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Anti-Cheating Measures Taken

New exam procedures have been instituted by Vice Dean Rabinowitz in response to the growing concern over student cheating at exams. The Ad Hoc Committee on Academic Excellence addressed this issue in a memorandum to Dean Schmertz last week.

The number of proctors will be doubled this year and several proctors will be assigned to patrol of the bathroom areas. The proctors will also be responsible for reporting cheaters to the administration and testifying to such incidents at a formal hearing.

Both Rabinowitz and the Ad Hoc Committee stated that eliminating cheating must be a joint effort of the student body and the administration. Students must recognize that they have an obligation to the honor system, which entails the reporting of violators to the administration for action. Rabinowitz said he could not recall any student expulsions for cheating at the Law School.

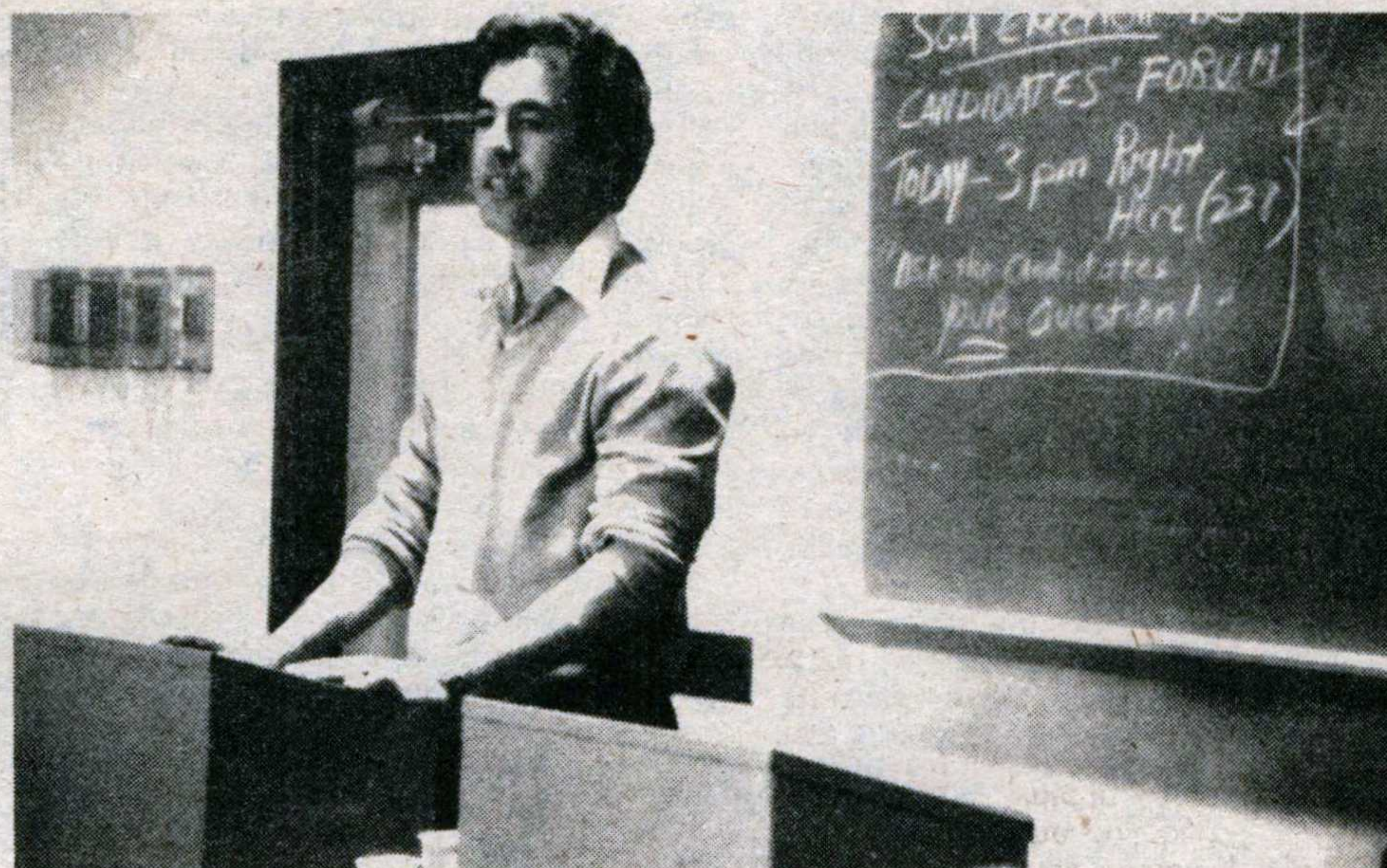
CODE OF STUDENT CONDUCT PART I. VIOLATIONS

