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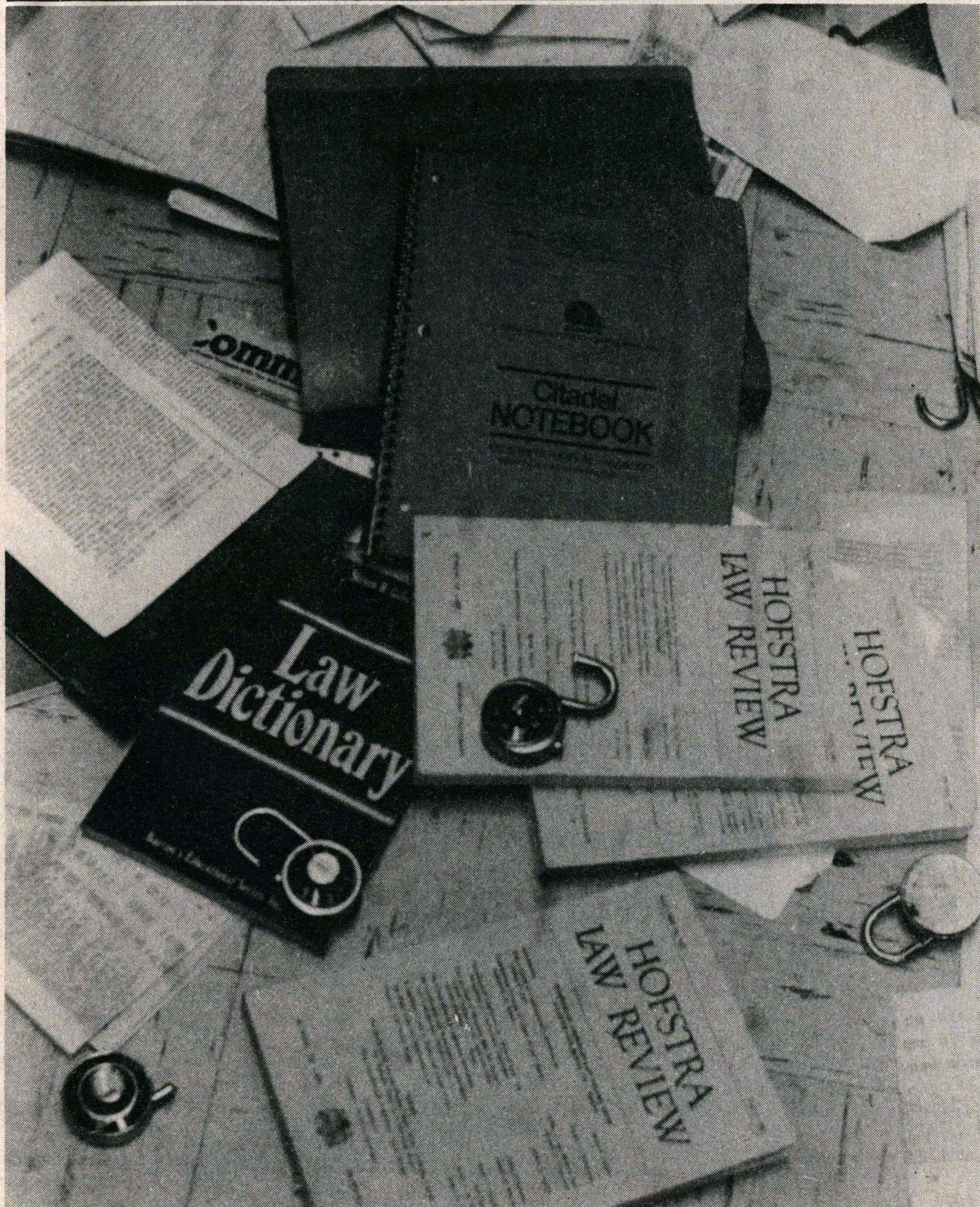
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March 1983



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Dean Aims For New Library Building

by Peter W. Shafran

Plans have been drawn up for a new \$5.5 million library building for Hofstra Law School according to Dean Schmertz. Based upon ideas submitted by Director of the Law Library, Eugene Wypiski, the new building would be a three-story structure (including a basement) with 57,000 square feet of usable space.

According to Schmertz, the building campaign fund is still awaiting the approval of University President James Shuart and the University Board of Trustees. Schmertz said that the plans have been "submitted to Shuart in conjunction with an ongoing request that we undertake a major fund-raising campaign."

"We need an up front grant of \$2 million, either in hand or pledged before we can go public with a major campaign," Schmertz said, adding that a "national organization has expressed an interest in providing initial funding for the building." If the library plans are approved, however, the concept for building a whole new law center complex

will, in effect be scrapped. "A new law building would cost upwards of \$16 million," said Schmertz, "and I don't see those resources available." But, Schmertz said that he "believes a new library building is still an important part of our thrust towards national prominence. I am keenly interested in doing whatever can be done to get such a plan underway."

Also, moving the library to the new building would "free up a lot of space on the first floor of the law school," said Schmertz, "so that we can bring everybody (student organizations) back."

As to the new library's design, Schmertz said that the building has "lots of glass, is energy efficient," and "contemplates the latest electronic equipment and controls." The new library would be built on the plaza near the front entrance of the Law School (near the trailers) and extending out to the grassy area to the west. The two buildings would be connected aboveground and underground to provide easy access between the two structures.

Faculty Salaries Raised 34%

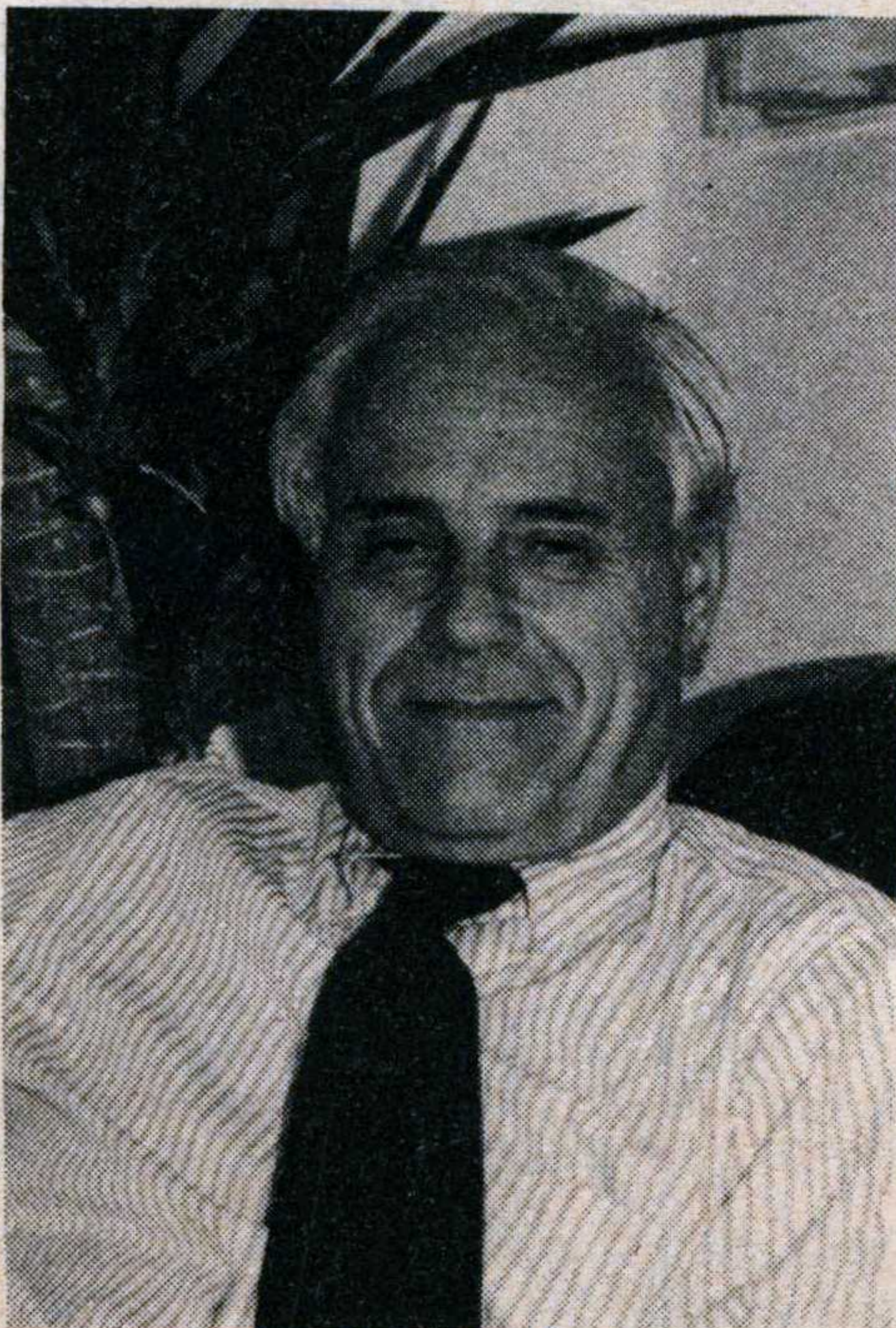
by Peter William Shafran

The Law School faculty negotiated a 34 percent salary increase last semester according to figures released to *Conscience*. Dean Schmertz said that "at the end of two years, we will raise the average salary from \$46,100 to \$62,000." He said that the increase was necessary to maintain the quality of education at the Law School and to attract good faculty in the future. "Based on our figures, it slots us only below Columbia and New York University and equal to the Cornell and Fordham level."

The salary increase would include funds from the University budget and "roll-in" money from research and grant money.

Although acknowledging that this would contribute to a tuition increase, Schmertz said that the tuition will remain significantly lower than comparable schools in our area. "We won't go up \$1,000," he added.

Student Government President Jordan Fox asserted that "this underscores the need for an active student lobby in the budget-making process." Further, Fox said, "I don't know if Hofstra students can afford Hofstra faculty. I hope this isn't the straw that breaks the camel's back."



Dean Eric Schmertz

3 Fall Classes Still Waiting For Grades

by David Feldman

As of March 8, some fall semester grades have still not been posted. Still missing are Professor Fielding's Remedies and Professor Agata's two sections of Criminal Law.

All grades were due from the professors four weeks from the date of the exam, "absent extraordinary circumstances," according to Vice-Dean Rabinowitz. Last week he said, "All grades should be in by now and should have been for awhile."

More than ten classes, including seven first-year grades, were not posted as of mid-February, weeks after the deadline had passed. Vice-Dean Rabinowitz admits that "this year, for some reason or another, first year grades seem to be later than in the past." He said he and Dean Schmertz have been in contact with those professors whose grades were late, and "urged" them to comply with the deadline.

The four-week deadline was passed by the Faculty on request of the Academic Standards Committee, which makes decisions regarding student status.

Student Government President Jordan Fox feels some deadline is necessary. He said, "The faculty has a contractual obligation with us to mark our papers and they should do it as soon as possible."

Professor Agata, who has two sections of Criminal Law to grade, called the four-week

rule "foolish" and "unrealistic." He feels that no official deadline should be in place. "It depends on the nature of the examinations, the number of the examinations and all other problems any individual professor may have," he said last week.

Fox feels the four-week limitation is reasonable. He said, "If you have 90 exams, and each one takes one-half hour to grade, that's one full week."

When told of this assertion, Professor Agata said, "Jordan Fox doesn't know what the hell he's talking about. Grading is not a time-motion study. He hasn't the slightest idea of what's involved in grading."

Agata said his grades are not posted yet because he has two sections of first-year exams to grade, and has other "personal" reasons he preferred not to discuss.

Rabinowitz stated that "it may be that four weeks is too short," but indicated that the faculty must make that decision. He stressed, however, that some deadline is necessary. "With good faith and an attitude of co-operativeness on everybody's part, a reasonable time limit is workable," he said.

Fox also asserts that marginal students who must wait for grades well into the next semester are forced to pay tuition when they might rightly have left after receiving bad grades.

Rabinowitz said, however, that he has "the power to recommend a full refund" of tuition if a student decides to withdraw solely on the basis of information received on late grades. He added that "one doesn't need that argument (tuition) to say that the grades should be in."

In early March, the Vice-Dean stated that "at this point in time, the students are justified in being upset."

Tax Clinic Update

by Louis Ruggiero

The continued existence of the Tax Clinic suffered a setback as Professor Posin, a tax professor, is leaving Hofstra Law for the 1983-1984 academic year to be a visiting professor at Southern Methodist University in Dallas, Texas.

Professor Posin said that he foresees no problem with the tax curriculum since there are a number of good candidates being considered to replace Professor Marc Orlofsky. Orlofsky has resigned and will be leaving the faculty at the end of this semester.

Consequently, Professor Gans and Orlofsky's replacement will share the tax class load next year. Dean Schmertz did state, however, that "if necessary, we will hire an adjunct or visiting tax professor for a year." Schmertz also said that the first priority is to get a replacement for Orlofsky and that the search for one is currently underway. The second priority is to keep the Tax Clinic functioning. In order for this to happen, the new tax professor would have to teach a majority of tax classes as well as supervise the clinic. That is no small task and whether or not a professor would assume all this responsibility is an issue that remains to be decided. A tax clinician, that is, someone hired to only run the clinic, is out of the question, according to Schmertz. The Dean also said that no decision regarding the future of the Tax Clinic will be reached until a replacement for Orlofsky is hired.

Schmertz supports Posin's decision to visit Southern Methodist. "I don't want to deny him the opportunity if Posin's really keen on doing it. We could cover it adequately without any slippage in standards or curriculum requirements," said Schmertz.

Judge Bars Aid Rule

by Peter Shafran
and Pete Aloe

A federal district judge issued a preliminary injunction, on March 10, enjoining the Federal Government and all persons acting in concert with the Government from enforcing a law denying Federal aid to students who have not registered for the draft. The Minnesota Civil Liberties Union, who had earlier intervened on behalf of several "John Does" is seeking a permanent injunction from Federal district Judge Donald D. Alsop.

The suit challenged a proposed law which required all students applying for financial aid to either provide proof of registration or to certify whether they are exempt. Law students are subject to the regulation and all those applying for aid must account for their Selective Service status. The plaintiffs, joined by the University of Minnesota, Macalester College of St. Paul and Swarthmore College of Pennsylvania, had sued the Selective Service, its Director, Maj. Gen. Thomas K. Turnage, and the Department of Education and its Secretary, Terrel H. Bell.

In a 26-page opinion, Judge Alsop accepted the plaintiffs' arguments that the law was a bill of attainder and that it violated the students' rights against self-incrimination. Dan Lass, a lawyer for the Minnesota Public Interest Group (MPIRG) which originally brought suit with six students, argued that

Continued on pg. 5



Prof. Burton Agata

SGA Proposes \$10 Fee Increase

Student Government proposed a \$10 increase in the law student activity fee for next year. This increase would raise the fee to \$20 and would add approximately \$7,500 to the SGA pool. The activity fee has remained at \$10 since the founding of the Law School.

The SGA Constitution requires a student majority vote for any activity fee increase. At a Student Government Sub-Cabinet

meeting last month, representatives from most law student organizations voiced their approval for this increase with little opposition. The University and the Law School administrations have already given their approval.

A referendum will be placed on the SGA election ballot for the Spring elections. Elections are tentatively scheduled for Wednesday, April 13.

INSIDE

Community

Forum. pg. 7

Legal Briefs. pg. 9

Fun Page. pg. 14

Labor Law Forum

The Hofstra Labor Law Forum is proud to present Alfred T. DeMaria on Wednesday March 16, during Dean's Hour in Room 206 Mr. DeMaria will discuss "The Phenomenon of Deunionization." This lecture is the fourth in the Forum's continuing Lecture Series.

Alfred T. DeMaria is a labor partner with Clifton Budd Burke & DeMaria, New York, New York, a firm specializing exclusively in labor relations matters. He holds B.A. and L.L.B. degrees from the University of Virginia. Mr. DeMaria formerly served as an attorney with the National Labor Relations Board from 1960 to 1963. He specializes in combatting union organizational campaigns and in developing programs to keep companies operating in a union-free environment.

Mr. DeMaria also has wide experience in the negotiation of collective bargaining agreements in public education, the maritime, aerospace, airline, hospital and health care industries. He is a member of the Labor Section of the American Bar Association and the New York City Bar Association. Mr. DeMaria has acted as guest speaker on the topic of union campaigning for the New York State Management Attorneys' Conference and also conducts the annual Commerce and Industry Association seminar on

White Collar Organizing. He has also established a training course for front-line supervisors on union prevention techniques which is given periodically in major cities throughout the United States.

The American Management Association has published a research report, authored by Mr. DeMaria, entitled "MANAGERS UNIONS?" concerning the extent and possibilities of union organization among managerial personnel. *MBA* magazine, *Restaurant Business*, and other periodicals have also carried his articles on various labor relations matters. In addition, Mr. DeMaria has co-authored a primer on labor relations entitled "Labor Law," has published a book entitled "The Process of Deunionization," a manual for recapturing non-union status, and a book on the strategy and tactics of union campaigning, entitled "How Management Wins Union Organizing Campaigns," and is the Labor Editor for the well-known management newsletter, *The Hughes Report*.

Future speakers in the Labor Law Forum Lecture Series include:

—Ray Rogers, President of Corporate Campaign, Inc.,
—Paul Yager, Director of the N.Y. FMCS,
—an attorney who is currently organizing the United States Football League players (co-sponsored with *Conscience*).

RLSA Iron Butt Award

by Anne Serby

On Sunday, February 27, a delegation of ten people represented the Hofstra Law School at the annual R.L.S.A. breakfast which was held at the Rye Town Hilton, in Westchester. This was an enjoyable affair at which Hofstra Law students had the opportunity to mingle with law students from other New York area Law Schools.

During the breakfast, Thomas Stevens, Esq., the founder of the R.L.S.A., presented the "Iron Butt Award" to Steven Rosettie, a student at the Fordham Law School. Last year the award was also presented to a Fordham Law student but a year before that, Eric Rosenblum of the Hofstra Law School won the award. The Iron Butt Award, named in honor of former President Nixon, is a tremendous honor for a first year student to receive. Mr. Stevens made a speech explaining the history and significance of the award.

"One night when Richard Nixon was studying in the library of Duke Law School,

he poured out his fears and doubts to an upperclassman who had noted the long hours Nixon spent studying in the law library. He heard Nixon out, sat back, looked him in the eye, and told him something he would never forget: 'You don't have to worry. You have what it takes to learn the law—an iron butt.' Each year the Iron Butt Award is presented to the first year law student who placed highest in his class."

