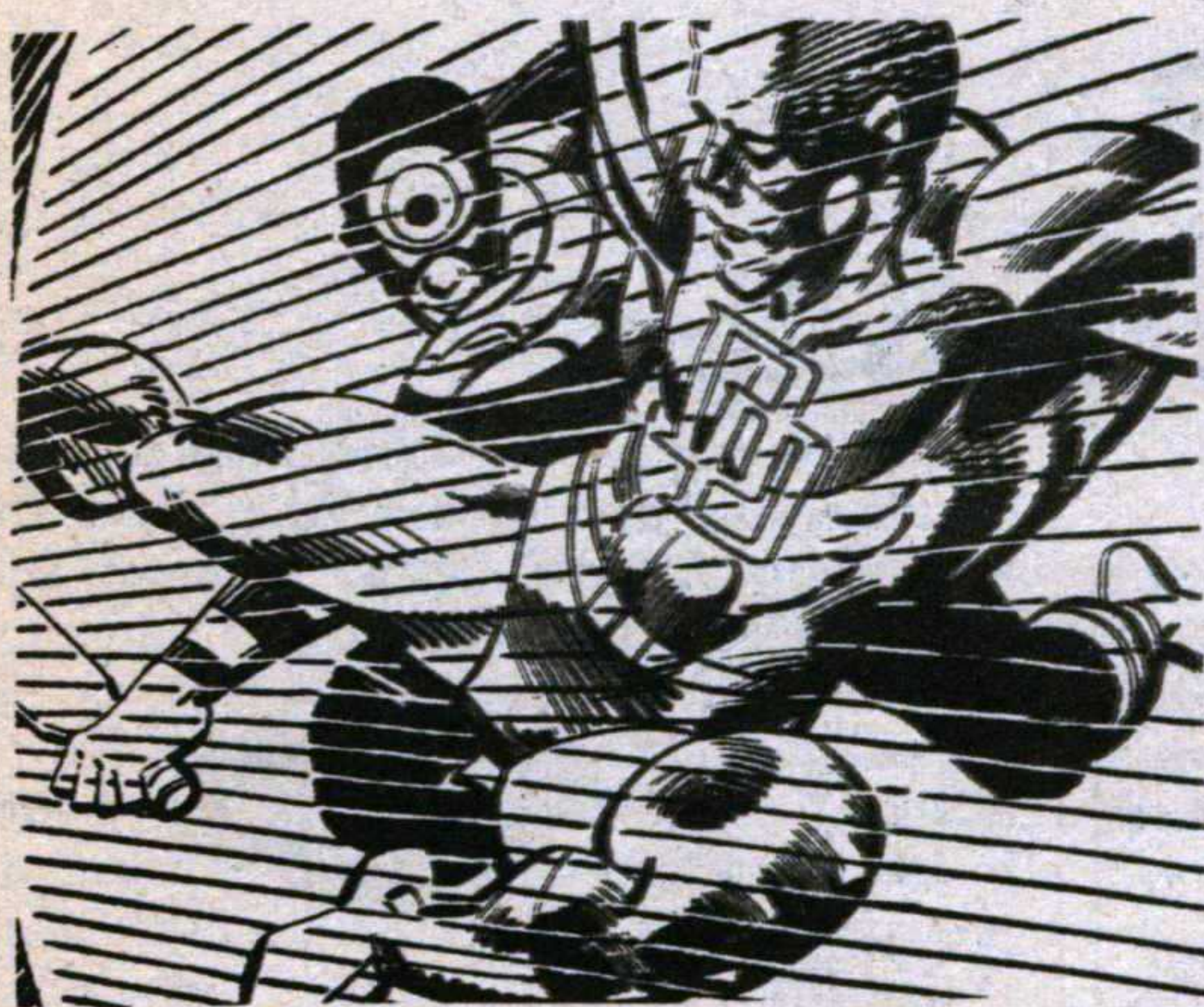
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More Dialogue:



U: What about the Kingpin? Haven't you compromised your ideals with respect to him?

DD: The Kingpin is the head of all the mobs in New York. He thinks he's used me in the past to eliminate some of his competition and maybe he has. The Kingpin confronts me with the dilemma of choosing between practicality and idealism. I've had to make compromises for the sake of the immediate practical good of saving an innocent victim. There's been no opportunity yet to vanquish him without killing him. There will come a time when one of us has to be destroyed. I have to believe, for the sake of my own sanity, that it's not Society that's corrupt, just some individuals, like the Kingpin.

U: What about the other New York heros? Why don't they stop the Kingpin?

DD: I can't really answer for them. They have their own problems. I haven't seriously asked them why they do what they do. I expect Spider-Man will eventually find him however. The Fantastic Four and the Avengers are legitimately too busy with celestial menaces to deal with street crime.

U: Is that a shortcoming?

DD: No, it's my job. How can you measure the value of Dr. Reed Richards, the Fantastic Four's leader, to our society? Or Thor? But there has to be a Daredevil to handle the smaller problems.

U: How do you handle the headache you inevitably encounter?

DD: With great difficulty. My life as Daredevil destroyed my engagement to Heather and my partnership with Natasha Romanoff, the Black Widow. But it's the headache in the courtroom that's the hardest. Sometimes innocent people are convicted. Bullseye pleaded insanity and was released. The injustices are there, but I believe the system usually works. Ultimately, I find a way to live with injustice because in the largest possible sense, I cherish the fact that I'm alive. Pain and pleasure, Yin and Yang, dark and light are all part of the same phenomenon of life. I try to grow stronger from hardship. To some extent I agree with Nietzsche — Whatever does not kill us makes us



stronger.

U: Do you have any advice for today's law student?

DD: Don't be a cutthroat. If lawyers are unethical or amoral, the whole society will be that way. Socrates said the health of a society is inversely proportional to the portion of its young people who want to become doctors and lawyers. It's ironic, but not necessarily true. Our future lawyers are the hope of this country. Our future is their responsibility.

U: There seems to be a contradiction here. On the one hand, you call for ethics and working within the law, but



on the other hand, as Daredevil, you're a costumed vigilante. How do you reconcile these facts?

DD: First, let me confess again that being Daredevil is necessary for me. It's the non-cerebral part of me that finds its fulfillment in action. Daredevil, by his freedom, can do things, take shortcuts, to not only serve, but aid justice. I'm able to justify the few extra-legal actions I've had to take as DD on the

grounds that I'm an almost unqualified humanist. I won't willingly hurt another human being. My knowledge of the law usually allows me to stop short from breaking it, but my ultimate concern is to serve justice and help people who are otherwise being victimized. There is a problem with all forms of vigilantism. The existence of private guards, block patrols, and the Guardian Angels indicates that the police can't entirely do their job. They're understaffed and underpaid. The logical place for them to get help is from the citizens. Daredevil is really just a better prepared citizen. The problem of when he's gone too far is one I'm not prepared to resolve.

U: And what about after you capture the criminal? Do you believe in rehabilitation?

DD: I go on the assumption that criminal behavior is a kind of illness. But only the patient can take the first step toward recovery; he has to want to get well. If any human being can be rehabilitated, made functioning and happy again, it is worth almost any cost. Most Western and Eastern thought places infinite value on an individual human life. If we stopped believing that, we'd let our old folks and people with incurable diseases die. It's like the conundrum of the baby and the old man in the fire. Which to save? There are dozens of possible answers, none of them wrong, or all of them.

Epilogue: Presently, the shouts of a mob in the street below attracted Daredevil's attention. (It's hard to have a quiet chat with a daredevil, especially in the toughest city in the world.) In the center of the crowd stood a strangely garbed man of obviously prodigious physical strength. The eagle perched on his shoulder cast an aura of inexplicable intelligence. The stranger addressed the crowd, as Daredevil, supported by his retractable billy club, eased to the ground. "Listen to the words of Zarath my children. Man is something which must be overcome. Let all sycophants, toadies, and grovellers flee from my presence, but I covet the company of a strong friend or enemy, the two being much the same!" Such self-righteousness is rarely palatable, especially when it contains much truth. Daredevil determined to defuse the situation before violence ensued. Like a flash of crimson, he swung toward Zarath, intending to spirit him away from the crowd. All were shocked when Zarath embraced the hero with one arm and the eagle grabbed them both and carried them off a great distance. When they landed, Zarath addressed the hero while the eagle nodded approvingly. "We are both men without fear Daredevil my friend. Shall we do glorious battle for the sheer enjoyment of it? For we are above the mob from which you sought to save me, although I was in no danger." "No, I don't fight for pleasure," DD replied. "If you're so superior, why do you bother with the crowd?" "Alas, I bear them a gift which they cannot receive. Man is something which must be overcome." With that the master summoned his eagle, and the two departed, taking their gift with them. In exhilaration and despair, Daredevil watched them go. No self-respecting vigilante would have stopped them.



Legal Briefs . . .

Agent Orange

The Issues...

by Rich Roth

"Agent Orange" is the term used for the various herbicides which were used by the United States as defoliants in the Vietnam conflict. From 1962 to 1971 over seventeen million gallons of herbicide were sprayed over South Vietnam for purposes of strategic combat. First they were used in an effort to improve the Army's visibility of the enemy. Then they were used in an attempt to destroy the enemy's food supply. The operation was deemed successful.

Agent Orange was so devastating to the land that it will take twenty years for the forest to recover from the damaged condition.

The plaintiffs include a class of servicemen, their estates, widows, wives and children. They complain of ill-effects and medical problems ranging from physical disorders (such as cancer, immune system dysfunction, neurological problems, joint pain, swelling and skin rashes) to mental distresses (such as fatigue, dizziness, depression, loss of eating habit, loss of libido, mood changes).

The defendants of the litigation are the manufacturers of the herbicides. They are nineteen corporations including Dow Chemical, Diamond Shamrock and Monsanto.

The litigation, being conducted in the Eastern District Court of New York, involves over 2.4 million plaintiffs. The claimants allege causes of action in strict products liability, negligence, breach of warranty, nuisance and intentional torts. Because the suit is of such a complex nature, Judge Pratt has decided to conduct the litigation in phases under what is known as the "case management plan." This consists of weekly trials, pleadings and motions.

In the first phase, the defendants attempt to bar themselves from liability by asserting the "government contract defense." In order to understand the defense, one must first look at the United States government and

their relationship to the litigation.

Initially the defendants, after being served with pleadings, impleaded the government as third party defendants. But after a long fought battle, the district court ruled that the government was immune from suit. In relying on past precedent and the Federal Tort Claims Act (FTCA), the court held that where transactions take place between the government and an independent contractor and a resultant tort suit emerges, if during wartime, then the government would be immune from suit. The court relied on the argument that the government should not have to be concerned with liability when it makes decisions in times of crises or of national emergency.

Because of the government's immunity, the defendants assert that they, too, should be immune because their sole role, in which they allegedly had no choice in rejecting, was that of manufacturing products (Agent Orange) which were designed by the government. The corporations state that the specifications and plans of the herbicide were beyond their control. Therefore, they are attempting to get an extension of that governmental immunity termed the "government contract defense."

The court has already determined that this affirmative defense exists at law. But the court was reluctant to grant the defendants a summary judgment for the purpose of viewing the facts to determine whether the defense will be upheld; i.e. whether the defendants did have the part of the operation that they allege.