It will be a violation of the Code of Student Conduct knowingly to aid, abet or commit any of the acts set forth below:

2. To communicate with anyone, inside or outside the examination room, in any manner during the examination except the Dean in charge of examinations, the person administering the examination or any faculty member.

3. To have in the examination room, or to consult outside the examination room during the course of the exam, any unauthorized material.

4. To commence an examination before the stipulated time or to continue working on an exam after the announced conclusion of the examination period without proper authorization.



SGA President-elect Michael Zarin

Zarin Wins Election Activity Fee Increase Defeated

by Steven Gershbein

In the largest Student Government Association election turnout ever, 58 percent of the eligible law students elected a new student government and defeated a referendum which had been passed unanimously by the outgoing student government.

The candidates-elect are:

President: Michael Zarin
Vice President/Secretary: Joe Sanchez
Treasurer: Jane Himelfarb
Second Year Representative: Laurie Gold
Third Year Representative: Catherine Sagos
ABA Rep.: Ann Marie Chmielewski
C.L.A.C. Representatives: John Ciampoli
Joyce Kramer
Alan Kaye

Election Commissioners: Laura Ford
Seth Mininsohn
Steven Gershbein

The referendum was worded:

"Do you want an increase in the student activities fee from \$10 to \$20?"

This was defeated by approximately a three to two margin, 170 to 121, in spite of backing from the student government and several student clubs and organizations.

President-elect Michael Zarin's reaction upon his victory was, "I am very gratified by the high student interest as demonstrated by the voter turnout. I think that can be attributed to the high quality campaigns run by Craig and his people and Marie and her people. We want to bring all the candidates in this election in and we hope they all get involved in this government." Zarin also expressed disappointment that the referendum did not pass and encouraged student organizations to carry on fund raising next year.

Commenting on his successor, outgoing SGA President Jordan Fox, said, "I think Michael is a very talented and assertive advocate for students. I don't think the students could have elected a better person for the job and I'm honored that I will be succeeded by Mike Zarin."

Referring to the referendum, Fox stated, "I think this will have a highly detrimental, if

not debilitating effect on the ability for the students to carry out their mandate. I also believe there was a lack of information [about this]. We didn't bring the message across to the student body. We elected an excellent student government and didn't give them a pot to piss in."

Election Commissioners Dana Mesh, Susan Rosenblum and Nancy Samotin invested a combined total of over 26 man-hours performing their thankless task at the polls and tallying the 301 ballots including several hundred write-in votes (there were 178 write-ins for Election Commissioner alone).

The top three positions in SGA will be held by individuals running on the same "ticket". Commenting on this, Pete Aloe, a

continued on page 3

Lefkowitz Honored by HLS

by Peter Shafran
and Barbara Petraglia

Hofstra Law School's Center for Government Law and Legislation has been renamed in honor of former New York Attorney General Louis J. Lefkowitz. The announcement was made by Dean Schmertz at the close of Lefkowitz's inaugural address of the Max Schmertz Distinguished Professorship Lecture Series on April 13. University President James Shuart presented Lefkowitz with a medallion in honor of the occasion.