Thomas Stevens, who presented the award, is an associate at Martin, Clearwater and Bell. Mr. Stevens feels that being involved in both politics and other organizations not only fills up his time, but also makes his life more fulfilling. He urges and recommends that all students take an active part in their world in order to get the most out of life.

Overall, the morning was enjoyable with students meeting others in the legal profession in a relaxed atmosphere. It is unfortunate that Mr. Stevens, who is a Hofstra Law School alumnus, had to present this award to a Fordham law student rather than to one of us. However, if we at Hofstra Law take Tom's advice and become more active in organizations such as the R.L.S.A., then the Iron Butt Award will return to Hofstra in the future. All first year students who are members of R.L.S.A. chapters throughout the state are eligible for this award. The executives of the Hofstra chapter are hoping to have many top competitors for the 1983 Iron Butt Award.

PAD Honors Wypiski At Ball

On March 5, 1983, a new tradition was begun at Hofstra. Phi Alpha Delta Law Fraternity had its First Annual Barristers' Ball at the Knights of Columbus Hall in Oyster Bay. The semi-formal dinner dance is a long-time tradition in PAD history, but it had never been tried at Hofstra. Over 80 students and faculty attended the event which was held as a celebration of one of PAD's most successful years at Hofstra. "After creating the Juvenile Justice Program and putting together a successful social program for the school, we thought this would be a good way to let everyone see the potential for new ideas here," said Tony Colleluori, President of the Kennedy chapter.

Colleluori, along with John Ciampoli, Dominick Pichinini, Robert Delcol, and Karen Weiner raised over \$1,000 for the event by selling advertising to a journal to be published later this month and handed out at all future PAD functions.

The evening was highlighted by the announcement that PAD has started an endowed scholarship fund to aid needy students of Hofstra Law School in the future. PAD's initial donation was for \$500. "We hope to be able to give out at least one \$500 grant each year, beginning in 1986," said Colleluori. Money from the weekly Wednesday bagel sales also helped PAD reach its goal. In addition to the start of a scholarship

fund, PAD also honored Professor Eugene M. Wypiski for his dedicated service to the school, students, and especially PAD, by presenting him with a desk clock and a certificate of appreciation. In accepting his award, Prof. Wypiski said he was speechless, but added that he "could not remember a student organization having a function such as this in a long time." Dance Co-chairmen Michael Donigan and Bruno DiBiase were both pleased with the way the event turned out and expressed hope that next year's turnout would double this year's.

PAD plans on holding another party/beer blast in April and will have an initiation soon. Anyone interested in joining PAD

should call Tony Colleluori at (516) 692-5350 or should see any PAD member.

PAD will hold general elections on March 15 in room 206 at 7:30 pm. All dues paying members will be entitled to vote that evening.

"Overall, I think we've had a very positive year," said Colleluori, "I think the Juvenile Justice Program and the Scholarship Committee proves PAD is committed to excellency and service to Hofstra, its students, and its future, and that we're here to stay." "We'll continue to provide quality programs and events that the whole Hofstra community can enjoy and participate in," concluded Colleluori.



Erin Go Bragh!! FALSTAFF'S St. Patrick's Day Party

Thursday, March 17th All Day
11:00 AM

All the Corned Beef
& Cabbage
You Can Eat!

\$3.95

ALL DAY


Happy Hour



4-7PM



Irish Lamb Stew
& Soda Bread
All You Can Eat!

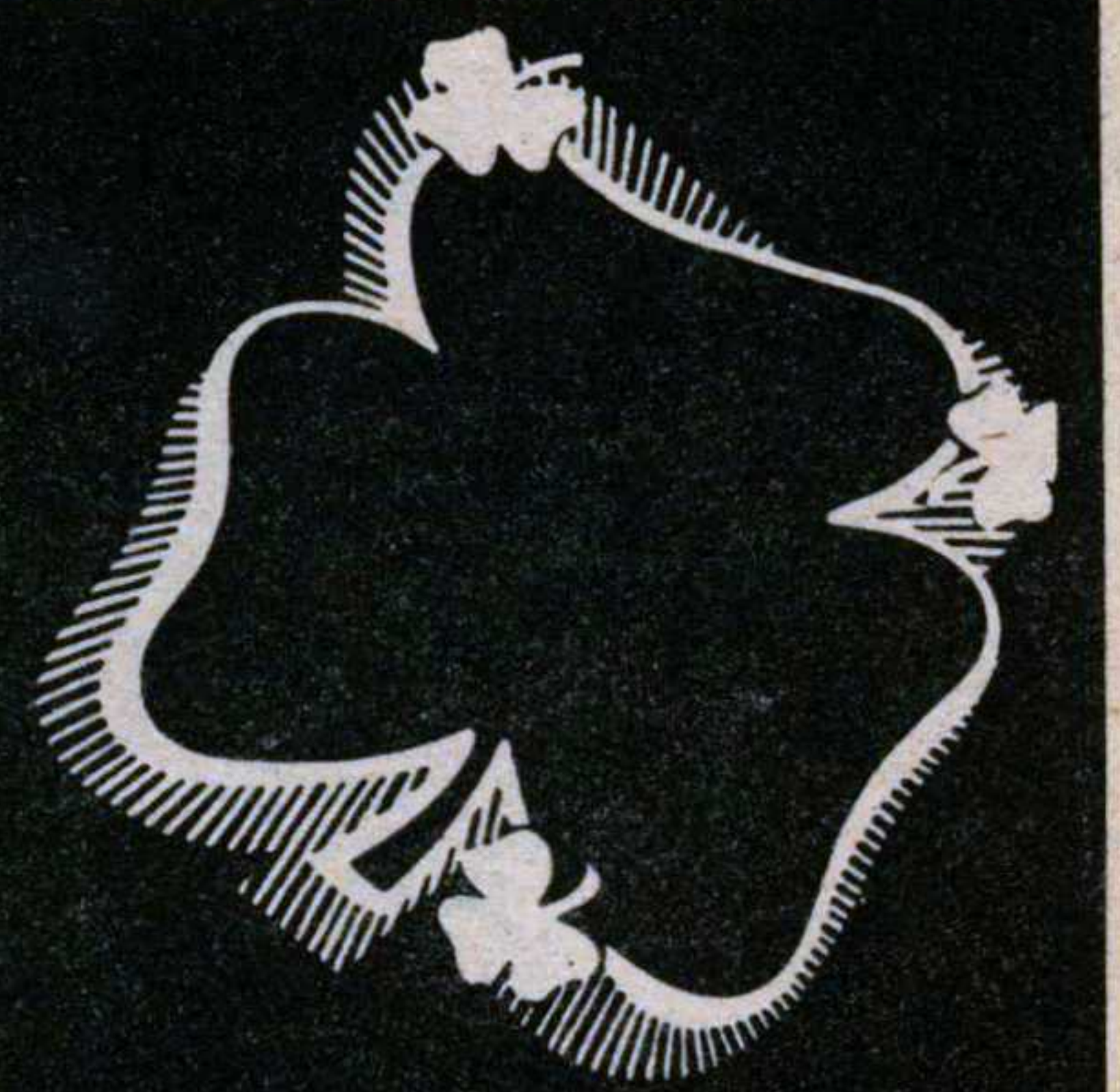
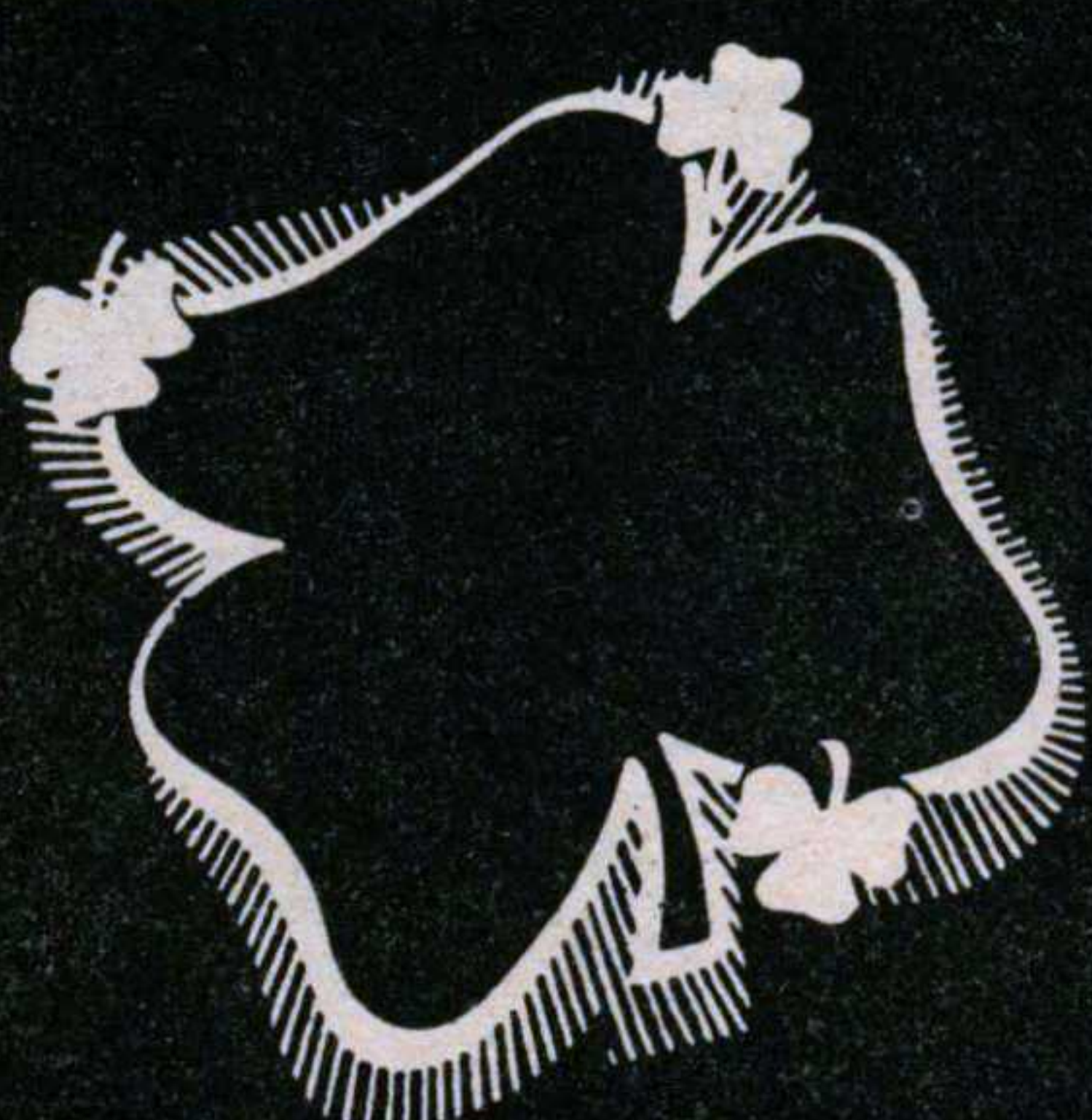
\$3.95

ALL DAY

Imported Irish Beer & Irish Coffee

Watch the Parade on 2 Color T.V.s

Corner California Avenue & Front Street
1/2 Block South of Hofstra Law School



New Endowment Established

Dean Schmertz announced the establishment of two distinguished professorships. The Harry H. Rains Distinguished Professorship of Arbitration and Alternative Dispute Settlement Law "will enable the development of publications, research, symposia, and a curriculum of dispute settlement methodology that is alternative to courtroom litigation," said Schmertz. The Rains Professorship is the third to be established at the Law School.

The other endowment of a distinguished professorship will be in Banking and Commercial Law. Dean Schmertz has only indicated that the benefactor of this grand is a New Jersey banker, but since plans have not yet been completed, he refused to elaborate further. He promised that a full announcement would be forthcoming.

The Rains Professorship is supported by a gift from Harry H. and Muriel Rains of Locust Valley, Long Island and Sanibel, Florida. Mr. Rains is the senior partner in the prominent law firm of Rains and Pogrebin and was one of the founding members of the National Academy of Arbitrators. Rains has written extensively for professional journals on such subjects as labor law, dispute settlement, mediation, conciliation and collective bargaining.

Harry Rains was born in New York City, received his undergraduate education at Columbia University and a Master Of Public Administration degree at New York University. He received his Bachelor of Laws degree at Brooklyn Law School and a Master of Laws degree at New York University.

Rains is a member of the Arbitrators' Panel of the American Arbitration Association, a member of the Federal Mediation and Conciliation Service, and a member of the New York State Public Employment Relations Board's Panel of Mediators and Fact Finders. He is also a member of the Suffolk, Nassau, New York State and American Bar Associations; the New York County Lawyers Association; the Nassau Lawyer's Association of Long Island, and the Federal Bar Council.

A convocation inaugurating the Rains Professorship and the naming of a member of the Law School faculty to the professorship, will be held at the Law School later this semester.

Ad Hoc Committee Update

by Brendan Gallagher

Since its inception, the Ad Hoc Committee has met several times and has discussed all of the topics presently seen as problematic, such as class participation, attendance and outside jobs. According to Pete Aloe (3L), a student member, the sessions have been going well but the committee is not ready to make any conclusions concerning the problems under consideration.

On March 16, the Ad Hoc Committee is holding an open hearing which will provide a forum for students to voice their concerns and comments. The specific format of the meeting is as of yet undecided, but according to Professor Twerski, the committee chairman, it will remain relatively open in the hopes of eliciting a large amount of student involvement. The meeting will be held at noon in Room 230.

One problem the committee faces, noted Twerski and confirmed by Aloe, is the lack of student input. To this date the members of the committee have received less than ten communications from the student body at large. Twerski commented that student participation in the committee is essential if it is to become an effective instrument of change.

To this point, the committee has collected a large amount of statistical data relating to grading patterns and their attendant problems. In addition, detailed questionnaires have been sent to all faculty members in an attempt to understand their views on the problems facing the Law School Community. At this time, most of the questionnaires are still outstanding.

New Business Dean

Dr. Herman A. Berliner, a 38-year-old economist, has been appointed Dean of Hofstra University's School of Business, effective July 1, 1983, University President James M. Shuart has announced. Dr. Berliner is currently Associate Provost and Associate Dean of Faculties at Hofstra.

Dr. Berliner brings to the Deanship of our School of Business his extensive experience in the classroom as well as his broad experience in educational administration. From July 1980 to January 1982, he served as Interim Dean of the School of Business. "With the intimate knowledge of its potential, I am certain he will provide the leadership necessary to maintain and promote teaching excellence, as well as a high level of scholarship and research activities," President Shuart said. The appointment of Dr. Berliner concluded an extensive national search to fill the position of Dean, which became vacant last May upon the death of Dr. Samuel F. Thomas.

Dean Berliner, who also is an Associate Professor of Economics at Hofstra, was born in New York City. He received his Bachelor of Arts degree in 1965 from the City College of New York and his Ph.D. in 1970 from the City University of New York. Prior to joining Hofstra in 1970, Dr. Berliner taught economics at City College.

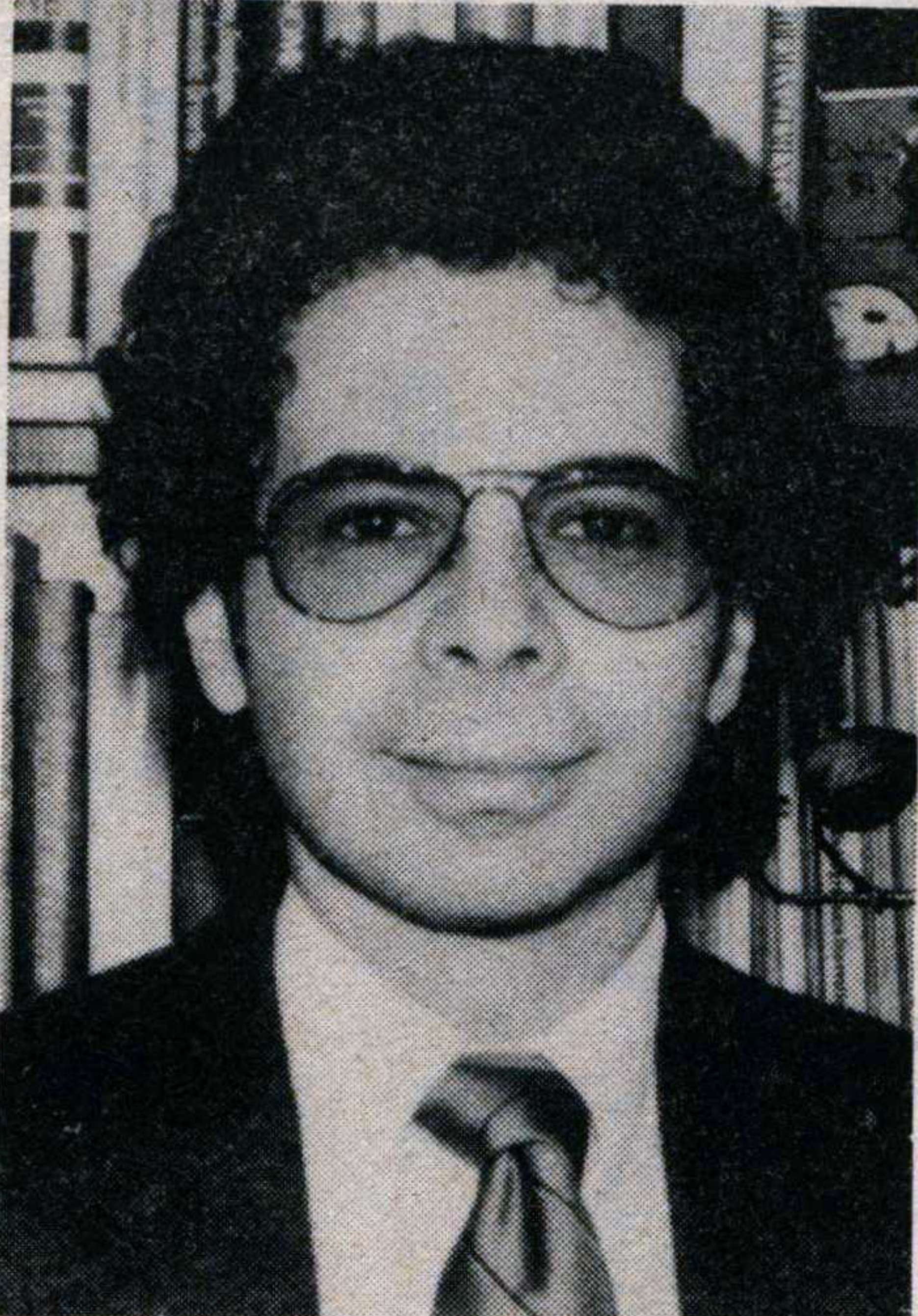
While serving as Interim Dean of the School of Business, Dr. Berliner played an important role in helping the School to receive reaccreditation for its undergraduate programs and initial accreditation for its Master of Business Administration programs from the American Assembly of Collegiate Schools of Business (AACSB). Hofstra's School of Business is the only school of business on Long Island to be so accredited.