This author questions the soundness of that decision. In fact, the recognition of the government's 'sovereign immunity' and of the government contract defense have been criticized by courts and scholars alike. If the defense prevails, the entire litigation will be terminated and the 2.4 million servicemen and civilians will be without a remedy. The soundness of the defense will be the topic of the next issue of the series.

... Discussion

by Anita Lokos

The significant legal issues of the Agent Orange litigation will be discussed by Leonard Rivkin, National Trial Counsel for the Dow Chemical Company and Professor Aaron Twerski, Consultant to Plaintiff's Consortium on Wednesday, Nov. 17 during the Dean's hour from 12-1 p.m. in Room 230.

This program is the second in a series sponsored by the Trial Advocacy Club, Monroe H. Freedman Chapter of the Association of Trial Lawyers of America offering an opportunity to learn about the principles of trial advocacy from experts.

Judge George Pratt, U.S. Circuit Judge, second circuit, assigned to the case, described *In Re: Agent Orange* as, "the largest product's liability case ever tried in the United States." This purported class action suit consists of as many as 2.4 million persons.

One aspect of the litigation will be concerned with proof of the plaintiffs' injuries, the defendant's negligence, and whether the defendant's negligence caused the plaintiffs injury. Under Professor Twerski's view, the causation question and underlying substantive law questions must be examined together. Litigation strategy is thus not only a function of "fact sensitivity" but the interplay between fact and law.

The complainants in the Agent Orange litigation are veterans and their families who claim damages allegedly sustained as a result of the veterans' exposure to herbicides manufactured by Dow and others and used by the U.S. Government in the armed conflict in Southeast Asia.

Since the first Agent Orange action filed in N.Y.S. in 1978, approximately 270 separate Agent Orange actions have been filed in State and Federal courts in some 34 states. There are approximately 3,267 veterans' claims out of the approximate 5,194 plaintiffs.

By 1979, there were Agent Orange actions filed in the Northern District of Illinois, the Southern District of New York, as well as the Eastern District of New York. The cost of litigating these and any future claims in so many different districts is time consuming, very costly and would require considerable coordination by many legal firms. Therefore, in March, 1979, Dow moved before the Judicial Panel on Multidistrict Litigation for an order transferring the Agent Orange actions pending in different districts to a single district. The Judicial Panel granted Dow's motion on May 8, 1979, as a result of that order all Agent Orange actions commenced in or removed to Federal Court subsequent to the date of that order have been assigned to Judge Pratt in the Eastern District of N.Y.

Under the defendant's view, the legal issues of the Agent Orange actions are the consequences of applying or not applying federal common law, statutes of limitations, and whether or not these actions will be certified as a class action. The defense argues that mass tort actions for money damages are not appropriate for class certification.

The plaintiffs also characterize their action as equitable in nature and seek to establish a trust fund out of corporate earnings which will ultimately be used to compensate plaintiffs.

nations by citing countries with the worst humanitarian records as those quickest to condemn Israel for having a system that supports superior and inferior rights. "Compared to what?" he asked rhetorically. "Compared to Russia and its treatment of dissident Jews, compared to England with its non-whites, to France with its animosity towards Algerians? Compared to India's caste system and its periodic slaughter of countless 'untouchables'?"

"There was no evidence of pressure ex-

In December of 1980, Judge Pratt dismissed all of Dow's third party claims against the United States government. Dow now pleads, "if the United States is immune from any liability to plaintiffs for damages allegedly caused by Agent Orange, Dow is entitled to share this immunity." The government contractor's defense is the subject of a preliminary Phase I trial to be held before Judge Pratt in June, 1983 at the Federal District Court on the Hofstra grounds in Uniondale.

Professor Aaron D. Twerski is a recognized authority on the subject of Products Liability and as such represents the Academic Community in the Agent Orange case. Prof. Twerski is well known for his lectures and books on this subject, as well as his viewpoints concerning Conflicts of Law theories. He was Student Editor for the Marquette Law Review in 1964-65, a member of the National Moot Court Competition in 1963 and graduated second in his class, cum laude. Prof. Twerski is a member of the Delta Theta Phi Law Fraternity and was appointed by the President of Marquette University to Alpha Sigma Nu Honor Fraternity.

He has been a professor of law at Hofstra since 1972. At Hofstra Law School, he was interim Dean in 1977-78 and Associate Dean in 1975-77. Prof. Twerski is a member of the Wisconsin, Pennsylvania and New York Bars. He has taught at Duquesne, Cornell, Boston, and Harvard University Schools of Law, and has been a trial attorney with the U.S. Department of Justice.

Additionally, Prof. Twerski has served as an investigator for a National Science Research on Product Liability, as a member of the Association of American Law Schools Round Tables on Products Liability and Conflicts of Law and he has chaired or represented many civil and religious organizations.

Mr. Leonard L. Rivkin is the Senior Partner in the firm of Rivkin, Leff, Sherman & Radler with offices in New York and Chicago.

He is nationally recognized as an outstanding lecturer and writer, with appearances before the American Bar Association, New York State Bar Association, Defense Research Institute, Federation of Insurance Counsel, Practicing Law Institute and many local trial groups.

Besides his current appointment as National Trial Counsel for the Dow Chemical Company in their Agent Orange suits, Mr. Rivkin is National Coordinating Counsel for Commercial Union's asbestos suits in their claims against the United States and their government contract defense.

Mr. Rivkin received his LL.B. degree from the University of Virginia College and Law School and is a member of the American, New York State and numerous local Bar and Trial Lawyer Associations. Other memberships include the International Academy of Law and Science, Federation of Insurance Counsel, American Judicature Society and the Federal Bar Council. He is a former Special Professor of Law at Hofstra University Law School.

Mr. Rivkin served in the U.S. Army during World War II where he was awarded two Purple Hearts and the Silver Star by order of the President of the United States.

erted in Lebanon for an investigation," Freedman observed, "and President Gemayel has refused to admit that his Phalangists did the killing. Yet in Israel, there was an immediate protest by 10 percent of the Israelis and a call for an investigation."

After reciting the facts of the incident, as he heard them, Freedman asserted, "What happened was not a holocaust; Jews have suffered innumerable pogroms." He cautioned, however, that "these are crimes against humanity. There are no neutrals. If

con't. on p. 15

Leonard Rivkin, esq.

National Trial Counsel
Dow Chemical Company

Prof. Aaron Twerski

Consultant to Plaintiff's Consortium

Will Discuss

the **Agent Orange Litigation**

Significant Legal Issues

Dean's Hour

12-1p.m.

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Monroe H. Freedman
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Monroe Freedman Speaks on The Holocaust

by Peter Shafran

"When I speak of the Holocaust in Europe during World War II, I don't seek to minimize slaughter elsewhere. There are differences in law and morality, duration, acknowledgement or responsibility and differences in the relations of the world community," said Professor Monroe Freedman, during his discourse on "The Holocaust and the Beirut Tragedy," on October 20.

A strange stillness filled the air as Freed-

man quoted newspapers describing atrocities committed by the Palestine Liberation Organization on the Lebanese people during the last six years. There were no United Nations condemnations and no European condemnations, Freedman noted. "Yet today in newspapers around the globe nations are not only outraged by Israel's role in the Beirut incident, but as an editorial from a San Diego newspaper claimed, 'American Jews are responsible as well.'"

Freedman expounded on the hypocrisy of

More Legal Briefs...

Tax Court Under Pressure

by Annette Guarisco

The U.S. Tax Court is inundated with tax deficiency cases and, as a result its 29 judges will only issue opinions concerning roughly two percent of the 52,000 cases pending this year.

One reason for the sudden increase in the number of cases on the Tax Court calendar is that more and more taxpayers with small tax deficiencies are taking the Internal Revenue Service to court. An additional reason for the backlog is the boom in the tax shelter business. The final reason is procedural. All opinions must be issued in written form and the chief judge must then review each one before its issuance.

However, the Tax Courts' situation is not that bleak. The Tax Equity & Fiscal Responsibility Act of 1982 (TEFRA), which imposes a penalty of \$5000, plus compounded interest, upon taxpayers who bring frivolous and groundless suits, should cause a leveling off of Tax Court filings. The new law also revised provisions affecting tax shelters, another reason for the expected slowdown in tax deficiency cases.

The IRS settles approximately 75% of filed cases before trial. Chief Judge Theodore Tannenwald Jr. suggested that increasing this percentage would serve to ease the court's backlog problem. Since, according to an IRS annual survey, the Tax Court decided 52.1% of its cases totally in the government's favor and only 12.1% totally in favor of the taxpayer, an increase in settlements should be accepted favorably by taxpayers. A high proportion of taxpayers bring the IRS to court without the assistance of counsel (per se). This is not only another reason for the Tax Courts' backlog, but also for the low percentage of total taxpayer victories.

The backlog, even if decreased by the new tax laws, will not disappear overnight.

by John G. Kavanagh

It is estimated that United States retailers suffer estimated \$20 to \$80 million losses each year due to shoplifting. According to the FBI's Uniform Crime Reports, studies have indicated that only one third of all known shoplifting incidents are reported to the police.

The public attitude toward shoplifting can best be described as one of apathy. Given current economic difficulties, most consumers have little sympathy for merchants and their problems. Moreover, in a society where one need only look at the front page of the Daily News to read about, or better yet, see pictures of, another gruesome murder, crimes against store property are not uppermost in the public's mind.

Retailers, however, in fighting their ever losing battle against public and legal apathy, are confronted with a greater threat to the prevention of shoplifting — the "Shoplifter's Myth." The "Shoplifter's Myth" concerns the mistaken belief that, in order to be apprehended and convicted of larceny for shoplifting, one must physically leave the store with unpaid merchandise. Such is not the case in New York.

In a landmark decision, the New York Court of Appeals in *People v. Olivo*, 52 N.Y. 2d 309, 420 N.E. 2d 40, 438 N.Y.S. 2d 242 (1981), was confronted with an issue of first impression: May a person be convicted of petit larceny if the person is caught with store goods while still inside the store? The Court of Appeals in deciding the appeals of three defendants convicted of larceny in the lower courts in *People v. Olivo*, *People v. Gasparik*, and *People v. Spatzier*, affirmed the convictions. The court found that

cedure and administrative practices committees, among other groups, are currently searching for solutions to the problem.

Shoplifters Myth

under New York Penal Law section 155.05, "A shoplifter need not leave the store to be guilty of larceny, as long as that person exercised control wholly inconsistent with the owner's continued rights. This control may be demonstrated by several factors, including concealment of the goods under clothing or in a container, and possession of a known shoplifting device actually used to conceal merchandise, such as a specially designed outer garment or a false bottomed carrying case."

In tackling the issues, the Court of Appeals found that the primary issue in each case is whether the evidence, viewed in the light most favorable to the prosecution, was sufficient to establish the elements of larceny as defined by the Penal Law. The Court in deriving its conclusion relied heavily on Section 155.5, subd. 1 of the Penal Law which defines larceny as, when a person "with intent to deprive another of property or to appropriate the same to himself or a third person, he wrongfully takes, obtains, or withholds such property from an owner thereof." The Court went on to conclude that requisite intent may generally be inferred from all the surrounding circumstances of each case.

In analyzing the facts of each case, one can understand the necessity of shattering the "myth" and placing everyone on notice. In *People v. Olivo*, the defendant, while under observation by a department store security guard, secreted a set of wrenches in his clothes while in a crouching position. After looking around, the defendant began walking toward an exit, passing a number of cash registers en route. When defendant did not stop to pay for the merchandise, the officer accosted him a few feet from the exit. At trial, the defendant testified that he had placed the tools under his arm and was on line at a cashier when apprehended. The jury returned a verdict of guilty on the charge of petit larceny. The conviction was affirmed by

the Appellate Term.