Lefkowitz spoke about his career in government which began in a Republican club on Manhattan's Lower East Side. After serving in the State Assembly, Lefkowitz presided over the New York City Municipal and City Courts. In 1957, he was appointed Attorney General of New York to fill the vacancy left by the election of Jacob Javits to the U.S. Senate. Lefkowitz served as Attorney General for 22 years and is credited

with reshaping the office into a formidable advocate for the state's citizens. According to Lefkowitz, his office was the first in the country to establish a consumer protection bureau.

The Louis J. Lefkowitz Center for Government Law and Legislation provides legal advice to government administrators, legislators, and agencies. Last semester, the Center received a \$75,000 grant to determine the feasibility of public sector use of the final offer binding arbitration technique. The project was commissioned by the Committee on Work Environment and Productivity of the New York State Legislature.

After the ceremonies, Lefkowitz pledged his continued support for the Center and the Law School. He offered his expertise in government and his aid in recruiting other government officials to enhance the Law School's development and reputation.

Rep. Downey Speaks

by Barbara Lynaugh

Representative Tom Downey came to Hofstra on Friday, April 15th, as the keynote speaker for the Jobs with Peace program. Downey is the Democratic representative of Long Island's Second Congressional District (western and central Suffolk). An energetic and accessible legislator in his fifth term, Downey serves on the House Ways and Means and Budget Committees and the Select Committee on Aging. He also spent four years participating in the second Strategic Arms Limitations Talks.

Mr. Downey began his presentation by stating that it is imperative that the federal government reconsider its budgetary priorities. Regan's proposed 10.7 percent increase in defense spending was characteriz-

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Congressman Tom Downey

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All photos by Tracey Epstein

LAW REVIEW STIPENDS TO RISE- MOOT CT, IPIJ PROPOSALS IN

by Randy Montellaro and
David Feldman

The administration has granted an increase in Law Review editorial stipends for next year. This rise, the first in the Review's history, brings the total stipend allowance for the journal to over \$19,500.

In addition, the four Moot Court Board members, who currently divide \$1500 in stipends, have requested an undetermined increase for next year. Law Review editors and Moot Court Board members are the only individuals currently receiving stipends. A proposal has also been submitted by the outgoing editors of the International Property Investment Journal (IPIJ) to grant stipends totalling \$7500 to its editors for the first time.

Specifically, the increases granted to Law Review editors are as follows: 1) The Editor-in-Chief and two Managing Editors have been given an annual increase of \$700 each, from \$1000 to \$1700. 2) The other eleven Editorial Board members will each receive \$1025, hiked from \$750 per year. 3) The 16 current Associate Editors will receive \$200 per year.

Review editors believe the stipends are justified. Outgoing Editor-in-Chief Linda Kreitcher said, "Stipends are a miniscule compensation for the demanding work that is required." Other editors mentioned that the payments are deserved in light of the Review's contribution to the Law School's reputation.

As to the increase, the editors cite the fact that Review stipends have remained the same since their inception in the early 1970's. The editors also mentioned that other law schools provide more for their Law Review editors (see box).

IPIJ's proposal to provide stipends to its

editors for the first time is modelled after the Law Review approach. Under the request, the Editor-in-Chief and two Managing Editors would each receive \$1000 annually. The remaining editors will each be granted \$500 under the plan.

IPIJ Editor-in-Chief Barbara Kornblau believes the stipends are justified as "compensation for a job at Hofstra Law School." Kornblau also stated that she believes that all scholarly journals' editors should receive stipends. She stressed that even if the IPIJ proposal is rejected, other groups' stipends are still justified and should not be affected.

The issue of stipends for work in student organizations is a controversial one. Some argue that no stipends are justified for any groups. "Why should Law Review editors and Moot Court Board members receive a stipend in light of an impending tuition increase?" asked Peter Albert, 2L, who is an incoming editor of the Labor Law Forum. Albert states, "Law Review is an academic honor and therefore editors should not be remunerated."

Vice-Dean Rabinowitz, however, feels the stipend system, which is entirely funded by the Law School budget, is justified. He argued that scholarly journals like Law Review have traditionally been granted stipends, and that these journals significantly contribute to the reputation and academic quality of the school. While he was sympathetic to stipends being added for other established scholarly journals, he warned of budgetary limitations.