At Hofstra, Dr. Berliner has held the posts of Associate Dean of University Advancement and University College, Assistant Provost, Director of the January Interim Session, Director of Contemporary Problems in the Freshman Year Program. He has served as developer of the University's Peer Teaching Program.

The new Hofstra Dean is co-author of two books entitled Economics and Statistics, and of numerous articles in professional journals. He was formerly Managing and Associate Editor of *The American Economist*.

Dr. Berliner is a member of Omicron Delta Epsilon, the International Economics Honor Society; Beta Gamma Sigma, Business Honor Society; the American Economic Association; and the Association for Continuing Higher Education.

In 1978, Dr. Berliner was named an Outstanding Young Man of America.



Dr. Herman D. Berliner



Members of Forum Editorial Board '83-'84.

Labor Law Forum

New Editors Elected

First Issue Released

Hofstra's Labor Law Forum announced the election of its Editorial Board for the 1983-84 school year. The Board consists of Editor-in-Chief, Dolores Gebhardt; Managing Editor of Staff, Howard Greenberg; Managing Editor of Business, Anthony Colletuori; Articles Editors, Susan Peckstein, Jeffery Schlossberg, and Brad Wolk; Notes and Comments Editors, Peter Albert, Maureen Doerner, Pamela Fitton, and Michael Fuchs; and Research Editors, Victor Emanuel, Sandra Freund, and Michael Noonan.

In an interview with Dolores Gebhardt, the newly elected Editor-in-Chief, she said, "My personal goal, for next year, is to develop the fine details in publishing a scholarly journal. Last year set up the bare bones, a sketch. Our job is to put oil on the gears, to be an entity in itself, to be an institution at Hofstra. Last year's Editors gave us things we take for granted. We will continue to add to it; we want to be something this school will be proud of."

More specifically, the Forum plans to publish two issues next year. One issue will contain papers delivered at the Carrough Conference by noted labor and management speakers. The second issue will possibly revolve around a symposium, a group of articles on a single topic. Possible topics are bankruptcy, ERISA or public sector labor law. In addition, these issues will publish unsolicited papers from those in the labor field and student pieces.

The Forum plans to enlarge its staff for next year; that is one of the reasons for the expansion of the editorial board. Gebhardt directed a few comments to first year students who may be considering membership on the Forum: "Few people know much about labor law after the first year. We are confident that they can be trained and will end up enjoying it, as many on this year's staff have done. Labor law is not the limited field people think it is; it encompasses torts, contracts, and civil rights. It is more broad than the uninitiated would expect." Gebhardt plans to speak directly to the first year class at the upcoming writing competition meeting.

Concerning the Administration's plan to consolidate all law school organizations which are without space in the law school into Roosevelt Hall, Gebhardt says, "The house is permanently ours; we can now attend to interior detail." That means the Forum will remain ensconced at its Fenimore Street location, two blocks from the law school.

The Hofstra Labor Law Forum has published its first issue. It joins the ranks of scholarly student publications at the Law School along with *IPIJ* and *Law Review*. The Forum plans to distribute the new issue tomorrow to all students who wish a copy; distribution will be in the same manner as the *Law Review*.

The issue consists of papers presented at the 1982 meeting of the Annual Edward F. Carrough Labor Law Conference held at Hofstra. The 1983 conference will be convened in April.

The theme of the Conference was "A New Nation Labor Policy?" The articles it generated attempted to answer the question in the contexts of private and public sector collective bargaining, regulation, and the NLRB, Congress, and the courts. The authors include: William Zifchak a partner of Kaye, Scholer, Fierman, Hays and Handler; Harry Huges and Layne Carrough McCarthy (Hofstra Law '81), respectively partner and associate of Rogovin, Huges and Lenzer of Washington, D.C.; Malcolm Lovell, Jr., Under Secretary of Labor; Wilbur Daniels, Executive V.P., ILGWU; Arvid Anderson, Chm., N.Y.C. Office of Collective Bargaining; Edith Baum, Minority Staff Counsel, Labor Committee on Education and Labor of the U.S. Congress; and Stephan Tallent and Burton Fishman, both of Gibson, Dunn and Crutcher of Washington, D.C.

The Forum has printed 2,300 copies. Along with those copies distributed to students, they plan to distribute 1,700 complimentary editions to labor lawyers, labor professors, and law schools in all 50 states and several foreign countries, including Japan, Australia, Canada, and South Africa. The major concentration is being sent to the east coast states between Connecticut and Virginia.

On its first pages is printed the Forum's new motto, "Labor Management Relations: the spirit of cooperation." The two phrases are formed into two interlocking strands symbolizing labor-management intimacy and working together toward solutions. It is the product of Editorial Board brainstorming.

The Forum is only the second law school labor publication. "It has already obtained notoriety; the labor community is buzzing," says Jeff Nash, who is Business Manager and also in charge of circulation.

Environmental Law Society

Next Meeting

Room 204

Wed., March 16

12-1 pm

Exclusive Interview with FRANCIS PURCELL

by John Ciampoli

Recently, Francis T. Purcell, the Nassau County Executive was propelled into the headlines by Nassau's budget gap and the debate surrounding the way to bridge that shortfall. As the chief administrator of our county government, Mr. Purcell and his staff are responsible for law enforcement, planning, parks, roads, consumer protection and a myriad of other services provided to the citizens by the county. Additionally, the County Executive chairs the Board of Supervisors and represents the county's interests with the federal and state governments.

During the latter half of February, I had the opportunity to speak with Francis Purcell and discuss the problems facing Nassau County. It was an interesting discussion with a man keenly aware of where the government he leads is, and the direction it will take, in the future.

Addressing himself to the causes of the current budget problem, Mr. Purcell was quick to point out that Nassau County's budget gap was "not different than the State of New York, the City of New York, or the Federal Government, except that our's, percentage-wise, is much smaller than theirs." He cited the growing economy and Nassau's fiscal health and prompted Moody's to keep an "A-1" rating of county bonds.

Mr. Purcell described those areas where Nassau had a shortfall in revenues. These included \$18.6 million less than expected in sales tax receipts, \$1.8 million less in Off-Track Betting monies and a drop of about \$5 million in investment revenue. While expected income was falling short, Nassau "was receiving less money in federal aid and much less in state aid." These factors left Nassau short, but in a situation that is "very manageable and will be managed."

The County hopes to close the budget gap with a plan calling for attrition and some layoffs, but Purcell warns that "if the sales tax doesn't come through from the state legislature we are going to have to lay off more than I would hope to."

Some might view a budget crunch as extremely negative for Nassau County. While Mr. Purcell doesn't want his administration to be burdened with the problems that deficits and layoffs present, he looks forward to increased awareness about county government by the people. "A lot of people don't realize the tremendous number of areas we give money to in Nassau. One of the good things about this situation is that some of the people will know a little better where their sales and property tax money goes," says Purcell.

When asked about opposition in Albany to the proposed increases in the sales tax to close the gap and again give Nassau County a surplus, Mr. Purcell replied, "I think the opposition was not really inspired by Assemblyman Kremer (D-Long Beach). . . I think Mr. Mellman the Democratic leader in Nassau County did a little yelling and told those fellows to do some yelling also. It's a political maneuver. He (Kremer) said that the state legislature would be bailing us out. That is wrong. . . I am surprised that he said that . . . because if we have a sales tax increase we are bailing ourselves out. When I see the tremendous deficit in Albany, of which the Democratic leadership has been part of. . . I think that people in glass houses should not throw stones."

Purcell views the maintenance of the economy at a vibrant pace as the key issue facing Nassau. "Construction has been good, the unemployment rate is low, we have encouraged the private sector tremendously with the development of Mitchell Field and that has created a lot of jobs. We have spent government money on projects taking care of the infrastructure of the county of Nassau. Our most important point today is to keep the economy good in Nassau County and hope that the rest of the country catches up to us," he points out.

"I see a good future here," says Purcell, "We have a lot of natural resources, good oceanfront, recreational facilities, our physical location is good, we don't have that

much heavy winter. The economy, the type of people, the education of the people, the vitality here, the many good business organizations that make their headquarters here, point to a very good future."

Turning to politics, Fran Purcell gave his assessment of the 1982 elections. He said that he felt the New York State G.O.P. had an "extremely good candidate in Lew Lehrman," and that he ran an extremely good race despite the fact that some people thought he could not. He characterized Mr. Lehrman as not coming from the typical Republican organization, and felt that Lehrman had made a mistake by talking about the potential of reducing taxes. "We cannot continue to grow in our economy and continue to do things through government and just stop it all of a sudden," remarked Purcell. "President Reagan, who I admire, is trying to do the right thing. He is beginning to find out that it is impossible to take over twenty years of liberalism and convert it quickly into conservatism," he continued. "Lehrman has pretty much the same ideas. I think Lew Lehrman will be back in the picture again," he concluded.

Fran Purcell expressed regret at the loss of John LeBoutillier in his bid for re-election to Congress. He characterized the performance of the party as good in light of the problems facing Nassau Republicans.

"We have had, hanging over our head, the 'Margiotta situation.' It has been really a shame. Joe Margiotta has been selectively processed and persecuted. The problem with splitting of fees has not stopped in this state. Commissioner Lewis has said that this is not breaking the law. He discouraged it, and when Mr. Margiotta got this word in 1977 he did it (stopped fee splitting) immediately," related Purcell. Mr. Purcell still characterized the Nassau Republican party as strong and pointed to the "bright young individuals" that were G.O.P. candidates.

As for his own candidacy for re-election, Mr. Purcell said that he declared himself as a candidate so far in advance because of "the maneuvering in the background," and "because I wanted to set the record straight." "I felt that I had to let everyone know what my position would be," Purcell declared.

Few people know that Francis Purcell had both a career in private industry (that he left for government) and that he played professional baseball. After entering the Army as a private and leaving as an officer,

in 1947, Fran Purcell observed that his curve ball "made bigger dips" than it used to and decided not to return to the Brooklyn Dodgers Organization. He got involved in politics after his military service as a village trustee in Malverne. At the same time, he was working for a New York City company. Eventually he started his own business and served his community as Mayor (a part time job).

In 1964, Purcell was asked to run in a primary against the Republican candidate for State Legislature. He relates, "I sort of scoffed at that. I wanted to know who beats the Republican Party in a primary!" He ran in the primary and won. In November he was elected to a seat in the Assembly. After almost a full term as an Assemblyman, Purcell was asked to fill a vacancy on the Town Board as Supervisor. This started the involvement that led him to victories for election and re-election as County Executive.

When asked why he remains in government despite lucrative offers from the private sector, he quickly responded, "I enjoy it very much!" "There are tremendous challenges in government today. Government has gotten too big. We are asking too much from the public in tax dollars. It is unfortunate that the 1960's and 1970's brought with them a lot of social programs that were very well-meaning, but no one had any idea how much they would grow," claimed Purcell.

Looking back, Purcell identified the development of Mitchell Field as his biggest accomplishment. "When I ran for County Executive five years ago I said there were two things I was going to do. I was going to turn over the Coliseum to private industry, which was done. The thing I am most proud of is the development of Mitchell Field. Mitchell Field layed fallow for over 17 years. We now rent properties in Mitchell Field, plus it brings taxes and jobs. About \$350 million of private development money has gone into there and another \$150 million is going in. About 20,000 jobs will be the offshoot of that and I think it is having a great effect on the economy in the entire county."

Right now, Francis Purcell has set the goal of putting the county back into the black; out of its deficit. He is confident that he will be able to put into effect a two-year plan to accomplish this, without exacting a high "human cost."

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Stewed By Administration: Study Week Requested

by JanLori Goldman

A number of concerned students are petitioning Dean Schmertz to provide a fall semester study break between the end of classes and final exams.

The issue was raised a few weeks ago by Mary Fleming and Barbara Posner at the student government community meeting.

Originally, Fleming and Posner approached Assistant Dean Douglas for guidance. He suggested that students petition for a study break and follow it with a letter to Dean Schmertz. So far 250 students have signed the petition and a letter is currently being composed.

Fleming suggests that the administration allow for at least a four-day study period before exams begin. She notes that the Spring semester schedule gives students a one-week Easter vacation as well as a week-long study break in which to prepare for finals. This imbalance, Fleming continues, breeds a "competitive atmosphere in which the students are being stewed in a pressure

cooker." She asserts that such conditions run contrary to Schmertz's push for "academic excellence." Some people had to take tests without even studying, she added. The petition organizers feel that the lack of a study break before finals is especially tough on people with families, and therefore may be particularly prejudicial to women students. Those opposed to the study week worry that the fall semester will begin earlier, thus cutting into the break after summer school. Fleming assures those concerned that even if the fall semester begins a few days earlier than scheduled, summer school students are not truly disadvantaged because "they only have to remember material from one six-week course." Fleming hopes to find a situation that will be as "painless as possible" for all involved. She concludes that the system as it stands now places an "accent on memory." "Computers have the best memories, but not necessarily the best brains."

Hofstra Honors Judge Higginbotham

by Cynthia Diaz-Wilson

The Honorable A. Leon Higginbotham, Jr. Circuit Judge of the United States Court of Appeals for the Third Circuit, was honored as part of Hofstra's Black History Month celebration, on February 21, 1983.

At a convocation held at Monroe Lecture Hall, President Shuart presented Judge Higginbotham with an Honorary Doctor of Laws degree. More than 200 people witnessed this impressive event. Judge Higginbotham, author of the nationally acclaimed book, *In the Matter of Color: Race and the American Legal Process*, has received more than 25 honorary degrees from other universities across the nation. The convocation was followed by a reception at the David Felderman Gallery. At the reception Karen Grant, President of Balsa, and the Balsa Executive Board, presented him with a plaque for his outstanding contributions to the legal profession. Upon receiving the plaque, Judge Higginbotham commented, "Law school and college very

often has its moments of despair." At different times in his life, he knew that there were temporary barriers in his way, however he always pursued excellence as vigorously as he possibly could.

The day-long activities were highlighted by the Judge's keynote address during the convocation. He skillfully and eloquently guided everyone through what he described as his "corridor of history." The corridor was laden with historical events of national significance and with tales from his personal life. In the early 1940's when he was a 16-year-old undergraduate student at Purdue University, black students were not allowed to sleep in the dormitories. The 12 black students at the university were forced to live off campus, in one dark, cold attic. He vividly recounted how the dean responded to his despair by indicating that the law did not require the school to provide dormitory housing space for black students. Higginbotham recalls walking across the campus that day and saying to himself that, "the

Continued from pg 1

"this law strips students of their Fifth Amendment protection against self-incrimination. If students fail to give information, they are ineligible for aid. Even by entering into the financial aid program, they would be unknowingly entering into prosecution."

The Government can either "push ahead or consolidate its losses and head out," Lass said, "my guess, is that they'll probably appeal."

Lobbying efforts are underway to repeal the law sponsored by Representative Gerald B.H. Solomon, a Republican from upstate New York. Solomon was quoted in *The New York Times* as saying that he was confident the law would be upheld. Lass said that Senator Durenberger of Minnesota is trying to get the law repealed and that it has a "good chance of being repealed."

This suit was part of a two-prong attack to get the "Solomon amendment" repealed. The judicial prong has succeeded, so far, and the lobbying efforts are being stepped up as a result of MPIRG's victory.

Lass remarked that not only was this law one of the major issues on Student Issues Day in Washington recently, but Rep.

AID RULE

Solomon's doorway was blocked by all the students who wanted to talk with him about his amendment linking registration and educational aid.

MPIRG originally brought suit on behalf of the students at University of Minnesota, but was denied standing to sue. Judge Alsop held that MPIRG couldn't represent the students in this case because it was "not germane to their purpose," and that since MPIRG has women in its membership, they therefore have a "division [of opinion] in their membership." "MPIRG found his initial decision (on their standing) quite amazing," Lass said, "In order for us to retain effectiveness, we need to have the right to represent our membership," he said. MPIRG will appeal the decision to the Eighth Circuit.

Lass couldn't predict the case's outcome if it ever gets to the Supreme Court, however, he felt this injunction gives Congress time to reflect on its actions. "The amendment," Lass says, "was voted in without debate, without hearings, and without input—people voted without understanding. It looked like a quick fix to a difficult problem and Congress just got suckered in."

TAX BREAK

by Julie Kosterlitz and Jean Cobb

Can't afford to go on living anymore? Rep. Phil Crane (R-Ill.) has the ultimate in "supply side" tax breaks. He wants Congress to pass a bill that would grant the donor of an organ to be used in a transplant operation a tax deduction of up to \$25,000 on his or her final income tax return. In addition, there'd be a tax deduction of up to \$25,000 on the deceased's final estate taxes. The heirs, of course, would be the beneficiaries of that break.

Crane says his tax incentives would help generate some of the 10,000 organs surgeons seek each year. At the same time the program could help save the government some money. Because Medicare automatically covers anyone suffering from kidney failure, Uncle Sam will spend \$3 billion during 1983 alone on kidney dialysis. Kidney transplants, which cost significantly less than long-term dialysis, would reduce that bill.

Crane's good intentions aside, the bill is fraught with some troubling aspects. Because the tax incentives would be worth most to the very rich, they effectively say that some organs are more equal than others.

For example, a person in the 50 percent tax bracket taking full advantage of the deduction could save \$12,500 on taxes, while a person in the 10 percent bracket with an income of, say, \$10,000, could save only up to \$864. Any person whose income, for tax purposes, is worth nothing would have a worthless liver, for tax purposes, as well.

To add to the disparity, Crane's proposed tax break would only be available to those who itemize their tax deductions. Only about a third of all taxpayers—those in the highest brackets—currently fall in that category.

And the organ gap grows even wider. When paying taxes on inherited wealth,

heirs could reduce the value of the estate by \$25,000 under Crane's plan. There's a hitch. Only the very rich—those whose estates top \$275,000—pay estate taxes to begin with. And just as tax deductions are weighted to favor those in the highest brackets, an estate would have to be worth \$3.5 million in order to realize the full benefits of the \$25,000 exclusion.

Why not make the tax break a direct payment or a tax credit, which would make the "gift of life" incentive equitable for taxpayers in all brackets? An aide to Crane explained that tax credits are hard to get through Congress. A direct payment plan, he charged, would be "exceedingly mercenary."

Meanwhile, Dr. Melville Williams, president of the American Society of Transplant Surgeons, is worried about how Crane's proposal could affect doctors. Would a doctor, for example, have to explain to a family that its deceased loved one's kidney could be worth big bucks come April 15? "It's tacky," he complains. But if a doctor stayed mum for the sake of decorum, could the bereaved slap him with a lawsuit later for withholding the information?