In *People v. Gasparik*, the defendant was observed by two store detectives tearing off the price tag and the security 'sensormatic' device of a leather jacket. Leaving his own jacket behind, the defendant put on the leather jacket and began to walk through the store, passing several cash registers in the process. When the defendant headed for the exit he was apprehended by security personnel. At trial, the defendant denied removing the price tag and the sensormatic tag from the jacket, and testified that he was looking for a cashier without a long line when he was stopped. The court, sitting without a jury, convicted defendant of petit larceny. The Appellate Term affirmed.

In *People v. Spatzier*, the defendant was observed by the co-owner of a bookstore on Fulton Street in Hempstead removing a book from the shelf, looking up and down the aisle, and placing the book in his attache case. When he was approached by one of the owners, an altercation ensued. At trial, defendant denied secreting the book in his case and claimed that the owner had suddenly and unjustifiably accused him of stealing. The jury found defendant guilty of petit larceny, and the conviction was affirmed by the Appellate Term.

In conclusion, although these decisions probably will not greatly affect the annual retail loss due to shoplifting, they are an affirmative step by the courts in clearing up a "myth" that has tired retail store owners' hands in the fight against shoplifters. The prevention of shoplifting is a very costly proposition. The cost associated with the use of a store security force is a continuing expense, in addition to the implementing of anti-shoplifting devices such as closed-circuit televisions and sensormatic units. The apprehension and prosecution of a suspected shoplifter is a time-consuming and costly procedure to all, especially the consumer, who inevitably absorbs the cost.

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Holocaust-con't. from p. 14

you have the power to speak and act, you should. Nations of the world are hypocrites — we shouldn't be!"

One student felt that it was a difficult dilemma to speak out about the massacre and that perhaps it might be better to inter-

nalize his feelings. Freedman agonizingly reasserted that we should not emulate hypocrites. "I am a free man and a Jew — I must do what I have to do. Whether Jews speak out honestly or not, criticism and condemnation will come, but perhaps, someday..."

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Still More Legal Briefs...

Insanity Test

by Sharon Hyman and
Tracey Epstein

The assassination attempt on President Reagan in March of 1981 resulted in a finding of "not guilty by reason of insanity" for John Hinckley, Jr. This verdict, rendered by a jury sitting in the District Court in Washington, D.C. has created controversy both inside and outside of the legal community regarding the insanity defense. Angered by the fact that Hinckley was unquestionably the perpetrator of the crime and thus "guilty," the public expressed its outrage prompting Senate hearings on the issue. The decision to "acquit" Hinckley and have him committed to a mental hospital where he could be released when "cured" did not appeal to a great number of Americans. An effort to reformulate the legal standards governing the mentally ill has once again begun.

This column, to be continued next month, will discuss the tests used to determine insanity in the area of criminal law, and criticisms of these tests. The current controversy surrounding the insanity defense, along with recent proposals and developments will be examined, with commentaries by lawyers, legal scholars and psychiatrists. The issues involved are complex and puzzling; the basic question being how to articulate a set of guidelines or standards to determine if a person is, indeed, "insane" and thus, not responsible for criminal conduct.

Unlike other defenses, a successful plea of insanity results in a special form of verdict. The defendant is not acquitted and released, but is committed to a mental institution until he has recovered his sanity. The notion of an insanity defense stems from the general idea that a mentally ill person lacks the "mens rea" necessary to be held criminally responsible for his conduct. Punishment, as the argument continues, is not at all likely to deter the insane individual from future antisocial conduct. In addition, it may be said that the purpose of retribution would not be served by the conviction and punishment of the insane. The insanity defense developed as a means of saving from retributive punishment those individuals so different from others that they could not be blamed for what they had done. The purpose of protecting society is met, as the ill person is committed until he is deemed no longer dangerous.

Although there is debate over the issue of whether the insanity defense should exist at all, the current controversy has centered upon the standards to be utilized in deciding if a person is insane, and what the appropriate punishment and/or treatment should be. In many jurisdictions today, the *M'Naghton Rule* is used as the test of insanity. The rule is derived from *M'Naghton's* case, decided in England in 1843. Under this standard, the defendant cannot be convicted if, at the time he committed the act, he

was laboring under such a defect of reason, from a disease of the mind, so as not to know the "nature and quality" of the act he was doing, or, if he did know it, did not know that the act was "wrong."

Due to the sometimes narrow interpretation of the rule, number of states have supplemented the *M'Naghton* rule with the "irresistible impulse" test. This test was first delineated in 1887 in *Parsons v. State* (81 Ala. 577, 2 So. 854); it asks whether the defendant was afflicted with a mental disease, so destroying his free agency and causing him to lose the power to judge right from wrong. This loss of power and control renders him unable to avoid committing the act in question. The term "irresistible impulse" is deceiving, since the loss of control does not necessarily relate to a distinct point in time or to a sudden force or compulsion, but rather to the defendant's capacity for self-control.

In 1954, a third alternative standard was formulated by the U.S. Court of Appeals for the District of Columbia in *Durham v. U.S.* (94 U.S. App. D.C. 228, 214 F. 2d 862). Under this broad standard, one is not criminally responsible if his act was the product of mental disease or mental defect — sometimes termed the "product test." The court left the definition of produce open to interpretation, and whether a "but for" test should be strictly applied to this situation. Other jurisdictions have not adopted this formulation.

The Model Penal Code has delineated yet another approach to the insanity defense, currently used in both the federal system and 26 states. Under this test, a person is not responsible for his criminal conduct if he either lacks substantial capacity to appreciate the wrongfulness of his act, or is unable to conform his conduct to the requirements of the law. Draftsmen used the word "substantial" in contrast to the other tests' requirements of a complete impairment of capacity, to indicate the inability to pinpoint an exact degree or level of impairment. Also, use of the word "appreciate" instead of "know" indicates a broader base of inquiry into the defendant's individual understanding.

The Hinckley case focused attention on what some consider a major failing of the federal insanity defense: the burden of persuasion rests with the government. Once the defendant has gone forward with a sufficient amount of evidence of his insanity, the prosecution must bear the burden of refuting this and proving sanity beyond a reasonable doubt. A majority of states follow this approach. In other states, however, this burden of persuasion rests with the defense. Critics have attacked the federal position as placing a tremendous burden on the prosecution.

Next month: Criticisms and commentaries on the insanity defense and a discussion of the latest proposal, "guilty but insane."

Heated Scriptures

by Don Walsh

Greenville, South Carolina is a quiet, slow, medium-size southern city. The summer brings a constant buzz of heat bugs, melting blacktop, and more heat and humidity than any northern boy can stand. Now, thanks to Ronald Reagan, the IRS, the Christian Fundamentalist Movement, and the Supreme Court, Greenville has been hot all fall.

Bob Jones University, a Christian Fundamentalist institution, is at the center of Greenville's heat wave. The University describes itself as "an institution of learning for the general education of youth...giving special emphasis to the Christian religion and the ethics revealed in the Holy Scriptures." As a private church-related school, it claimed tax exempt status under S 501(c)(3) of the Internal Revenue Code. Problems arose for Bob Jones when the IRS discovered that the school, in interpreting the "ethics revealed by the Holy Scripture," engaged in discriminatory practices.

Although Bob Jones allows black students to attend (and more than a few do), they forbid interracial dating. The penalty for this "offense" is expulsion. Also, if University officials nab someone "espousing, promoting or encouraging others to violate University dating rules," the espouser, promoter or encourager is cast out. Citing these University rules, the IRS removed Bob Jones' tax exempt status pursuant to IRS rulings (Rev. Rul. 71-447, 1971-2 CumBull. 230 and Rev. Proc. 75-50, 1975-2 CumBull. 587, to name just a few.), which deny tax exempt status to racially discriminatory schools. "Charitable donors" were also precluded from deducting contributions to Bob Jones U.

Bob Jones, in 1978, took the IRS to court, claiming that the Service lacked the power to take away their tax exempt status. In *Bob Jones University v. United States*, 468 F. Supp. 890, the U.S. District Court for the District of South Carolina passed judgment in favor of the University. Judge Chapman reckoned he saw eye to eye with ol' Bob Jones in that there was "no declared federal public policy against the practice of racial discrimination by religious universities," and no IRS ruling would change that. Congress would have to pass a law before Bob Jones could be denied tax

exempt status on those grounds. The judge also felt that Bob Jones was being denied tax benefits for its unwillingness to violate an important principle of its religion. First Amendment values, the judge felt, were being unjustly burdened because the IRS policy did not represent a "compelling state interest."

The government appealed in *United States v. Bob Jones University*, 639 F.2d 147. The U.S. Court of Appeals, Fourth Circuit, reversed the lower court. The court found that the IRS had statutory authority to revoke tax exempt status. It attacked Judge Chapman's "simplistic reading" of 501(c)(3). The IRS, the court felt, needed no statute from Congress to find that racial discrimination in schools is substantially against public policy. The court also balanced the effect of the burden on Bob Jones' religious practices against the governmental interest, and found no First Amendment violation. This decision came down in 1980 — the same year Ronald Reagan was elected President. Bob Jones appealed, and the plot thickened.

Earlier this year, while the appeal was pending before the Supreme Court, the President entered the picture. In a dazzling reversal of field that would have made Pat O'Brien proud of the Gipper, Reagan sided with Bob Jones and Judge Chapman, basically adopting their reasoning. Making the jump with the Boss was the Civil Rights wing of the Justice Department. As a result, there was no one left to argue against Bob Jones in the Supreme Court.

A "friend of the court," former Secretary of Transportation William Coleman, was appointed to argue against the University. According to New York Times' editorialist John P. MacKenzie, Coleman put on quite a show in the Supreme Court. Reportedly, he "shred the arguments" of the Justice Department's lawyer and tore into Judge Rehnquist. Presently, the Court is deciding the case.

No one is giving odds on the outcome. There is much speculation that the case may yet be decided based on the fact that Bob Jones had no true judicial adversary. Should the Court somehow get over this hurdle, a betting person would have to take Nixon's right-bent, let-em-loose gang in the Court into account before putting money down. The decision is due out at any time. Greenville should remain hot until then.