Rabinowitz also mentioned that the Moot Court stipends are helping to defray administrative costs that would otherwise be incurred, since outside individuals would have to be hired to perform some of the tasks now performed by students.

Law Review Stipends at Some N.Y. Area Schools (1983-84)

(as compiled by IPIJ)			
School	Editor-in-Chief	Managing Edit.	Other Editors
Brooklyn Law School	full scholarship (\$5200)	full scholarship
Fordham Law School	full scholarship (\$6800)	full scholarship	full scholarship
Hofstra Law School	\$1700	\$1700	\$1025*
N.Y. Law School	half scholarship (\$2940)	half scholarship
St. John's Law Schl.	full scholarship (\$5540)	full scholarship	full scholarship**

*In addition, Associate Editors receive \$200 (Hofstra)

**In addition, Associate Editors receive three-quarters scholarship. 3L staff receive one-half scholarship, 2L receive one-quarter scholarship. (St. John's)

Critics of the stipend system also point out that academic credit is awarded to members of scholarly journals and the Moot Court Board, making monetary benefits unnecessary.

Dean Rabinowitz responded that the academic credit alone "only partially reflects the work being done," and that the stipends at least somewhat offset the amount of money that could be earned in outside employment.

Rabinowitz admitted that stipends have been granted on a proposal-by-proposal basis rather than as a result of an analysis of all student organizations and the justifications for or against stipends for each. Last week he said, "Maybe the granting of stipends requires a new look."



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Family Law—Clark
Federal Courts—Wright (New)
Constitutional Law—Tribe, Nowak
Real Estate Finance—Osborne
Secured Transactions—Henson

UCC—White & Summers
Contracts—Farnsworth
Civil Procedure—Green
Admin. Law—Schwartz
Property—Boyer
Torts—Prosser, Morris
Sales—Nordstrom
Remedies—Dobbs

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Student Defies Grand Jury Transsexual "Masquerading Charge Dismissed"

by Peter Shafran

A graduate student at the State University of Stony Brook has defied a grand jury's order to testify and surrender notes taken for his doctoral dissertation. Mario Brajuha, 34, a graduate student in Stony Brook's sociology department had amassed over 500 pages of research while working as a waiter in restaurants in Long Island. He is studying the role of a waiter in a changing industry, and its effect on the restaurant trade.

Last month, Nassau County police and fire officials launched an arson investigation in connection with an explosion and fire at Le Restaurant in Glen Cove. Brajuha had been working at Le Restaurant at the time of the incident. Nassau County Fire Marshal Joseph Boslet, Jr. issued a subpoena to Brajuha on April 8, requesting "any and all notes, records, log, diary pertaining to 'Le Restaurant' or any restaurant (investigation of criminal fire at Le Restaurant)." Following Brajuha's refusal to testify, the Nassau County District Attorney's office issued a similar subpoena compelling Brajuha to surrender his notes and testify before a grand jury last week. Brajuha again refused to cooperate, despite warnings from Assistant District Attorney Joel Weiss that he could be held in contempt and sent to jail. Weiss is Chief of the Nassau DA's Commercial Frauds Bureau.

Brajuha claims that he and his notes are protected by the Shield Law (§79-h of the New York Civil Rights Law). The Shield Law protects journalists from refusing to disclose news or source of news received under cloak of confidentiality. *People v. Wolf*, 39

A.D.2d 864,333 N.Y.S.2d 299 (1972). "All the people interviewed were fully informed of the research and were promised confidentiality. This included the owners, managers and the staff," said Brajuha. Brajuha explained to the grand jury that by testifying, he would not only be destroying eight years of research, but would also endanger his future employment as a waiter on Long Island, his sole means of supporting his family. "I was already denied a job because of my involvement (in this case)," Brajuha told the jury.