Crane's office says no, but Williams still feels that the notion of tax deductible organs undercuts the traditional sense of donated organs as gifts. Our attitudes need to be remedied, he says, "When you're sick, you expect to be treated. By the same token, you should be expected to donate when it's needed," tax break or no tax break. P.S. In case you're wondering, Crane's bill applies to dead people only. Donors who are alive aren't eligible for anything except a pat on the back.

world would hear from me one day." Later, in 1949, a few days before he entered Yale Law School, a group of black barbers teased him because they thought that he was just like the rest of the black men in town, working at the Post Office at night, "pretending to be a lawyer." The young Higginbotham responded by saying, "Write my name down; you will hear it some day."

Today, in the 1980's the world is as familiar with A. Leon Higginbotham's name as they are with Alex Haley. Higginbotham's book, *In the Matter of Color: Race and the American Legal Process*, has received national recognition for its contribution to American literature. In addition, President Jimmy Carter appointed him to the United States Court of Appeals in 1977. Judge Higginbotham has received more than fifty regional and national honors, is listed in a wide range of prominent who's who lists, is a member of more than 30 national organizations and, most significantly, he now has an honorary degree from the same university that denied him a decent place to live.

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COMMUNITY FORUM

RAY'S IPSA: Bring Back the Gas Guzzler

by Raymond L. Moss

For years the people of America and their leaders have turned their backs on a once helpful and trusted friend. While our present leaders dig deep into the nostalgic era of the fifties, reintroducing the Cold War, windows of vulnerability, school prayer and Grecian Formula 44, no one has shed a tear nor come to the assistance of one of our nation's oldest friends—the eight-cylinder mile-long luxury automobile.

Detractors of this old favorite have derided these machines as wasteful, ostentatious and obstructive. The once awesome reaction generated by one of these large beauties has soured to one of scorn. America's love affair ended in 1973 because it could no longer afford to satiate the auto's appetite.

Up to last week, I was the proud owner of a 1967 Buick Electra. For 16 years it served me well, providing me with all the comfort and luxury that one could want. The Buick and I weathered many a storm together.

When the Arab oil embargo raised its ugly head in 1973, I refused to yield to high gas prices and gladly waited on two-hour gas lines to receive my \$5 worth of gasoline. Although \$5 would only take me 50 miles, I was proud that no group of camel herders on the other side of the globe could tell me what I could and couldn't do. More importantly, by keeping my Buick in action, I was keeping a noble American tradition alive (as well as ensuring the well being of my mechanic's family). Large automobiles represented America's power and unlimited resources.

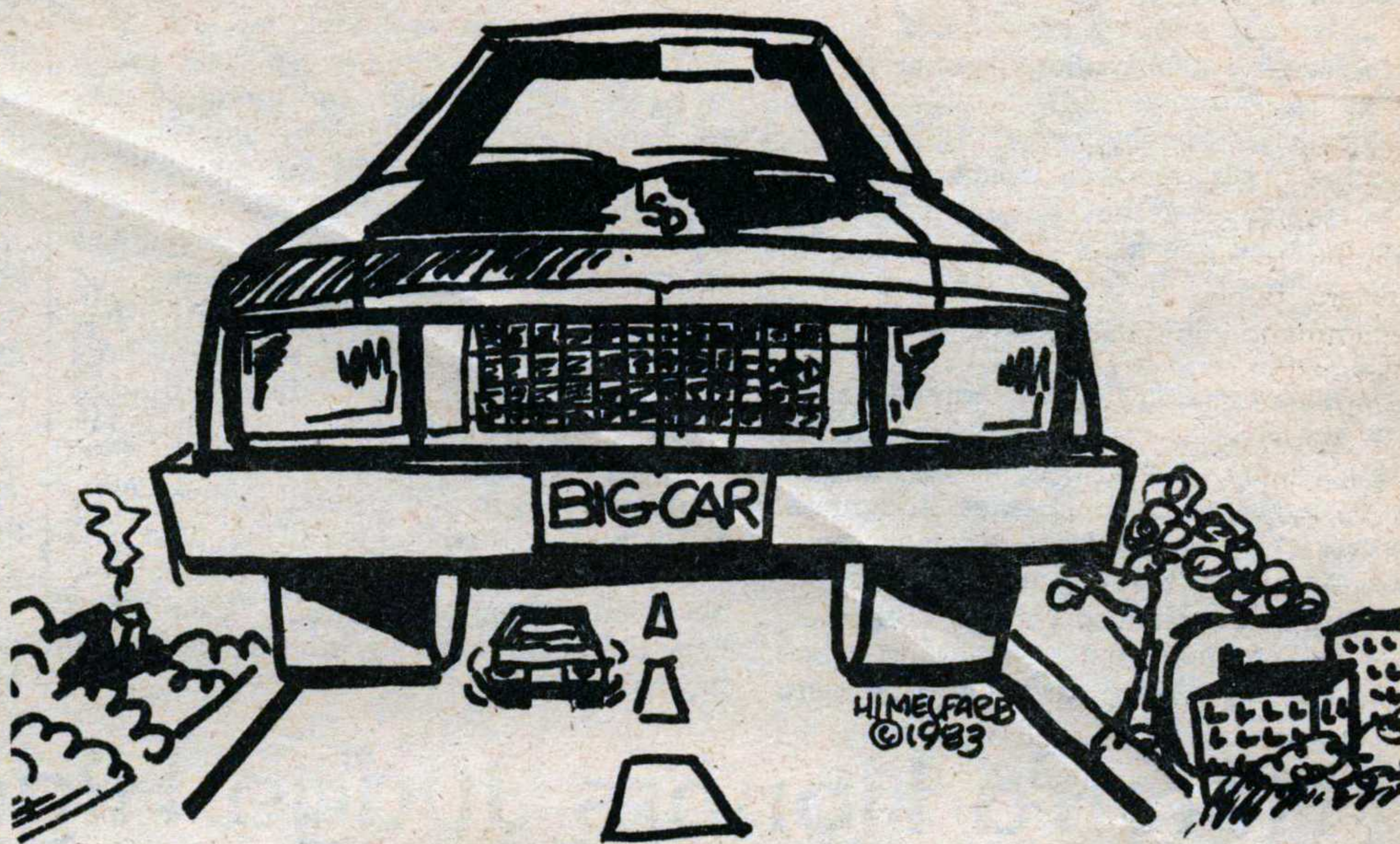
While I spent the 70's and early 80's spending all I had at the pump to keep the tradition alive, my friends turned their backs on their loyal machines and bought small cars from the Far East. These were not easy times for me. Peer pressure had its effects. My rusty yet trusty Buick became the brunt of fuel conscious friends' jokes. My car was called the bomb, the tank, the Batmobile, the boat, torpedo on wheels. Not even as gas prices climbed to \$1.50 did I ever question the validity of owning a piece of American history.

Although the price I was paying to preserve a piece of posterity was high indeed, I was not deterred by high gas prices in my mission. Every night before going to sleep I would pray for an oil glut, a drop in world consumption and a deterioration of the power of OPEC.

Late last month, ten years of praying paid off. The price of crude oil is expected to fall below \$30 a barrel. This has so far translated into a price of \$1.09 a gallon of gas down 41 cents from a few years ago.

Lower oil prices have so far generated a bull's roar on the stock market signalling an end to our economic malaise. The airline, paper and trucking industries are rejoicing at lower oil prices as are consumers.

As it is with everything, not everyone is happy. The "poor" rich oil producing states are no doubt tightening their camel hair belts as are the many banks who fear defaults from loans to these countries. Sadly, the oil companies will have their profits temporarily reduced to only billions of dollars. However,



I shed no tears for these entities. Instead, I am rejoicing for the millions of Americans like myself who have suffered from high petro prices and who for now can approach the fuel pumps with dignity and honor.

I have a hunch that if prices remain low for a year or two, the automakers will end their attempts at innovation and engineering excellence and return to the eight-cylindered beauties that they so conveniently abandoned a decade ago. Extended families, soccer and football teams will once again be able to frequent our nation's highways in the smooth splendor of a single automobile.

In my view of the world, such a vision would signal a return to America's greatness. In anticipation of an economic recovery, I have acted again in rekindling America's greatness. I have just acquired a white 1971 Mercury Marquis which has also been termed by my small car friends as "a refrigerator on wheels." Admittedly, being a trend-setter is no easy job. I hope that my act of faith will induce other patriotic Americans to follow suit.

We should always remember, what is good for the Country is good for General Motors.

OUTSIDE LINE: Responsible Control By All Constituencies: The Future Demands It

by Saul P. Morgenstern

Assuming for the moment that Professor Gregory was serious when he wrote his recent attack on the student body and the *Conscience* (contra, Letter of Prof. M. Freedman), his position must be addressed. Indeed, addressing it is not so simple as some may believe. If one weeds out the vitriol and condescension, one finds an undercurrent of legitimacy that cannot be ignored.

Clearly, the good Professor's venomous attacks detract from the ultimate value of his contribution to this debate. The real issues cannot be ignored, though, and those truly concerned with the future of the School must struggle to face and resolve them.

The complaint voiced by the student leaders is an old one. It has reverberated in the hallways of many an academic institution and will likely continue to do so. It is the central issue, and its resolution rules the disposition of virtually every dispute that arises along the way. Simply put, the students want control. Nobody is sure of precisely how much control or exactly what aspects of their environment they wish to control is what they want.

Control in this setting comes in varying degrees. In its most limited sense it is the formal presentation of ideas and opinion, usually through course and teacher evaluations, membership on committees of the faculty, and participation in student government. In its most expansive sense it is determinative power—the ability to fire or hire and the unfettered power to set policy.

The students' quest for control invariably evokes resentment and resistance among and from the faculties from which students seek to wrest it. The faculty itself does not have absolute power and knows that the administration and the trustees are not about to cede any of their own. They loathe to surrender any significant part of their control.

Decisions made in the institution affect the day to day lives of faculty members as profoundly as they do the lives of students; no professor will surrender willingly the limited power he or she has to control these decisions.

Perhaps more legitimate from an academic standpoint is the position, stated by Professor Gregory and held by many others, that if students knew enough to run the school and make the crucial decisions required to determine its short- and long-term future, they would not have to be students. The students, in the eyes of many teachers, are there to learn, not to call the shots. This is a legitimate position; it does not, however, conclude the issue.

Certainly the students are in school to learn from the professors. It would be presumptuous, for example, for a first year law student to try to dictate the curriculum of a given course, seeking to decide which cases are better used to illustrate the legal rules and reasoning in a given area. Without experience at the bar, it is difficult to know what parts of the law school curriculum are valuable to the law students as future lawyers and it is foolish for students to seek dispositive control over such determinations.

The hint of truth in Professor Gregory's statement, however, does not fully justify a position denying students all control. No faculty member who has observed three to five hours of a peer's teaching can know as much about that professor's effectiveness as the students who have sat in the class for a full semester, sought to learn from the readings offered and presentations made, and prepared for and submitted an examination or paper. To deny that serious students are better able to evaluate the effectiveness of a professor than are other professors is to deny reality. Similarly, retrospective analysis of the value of certain courses by upper level

students and alumni (the forgotten constituency) is likely to prove at least as accurate as the prospective assessment given them by their designers, and sometimes more so.

The point is simply that serious students should not be shut out of the decision-making process. Their involvement through active membership on faculty committees and subcommittees, public debate and published course and teacher evaluations should be sought and encouraged, not feared and denied. Only then can the positive development of the institution proceed apace.

There is a hitch, though. With power comes responsibility. The careful reader will note that the preceding paragraphs speak of the "serious student." The student body must assess itself before excoriating faculty members for resisting programs designed to emphasize student input and control (e.g. published course and teacher evaluations).

Professors are legitimately suspicious when they see that the uniformly over-subscribed courses are those taught by professors known for giving high grades and making few intellectual demands. They fear that students seeking the easy path are likely

to evaluate teachers based on specious criteria. Their suspicions are not allayed when they are faced with a lack of preparation or willingness to be challenged by their own students.

It is true that in some situations a lack of student motivation is the fault of the teacher. A professor who speaks in dangling participles and then criticizes his students for their lack of motivation is difficult to tolerate. Many professors, however, labor over their courses and their students. To them, an unprepared, unconcerned class is a slap in the face. An unprepared, unconcerned class that seeks to then tell the professor what is best is yet more offensive.

Both groups here must put their houses in order. Responsible professors and serious students can make the Law School a great place to get a legal education. Irresponsible faculty and unserious students will consign it to a future of bitter grey mediocrity.

Saul P. Morgenstern is a member of the class of 1981 and an Associate with a New York City law firm who feels fortunate to have been taught by far more high-quality professors than low-quality ones.

A statute pregnant with
discrimination.



COMMUNITY FORUM

Reconsider The ABA Disclosure Rule

by Brian Tanenbaum

At its recent convention, the American Bar Association soundly rejected a proposal that would have permitted a lawyer to reveal information concerning a client's intention to commit fraud or criminal acts upon the unwary public. The reform commission's recommendation enabled a lawyer to reveal information "to prevent the client from committing a criminal or fraudulent act that the lawyer reasonably believes is likely to result in imminent death or substantial bodily injury, or in substantial injury to the financial interests of another."

Instead, the ABA went entirely in the opposite direction and adopted an "ethical" rule that would make it *mandatory* for a lawyer to refrain from disclosing his client's guilty secrets under all circumstances, except where the client plans to commit murder or cause serious bodily harm to another or where the client commits perjury in Court. In other words, in most instances, lawyers would be *prohibited* from warning the intended victims of their client's fraudulent or criminal schemes.

Thus, for example, a lawyer who learns that his client intends to abscond with his three children, despite representations to his former wife to the contrary, cannot warn the

mother. Instead, the lawyer, after attempting to persuade the father from performing such an unlawful act, must remain silent should his client refuse to heed his advice.

Likewise, if a lawyer learns about a corporate officer's plans to defraud the stockholders of the corporation, he must, under the new "ethical" rule, remain silent. The lawyer is under an obligation to attempt to counsel his client against such activities. However, what if he is unsuccessful? Based on this "model" rule, the lawyer must simply sit idle with the knowledge of the events which are about to transpire. Of course, the lawyer has one other option: he could simply resign. Neither option is appealing or provides a satisfactory solution to the lawyer's dilemma.

Proponents of this model rule contend that unless the client's secrets remain privileged, without fear of reprisals, the lawyer would not be able to obtain all information that is potentially relevant, including that which may be incriminating, to prepare the proper defense or prosecution of his client's case. Therefore, the "reformers" argue that the attorney would be prevented from providing his client with adequate legal representation.

While it is one of the fundamental linchpins of our judicial system that individuals be afforded effective assistance of counsel, the disclosure rule would not compromise or destroy that value. Attorneys who are lax, negligent or are totally lacking in the art of lawyering may not provide effective assistance of counsel. But, it is a basic flaw to stretch that definition, as the "reformers" do, to include situations *where it is the client who because of his unwillingness to disclose information for fear of reprisals, does not provide the attorney with the whole story.*

True, lawyers can only provide the best possible representation if they are given all of the facts. However, the ability to obtain all of the facts does not only depend on the ability of the lawyer in charge, but, in large part, on the client as well. A client who is *unwilling* to inform his lawyer of all the facts simply because he fears that what he may be planning is unlawful should not be heard to complain that he was not afforded effective assistance of counsel. It was the client's choice to refrain from disclosing such information. It was his unlawful intentions that brought him to the point of becoming close-lipped.

Why should the system sanction and protect a client who would otherwise use the system to stab the unwary for his advantage? Clients who plan to commit unlawful acts, even after being counselled by their attorneys not to, should not be allowed to harm the public.

The lawyer has a dual role in our society. He must provide adequate representation to his clients, and protect the public as well. Indeed, even the "reformers" recognize the latter role in that they would permit a lawyer to disclose information when it is to protect a person from murder or severe bodily injury. Clearly, if it is important for the system to allow a lawyer to report that his client is about to kill or maim someone, why would it not be as important to disclose his scheme, for instance, to abscond with his children without his former wife's consent or to defraud the shareholders of a corporation? The disclosure rule is not only logical but it is humane as well. Hopefully, the ABA will reconsider their position this Summer.

Brian Tanenbaum, affectionately known as "T-bone" is a Hofstra Law graduate from the Class of 1981 and is currently associated with a general practice firm in Garden City.

Legal Education: A Critical Perspective

by Barbara Lynaugh

The debate at Hofstra rages on, and, as demonstrated by the last issue of *Conscience*, the opponents have become more vociferous in their attacks. Students accuse the faculty of being insensitive and unresponsive; the faculty cites the lack of student responsibility as the core problem. Heated charges of arrogance are mutually exchanged. An Ad Hoc Committee is formed to examine the "lack of academic excellence" among students. Students demand and obtain a substantial voice on the Committee with the intent of examining the faculty's role in the problem. Hearings are held; student and faculty comments are actively solicited.

What are some of the solutions that have been proposed thus far? Students have suggested a more equitable grading system, extra credit for class participation and revised examination policies. The faculty feels that mandatory class attendance, harsher grading policies and sanctions for poor class preparation are the answers. These solutions are about as useful as applying a skin graft to a gangrenous rotting limb; they fail to identify and address the fundamental problem.

Let me first say that I thoroughly agree with the initial diagnosis of "upperclassitis"; the syndrome is very real indeed. Its symptoms of poor class attendance, lack of preparation, participation only under duress, and generalized malaise are likewise very real. In fact, "upperclassitis" can even be contracted prematurely. (I've been suffering from an intractable case since the middle of my first semester here. The civprocrimproper virus was too much for my immune system to handle.) However, this dread disease is not unique to Hofstra. The last issue of the *New England Journal* reports well-documented cases at each of the area's law schools. It has reached epidemic proportions! Nor is it a recently discovered phenomenon. Legal educators have commented on it since at least the late sixties; I've spoken to former victims who struggled with it long before then.

It is obvious that we are dealing with something far more substantial than mere upperclass malaise at Hofstra. In fact, it is a far-reaching systemic malaise, and it is actually only a manifestation of a far more virulent condition, the nature and goals of legal education itself.

Let's examine some of the student's initial

encounters at law school. First, there's the renowned Langdell case method. A modern innovation in progressive legal education (circa 1860's), the case method introduces the new student to the law through excerpted sketches of judicial opinions. The "case" method teaches us little, if anything, about the social and political realities of the case at all. Of course, this criticism is not new. A respected jurist, Judge Jerome Frank, said it best forty-five years ago:

"Students trained under the Langdell system are like future horticulturists confining their studies to cut flowers, like architects who study pictures of buildings and nothing else. They resemble prospective dog breeders who never see anything but stuffed dogs. And it is beginning to be suspected that there is some correlation between that kind of stuffed dog study and the overproduction of stuffed shirts in the legal profession."