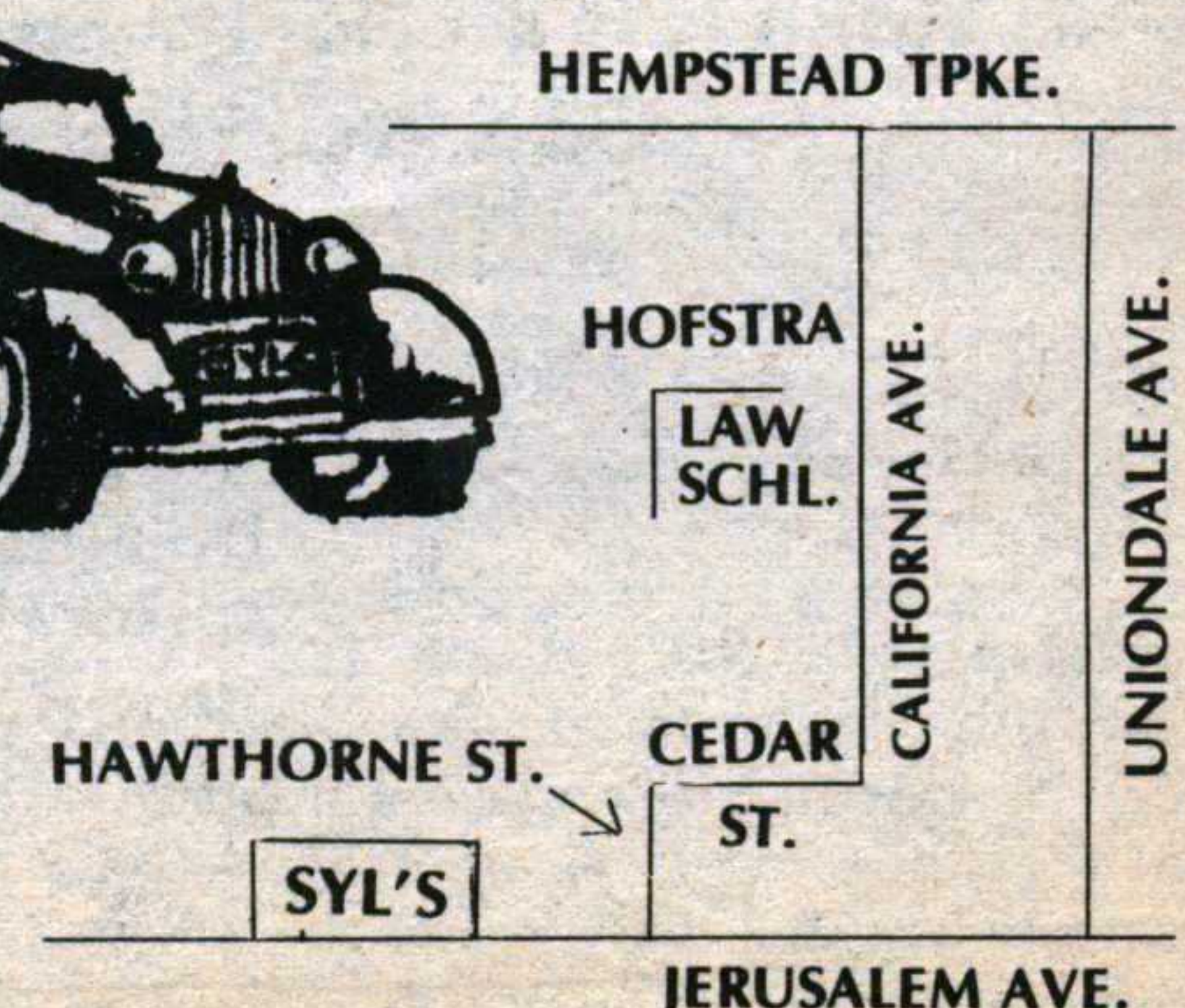


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Amerasian Blues

by Barbara S. Magen

They leave Vietnam bearing nothing except small plastic bags containing a few articles of clothing. Their arrival in the United States is bittersweet, with a sense of adventure, yet tears for family left behind. Such is the story surrounding the thirty-seven Amerasian children who recently arrived in America this October.

The children, of mixed Vietnamese and American parentage, made their journey in two separate groups. The first, containing eleven youths aged seven to fifteen, flew out of Bangkok, Thailand on September 30. On October 7 twenty-six additional children departed. Another large group will be leaving on November 15. These groups represent the largest contingent of Amerasian youths to arrive in America since the Vietnam war ended.

These children have caused much discussion and conflict. Having been fathered by American citizens, they suffer discrimination because of anti-American sentiments and cultural biases in their Asian homeland. Some have ended up becoming street merchants, selling candy or peanuts. All are scorned by society and are barred from obtaining an education due to their American blood. Although some have been openly acknowledged by their fathers, many, less fortunate, have been abandoned or remain unknown to their American ex-servicemen fathers. The offspring who have arrived so far have been recognized by their fathers. They are the lucky ones; they will be living in homes throughout the United States. Only one child, whose father passed away, will be residing with members of his Vietnamese family.

The stories of tearful reunions and hopeful thoughts leave many other questions unanswered. For example, no one knows exactly how many Amerasians remain in Vietnam or what will become of those children never acknowledged by their American fathers. There are differing reports

as to the number of Amerasians who want to leave Vietnam. The American Embassy in Bangkok presently has files on 3,740 of these people. The Embassy further estimates that the total number who would want to depart is somewhere between 8,000 and 10,000. Private agencies, however, claim that the total amount is more likely to approach 25,000 or more. Meanwhile, Representative Stewart B. McKinney, a Connecticut Republican, who has led a four-year effort to gain approval of legislation to allow these Asian-born offspring of ex-servicemen to enter the United States, estimates that as many as 60,000 to 100,000 Amerasians might eventually be eligible to immigrate.

A bill has just been passed by the House and Senate which is meant to assist those children abandoned by or unknown to their American fathers. Supporters of this bill argue that the United States has a moral responsibility to help these stigmatized youths. As Mr. McKinney said, "These children come from nations committed to racial purity, and so they were regarded as nonpeople."

The Reagan administration has supported the bill which had 273 co-sponsors in the House of Representatives. Under this bill, a child may immigrate to the United States if he or she was fathered by an American citizen and was born in Cambodia, Korea, Laos, Thailand, or Vietnam after 1950. He or she must also have a guarantee of financial support from an American family or a private charitable agency for at least five years. In addition, the family must have an income equal to at least 125 percent of the official poverty standard, which for a family of four is about \$9,300.00 per year.

Proof of paternity is another factor further complicating the situation. According to the bill, admissible evidence includes birth certificates, local government records, photographs of the father, financial support of the father, and the physical appearance of the child. Once proven to be of American

parentage, these children will receive preferential treatment when trying to immigrate to the United States. This means that they will not be required individually to identify their fathers under the new law. Previously, under the immigration law, to be documented as an American citizen, a child born overseas out of wedlock had to be legitimized by the father.

Despite all of the recent publicity given to the great humanitarian efforts focused at retrieving these children, many Americans feel that the United States has no obligation, legal or moral, to take in these children. Some people feel that the youngsters, who are too young to fend for themselves and who can speak but a few words of English, are going to be an unnecessary burden on the taxpayers of this nation. Many Americans believe that charity begins at home. Despite this prevalent viewpoint, however, a group of private American aid agencies are taking major roles in helping the Vietnamese. For example, organizations like the Pearl S. Buck Foundation and the Church World Service are keeping files on Amerasian children whom they are eager to bring to the United States. Groups like these have sent delegations to Asia in order to

strengthen relations and to show both support and cooperation.

Admittedly, due to the limited documentation available, it is impossible to cover the range of sentiments and complications involved in this issue. The question remains whether we, as United States citizens, have an obligation to accept these children who have become products of our past war effort. If they are left in Asia, they face lives overshadowed by harsh discrimination. Yet, if they are brought to the United States, it is unknown what role they will come to play in our society. While they are a constant reminder of an unpopular war, many feel that they have the right to reside in the land of their fathers, a land traditionally regarded as the melting pot of all nations. The Statue of Liberty, itself, reads, "Give me your tired, your poor, your huddled masses yearning to breathe free..." Can we deny these children of our ex-servicemen a place in the United States? We must not forget that clothing is not the only thing tucked away in the plastic bags of these immigrant youths. They come also with the hope and the knowledge that they can make better lives for themselves amongst the people of our country.

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P.A.D. Initiation

The Kennedy Chapter of Phi Alpha Delta initiated into its ranks 43 new members at the Federal District Courthouse in Uniondale on Oct. 14, 1982. "This initiation marks a new beginning for P.A.D. at Hofstra," said Sandy Brooks, Assistant District Attorney of Nassau County and District Justice of P.A.D. in the New York area. "The Chapter has grown from eight members to one of the strongest chapters in the northeast."

Also attending the ceremonies were Dean Schmertz, of Hofstra Law School, Robert Spelike, immediate past Chapter Justice of the Kennedy Chapter, and 20 family and friends of the newly initiated class.

Schmertz, speaking as a special guest at the ceremony, congratulated the new members on their choice in joining the frater-

nity, telling them that the collegiality and experience they will receive by working together would benefit them throughout the rest of their professional careers.

Tony Colleluori, Chapter Justice of Kennedy Chapter, said, "The main reason for the jump in Chapter enrollment this year has been the energetic programs Phi Alpha Delta has been offering the student body, especially the Juvenile Justice Program, placement program and social programs."

After the ceremony at the courthouse, the families and friends of the new initiates and the fraternity members returned to Hofstra Law School for a wine-cheese-and-quiche party in the faculty lounge. The ceremony was presided over by Justice Colleluori and the rest of Kennedy Chapter's executive board. A good time was had by all!



Photo by Tracey Epstein

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SPORTS

The Stache

Hoops on Tap

by Harry M. Roth

The general format of pre-season previews includes a detailed analysis of the teams in the league, with a review of their strengths and weakness and a prediction of their final position in their division and post-season play. Let's face it, this year such an analysis would be a waste of time. At the end of the season there will be only three teams to watch — the Boston Celtics, the Philadelphia Seventy-Sixers and the Los Angeles Lakers. These three teams were last season's strongest performers, and with the improvements each made during the off-season, they are by far unequaled in the league.

During the off-season the Celtics proved that there is such a thing as a free lunch. By trading the rights to sign Dave Cowens to the Milwaukee Bucks for point guard Quinn Buckner, the Celtics added depth to their back court at the mere expense of unneeded personnel. Face it, Cowens would have to struggle to take playing time from Bird, Maxwell, Parrish or McHale. Buckner is a seasoned pro who should complement Danny Ainge nicely after Nate Archibald gets injured. The glaring weakness on this squad remains those green sneakers. The overall picture looks good for the Celtics, who will rival once again the power from the south — the Philadelphia Seventy-Sixers.

The acquisition of Moses Malone could be what the Sixers need to pay their debt to the City of Brotherly Love. Moses will remedy Philly's chronic rebounding problem. This added board strength will free Julius Erving to play a wing position on the fast break,

which translates into a revival of the Doctor J. "air show." Off-season transactions have resulted in Caldwell Jones' trip to Houston, Steve Mix's arrival in Milwaukee, and Devastatin' Darrel's move to somewhere in Jersey. These deals leave the Sixers short at the forward position, with untested players to back up Bobby Jones. The guard play of Maurice Cheeks, Lionel Hollins, and the instant offense of Andrew Toney is a proven force in the NBA. The fans and media in Philly are expecting great things from this team and will not settle for another I.O.U.

Unfortunately for the Philadelphia crowd, the Los Angeles Lakers are still in the league. The NBA champs have replaced Kurt Rambis with this year's Rookie of the Year-to-be, James Worthy. Remember Worthy against Georgetown in last year's NCAA final? Say no more, the Lakers will repeat.

Despite the dominance of these three teams there are other squads in the league that merit a trip to your favorite arena. The Milwaukee Bucks are the closest thing to competition for the elite when they're not pitted against each other. Marques Johnson and Sidney Moncrief compose the heart of the Bucks, interjecting the team with an exciting pulse. While the Atlanta Hawks still may be a surprise this year, the acquisition of "The Human Highlight Film" Dominique Wilkins nonetheless will make them fun to watch. Of course, the home fans know that the New Jersey Nets will be competitive. Boasting an all-college all-star team, the Nets should have a successful season. However, they will not break into the class of the elite.

And what of the Knicks you ask? Don't! Rumor has it that they are hoping for an NBA players' strike.