The grand jury granted Brajuha a one week adjournment to seek legal counsel. He must appear before the grand jury again on April 29. He had been denied aid from the Suffolk chapter of the American Civil Liberties Union and several other attorneys before last week's grand jury hearing. The sociology department at Stony Brook has supported Brajuha and is trying to contact scholars and academic organizations to support Brajuha, legally and otherwise. "The American Sociological Association is on the brink of taking it up as a *cause celebre*," said Judith Tanur, an associate professor of sociology who accompanied Brajuha to the hearing. The department has also been trying to enlist the support of the American Psychological Association. Tanur also noted that many research organizations routinely keep their sensitive research papers in Canada to protect against this type of problem.

Brajuha remained confident after the hearing and hopeful of the outcome, but noted, "I might go to jail and the person who burned (down) the place will be laughing."

by Peter Shafran

A village justice dismissed a charge of loitering by masquerading (Hempstead Village Ordinance 11.3-4) against Patrick Smith, a transsexual represented by Hofstra Law School's Neighborhood Law Office (NLO). Hempstead Village Judge Lawrence Goldstein granted a discretionary motion to dismiss the charge "in the interests of justice." NLO intern Pat Galteri argued that under section 170.40 of the N.Y. Criminal Procedure Law "if a judge finds certain compelling factors, he has the authority to dismiss the charges."

Another intern, Peter Goldstein, obtained an expert in gender dysphoria, Dr. Kathleen Degan, to testify that Smith was not "cross-dressing" to fool anyone, had no intent to disguise — rather, she dressed as a female according to a medically-proscribed mode of behavior, that includes hormone treatments and silicone injections. Degan explained to the court that cross-dressing is a crucial component of a "sex-reassignment" and that any reputable doctor wouldn't perform a (sex-change) operation unless the patient had been cross-dressing for at least two years.

The NLO defense team tried to prove that Smith is a transsexual, not a transvestite or a homosexual. They emphasized certain mandatory categories for the judge to consider in determining whether there were compelling factors to warrant dismissal of the charge in

the interests of justice. These categories included: the history, character, and condition of the defendant, the seriousness and circumstances of the offense, the extent of harm caused by the offense, and the impact of a dismissal upon the safety or welfare of the community. The judge relied on the first three categories for the dismissal and rejected the fourth.

While the dismissal does not give Smith immunity from the masquerading ordinance, "it is unlikely that the police will pick her up," Galteri stated. "But if they do, Smith could bring a \$1983 action against the police for continued threat of prosecution," Galteri added.

The Hempstead Village Court granted a motion last week, pursuant to §722-c of the Nassau County law, to direct the county treasury to pay for Dr. Degan's services. This motion was argued by NLO intern Lanny Bryer.

Three other friends of Smith, with similar problems, are being represented by NLO interns on charges of loitering for the purpose of prostitution, in addition to a masquerading charge. Galteri will be joined by interns Jane Wexton and Laura Fuhrer for their defense. Professor Richard Klein, a clinical instructor at the NLO, heads the criminal defense team. Klein was formerly the Senior Trial Attorney with the Criminal Defense Division of the New York City Legal Aid Society.

Rep. Downey

Continued from page 1

as unnecessary. Mr. Downey stated that a 3 to 4 percent increase would be sufficient to maintain a secure defense system. It was pointed out that in 1978, the entire world spent \$365 billion for defense. Under our present rate of growth, the United States alone would be spending \$365 billion for defense by the year 1988; this is one billion dollars a day.

According to Downey, some of this money could be better spent on other sectors of the economy, such as rebuilding the infrastructure, increasing aid to education and improving services to children and the elderly. Downey cited education as a key area. He said that we have made it harder for our children to go to college by restricting the amount of government aid available. This,

he said, conflicts with the fundamental requirement of a democracy, an enlightened and involved citizenry. Said Downey, "In a democracy, education is assumed."

Downey said he supported an "active and compassionate government" in which the needs of its people would be of primary concern. "It is really within our grasp to provide the services that our people need," Downey stated.