But, we read our casebooks. We read about the dogs chasing the fox, the kid with the hairy hand, the guy that fell off the boat, the whale that was hanging out on the beach for a week. Then we get into class. A hundred strange faces surround us. Then it happens: "Miss Lynaugh, who has possession of a wild animal? Cite chapter and verse if you will." "Is this man on drugs or what?" you may want to ask yourself. No, he's not; welcome to the Socratic method or, more correctly, what has come to be known as the Socratic method. Students of the Dialogues will agree that Socrates would have gladly had his hemlock cocktail several decades earlier if he only knew the fraud that was to be perpetuated in his great name.

But, we do read our casebooks, and we execute the classroom interrogations to the best of our abilities and then something begins to happen. We begin to wonder, "What is this place all about?" or "What are we really learning here and how valuable is it?" These are crucial questions; they reflect a most serious and fundamental problem with our legal education—its lack of relevancy. Those of us who are not programmed from the outset begin to realize that law school is, unfortunately, highly irrelevant to the realities of our society and to our roles as lawyers within that social structure. To an astonishingly large extent, we are taught the law in a vacuum. A few examples: a criminal law class in which neither the repressive nature of criminal legislation nor the class relations producing crime are examined; a property

class in which the validity of existing property rights is never discussed; an international law class that neglects to examine the gross violations of international law involved in current U.S. intervention in Central America; a constitutional law class that regards historical political perspectives as immaterial; a labor law class that fails to examine the nature of labor relations in this country.

This lack of relevancy in the curriculum becomes a significantly disturbing fact for many students because of its inherent consequences. Since what we are taught about the law is static and we are all here to become participants in the legal process, we

too, become static. Our creativity is stifled and we become complacent. We are not encouraged to think about new strategies for current problems or creative uses of newly developing legal principles. In fact, we are rarely encouraged to think at all.

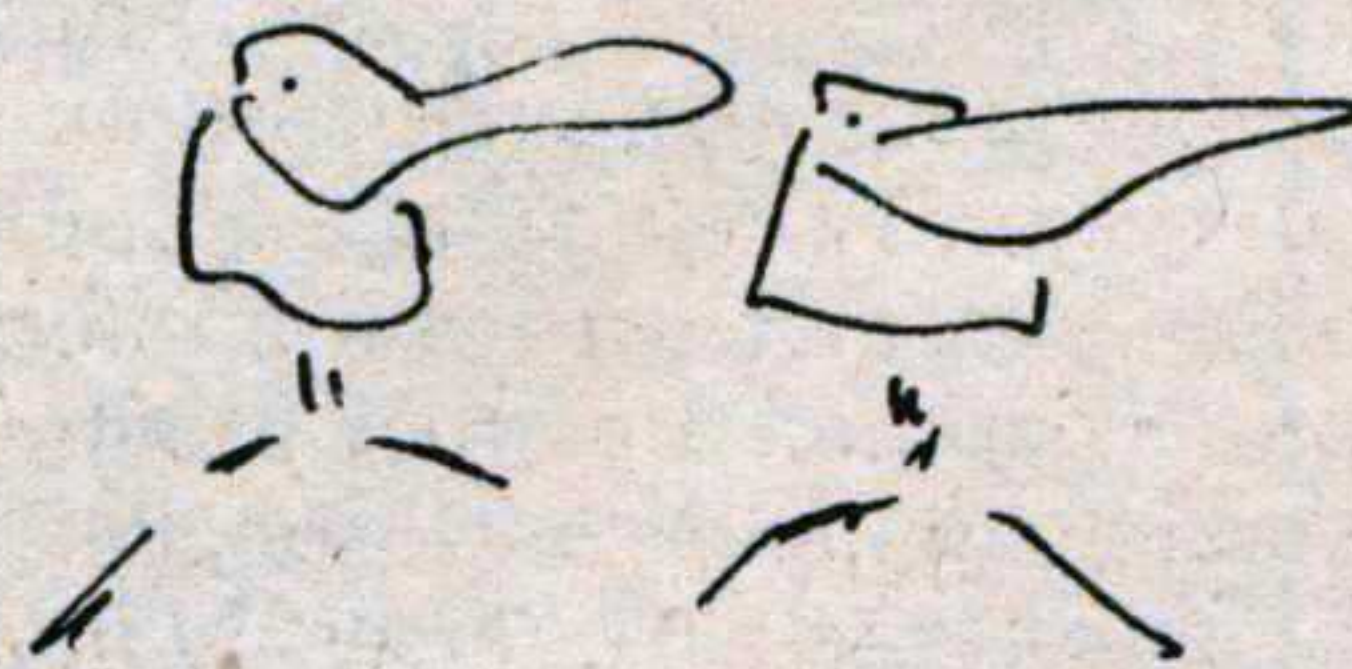
So, if we don't participate in class today it's because we can see through what you're teaching us, and, quite frankly, we're bored. The mandate is clear: you've taught us complacency, now teach us to become involved. Teach us what we want to learn and what we need to learn to become effective and creative lawyers in today's world.

ALL STUDENTS INVITED

AD HOC COMMITTEE OPEN HEARINGS

Wednesday, March 16th
Noon Rm. 230

After three years
in law school, he
still has a mind
of mush.



EDITORIALS:

Students Must Be Heard

Last November this newspaper editorialized that "students pay [faculty] salaries and have a right to review what they are paying for." The recent 34% rise in faculty salaries makes our comment even more true today. Students have a right to insist that their very expensive education meets the highest standards of quality.

The students are the primary reason for any school's existence. The faculty bears a heavy obligation to the students, for a decision made without considering the students' interests is a decision that ignores the school's very purpose. And decisions cannot be made in the student interest if the students' voice is excluded from the decision making process.

This is not to say that students must run the school. The faculty is the appropriate body to make final decisions. But before decisions are made, students must be listened to. It is therefore essential that the faculty: 1) include students on decision making committees; 2) release proposals to the community for comment before final decisions are made; 3) listen carefully to the comments that are made and 4) provide students with sufficient information so that they may participate in Law School governance responsibly.

There are times when the faculty should not follow student advice. Students, at times, makes suggestions that fail to consider their own long range best interests or that are impractical. But when student opinion is wrong, it is incumbent upon the faculty to explain. And when the faculty does make decisions, it is equally obligatory for it to explain to the students the reasoning behind the decision.

Students also have some serious responsibilities. They must think carefully about their school and the educational process they are a part of, as well as the long range best interest of the school and its students. They must listen and consider the views of the faculty. And they must never forget that a law school of the highest standards demands a great deal of work and thought from its students. Student participation is really not a student right, it is a student responsibility.

If the faculty encourages student participation in the manner we suggest, it will encourage students to become more responsible. Those who are treated with contempt will become contemptful, and those treated with respect will someday become respectful. If Hofstra is successful, its current students will someday become respected and influential members of the bar. And if that is to happen, those students must today be respected and influential members of this law school community.

Ethical Responsibility At Hofstra

Just as the State bar has found it necessary to monitor and police the professional behavior of its own members, so too must the students of the Hofstra Law School community police its own members. Students must accept the responsibility of reporting all acts of moral turpitude. Acts such as cheating on exams, improperly attending a moot court problem before a student's presentation, hiding or mutilating library books as well as other law school property and having another person do the student's work for them. These acts can not and should not be tolerated.

A formal ethics committee, comprised equally of faculty and student members, should be established to review student complaints, conduct hearings guaranteeing all Fourteenth Amendment due process rights, and make recommendations for suspension, dismissal or reproof to the Dean, if necessary.

It is only through such a process that the Hofstra Law School community will be able to guarantee the same integrity and professional responsibility that is demanded of the members of the bar.

Not Learning The Hard Way

On March 10, 1983, President Reagan proposed an emergency \$110 million in arms aid for El Salvador. This new aid is to augment the several hundred million in arms aid given to El Salvador in the past year. The Reagan administration is clearly making the same mistake that the Truman, Kennedy, Johnson, Nixon, Ford, and Carter administrations have made in the past - hundreds of millions of American dollars for arms which will not stop the spread of violence or Communist ideology. The United States foreign policy over the last twenty years has Communist guerilla movements in third world countries. The starving and oppressed people of El Salvador need help badly. They need food, medicine, their own land to farm, representative government and a life of dignity. American military support of a Conservative regime which uses American arms and economic assistance to kill tens of thousands of El Salvadoran citizens is better propaganda for Communist ideology than the most compelling piece of literature or public debate.

The United States Government should simply refuse to economically support any government which uses its military to suppress criticism of its operations. It is not hard to understand why communist insurgent guerillas get grass-root support from the El Salvadoran people. A drowning man does not care much who throws him the rope.

The Reagan administration would do better to fight Communism in Central America with food, medicine and education than with bullets. Furthermore, the United States government should be very careful in choosing its allied governments. The people of the Third World would respond more favorably to democracy and the United States if it became clear to them that it practiced a sincere belief in human rights rather than a practice of empty rhetoric.

LETTERS:

Amused by Gregory

Dear Professor Gregory:

As a month-to-month resident of the "cesspool" you call *Conscience*, I was amused by your comments asserting the uselessness, wrongheadedness, and invisibility of students evaluating their professors. I agree that in most cases such evaluations are inaccurate, but this fact derives from the high measureless insensitivity and stupidity of the evaluators. That fault, however, is not due to their being students, but to their being human. However, once in a while, student evaluators can alert the administration (as if they cared) to a situation where a professor is utterly hopeless (like the one I had that couldn't hear). Even a class of idiots can appreciate, even acclaim, true incompetence.

But I don't want to misunderstand you. As I see it, you were merely advancing a general philosophy of pessimism to inspire the next generation of movers and shakers. I'm sure you didn't mean to imply that professors are particularly dedicated, hard-working or sincere; generally speaking of course. It's wonderful to live in these advanced scientific times, where we can analyze ourselves so honestly. We not only maintain a low opinion of ourselves, our peers, and our superiors, but in the spirit of truthfulness, we are proud of it.

Very truly yours,
Richard Tirman (2L)

A Commentary on Student's Response

by John Dewitt Gregory

I earnestly hope that commentaries upon matters in *Conscience* will not become a habit with me. Among the dangers attendant to this endeavor is softening of the brain. Nevertheless, for my own amusement, if nothing else, permit me to have a few words about the "response" to my "Commentary on Student Rights" in your February, 1983 issue. The writer is Jordan Fox who identifies himself as President, Student Government. I assume he is also a student.

May I begin with two preliminary observations. First, *Conscience* once again demonstrates its high principles. After your new Editor-In-Chief, Peter William Shafran, refused to print my commentary when it was timely, I withdrew it and he returned the text to me. I was astonished when it appeared in February, contrary to our clear understanding. In any event, I appreciate the fact that *Conscience* printed my name in bold letters instead of ordinary type like everyone else's; I love the look of it. Second, your respondent correctly identifies my views as "pompous." As one who nostalgically longs for the return of the days when pomp was respectable, I fully intend them to be.

I now turn to the merits. Fox asks, "Would Gregory so loudly object to student participation in their environment if he were fired from the faculty because of his race or political beliefs?" (sic). The answer is probably "Yes," although I don't know what the writer means by "participation in their environment." My commentary expressed objection to students governing the Law School. More importantly, however, I am dismayed at Fox's injection of race into this

matter. Frankly, I don't know what my race has to do with the subject under discussion. One of the things I personally treasure about this Law School is the fact that, with some exceptions I need not mention, my race has ordinarily been an irrelevant consideration. Shame on you, Fox. As for my political beliefs, to the extent that I am able to identify any, they also seem to me to be irrelevant.

Fox also asks whether I drink sour milk. The answer is "No." Here, oddly enough, my race is relevant, although I doubt whether Fox realizes it. Many people of my race, myself included, experience an allergic reaction even to fresh milk. Accordingly, I have learned to avoid drinking milk in its pure form and try to stick to cheese and yogurt and the like to satisfy the dairy requirement of good nutrition.

On a more positive note, let me say that your writer's musical tastes appear to be pretty good. Phil Ochs was a decent guitar player, although not my favorite philosopher. Indeed, the only thing I mildly resent in the piece is its implicit branding of me as a book burner. I have never burned a book in my life, although I concede that I have come across a few that I would gladly ban.

Incidentally, I do not look forward to a response to this from one of your resident scribblers, but I suppose one will inevitably be forthcoming. More's the pity.

Fox Responds, Again

by Jordan Fox

It is, ironically, the futility of exchanges such as these which best serve to point up our desperate need for cooperation, mutual trust and a sharing of the burdens and benefits of law school growth and governance between students and faculty.

Therefore, it is difficult, if not debasing, for me to have to respond to John Gregory's second commentary. It is difficult because Gregory does not address the merits of our discussion printed in the last issue of *Conscience* concerning students' rights. It is debasing because Gregory's use of sarcasm, distortion and insult does not easily promote a reasonable response. Yet I feel compelled to address certain innuendoes in the letter.

John Gregory believes that students have no right to review what they are paying for." He outrightly rejects student participation in the governance of the law school. I disagree.

There is no need for me to repeat my reasons for supporting my notion of community governance, except to explain one particular line of reasoning I employed. To take Gregory's sweeping contention that students have no place in the law school policy arena to its logical extreme, I presented a number of scenarios in which involvement in our environment would be incumbent upon the student body. For example, I wondered whether Gregory would have objected to student protests over the Vietnam War or civil liberties violations. To underscore the need for student involvement at some point, I asked Gregory if he would still object to student involvement if he, or for that matter any member of the faculty, were fired because of their race or political beliefs. And Gregory has now responded that he probably would still object. Fine. But Gregory decries my "injection of race" for which I should feel some "shame." How he derives this race *qua* race implication is beyond belief. No fair reading of my letter could mistake my language for anything more or less than what it was—using the example of race discrimination to illustrate the hypothetically compelling need for student activism to battle that very discrimination.

MARCH, 1983

conscience

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Legal Briefs . . .

Americans Jailed Abroad: No "Midnight Express"

by Stacy Silverstein

Solitary incarceration in a foreign jail is a grim reality for many Americans. While most people think of Americans jailed abroad as drug-smugglers, an image evoked by such movies as "Midnight Express," only 35% of Americans arrested abroad last year were held on drug-related charges, according to State Department statistics. Other foreign criminal charges included drunk and disorderly conduct, business fraud, theft, and customs violations.

Unfortunately, many Americans find themselves in jail for reasons they do not understand. According to attorney Richard D. Atkins of Philadelphia, "Business people are arrested, professional people are arrested—usually for doing stupid things. Some legal specialists acknowledge that Americans abroad often take risky chances, acting quite differently than they do at home; for example, purchasing stolen goods.

To say that the American jailed abroad is confronted with a dilemma is an understatement. First, the prisoner must obtain competent counsel. The American Consulate will provide a list of local attorneys, however, their competency and reliability is never guaranteed. Many prisoners are taken advantage of by crooked foreign lawyers, who wait by the prisons to swindle the "rich" Americans. Other Americans try to bribe their way out of difficulty; a technique that usually backfires.

Attempts to release the approximately 3000 Americans jailed abroad each year have been aided by a legal organization called the International Legal Defense Counsel. The ILDC was developed in the 1970's and today consists of six attorneys and a human rights activist. These lawyers assist local counsel in preparing an American's defense and carry information between the prisoner and his family.

Members of the ILDC admit that defending a client abroad is extremely difficult. One ILDC attorney warned, "many foreign countries do not abide by American scruples about illegally seized evidence and improperly obtained confessions. Furthermore, foreign legal codes often fail to provide protection consistent with our notions of constitutionality. For example, many South American countries operate under a system which assumes a prisoner guilty until proven innocent. In Peru, the defense attorney's input at trial is greatly limited; he is not even permitted to sit near his client. In addition to the legal problems, American lawyers face

practical difficulties in the preparation of a good defense, including untranslated law books and unfamiliar legal codes of conduct. These difficulties often slow down the litigation. However, speed is essential as clients in foreign prisons are adversely affected by conditions there.

Although foreign governments are required to notify American officials of any arrest, the wait for competent counsel, if a fine will not secure release, is often plagued with acts of torture and appalling unsanitary conditions. The State Department reports that last year over 140 Americans were mistreated while in foreign jails, a figure that some officials believe is an understatement. However, last year our government filed only twelve formal and ten informal objections to treatment of American prisoners abroad. The small amount of official complaints reflects the concern that some prisoners may falsely assert tales of mistreatment to increase their chances for release.