WORLD SERIOUS

There can be no question as to the highlight of the Serious. It occurred prior to the start of the first game. August A. Busch is the owner of the Cardinals. He also owns the beer company that brews Michelob and Budweiser. Busch had a great idea. He made his entrance to Busch Stadium in a carriage pulled by his famous Clydesdale horses. You've seen the commercials. Well, on this night, one of the horses decided he just could not wait to return to the stalls. When nature calls, even Clydesdales have to listen. Sure enough, some of horse chips were deposited right on the field. Calls went out for a pooper-scooper. The field was never the same. Good show!

Yes, the World Serious had all this. Yet something was missing. The STACHE will tell you what it was: George Steinbrenner, Billy Martin, the New York Yankees and/or Reggie Jackson. Not necessarily in that order. One or the others would be alright. Or in any combination thereof.

Let us take the Yankees. You either love them or hate them. As a matter of fact, that can apply to Steinbrenner, Martin and Jackson too. If you love 'em, you root until you are horse (like a Clydesdale). You follow their every move, word and action. If you hate them, fine. Curse them when they win. Laugh when they lose. It does not matter. You know you have been in a Serious when one or more of this "Fabulous Four" has been involved. You can not lose.

The Cardinals and Brewers are good teams but can they conjure up pure devotion or pure hatred? Usually not. Unless you are John Gorham. He loves the Redbirds. Need I say more?

The STACHE proposes a solution to this vexing problem. If Steinbrenner and the Yankees reach the Serious, nothing need be done. Ditto with Martin and Jackson, no matter which team they are on. But if none of them are involved, Baseball Commissioner Bowie Kuhn should place one in the Serious. Come on, Bowie, you can do it. Get Serious. Make up for your disappearing act during last year's strike.

The STACHE can see it now. "Ladies and gentlemen. Introducing the guest-owner of the Milwaukee Brewers...George Steinbrenner." Now that would be a World Serious.

THE STACHE

Editor's Note: The STACHE did indeed pass Lawyering Skills. He can even spell, but only when he is serious.

Cabo's Winter

by Richard Tirman



Graphic by Jane Himelfarb

As we enter what is euphemistically called the "holiday season," the outlook for excitement in professional sports is dim. One of the duller and most poorly played World Series of recent years ended with the Cardinals victorious — three losses to four. Add to this the number of years stripped off one's life from listening to Tommy Lasorda (who will inevitably be invited to "Dance Fever" for an encore performance), and one finds oneself praying for Spring.

As I predicted (ask anyone), the football strike is dragging interminably. I hope everyone agrees that it's all the owners' fault. They refuse to open their books (because of exorbitant profits), yet they refuse to permit free agency (enjoying the ducal privileges which baseball owners pine for). Then, they still expect the players to go back to work under the status quo. In the face of this, columnists, such as Dick Young, attack the players' union as being contrary to the spirit of the capitalist system. You see, unions are only for poor folk. Once a poor person is lifted above the poverty line, what more can he expect? Does anyone really believe that ticket prices will be held down if salaries are? How about the price of TV time? If these prices are effectively fixed by the action of the market, why should individual players work in an arena where they have no bargaining power whatsoever? The owners' choice is clear. Either they should buy the players off with guaranteed money, or free them with free agency. Instead, the dinosaurs prefer to do neither.

Continued on page 20

More Sports on
Page 20



Cabo's Winter

Continued from page 19

The one bright spot in New York sports, the Islanders, are too devastating to be very exciting until playoff time. The Knicks are hopeless. Professional bowling is no pep pill. All is dull, drab, desultory, if not dead. But in this "holiday season" many of us find other games to play. On October 31st there's the old favorite "Pretend You're Not Home" game, where you are matched against hordes of punk trick or treaters who know

you're in there. Then there's the "I Love Turkey" game, the "I'm so Happy Because it's the Winter Solstice" game, and the "This Year I'm Gonna Work Hard" game. Life is very systematic this time of year. Most of us will have dozens of makeup classes on cold rainy days when umbrellas blow apart in our hands. In sum, it's a good thing the sports world is so barren now. It suggests we face up to the harsh reality - to go beyond the game, and ask that external question, does anybody really like Winter?

Congratulations to Bobby Briglio, for his outstanding performance in the NYC Marathon: 2 hrs., 37 min., No. 304 of 16,000 Runners.

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Spoon Me With A Gag

One fine pre-autumnal summer day while sitting in my luxurious chambers, on a specially built memorial cushion, giggling at yet another futile Brennan dissent, I began to contemplate the future of American jurisprudence. My giddy mood dissipated as I thought back on all those fine young men with whom I attended law school - paragons of virtue, justice and decency. Along with me, they had dedicated their lives to make this country great. Where are those young men today, I asked myself. Most likely, they had suffered the same fate as the Tyrannosaurus Rex, the Edsel, and the one free bite rule for dogs. Realizing this, I no longer wanted to live. I quickly opened my window and leaped out onto the ledge. I imagined ending a long, yet illustrious judicial career by hurling my body earth-bound.

As I stood teetering precariously on the ledge, I glanced downward to take one last look at mother earth. What did I see, but a swarthy young man in a red, white and blue pin striped suit (the same suit I was wearing out there on the ledge). He was bounding up the courthouse stairs, three at a time. He was clicking his heels and singing "God Bless

America" - out of tune - but beautifully.

Although merely a messenger, he seemed overwhelmed by the experience. From what I could see from my lofty perch, he was overcome by a wave of emotion. The blood was rushing to his head, and his heart was pounding wildly inside his chest. He appeared on the verge of fainting.

The realization that young men such as this still existed renewed my faith in those two foot high letters proclaiming:

"EQUAL JUSTICE UNDER THE LAW"

The strength began to return to my legs. Determined to live, I propelled myself through the window and back into my office. Unfortunately, I landed on a pile of F. Supps, severely injuring my doric column. This didn't matter, however, because the memory of that young man dashing up the steps with his arms limply extended, holding what appeared to be a brief, reminded me of "blind justice" and acted as a psychic balm to my wounds. I was healed.

Gag this young man with a spoon, nay say I.

Chief Justice Berger
(prepared by loyal law clerks JM and LP)

The Eagles Have Landed

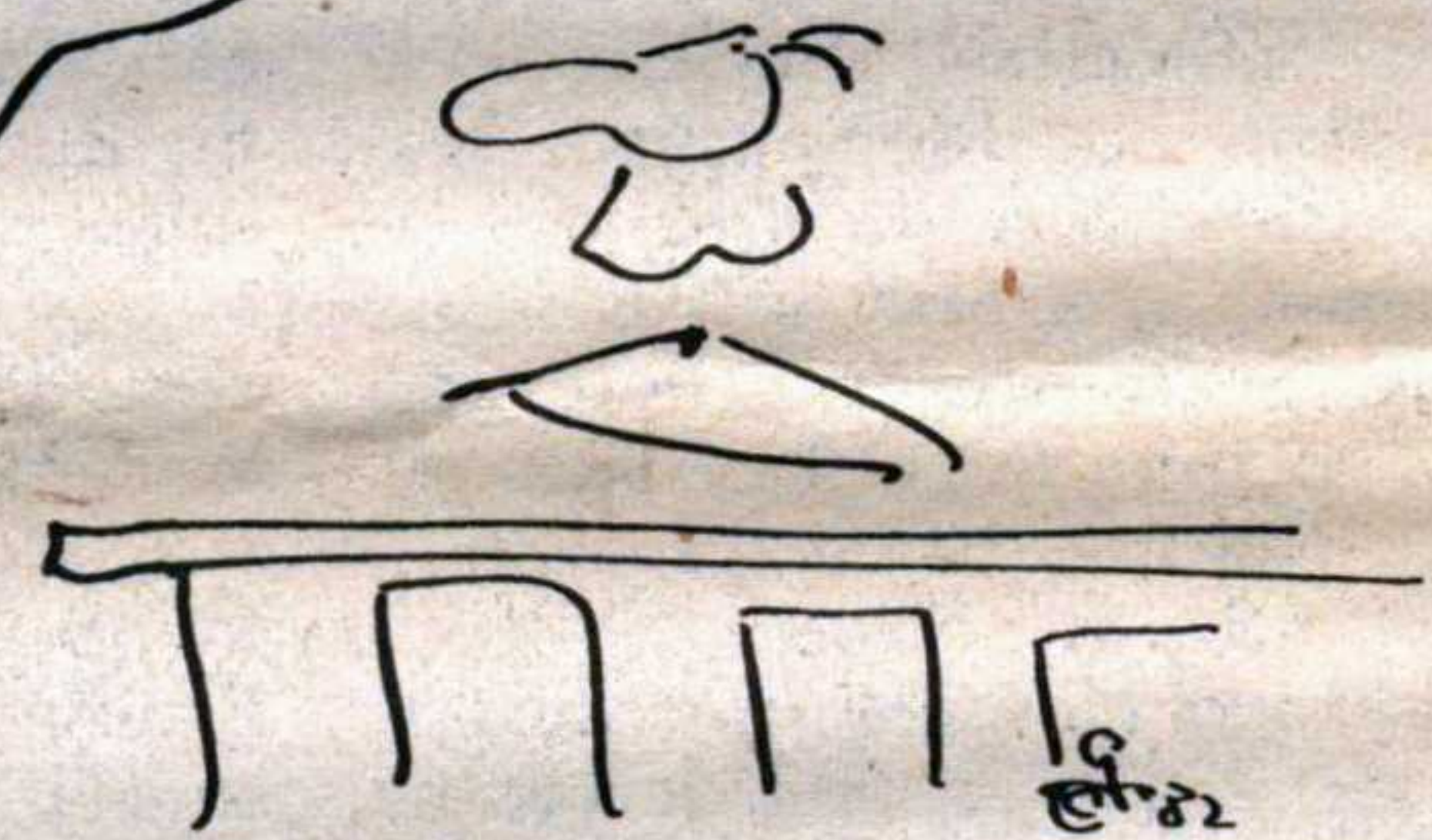
by Jane Himelfarb

A flash of red swept across the football field. From a distance the tall athletic bodies looked uniformed and polished. However, as one approaches, the Legal Eagles are a motley collection of Coca-Cola T-shirts and old fraternity attire, complete with red strips attached to a makeshift belt tied around each player's waist. Ah, but they do play a mean game of football. Unfortunately, the atmosphere is that of a golf game with the polite quiet claps of the spectator (note the singular noun). A football game as entertaining as the first year law students' deserves a crowd of cheering fans. No football game is complete without the support and enthusiasm of the fans. Regrettably, by the time this article is published, the Legal Eagles will have already either won or lost their final game. Most likely, they will have had either their celebration party, or whatever one does to console losing teammates. I expect a gala social event to celebrate their victory. They work well together in the field, and as a team are fast, strong and entertaining. Perhaps the second year team will concede to a game. As an advertisement, this reporter supports the Legal Eagles and urges your encouragement to support the Law School football season!

(Note, the Eagles wish to formally apologize to any individual who took offense to their advertisements for cheerleaders. There was no intention of malice behind that act.)