Recalling the political activism of the late 60s and early 70s, Downey urged "strength, organization and commitment of students" to produce substantive social change in America. He stated that the next generation of nuclear weapons could very well be our last generation.

Election '83

Continued from page 1

framer of the SGA Constitution said, "It is sad that tickets form and win because tickets don't have ideas, people have ideas. Tickets don't vote and decide policy, people do." He compared this to the problematic situation which exists in the Hofstra University undergraduate elections.

The voters elected to the top five positions candidates whose average age is just under thirty. Additionally in each election, the candidate (or ticket) investing the greatest amount of money experience the "thrill of

victory."

On the lighter side, Jordan Fox received a write in vote for every position and some students felt that Professors Monroe Freedman and Linda Champlin would make fine Election Commissioners. Dean Schmertz and Yogi Berra were suggested as C.L.A.C. Representatives by at least one student. And of course, the inevitable. For President, there seemed to be a contingent which pulled for that most popular of political philosophers and statesmen: Mickey Mouse. Plus ca change...

SGA Election Results

President:	Michael Zarin 161	ABA Rep:	Ann Marie Chmielewski 150
	Marie Hoenings 79		Cheryl Saban 85
	Craig Heller 44		Write Ins 5
	Write Ins 10		
Vice Pres/Secy:	Joe Sanchez 170	Election Commissioners:	Laura Ford 138
	Juan Gonzalez 94		Seth Mininsohn 24
	Audrey Wirtz 22		Steve Gershbein 17
	Write Ins 2		Monica Sheehan 10
Treasurer:	Jane Himelfarb 187		Lisa Fortunato 8
	Michael Dornbaum 71		Other Write Ins 119
	Write Ins 11		
2nd Yr. Rep:	Laurie Gold 75	C.L.A.C. Reps (Write Ins)	John Ciampoli 25
	John Austin Gaines 68		Joyce Kramer 14
	Jenny Lane 39		Alan Kaye 9
	Write Ins 4		Other Write Ins 71
3rd Yr. Rep:	Catherine Sagos 68	Vote for increase in student activity fee	No 170
	Write Ins 10		Yes 121

Jobs with Peace Week

by Barbara Lynaugh

The Hofstra Chapter of the National Lawyers Guild sponsored a week-long informational program during Jobs with Peace week, April 10th to 16th. This was declared a national week to consider ways to create jobs and restore services by reducing military spending. The Jobs with Peace initiative was endorsed by more than 70 Representatives and Senators, the New York State Assembly and hundreds of labor unions, peace groups, and religious and community organizations.

The key message of the Jobs with Peace program that took place at Hofstra was the need to put Americans back to work with a transfer of funds from defense to human needs. The Guild students distributed literature throughout the school, including a fact sheet they put together themselves, showing that, dollar-for-dollar, military spending creates fewer jobs than does spending on other sectors of the economy. This year's federal budget figures were reproduced to

show that currently 60 cents of every income tax dollar goes toward military-related spending.

The students were successful in securing substantial support from Hofstra students and faculty for the Congressional Jobs with Peace Resolution (HR 46). The resolution states, in part, "that it is the sense of the House of Representatives that more money should be made available for jobs and programs — in education, transportation, housing, health care, human services, and other socially productive industries — by significantly reducing the amount of our tax dollars spent on nuclear weapons, foreign military intervention, and wasteful military programs; these policies will promote a healthy economy, true national security, and jobs with peace." More than 100 members of the Hofstra community signed a petition in support of this resolution. Copies of the petition were sent to each member of the Long Island Congressional delegation and to Senators Moynihan and D'Amato.

IPIJ Announces New Board

The International Property Investment Journal is proud to announce the election of its editorial board for the 1983-84 academic year:

Barbara Kornblau	Editor-in-Chief
Barbara Barron	Managing Editor—Articles
Larry Drexler	Managing Editor—Staff
James Hoar	Business Manager
George Patsis	Articles Editor
Beth Barash	Articles Editor
Stuart Ball	Articles Editor
Tom Schulz	Research Editor
Barbara Lederman	Research Editor
Lisa Depasquale	Research Editor
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NOTES AND COMMENTS

FUCHSBERG RESIGNS

Judge Jacob Fuchsberg announced his resignation from the New York Court of Appeals, after serving on the bench for nine years. Fuchsberg's resignation will become effective on May 15.