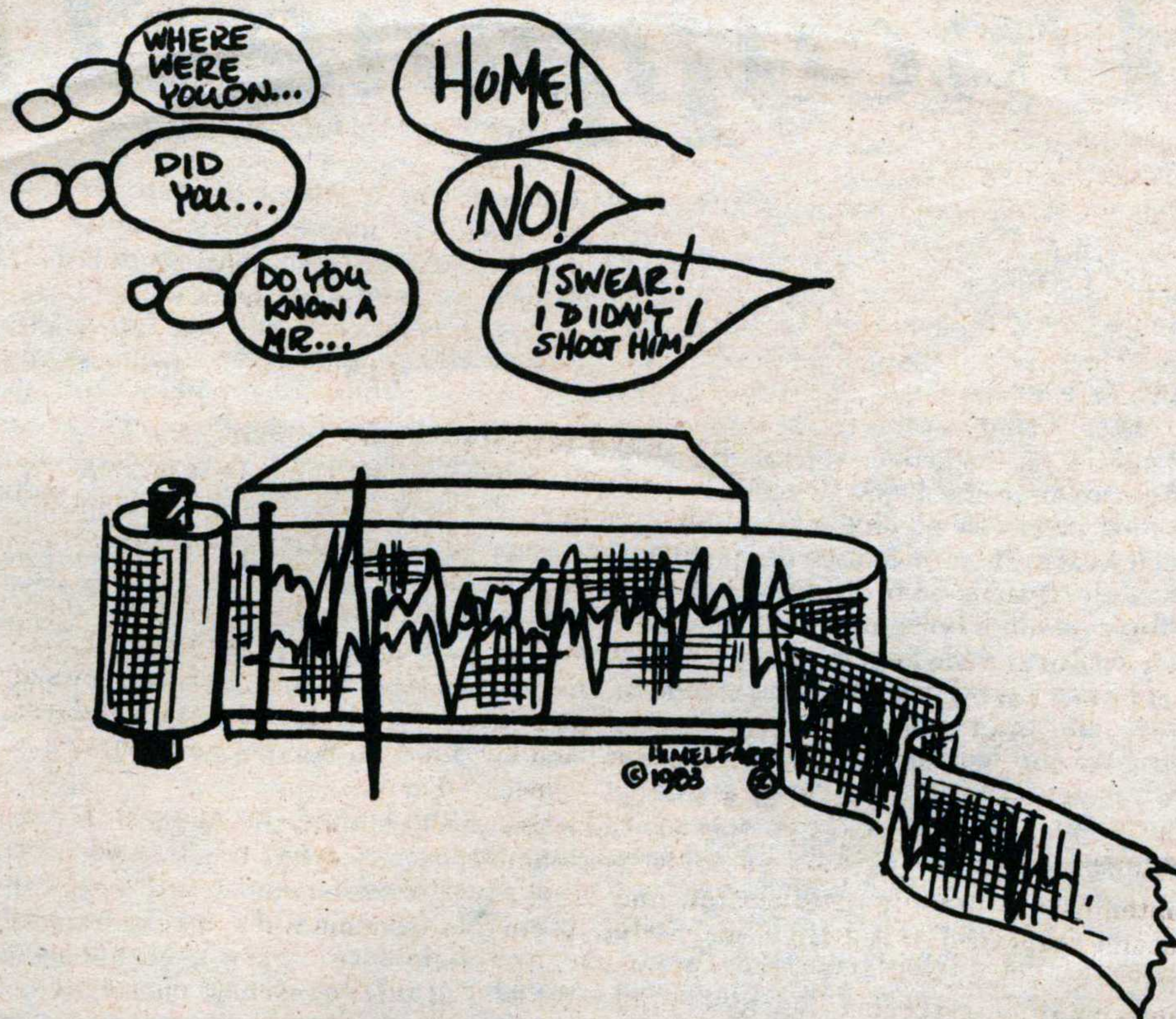
The goal of the ILDC is to arrange releases or transfers for their clients. This goal is achieved through private negotiations with foreign officials. 685 Americans have returned to this country through a device called a Prisoner Transfer Treaty, which in some cases, allows prisoners to serve the balance of their sentences in their home countries. The United States has entered into such treaties with Canada, Mexico, Panama, Bolivia, Turkey and Peru since 1976; several other countries are contemplating similar arrangements. Not all prisoners will qualify for a transfer. In addition to obtaining the consent of the prisoner, home country and foreign country, a prisoner must be convicted, have no appeals pending, and have been sentenced for a crime punishable under his home country's laws. Once the prisoner is transferred, the foreign nation controls all pardons, but the home country can make parole decisions.

The transfer treaty system is not without its critics. Some opponents view the treaties as a violation against a prisoner's constitutional rights by recognizing the sentence of a foreign court. Other opponents claim prisoners do not voluntarily consent to their transfers. However, according to one transferee, the waiver of these rights is worth release from an isolated foreign jail cell.

Based on "How to Aid Clients in Jail Abroad," by Ruth Simon, *The National Law Journal*, February 28, 1983.



HELLO...UNCLE SAM? I'M IN TURKEY.
CAN YOU GET ME OUT OF HERE?



The Polygraph And The Employee

by John Kavanagh

You are brought into a sound-proof room where there are neither windows nor pictures to distract you. As you remain seated alone, two leads, or galvanic skin response detectors, are taped to your fingers, and your upper arm is wrapped in a device to measure your blood pressure. While you wait nervously, a third attachment is placed around your chest, designed to record changes in your breathing patterns. All the above attachments lead into a box the size of a typewriter which looks as if it is used to measure earthquakes in Guatemala. As you remain strapped down, you cannot help but feel like a convict in the electric chair in an early James Cagney movie, praying for a last second reprieve from the Governor. Suddenly, an examiner enters the room and sits by the small typewriter shaped box. He begins to ask you a series of carefully prepared questions that usually call for a yes-or-no answer. After each question, the examiner makes notations by each of the four graphs produced by the needles of this strange box. Finally, the questions end and the attachments are removed from your body. As you walk away from this confinement, you wonder if this job is worth being the victim of a Polygraph.

A Polygraph, or as it is commonly referred to, a Lie Detector, is an instrument capable of detecting, recording and measuring human bodily responses. A Polygraph determines the presence of physiological changes in one's heart rate, respiration and perspiration. The Polygraph operates on the scientific principle that a lie will trigger a change in the "liar's" heart beat and breathing patterns, and a corresponding and measurable galvanic skin response.

Today, the Polygraph is mostly used in private companies for the prevention and detection of theft and the screening of potential job applicants. Generally, Polygraph results are not admissible in court and currently there is no federal law either sanctioning or prohibiting use of the Lie Detector. While sixteen states and the District of Columbia now bar the Lie Detector, there are twenty states that allow the introduction of stipulated Polygraph Exam results. Another twenty states forbid the use of Polygraphs for employment related purposes.

Proponents contend that the Polygraph is accurate 90 to 95 percent of the time,

opponents argue that it has been determined that there is not one specific lie response and that only physiological changes are detected. Opponents also note that a Polygraph is subject to inaccuracies as the test cannot be effectively administered to an examinee who has taken drugs or consumed alcohol shortly before the examination. Opponents also attack the belief that the examiner uses a wide margin of subjectivity to gain desired results and have offered as proof numerous studies indicating that results determined by one Polygraph will be contradicted by another Polygraph.

Further indicative of dissatisfaction with the Polygraph, some states require degrees and rigorous training for the licensing of a Polygrapher. Other states, however, have no licensing and no requirements for an examiner. Kentucky and Illinois offer examples of two different state policies of the licensing of Polygraphers. Kentucky requires only that a Polygrapher be 18 years old, have studied Polygraphy and have been in business for two years, while Illinois demands a college degree, a six-month apprenticeship and a passing grade on a state exam.

In the rising number of law suits against private employers over the Polygraph, attorneys usually rely solely on the common law or state statutes. Negligence and defamation seem the most fruitful causes of action. But new legal grounds for challenging the use of Polygraphs on employees range from violation of libel law to the 14th Amendment. The American Civil Liberties Union believes that since the Lie Detector Examination compels one to give testimony against oneself, the test is a violation of the 1st Amendment right of free speech, the 4th Amendment right to be free from illegal searches and seizures, the 5th Amendment right against self-incrimination and the right to privacy derived from the 9th and 10th Amendments. The N.Y.C.L.U. argues that if a client protests his inability to gain access to the results of a Lie Detector Test kept in his personnel file, such a test is covered by federal and state fair credit reporting laws.

In conclusion, whether one is a proponent or opponent of the Polygraph, one can see that as more private firms rely on its use in employment practices, the Polygraph will be the source of only greater controversy in the legal community in years to come.

More Legal Briefs . . .

Uncapping The Bottle Law

by Mark J. Cohen

Yesterday, while I was entering a supermarket, I saw a car drive over glass fragments of a broken beer bottle. Ssssss. When I finished my shopping, I noticed that this same car had a flat tire. A few weeks ago, while driving on the L.I.E., I noticed a driver and his passenger throwing empty Coke cans onto the highway median. Last summer, while walking on the sand at Jones Beach, I cut my foot on a piece of sharp glass from a shattered soda bottle. Incidents such as these are not uncommon! Finally, last year, the New York Legislature responded to the cries of the injured public. After a (long) ten-year battle, environmentalists convinced the legislature to pass a Bottle Law. On June 15, 1982, the New York State Returnable Container Act became law. Commonly known as the Bottle Law, it goes into effect on July 1, 1983. With its law, New York joins the ranks of Vermont, Oregon, Michigan, Iowa, Connecticut, Massachusetts, Maine, and Delaware in passing container deposit legislation.

The Legislature found that litter composed of discarded softdrink, beer, and ale bottles and cans is a threat to public health. "discarded beverage bottles and cans create a hazard to vehicular traffic; are a source of physical injury to pedestrians, farm animals, and machinery; and an unsightly accumulation of litter which must be disposed of at increasing public expense. Beverage bottles and cans also create an unnecessary addition to the state's and municipalities' already overburdened solid waste and refuse disposal systems. Unsegregated disposal of such bottles and cans creates an impediment to the efficient operation of resource recovery plants. Further, the legislature finds that the uninhibited discard of beverage containers constitutes a waste of both mineral and energy resources." The purpose of this bottle bill is to encourage residents to purchase reusable bottles and to recycle cans. To insure public cooperation, a monetary value is placed on the bottles and cans.

Simply, the Bottle Law established a distribution and redemption chain for the containers. A refund value of not less than 5 cents is placed on every beer and soda container. The distributor will receive a 5 cent deposit for every container he distributes to the dealer, the grocery store owner. The dealer, in turn, will require the public to place a nickel deposit for every container of soda or beer it buys. After the customer has consumed the contents, he can return the empty container to any dealer, who will reimburse his nickel. The dealer then will return the empties to the distributor, who will pay the dealer a nickel for every container he returns. In addition, the distributor is to pay the dealer a 20% handling fee (or 1 cent for every nickel). The dealer has some discretion in accepting the containers. If the container is broken, corroded, dismembered, or contains a significant amount of foreign material, (then) the dealer may refuse to accept the container. But, all containers accepted by the dealer must be accepted by the distributor.

To discourage out-of-state residents from returning empties purchased in their home state, the New York containers will be distinguished. Each container shall have a label stating the refund value of the container and the words "New York" or "NY." In addition, no can will have a detachable opener and no container will be held together by plastic loops. Plastic is not biodegradable, and if buried in landfills, it may pollute the groundwater.

Rules for implementing the law have not been finalized. The New York State Department of Environmental Conservation (DEC) held hearings throughout the state to discuss proposed regulations and guidelines. One such hearing was held at the State

Agricultural and Technical College in Farmingdale, N.Y. on Feb. 17, 1983.

The hearing was attended by approximately 150 people. Environmentalists, representatives from supermarkets and the, bottling, and beer industries, and grocery store owners all came to voice their opinions.

Most of the speakers represented industry interests. In eloquent rhetoric, they voiced their disapproval; they predicted doom. They contended that solid waste and litter reduction will be minimal. In addition, they argued that the bottle law is economically unfeasible. They predicted that the law will cause many businesses to lose revenues and will force the closing of many of these retailers. They claimed that hundreds of wholesalers in Iowa and Oregon lost their business because of over-redemption. The industry spokesmen stated he expected the price of beverages to be substantially increased. In addition, disruptions in service would cause great inconvenience to consumers. He indicated that citizens of states having bottle laws were so frustrated, that

soda and beer should be uniform; it was believed that the extra cost of transportation would dissuade the upstate distributor from shipping his goods down here. Second, the local dealer should be forced to buy his beverages from the local distributor. However, a small grocery store owner from Pennsylvania contended that the adoption at the latter proposal would create a monopoly. He stated that the price of goods in Pennsylvania regions which have monopolistic practices tend to be substantially higher than in regions in Pennsylvania which have free enterprise.

Storage of the empty containers will create a problem for the supermarkets and grocery store owners. Most of the supermarkets and small grocery stores have limited space for storage. They claimed they don't have the facilities to store all of the empty containers. This problem will be intensified if consumers purchase the beer and soda from one store and return the empties to another one. According to the proposed regulations, distributors must pick

any losses, the dealers will threaten to raise prices—not only a beer and soda, but on all goods!

Dealers also exhibited concern about consumer relations. They opposed rules which allow dealers to refuse to pay a deposit on broken bottles or corroded cans. The DEC sponsored this regulation because it felt that such an item would be too unhealthy to accept. But, a dealer said, "The only way this might be considered unhealthy is if the dealer refused to give the person his refund. In that case, we will expect customers to leap over the counter and deal us some punishment."

Finally, distributors and dealers asked for a postponement of the effective date of the law. The bottle law is scheduled to take effect on July 1. They contend that July 4 is the busiest time of the year. If the Bottle Law goes into effect on the scheduled date, they fear that the resulting chaos and confusion would decrease their sales.

The environmentalists, on the other hand, indicated the positive aspects of the measure. They contended that there would be a substantial reduction in solid waste and litter. The deposit will act as an incentive for people to return the empty containers so that the empty cans can be recycled and the empty bottles can be cleaned and reused. This in turn will create a more beautiful New York and will decrease the amount of burial in the landfills. This will decrease the amount of pollution and lead to a more healthy New York.

Economically, they contended that the law is feasible. It will save municipalities the expense of picking up litter and depositing it in a landfill. It will create more jobs. The economic impact on industry would be slight. In fact, the DEC pointed out that over 400 million cans of beer and soft drinks are sold in New York each year. If the deposit is set at 5 cents a container, then over \$500 million dollars will be on deposit. Whoever holds that money can collect interest on it. In addition, it predicted that more than \$50 million dollars of that deposit will be unclaimed per year. Consequently, distributors are exaggerating their losses. This money will more than pay for their expenses, and they will probably profit from the venture.

Many environmentalists opposed postponing the effective date of the law. As Asa Starkweather, director of the South Shore Audubon Society asked, "What is the bottle industry waiting for? If anything, we should start implementing the law in May or June... Let's get a move on it, the industry has had months to prepare." (Emphasis added)

Finally, they stated that the Bottle Law and the proposed regulations and guidelines were fair, and should be implemented in their present form. Any problems could be worked out later.

The tone of the hearing seemed ominous. Industry speakers did most of the testifying. Industrial sentiment appeared to be in opposition of the law. In one breath, they claimed that they have worked hard for the support of the law and that the law is unworkable. One industrial representative made the following observation: "The eyes of the country are on New York State. New York is the first major state to pass the bottle law. The success or failure of this law will influence the adoption of bottle laws in other states." In other words, one has the feeling that industry will unite, make a stand, and attempt to frustrate the smooth implementation of the law. Although they may have lost the battle, they have not conceded that they have lost the war. Will industry try to legally sabotage the Bottle Law? If there is a plot afoot, will it succeed in having the law repealed? Only time will tell!



people near state borders bought all of their beverages from neighboring states. And the worst thing in the world is to lose your business to New Jersey.

In particular, the distributors of the beer industry feared transshipment. Transshipment occurs when distributor A sells beverages in distributor B's marketplace. For example, many upstate distributors sell beer and soda in Long Island and New York City. Under the law, distributor A, the transshipper, will collect the deposits from the local dealer. But, he will never have to pay those deposits back to the dealer because the dealer will return the empties to the local distributor, distributor B. As a result, B will suffer severe economic hardships. A local industry spokesman stated that upstate distributors have an added incentive to ship the goods to the New York City area. There are more consumers in New York City and the prices of beverages are higher within the New York City area than upstate. Thus, the upstate distributors can undersell the local distributors. Two suggestions were made to prevent transshipment. First, the price of

up empty containers at least as frequently as they deliver full containers to a dealer. Since the distributor delivers goods to more than one dealer on each trip, the delivery truck may not have the room to pick up more empty containers than it delivers. Thus, empty containers may pile in the grocery stores and supermarkets, and interfere with the storage of their merchandise.

Dealers also admit that the Bottle Law will create extreme inconveniences; that business will be hectic. On one hand, dealers will be selling goods; on the other hand, they will be refunding deposits. Coordination of the two operations will be difficult. Dealers feared that the collection will interfere with the normal routine of the store operation. They, therefore proposed that regulations should limit the hours of bottle refund. In addition, they contended they don't have the needed personnel to manage this extra load. Thus, they will have to pay current personnel overtime or hire more people. In order to pay for these extra costs, the handling fees should be increased to 2.3 cents-3.1 cents. If the markets experience

Still More Legal Briefs...

Squeal Rule Squelched

by Randy Montellaro

One of the facts of life is that the hardest person for a teenager to talk to about sex is a parent. And now the Federal Government and thus the courts have involved themselves in this unsolvable communications gap.

The Department of Health and Human Services (H.H.S.) had proposed regulations that would have required federally funded clinics and hospitals to notify within ten days the parent of an unmarried girl under 18 that she had been given the pill or other birth control devices.

This regulation would have gone into effect on February 25th, but Federal District Judge Henry Werker (S.D.N.Y.) enjoined its implementation. Werker held that the notice requirement is invalid because it contradicts and subverts the intent of Congress. Congress had provided the funds to combat "the problems of teenage pregnancy." Whether this decision has settled the matter is unclear, and the Federal Government is unsure if it will appeal the ruling. Should they appeal it?

Each year more than 600,000 girls under 18 go to federally funded clinics to get contraceptives. Responding to charges that the government was a silent partner in illicit sex the H.H.S. and the Reagan Administration proposed the long-talked about rule. Proponents of the regulation assert that parents should be told what health risks their children are being exposed to, and the rule would strengthen the support system of the family. Proponents further claim that the easy availability of contraceptives had increased teenage promiscuity to the point where it has led to one million teenage pregnancies a year.

Opponents have labeled mandatory notification the "squeal rule." They argue the

rule is more likely to deter girls from using the clinics than to benefit girls who go home to find their parents reading a government notice announcing their daughter had obtained birth control.

The first contention of the H.H.S. is that contraceptives pose a threat to the health of our youth and parents have a right to know when their children encounter such dangers. While there is some danger in contraceptives, the Planned Parenthood Foundation has correctly pointed out that teenage pregnancy is more dangerous than any of the prescribed forms of contraception; and the regulation would result in more pregnancies, abortions and births.

Even the premise behind the regulation, that adolescent knowledge of human sexuality causes adolescent promiscuity, is unsound. No evidence has yet been offered that can support this premise and a report from the Alan Guttmacher Institute has found that sex education in schools does not promote promiscuity in teenagers but may even discourage teenage pregnancy. Further, it has been found that the average teenage girl has been sexually active nine months before she went into a clinic seeking contraceptives. At the very least, if the Administration is attempting to turn the clock back on sexual attitudes they have a distorted view of reality.

Proponents also argue that by requiring parental notification, family ties between parent and child would be strengthened. Maybe parents should know the details of their children's sexual activities to help aid and guide them, but will a letter in the mail announcing the fact that a child has already chosen to have sex improve family relation?

Whether the regulation will turn only 4 percent of girls who want contraceptives away from clinics, as H.H.S. claims, or whether it turns away as many as 25 percent

as Planned Parenthood claims, one thing is certain, it will result in at least a birth of an unwanted child with all the financial and social responsibilities that go with it.

Furthermore, the regulation is unequitable as girls are the only ones to use prescription contraceptives and poor girls particularly will not have the choice of turning to more expensive private physicians

who give confidential prescriptions. There is also an added question of possible invasion of privacy.

The choice to appeal or not to appeal the federal court ruling now falls on the new incoming Secretary of Health and Human Services, Margaret Heckler, who supposedly supports the rule. Maybe she should reconsider.