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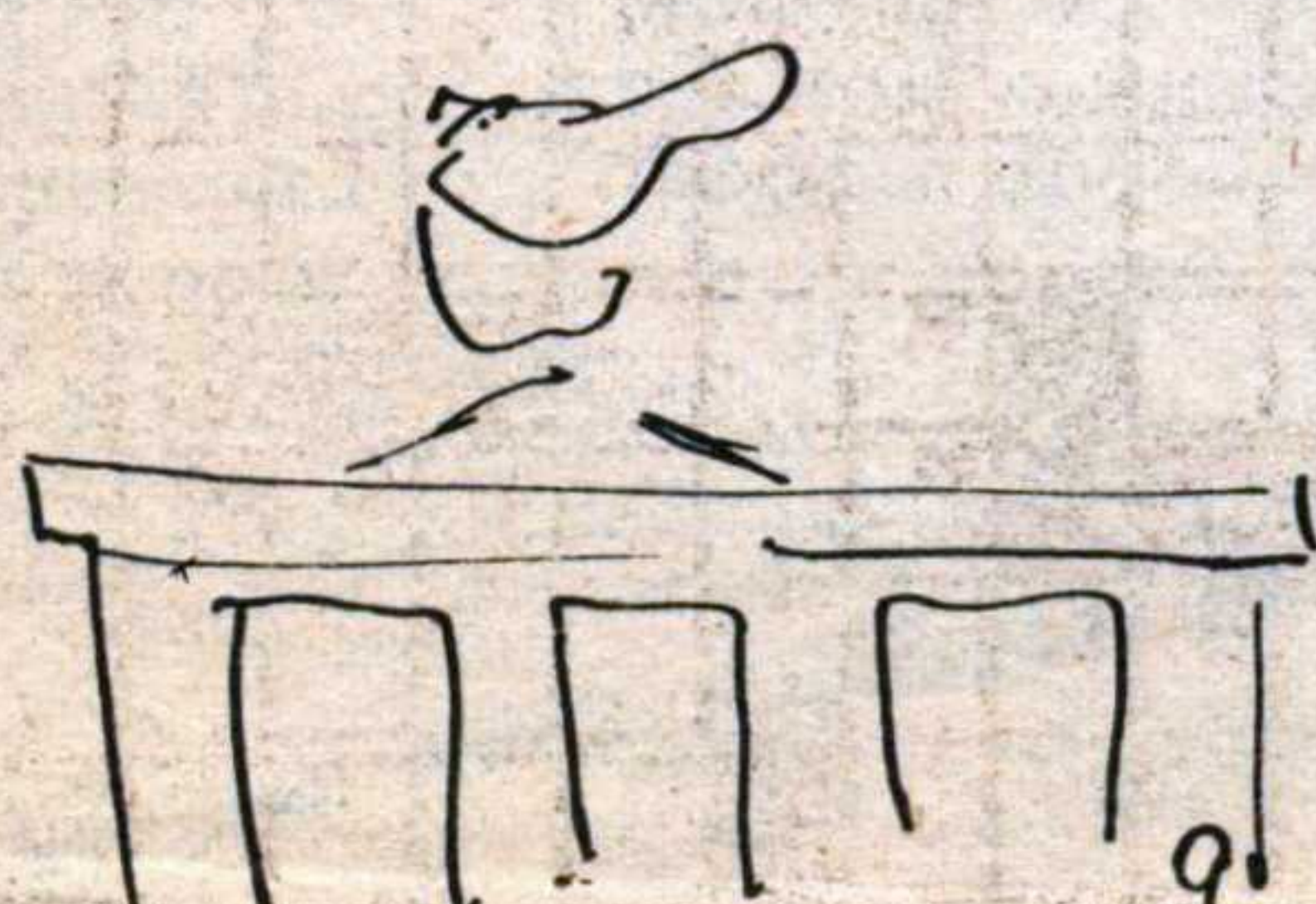
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DINERS
CLUB

Objection:
badgering
the witness.

I did
NOT.



Fox Fights For Twin Oaks

Continued from page 1

be roomed with non-smokers but were actually roomed with smokers.

Additional areas of concern outlined in the Student Government Association memorandum include: inadequate parking, absence of laundry facilities, lack of privacy due to absence of venetian blinds, notice to future tenants of crowded conditions, unsafe busing and questionable fire precautions. On the question of fire safety, Fox charges that the apartments lack fire warning devices in individual rooms. Fox's memo went on to question "whether the University has gone far enough in promoting fire safety."

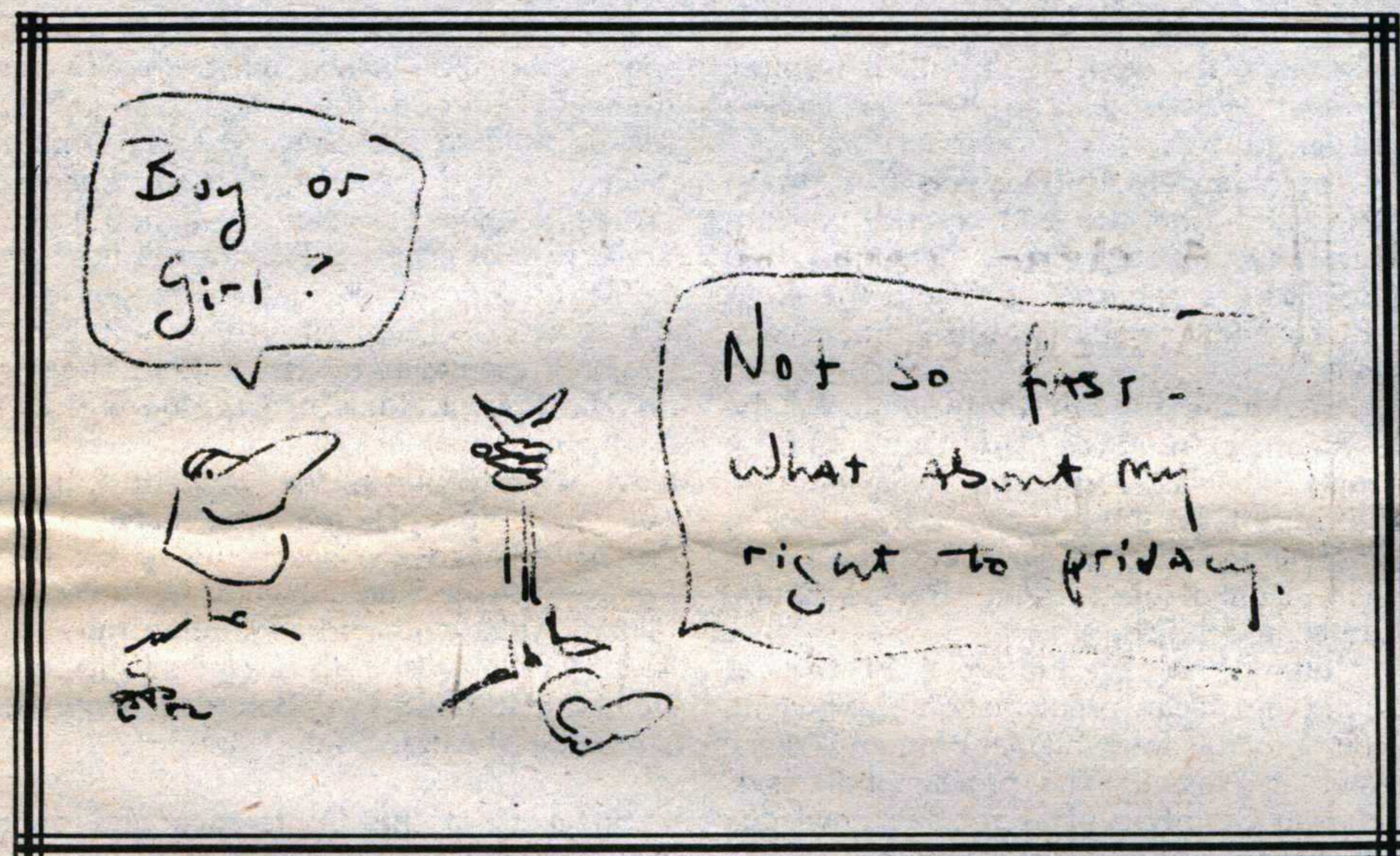
Summing up, Fox explained that he did not accept Dion's assertion that the University was losing money on the apartments. Fox said Dion refused to show him budget figures, which Fox called "unacceptable." Fox added that Dion told him the University does not charge the students based on actual cost. "I don't know where the hell the money is going," said Fox. "They have to be incompetent to spend money like that."

Fox also stated that Dion told him the University was considering charging law students who live in Twin Oaks more money since the law school semester runs longer

than the undergraduate semester. The next step, concluded Fox, is to bring the whole question back to the residents. "What we do," said Fox, "is up to them."

In another housing related matter, Fox told *Conscience* he wants to rewrite the housing contracts that students must sign to live in University housing. Fox called the contracts "the most oppressive and unconscionable documents I've ever seen. We want to get together a group of law students to rewrite the contracts so they will be fair to the students." Fox also expressed a desire to set up a student tenants organization.

In response to Fox's charges, Dean Mark Dion said that "the University is not making a bundle of money on Twin Oaks." In fact, added Dion, "the University is subsidizing the apartments." Dion acknowledged that there was a great deal of "frustration" regarding the apartments on the part of both students and administrators, and he emphasized that "his door was always open." Dion said that he did not understand why students needed a mediator such as Fox. The fact students go to Fox, said the Dean, rather than directly to him or the residential life department, creates "confusion and misinterpretation."



Alumni Cocktail Party sponsored by Hofstra Law School Alumni Association in honor of Dean Eric J. Schmertz. Wednesday, December 8, 1982, The

Cornell Club, 6 p.m. to 8 p.m., 155 East 50th Street, New York, N.Y. Inquiries: Robert L. Douglas, Assistant Dean, (516) 560-5856.

LEGAL TRIVIA

by William E. Berg

- a) Who played Clarence Darrow in the movie "Inherit The Wind"?
b) What was defendant John T. Scopes' fine?
- a) Who played "Rib" in the movie "Adam's Rib"?
b) Who played "Rib" in the T.V. series?
- a) Who is the bailiff of "The People's Court"?
b) What did Judge Wapner's father do?
- What is the name of Archie Bunker's law firm? (No resumes please)
- Who defended MASH's Henry Blake at his courtmartial?
- Who are the two most famous lawyers in Port Charles?
- a) Who played the new Perry Mason?
b) Who played Della Street in the original Perry Mason?
- Who was known as "The Law West of the Pecos"?
- Who shot Ironside?
- Who played Attorney General Robert F. Kennedy in "The Missiles of October"?
- What is so special about "00" in "007"?

- What was the name of the attorney who defended Jessica Tate in "Soap"?

BONUS: What two cartoon characters often argue about their respective patent rights?

Answers will be published in next month's *Conscience*.