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BUSINESS PLANNING Prof. Daniel Q. Posin	2	W - TH 11:20 A.M. - 1:30 P.M.
THE CHILD, FAMILY, STATE Prof. John D. Gregory	3	T - W - TH 1:40 P.M. - 3:50 P.M.
COMMERCIAL PAPER Prof. Alan N. Resnick	3	T - W - TH 1:40 P.M. - 3:50 P.M.
CONFLICTS Dean Stuart Rabinowitz	3	T - W - TH 1:40 P.M. - 3:50 P.M.
CRIMINAL PROCEDURE Prof. Leon Friedman	4	M - T - W - TH 11:20 A.M. - 1:30 P.M.
DEBTOR/ CREDITOR Prof. Alan N. Resnick	3	T - W - TH 9:00 A.M. - 11:10 A.M.
EVIDENCE Prof. Lawrence Kessler	4	M - T - W - TH 11:20 A.M. - 1:30 P.M.
FAMILY LAW Prof. John D. Gregory	3	T - W - TH 9:00 A.M. - 11:10 A.M.
INDIVIDUAL INCOME TAX Prof. Daniel Q. Posin	4	M - T - W - TH 9:00 A.M. - 11:10 A.M.
LAW & PSYCHIATRY Prof. John J. Regan	3	T - W - TH 1:40 P.M. - 3:50 P.M.
REAL ESTATE Prof. Ronald Silverman	4	M - T - W - TH 1:40 P.M. - 3:50 P.M.
UNFAIR TRADE PRACTICES Prof. Burton C. Agata	3	T - W - TH 11:20 A.M. - 1:30 P.M.

SUMMER SESSION II
July 5 - August 15, 1983

ADMINISTRATIVE LAW Prof. Eric Lane	3	T - W - TH 9:00 A.M. - 11:10 A.M.
BUSINESS ORGANIZATION Prof. Douglas Thomas	4	M - T - W - TH 11:20 A.M. - 1:30 P.M.
COMPARATIVE LAW Prof. Robert Bush	3	T - W - TH 11:20 A.M. - 1:30 P.M.
CORPORATE TAX Prof. Richard Fielding	3	T - W - TH 1:40 P.M. - 3:50 P.M.
ESTATE & GIFT TAX Prof. Mitchell Gans	3	T - W - TH 9:00 A.M. - 11:10 A.M.
LABOR LAW Prof. Samuel Kaynard	3	T - W - TH 6:20 P.M. - 8:30 P.M.
LEGISLATIVE PROCESS Prof. Eric Lane	3	T - W - TH 1:40 P.M. - 3:50 P.M.

DEADLINE FOR GUILTY
FRIDAY, MARCH 18th

March Arts Calendar

ANNUAL SHAKESPEARE FESTIVAL
 March 10, 11, 12, 13, 18, 19, 20—AS YOU LIKE IT—One of Shakespeare's most popular comedies -- wit, humanity and lyricism abound. Directed by James VanWart. On Globe stage reconstruction. John Cranford Adams Playhouse, South Campus. Performances at 8:30, except Sundays at 3 P.M. Tickets range from \$3.50 to \$4.50. Other Festival events include readings from other Shakespeare plays and The Festival Concert by Hofstra Collegium Musicum. Tickets by mail or call (516) 560-6644.

EMILY LOWE GALLERY
 Through March 20 -- LIGHT: RECENT ISSUES IN ILLUMINATION -- Eight artists will exhibit works that use tungsten, fluorescent or neon light, projections and kinetics. Exhibit curated by gallery director, Gail Gelburd. Gallery is located on the South Campus. Admission is free. Hours are Tuesday, 10 A.M. to 9 P.M.; Wednesday to Friday, 10 A.M. to 4:45 P.M.; Saturday and Sunday, 1 to 5 P.M. Closed on Mondays. Call (516) 560-3275.

FILDERMAN GALLERY
 March 14 - April 6 -- GABRIEL GARCIA MARQUEZ -- 1983 Nobel Prize winner in literature from Columbia, S.A. Comprehensive exhibit of all his works. Marquez is the most widely read novelist of Latin America. 9th Floor, Hofstra Library on the South Campus. Admission is free. Monday to Friday, 9 to 5 P.M. Call (516) 560-5974.

LIBRARY LOWER LEVEL GALLERY
 Through March 17 -- GERALD L. SHAK -- Nepalese photographic exhibit shows works depicting the essence of 'Shangri-La' in photos of the people, their art and the awesome beauty of the landscape of this Asiatic Kingdom. South campus. Library open daily 9 to 5 P.M. Admission is free.

MUSIC
 March 12 and 19--HOFSTRA COLLEGIUM MUSICUM -- "Music For a Queen," commemorating 450th anniversary of Elizabeth I, Queen of England. Vocal and instrumental selections from period of her reign. Lutenist William Zito, guest artist. Directed by William E. Hettrick in the John Cranford Adams Playhouse on the South Campus at 3 P.M. Tickets are \$2. Call (516) 560-6644.

FILMS
 Through May 3 -- CLASSIC FILM SERIES & DISCUSSION -- "Lost Horizon," March 15; "The Third Man," April 5; "Mr. Smith Goes to Washington," April 12; "All The King's Men," April 19; "On The Waterfront," May 3. All films at 7:30 P.M. in the Student Center Theater on the north campus. Series ticket price is \$10; \$2 for individual films. Commentary by David Zinman. Call (516) 560-5993.

SPECIAL LECTURE
 March 15 -- GERMAN LANGUAGE AND YOUR CAREER -- Meet with representatives of major companies working in or with Germany. Multi-purpose room, North Campus at 7 P.M. Admission is free. Call (516) 560-5669/5434.

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Creative Cooking

by Jane Himelfarb

Each year in the hush of the morning, softly, so as not to interrupt the lavender mist, a small green figure swiftly skips through the bogs of Ireland to look for his pot of gold. He has been named appropriately Patrick, and after hundreds of years, his small but old bones have grown weary. One year Patrick transferred his interest in fee subject to a condition subsequent to his oldest and dearest friend to make the rounds of celebration. If the world was not convinced that Pietro Giuseppi was an authentic leprechaun, then the interest would revert back to Patrick, and he will have to continue the Irish tradition.

As the legend goes, in the wee hours of March 17, 1583, a flash of green swept through the olive groves of Sicily. As he made his way around the globe in search of the rainbow, he turned the world upside down. No lilting Irish folk ballads, instead: Italian love songs could be heard on the mandolin; no whiskey or ale, instead: Chianti and amaretto; and on every table, instead of corned beef and cabbage, boiled potatoes and soda bread, lay a feast of pastas, olives and garlic bread. Alas, Patrick sighed, for the condition was not met, and next year he would have to return.

In honor of Pietro Giuseppi, the first Italian leprechaun, who changed St. Patrick's day 400 years ago, we celebrate St. Patrick's Day with an Italian banquet.

Stuffed Mushrooms

Pollo Giovanna

Garlic Bread

Serve with Chianti and cafe amaretto.

STUFFED MUSHROOMS

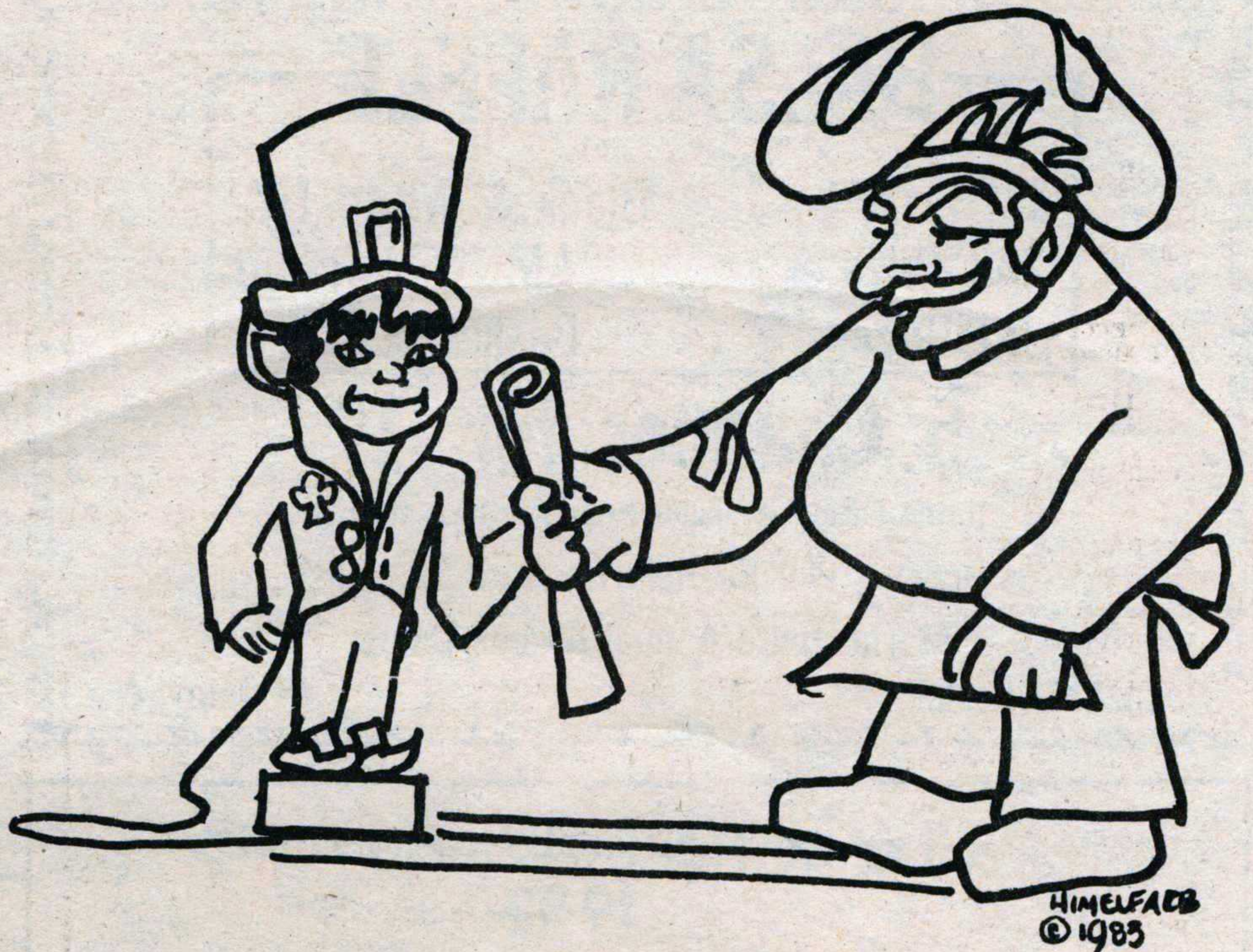
Wash mushrooms and remove stems, set aside. Place mushroom caps on baking pan and brush each cap with melted butter. Chop stems until fine. Mix with melted butter, bread crumbs, garlic powder and nutmeg. Salt and pepper to taste. Add a little cream or milk to make mixture smoother. Stuff each mushroom cap and bake for 20 minutes in a 375 degree oven. Serve hot.

POLLO GIOVANNA

Lightly dust 2 chicken cutlets in flour, dip in beaten egg and roll in bread crumbs. Fry in olive oil. Set aside in baking dish. In oil sautee onions and garlic. Add sliced mushrooms, chopped green peppers, chopped tomatoes and sautee until soft. Add 1 can tomato paste and add water until desired consistency is reached. Add oregano and one bay leaf. Add 1 or 2 tablespoons of sugar and dash of salt and white ground pepper and cook over low flame. Pour in Chianti or other table wine just before done. Pour sauce over chicken in baking dish and bake for 10 minutes in 375 degree oven. Serve over spaghetti.

GARLIC BREAD

Slice Italian bread down center and cut slices in each half. Sprinkle with ground garlic (or garlic powder), salt, parsley and pepper. Pour oil over bread until soaked and wrap with foil. Heat in hot oven (450) for 15 to 20 minutes or until crisp and golden. Serve hot.



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For more information contact Glenn Berger through the Student Government Box in the Admissions Office.

Watch the Student Government Bulletin Board on the First Floor for Further Details.



Shakespeare Festival

"As You Like It," William Shakespeare's sunniest comedy, will be presented by the Drama Department at Hofstra University from March 10-20 as part of the University's 34th annual Shakespeare Festival. All performances are in the John Cranford Adams Playhouse on the South Campus.

The play, which bears a resemblance to the Robin Hood Legend, concerns a group of men and women in exile in the mystical Forest of Arden. After many complications all characters discover their true identities, find their perfect mates, and end up happily ever after.

"As You Like It" is being directed by James VanWart of Hempstead, chairman of the Hofstra Drama Department. The cast includes Michelle Laver of Lockport, N.Y. (ROSALIND); Robert Spiotto of Flushing, N.Y. (TOUCHSTONE); David Keats of Manhattan (DUKE FREDERICK); Joan Falchetta of Elmont (CELIA); and John Leone of Weymouth, Mass. (ORLANDO).

The play will be performed on Hofstra's Globe Stage, a 5/6 replica of the original stage which was completed in England in 1599, and was the setting for a number of Shakespeare's greatest plays. Stage reconstruction (which takes 800 man hours), and lighting design, have been planned and supervised by Donald H. Swinney of

Uniondale. Costumes have been designed by Deirdre McGuire of Hempstead; music has been composed and will be conducted by Albert Tepper of Levittown; and fight choreography is by David Keats of Manhattan.

"As You Like It" will be presented at 8:30 P.M. on March 10, 11, 12, 18 and 19; at 3 P.M. on Sunday, March 13 and 20.

Tickets range from \$3.50 to \$4.50. They may be obtained at the Hofstra Box Office. Further information about ticket sales is available at (516) 560-6644.

Other highlights of the Shakespeare Festival are:

"A Divided Duty," selections from Romeo and Juliet, "The Tempest," and other plays, illustrating conflicts between fathers and daughters in Shakespeare, directed by Miriam Tulin of Great Neck at 3 P.M. Saturday, March 12 and 19, in the Playhouse. Admission is \$2. On the same program, the Hofstra Collegium Musicum presents, "Music for a Queen," selections dating from the reign of Elizabeth I of England, patron and contemporary of Shakespeare. A tour of the Globe Stage will follow the concert.

High school dramatic societies present scenes from Shakespeare at 3 P.M. on March 11 and 18.

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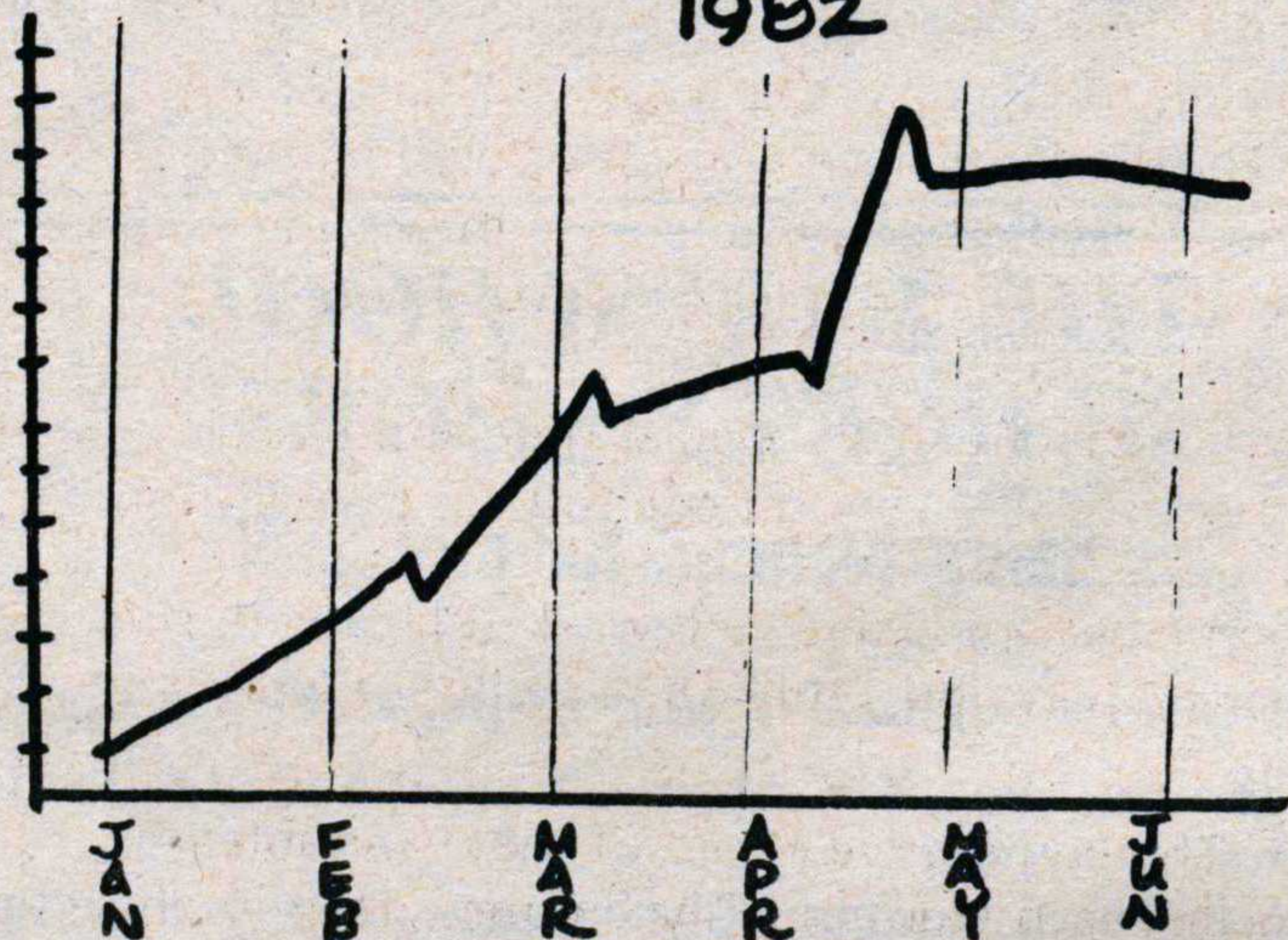
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TWERSKI QUESTION
OF THE
MONTH.
(WHAT IS THIS?) Ans. pg. 15

CRYPTOCITE II

by Seth Lipsay

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Answers to last month's CRYPTOCITE:

If he has a right, and that right
yh ub udx d tyouv, dip vudv tyouv

has been violated, do the laws
udx gbbl kykfdvbp, pk vub fdex

of his country afford him
kh uyx jksivtz dhhktp uya

a remedy.
d tbabpz.

Marbury v. Madison
Adtgstz I. Adpyxki

Conscience Crossword IV

by Seth Lipsay

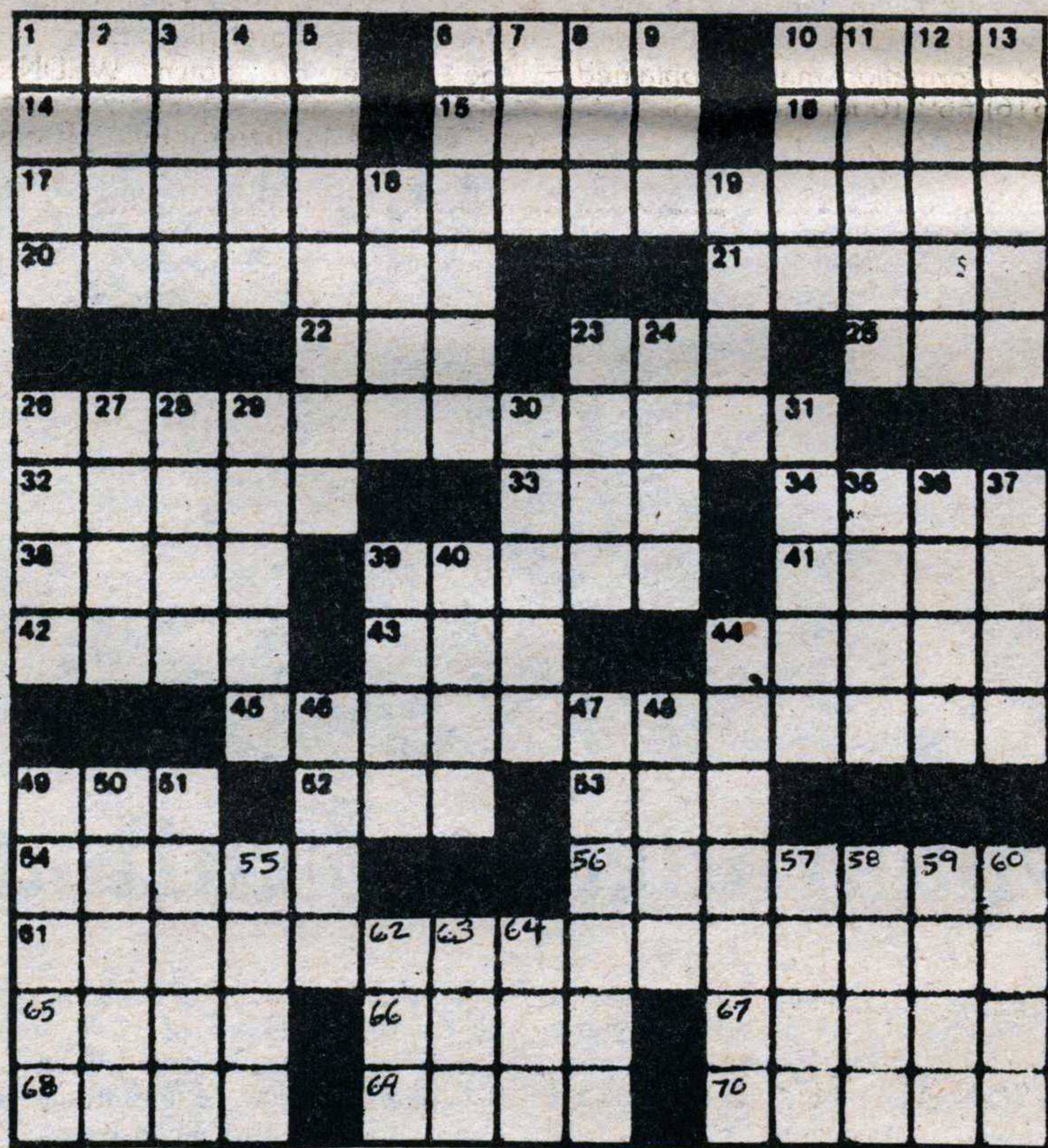
ACROSS

1. Chicken-caller
2. Marx instrument
10. Goal of 26 across
14. Accrue to ones benefit
15. Cassini
16. There to Migel
17. Tries
20. Is implicit
21. A sort of Converse
22. Emerson, Lake & Palmer band
23. Pugilists org.
25. "Nixon" has 2 of these
26. Contractual talks
32. The great and the terrible
33. USFL predecessor
34. fear: Latinroot
38. Exhaust
39. Fro from 2nd to 3rd
41. Dollars, to Dino
42. Some of these are Swiss
43. College in Ill.
44. Convict
45. Salary, for example
49. "Oohs" partner
52. Ova
54. Glandular secretion
56. squirmed
61. Wopner's concern
65. Nevada city
66. "----- a lady" Tom Jones hit.
67. register
68. regular, for short
69. Donahue, for one
70. Some pickles

DOWN

1. Salami Shop
2. have ----- (know someone)
3. "The house that ----- built."

4. Champlin's great lake.
5. Feels remorse
6. Volatile mineral spring
7. English brew
8. A lawyers thing
9. Putters org.
10. Salvadore -----
11. To make happy
12. "arch comes in like -----"
13. Lights
18. Winged: prefix
19. Sino-sleuth
23. odor: slang
24. Nut's companion
26. Litigant's org.
27. Satanic
28. Robin Williams role
29. "In Mo's Contracts, one should relish
-----." (2 wds.)
30. On more than one occasion.
31. Divide
35. Stereo unit
36. Two-tone cookie
37. Swiss city
39. Wrestler, of a sort
40. USO celebrity
44. "Grated"
46. "It's either you -----"
47. Most contemporary
48. Southern Baptist Reading School (abbr.)
49. Elroy's pup
50. "She loved him, and -----"
(2 wds.)
51. Ind. city
52. Once ----- a time....
57. Captain's performing partner
58. Heave
59. Flynn
60. Particulars, for short.
62. -----kosh
63. Most Acidic
64. Spanish pronoun



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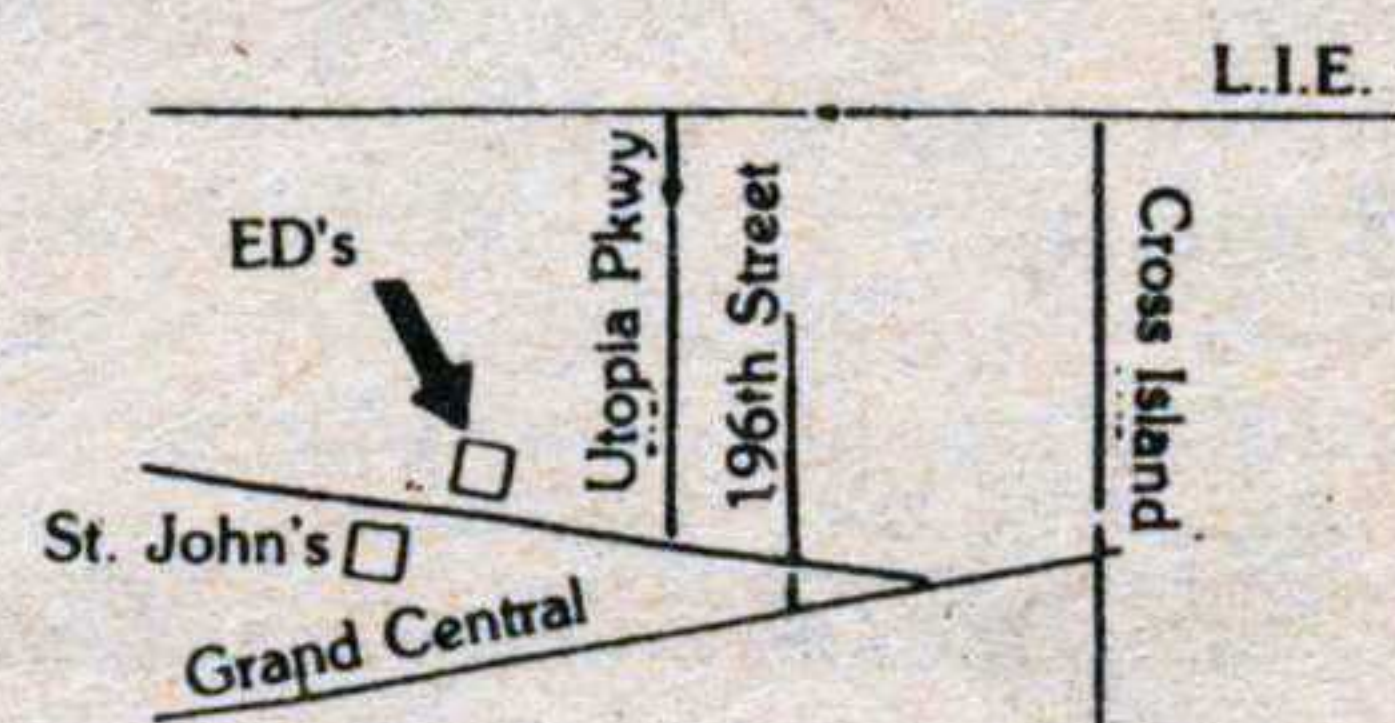
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Long Island Ocean Run

The 6th Annual Natural Light Long Island Ocean Run for the benefit of the National Kidney Foundation of New York Inc., will take place on Saturday, April 23 at Jones Beach State Park.

This event, co-sponsored by Natural Light Beer in cooperation with the Long Island State Park and Recreation Commission and ABC Athletic Shoes, Inc., consists of a ten-mile and five-mile race. The ten-mile race begins at 9 A.M. with the five-mile following at 9:30 A.M. Race check-in time is from 7:30 A.M.-8:45 A.M.

Start-to-Finish Corporation, Inc. will be responsible for race timing and course measurements.

WGBB will be broadcasting live from Jones Beach State Park to cover the race, interview participants and cover the highlights of the award ceremony.

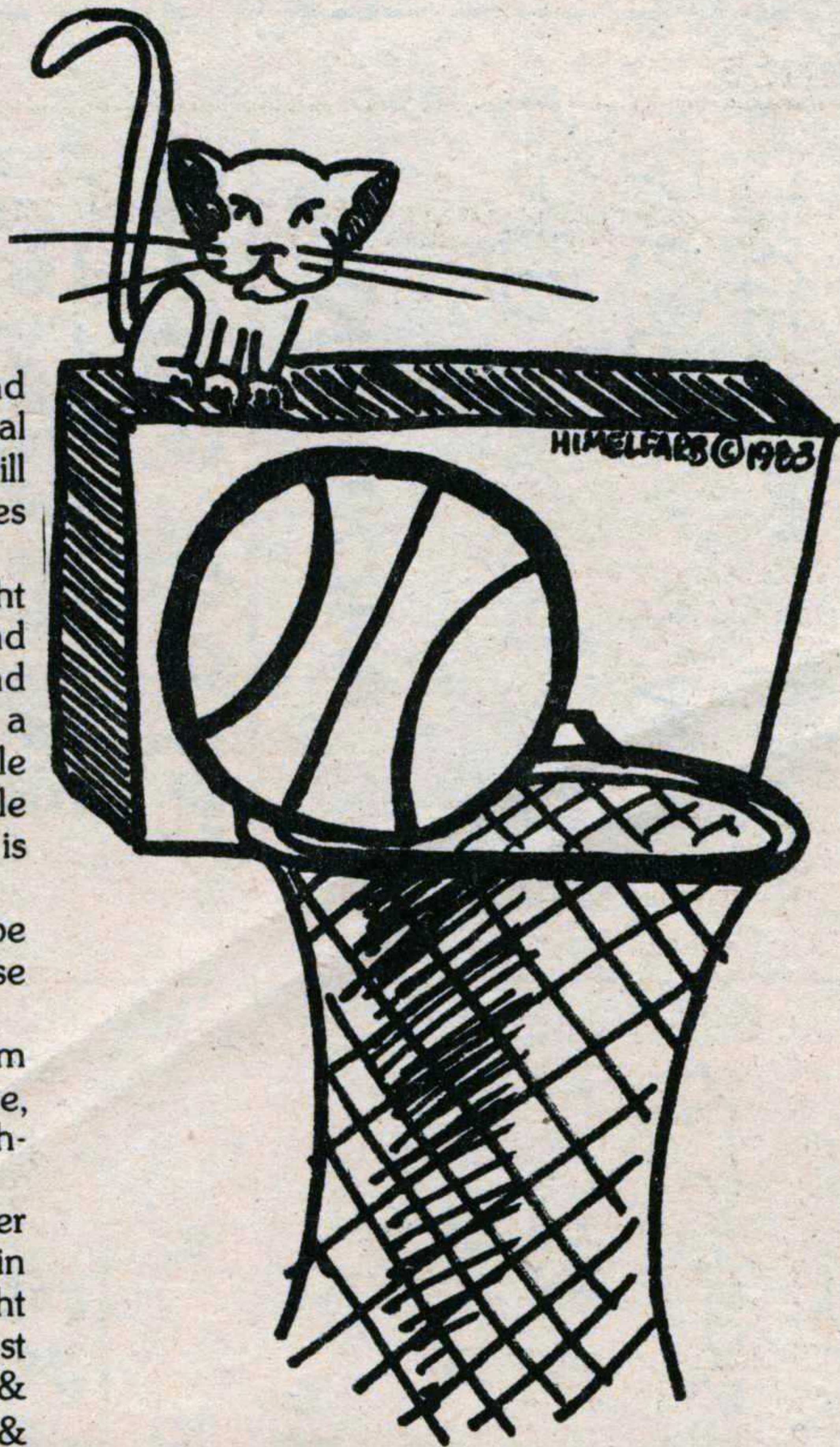
Plaques donated by Natural Light Beer will go to the first three males and females in each age category and Natural Light warm-up suits will be awarded to the 1st place male and female in age category (12 & under, 13-18, 19-29, 30-39, 40-49, 50 & over). Free Natural Light Beer will be distributed at the finish line to all participants 19 years and older. Free soft drinks will also be available.

Each runner will receive an official race T-shirt and a discount certificate from ABC Athletic Shoes, Inc.

Daily, in-person registration will continue through April 22 at Jones Beach State Park, Park Commission Headquarters, Belmont Lake State Park and the National Kidney Foundation of New York, Inc. Office at 432 Park Avenue South, New York, N.Y. 10016.

Registration entries may also be mailed to: "Sixth Annual Natural Light-Long Island Ocean Run," Box 247, Babylon, New York 11702. The registration fee is \$5.00 prior to April 23 and \$6.00 on the day of the race.


Additional information may be obtained by calling (516) 669-1000, ext. 247 or (516) 785-1600, ext. 222.



RAPPERS

The powerhouse Second-year Law School basketball team, the Rappers, led by Coach Jim "Squatty" Hunter, finished the regular intramural season with a heartbreaking 56-51 loss to Black Pride (5-0). The Rappers ended up with four wins and only one loss. The Rappers were forced to play their last three regular season games without their "All-American" center, Pat "Willis" McCartney. Even after their recent loss, the Rappers are still ranked sixth in the upcoming intramural playoffs.

So, come on down WEDNESDAY MARCH 16th at 9 P.M. and join cheerleaders, Terri and Judy to root your Rappers on!



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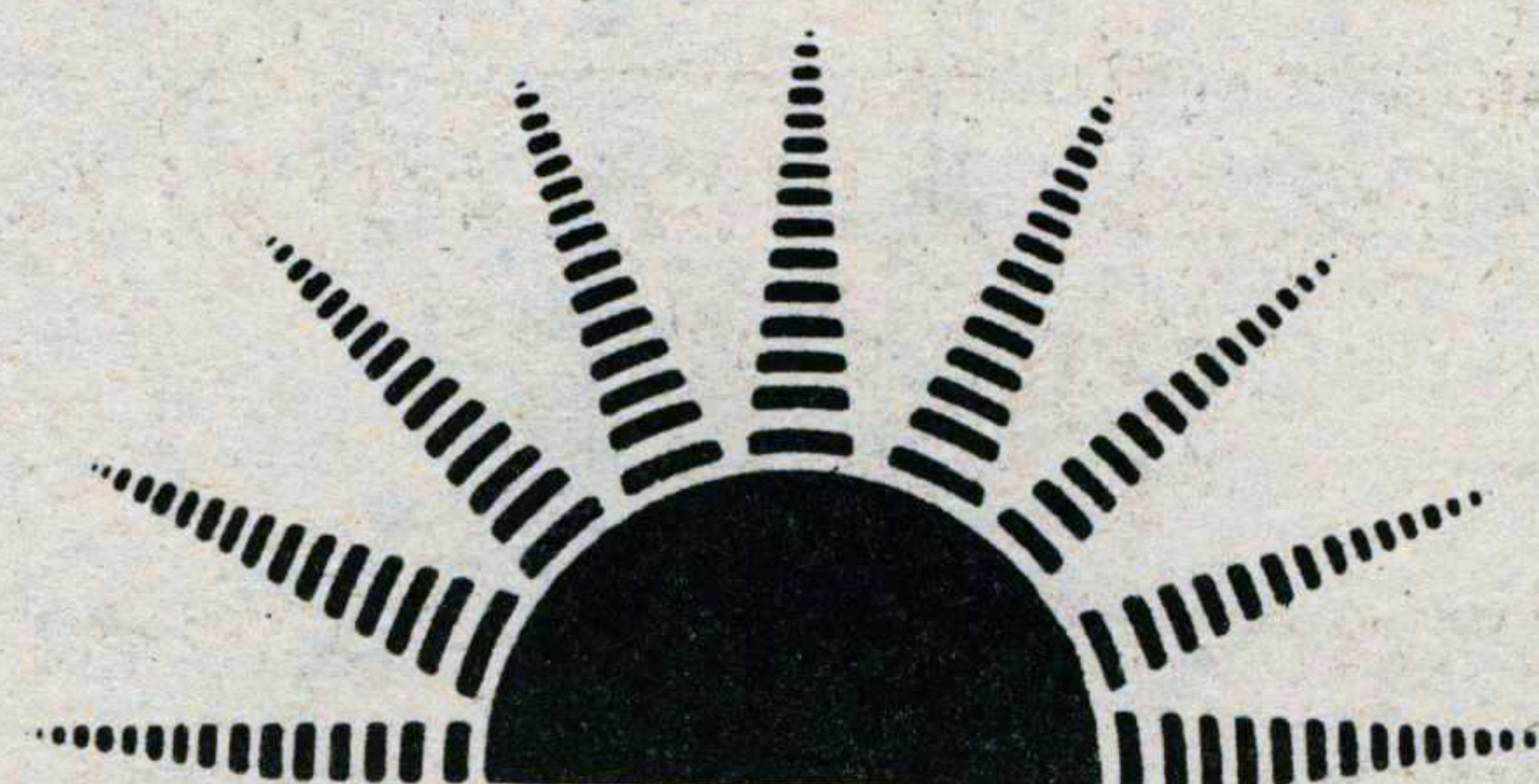
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