Stay tuned for our first Legal Trivia Contest Next Month —
Same *Conscience*-time
Same *Conscience*-channel

Answers to last month's questions:

- James Stephens (Hart on TV)
 - Lindsey Wagner (Kingsfield's daughter)
 - Petrocelli (Barry Newman)
 - Joseph Campanella ("The Lawyers")
 - United Network Command for Law Enforcement (U.N.C.L.E.)
 - "There's trouble in Honduras" ("Lawyers, Guns, and Money")
 - "The Case of the Terrified Typist" (Mason's only loss)
 - Arthur Hill ("Owen Marshall")
 - Lee Majors ("Owen's associate")
 - Carl Betz ("Judd, for the Defense")
- Bonus: at Ray's Judicata Bar ("12(b)(6) cocktails")

Crossword Puzzle

Conscience Crossword #1

by Seth Lipsay

Across

- Class
- Identifying Feature
- Seed Cover
- Cosmetic lilies
- Stallone's athletic co-star
- Daily Planet Reporter
- "If you can't beat 'em, enjoin 'em!"
- Recidivist's quest
- If it's good it deserves another
- Ingest
- Max's job at Control
- Prof. Freedman's
- What occasionally precedes Falstaffs
- Landlord's mitigation option
- Stolen
- Accounting period
- Objectives
- Adjudicates
- Shankar, sitarist
- What a dieter drinks
- Jewish loaf
- Jock's brews
- What most 1L's do to prepare for class
- Calif. Ave's prolific ticket-writers
- The, to Pepe y Luis
- Whose film debut put Spielberg in a higher bracket
- Astrological K-car
- Theory available in Tylenol suits
- Death by Dialectics

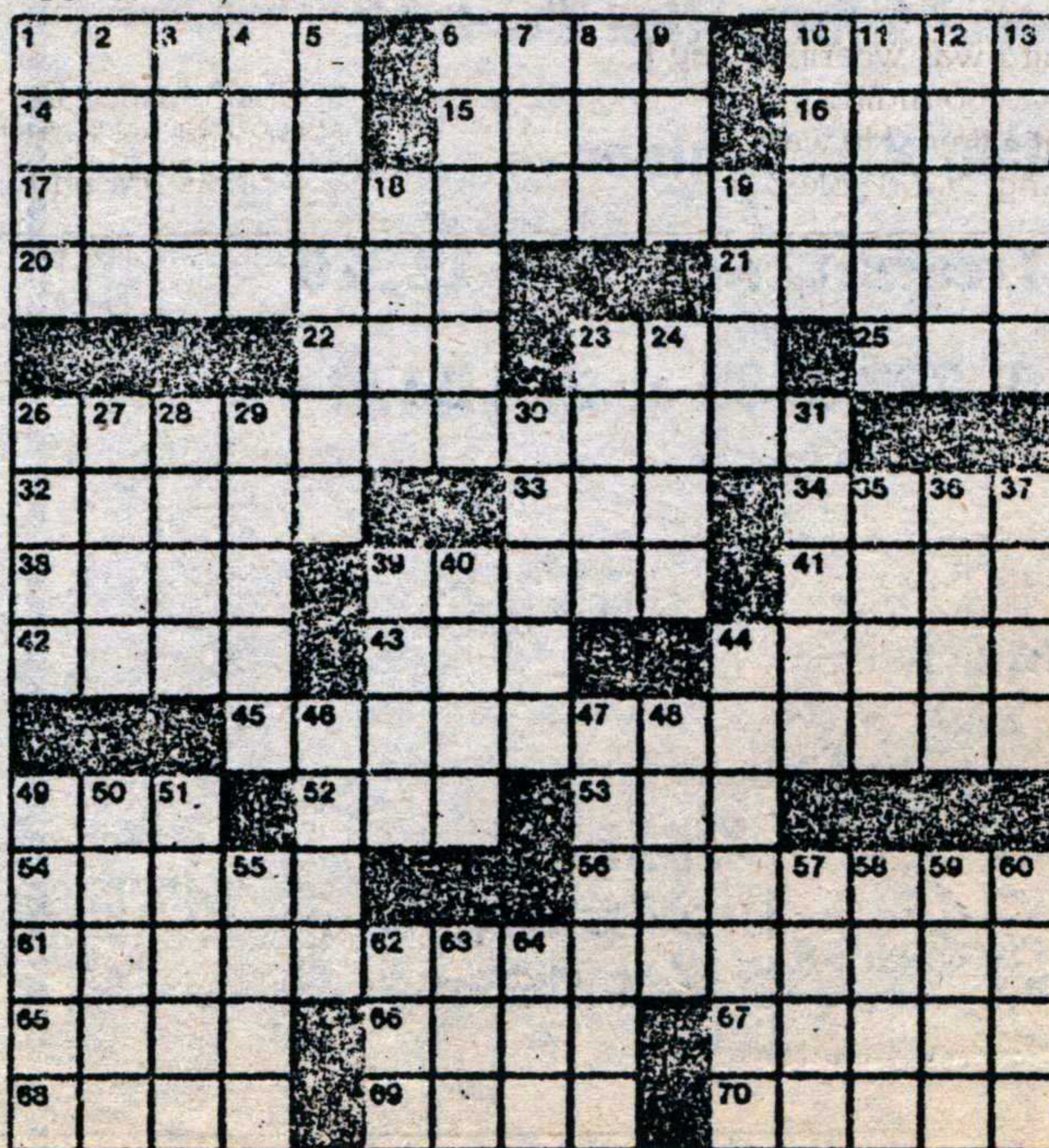
Down

- Festival
- Spirit
- North Ontario Workers Org.
- Balance
- Source of state's rights despite a testate
- Field that pays better than law
- President of Corp.
- For whom justice was meant
- Lawyer's thing
- Plenty
- Pro (singular)
- Knowing the right people might get you one
- Professor Friedman's
- What is on in May in 308
- BLT spread
- What to wear, if it fits
- Plants, in one's home
- Region
- Make a _____ in." (effect noticeably)
- Hawkeye
- What Nixon said to Rebozo
- Primary
- Tuned words
- "_____ peach"

- Park and Lex.
- Leaven
- Add one to make a quartet
- Homophone for rise
- Owners equity equals the assets _____ liabilities
- Law School org. with crowded board
- Deemed
- Siamese golf ball holder
- Waste-maker
- Evidence or Alcohol content
- Supplemental Verbiage
- "It was," to Jose

- Rest. for breakfasters
- Alligator upstager
- Vault guarantor (abbr.)
- Author Shalom _____
- bath item
- Not a KEOGH
- Coast Guard Navigator (abbr.)

ANSWERS WILL APPEAR
IN THE DECEMBER ISSUE
OF CONSCIENCE



Eight Day Bris Rule

Willard, AK—Oct. 13, 1982 (UNC). Arkansas state superior court Justice Orville W. Hicks, in a cutting opinion, today shocked the legal and rabbinical community of Willard, a town approximately 50 miles from Little Rock, when he found that the newly born Buford Mendelman's constitutional right to foreskin was in danger of being curtailed. Granting petitioner's motion to stay the anticipated surgery, Justice Hicks stated, "Had this bris taken place, petitioner would have suffered irreparable harm, with no adequate remedy at law."

The case arose when the petitioner's father, unable to secure the services of a trained mohel in Arkansas, contracted to transport famed New York mohel Dr. Asher Cutler to Arkansas. Dr. Cutler unfortunately boarded the wrong plane, and instead of arriving in Little Rock, landed in Oklahoma Ci-

ty. Since the 8th day had arrived, the boy's father was forced to take the matter into his own hands and perform the time-honored ritual on his own. The petitioner's guardian ad litem stated, "Little Buford did not know how close he came to having his rights violated."

The Judge stated in his decision that such action was mandated by law. "Of course, there is no explicit constitutional right to one's foreskin *qua* foreskin," stated the Judge, but the Judge did indeed find such a right to be penumbral, stemming from the 1st, 2nd, 3rd, 8th, 16th and 19th amendments. "Had I not granted this injunctive relief," the Judge opined, "there would have been no power on earth to make this petitioner whole."

Submitted by Robert H. Cohen, Larry Paskowitz and Jane Rubinowitz

International Conference On Women Writers

An international scholarly conference celebrating the work of Twentieth Century Women Writers will be held at Hofstra University, Nov. 4, 5, 6 and 7, 1982.

Approximately 160 scholars from many states and from Canada, France, Japan, Germany, Israel, New Zealand, and Australia are expected to attend the Conference and to participate in its many sessions.

Among the authors who will address the Conference are Joyce Carol Oates, Marilyn French, Sawako Ariyoshi, Julia Markus, Francoise Gilot (Mrs. Jonas Salk, author of *Life With Picasso*), Gisela Elsner, Paule Marshall, Dominique Desanti, Rachel Eytan, and Nina Schneider.

County Executive Francis T. Purcell has issued a special proclamation designating Nov. 1 to 7 as International Women Writers' Week in Nassau. The proclamation said, "Nassau County is pleased to acknowledge the Twentieth Century Women Writers' Conference hosted by Hofstra University. Some of the best known women writers in America and other countries around the world will attend along with scholars and persons in related fields... Nassau County wishes to congratulate Hofstra for bringing this prestigious event to Hempstead..."

A Pre-Conference film festival will be held on Wednesday, Nov. 3 at 7:30 pm in the Hofstra Student Center Theater (North Campus). The films to be shown include *The Black Experience in the Creation of Drama—Lorraine Hansberry*, *Kate Chopin's The Story of an Hour*, *When This You See Remember Me—Gertrude Stein*, and *World of Light: A Portrait of May Sarton*. The films will be introduced by Professor Joann Peck Krieg of Hofstra's English Department. At 8 pm that evening a special session of the Conference will be held in the Great Neck Library (Bayview Avenue). A special address will be given by Japanese author Sawako Ariyoshi on *The Author and Her Works: A Personal View*.

Joyce Carol Oates, Writer-in-Residence at Princeton University will give the Opening Address on Thursday, Nov. 4 at 11 am. Her topic will be *The Faith of a (Woman) Writer*. Ms. Oates is the author of numerous poems, short stories and novels including *Bellefleur*, *Unholy Loves* and *A Bloodsmoor Romance*.

At a 2 pm session of the Conference on Friday, Nov. 5, a special address will be given by Francoise Gilot, artist, poet and author, on *Colette: From Perception to Language*.

That evening, at a 7 pm Banquet Session in the Hofstra Student Center, a panel of four women writers will discuss *The International Novelist*. The panelists will be Sawako Ariyoshi (Japan), Dominique Desanti (France), Rachel Eytan (Israel), and Gisela Elsner (Federal Republic of Germany). Also at the banquet, the Hofstra String Quartet will give a concert of music by women composers.

In conjunction with the Conference, a special Book Fair will be held in the Hofstra Student Center on Nov. 5 and 6; an exhibit will be held in the University's Filderman Gallery entitled *Twentieth Century Literary Women: A Selection* (Nov. 4—Jan. 31); the Emily Lowe Gallery at Hofstra will hold an exhibit on *Hermaphrodite, Androgyny and Art* (Nov. 4—Dec. 19); there will be a Drama Presentation by The Interart Theatre on *The Private Hours of Dr. Don and Dr. Donna* by playwright Clare Coss (Thursday, Nov. 4 at 8:30 in the Student Center Theater); and a Drama Presentation—*Me Again: A Theatre Collage Based on the Poetry of Stevie Smith*, directed by Professor Miriam Tulin and choreographed by Professor Carl Morris, both of Hofstra's Drama Department (7:45 pm, Saturday, Nov. 6, The Little Theatre, South Campus).

Speakers at the Conference and their topics include:

•A. Caroline Gebhard, University of Virginia, *Toni Morrison's Song of Solomon: The Creation of a New Typology*.

•Donna M. DeBlasio, Indiana University, *Leigh Brackett: First Lady of Science Fiction*.

•Rota Herzberg Lister, University of Waterloo (Canada), *Beverly Simons, Canadian Playwright of the Pacific Rim*.

•Virginia Cox, University of Wisconsin, *From Passivity to Passion: Woman as Revolutionary in Joan Didion's "A Book of Common Prayer"*.

•Carol Ascher, New York, N.Y., *A New Look At Simone de Beauvoir and "The Second Sex"*.

•Ellen Peel, Yale University, *Communicating Differently: Doris Lessing's "The Marriages Between Zones Three, Four and Five"*.

•Louise A. DeSalvo, Hunter College, New York, *Virginia, Virginia, Virginia*.

•Susan Squier, State University at Stony Brook, *"The London Scene": Gender and Class in Virginia Woolf's London*.

•Leon Katz, Yale School of Drama, *The Theatre of Gertrude Stein*.

•Doris Grumbach, Washington, D.C., *The View of Nebraska in Willa Cather's Work*.

•Joan Givner, University of Regina, Regina, Saskatchewan, Canada, *A Distant Mirror: The Biographer's Relationship With Her Subject (Katherine Anne Porter)*.

•June Marcus, University of Texas, *Rebecca West: A Voice of Authority*.

•Melanie Kaye, Vermont College, *Culture-Making: Lesbian Classics in the Year 2000?*

Directors of the Conference are Dr. Alice Kessler-Harris, Professor of History and Dr. William McBrien, Professor of English, both at Hofstra. Conference coordinators are Natalie Datlof and Alexej Ugrinsky of the Center for Cultural and Intercultural Studies staff.

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Divorce Ethics

Continued from page 1

will try to cast the question in a different light. "Should a lawyer fight to save a marriage that the participants both agree is dead?" After all, if a couple sincerely seeks a divorce, and they qualify for one under the law of the state, then why should a lawyer interfere. This is not a theory I subscribe to. The state's policy is that marriage is an institution to encourage. It seems to me that the attorney has a responsibility to both client and state to fight to preserve the institution. Dissolution should be relied upon only as a tool of last resort.

Lawyers as a group are very talented people. We are paid to counsel, to convince, to persuade. We all have to ask ourselves whether we will be willing to counsel our clients to avoid divorce, when we can just as easily convince them that divorce is available. Will we tell a new wife struck in the heat of battle that she should leave, or will we seek common ground and try to bring the troubled couple back together? Do we run to trial on behalf of the man whose wife withholds sexual contact in retaliation, or do we try to mediate the conflict first? I suggest that it is the divorce lawyer's job to make peace first, if he can. There will always be time for war later.

I have already suggested there will be times when, from the beginning, divorce will seem like the only answer. These cases notwithstanding, I wish to put forth a set of questions I hope lawyers will ask themselves before presiding over the breakup of a marriage. (1) Has any "marital medication" been attempted?; (2) If I use a modicum of persuasion, can I convince my client to seek counseling to save the marriage?; (3) Will I have to magnify certain unpleasant instances in order to obtain a divorce for my client?;

(4) If counseling is a viable option, and one sought by my opposing counsel's client, will I be willing to recommend it to my client?; (5) Am I willing to put time into a situation possibly costing me money to work for a public interest?; (6) If I have tried to bring the couple back together but have found divorce is the only solution, have I tried to find a way to actively pursue my client's interests without harming those noncombatants intimately involved with the couple (i.e. offspring and other relatives)?

I put forth these questions knowing that each of us has a first loyalty to our clients and no one else. I hope you will agree that their best interests are served when they are not needlessly stigmatized by a divorce because of some attorney's overeagerness to earn a buck.

Here is a closing thought for all of us to consider. The wedding day is one of joy for all involved. The air is light with love and faces aglow with smiles. Most people make their vows with every intention of keeping them. When a bride and groom fall off of the cake and into our offices, the significance of the wedding day and ceremony is forgotten often by the couple. As attorneys, though, we should try to remember it. A new divorce client may allow us to rekindle the love that was so obvious on their special day. Because of our skills, impartiality, our ability to use logic, and our legal training, we can be the peacemakers. It seems that given the chance, with our abilities, it would be a real shame to waste the opportunity.

Anthony J. Colleluori is a second-year law student at Hofstra Law School and is a confirmed bachelor.

Creative Cooking

by Jane Himelfarb

Being a student does not inherently imply that one must worship a diet solely of pizza and beer. In the same time that it takes to get in the car to run to America's fine fast food establishments, you can whip up a Chinese Banquet. On a law school budget of no time and even less money, use a little creativity to eat like a true gourmet.

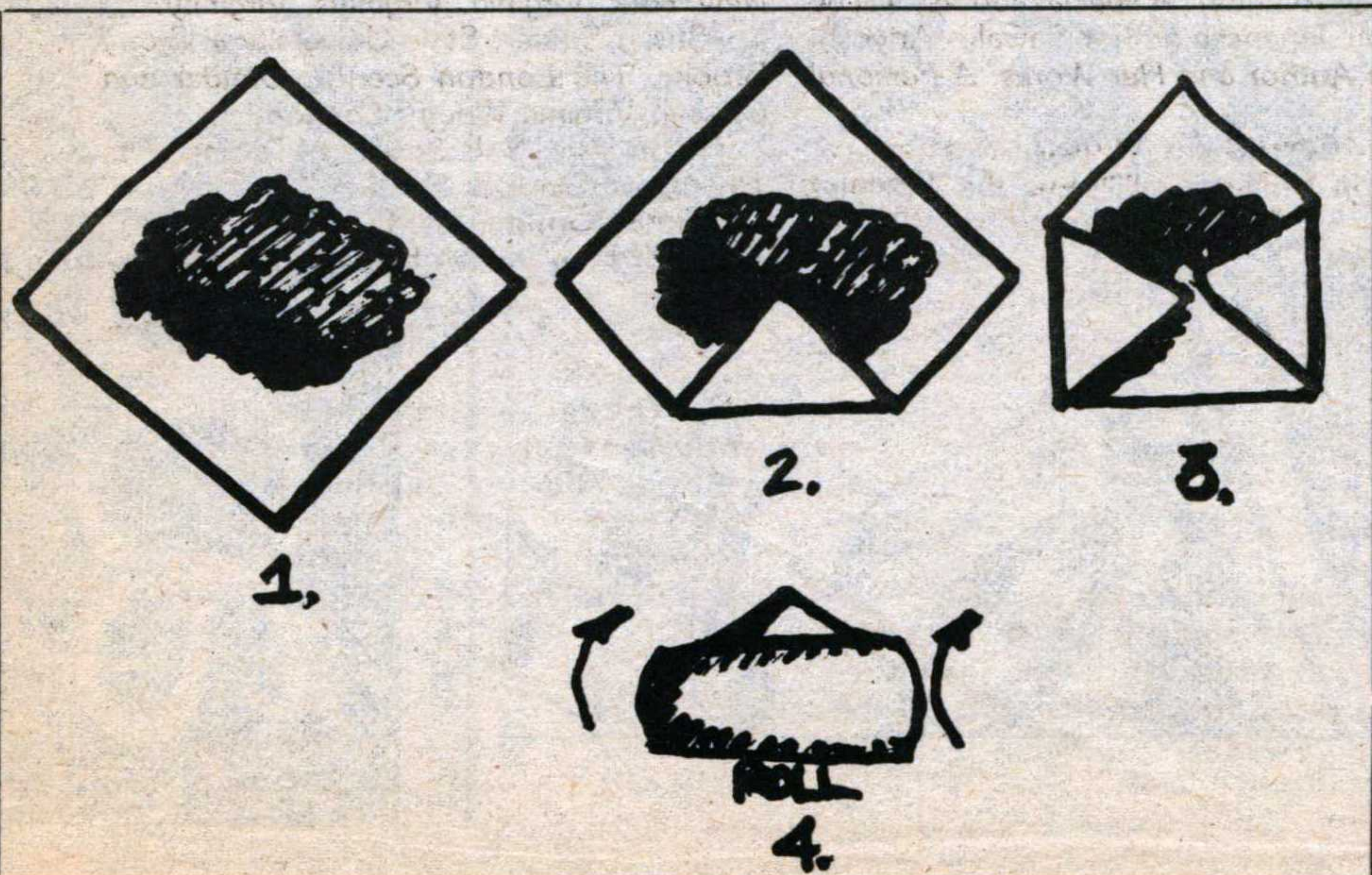
We'll begin in the exotic Far East where the beauty of food is in quick preparation and crisp fresh stir-fried vegetables. We'll whet your appetite at the beginning of the meal with the Chinese favorite fast food phenomena: the eggroll.

Try your own version of this easy, delicious recipe:

Sautee finely chopped onions and 1 clove of minced garlic in two tablespoons of peanut oil in a Wok or large skillet. Add any of the following ingredients and stir fry for several minutes. You may use sliced

mushrooms, chopped green peppers, bean sprouts, sliced water chestnuts, chopped Chinese cabbage, slivered carrots, 1 can baby shrimps, shredded cooked pork, or any fresh vegetable or meat as long as it's sliced or cut into thin small pieces. Then add 1 small cabbage sliced into slivers and stir fry. Add soy sauce to taste and stir a few more seconds. Remove mixture and set aside to cool.

Using egg roll skins (you can get them in Pathmark on Front Street in the produce section!), place a moderate amount of the mixture in the center of the square. Fold one corner to the center, folding the two consecutive corners down to meet in the center of the square to form an envelope. Then, roll towards the last corner. Fry in hot peanut oil until golden brown. Drain on paper towel and serve hot. Use your imagination and preference in choosing the ingredients... Be creative!



Inside Line

by "G"

Mr. Donald Walsh (of the Poughkeepsie Walshes) was pulled over and ticketed by the Long Beach Police on Sept. 24 for going through a red light. Though Mr. Walsh is not blind, he 'claims' he did not see the red light. Mr. Walsh successfully argued for adjournment in front of the Long Beach Municipal Corp. Lawyer. He is currently working on raising funds to pay for his ticket in the event his defense is unsuccessful. The defense consists of a claim of being 'yapped at.' Read Conscience next issue to find out the outcome of the pending litigation.

Jan Lori—we are seriously concerned about the rusted condition of your chain!!

Ms. Winnie Gilmore of the Westbury Gilmores recently ran in and completed the 13.1 mile Avon Half Marathon race at an unspecified location. She completed the grueling course in a personal best 2:18:32. Ms. Gilmore overslept and arrived at the starting point as her competitors were a block into the race. The game Gilmore, without proper warmup, took off after her rivals and caught up to quite a few. However, this burst of energy dashed her title hopes, as she remained tired the rest of the race.

The graceful Ms. Gilmore did not escape the race without injury. The furious pounding of her feet on the pavement caused her toes to turn "ugly and black"—the tell-tale signs of toe trauma. If the fungus test comes back negative, Ms. Gilmore will resume her training this week. Her goal? The Long Island Marathon!

Andrea Savarese (not of the Hempstead Savareses) has two bicycles—one of which has traversed the world!

The usual social butterflies attended a certain California Avenue Halloween masked ball on Friday night. Costumes included: George Basara as a frustrated Pittsburgh fan, Derrick Rubin as the god Herpes, Jim Hoar and girlfriend as Alfalfa and Darla, John Sakatos as a Greek suburban cowboy, Bruce Jurist as a two-headed law student (2x0=0), Gordon Abitbol as a Jewish vampire, Karen Weiner as her husband in drag, Glenn Brettschneider as a bag of jelly beans and Bruce Sales as a bored Arafat. The hosts of the party would also like to thank Dave Chidekel for his "glass shattering" performance as a wino (Hey Dave, is it live or Memorex). The crowd was disappointed by the absence of Lenny Banks as E.T. and David Wankoff as himself.



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