The resignation gives Governor Mario Cuomo the opportunity to make his second appointment to the state's highest court. Cuomo recently appointed Republican Richard Simons to fill the seat vacated by the retirement of Dominick Gabrielli in January.

Under a new law, signed by Cuomo, the Commission on Judicial Nomination can send the Governor three to seven candidates for the vacant court seat. Cuomo has said he

wants to appoint a woman to the high court and has contacted women's groups and bar associations to encourage women to apply to the Commission for consideration.

The four front-runners for the bench are M. Dolores Denman, a justice on the Appellate Division, Fourth Department, in Buffalo; Ann T. Mikoll, a justice of the Appellate Division, Third Department, in Albany; Betty Weinberg Ellerin, deputy court administrator in charge of the New York City courts, and Mary Johnson Lowe, a judge on the U.S. District Court in Manhattan since 1978.

Grumman Sues

"Flexible" Developer

The Grumman Corp. has filed a \$500 million suit against Rohr Industries, Inc., an aerospace manufacturer. Grumman charged Rohr with failing to reveal that a prototype Flexible bus — which Grumman had purchased manufacturing plans for — had developed undercarriage problems during testing.

As a result, more than 2,600 Flexible buses which Grumman manufactured were recalled by Grumman because of cracks that developed in the buses' A-frame, engine cradle and front mechanical assembly.

Grumman is seeking \$250 million in compensatory damages and another \$250 million in punitive damages. Rohr has until May 9 to file a response.

Judges to Choose Judges

Chief Judge Lawrence Cooke recently endorsed a proposal to have judges, instead of lawyers, select jurors on New York trials. In the federal court system judges pick jurors. The state's chief judge said that the federal system would reduce the amount of time for jury selection by one-third. Assembly Speaker Stanley Fink (D-Brooklyn) proposed a two-year experiment on a variety of ways to speed trials. The experiment would include allowing lawyers pick a jury without a judge present, using a different type of calendar system and having felony hearings before cases went to a grand jury.

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Public Interest Lecture Series Endowed

A lecture series in public interest law has been established by an endowment in March. The Howard Kaplan Memorial Lecture Series will be funded by a \$10,000 endowment from the Max and Victoria Dreyfus Foundation. The funds will be invested and the income will be used exclusively to defray the expenses attributable to an annual lecture and reception to be held at the Law School.

Assistant Dean Robert Douglas had applied for this grant in February and is awaiting approval from the University Board of Trustees. As coordinator of this project, Dean Douglas suggested that the faculty and student body provide input into selecting an appropriate speaker for the inaugural lecture.

Each year the Law School will invite a

person or persons of distinguished credentials to deliver an address on matters related to public interest law. Douglas would also like a seminar-type discussion with selected members of the University community to follow the lecture. A reception will follow during which the faculty, students and other members of the community would have an opportunity to interact in a more social setting with distinguished lecturer or lecturers.

At the suggestion of Mrs. Howard Kaplan and Anthony Kaplan, Hofstra Law Class of 1982, Douglas proposed the establishment of the Kaplan Series to provide a memorial to Howard Kaplan and the values he held. Kaplan served as counsel to the Max and Victoria Dreyfus Foundation.

The inaugural lecture will be given next spring.

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That ingredient watchdog, the federal Food and Drug Administration (FDA), makes sure that the label tells you that you are getting a mouthful of acetyl tartaric esters of mono- and diglycerides when you bite into your Clark bar, but the regulatory agency also has rules about the amount of dead bugs, larvae, worms, fecal pellets, rot, mold, and other goodies that are allowable in certain foods. Here are some examples of ingredients the labels never tell you:

Broccoli (frozen): Average of 60 aphids, thrips, and/or mites per 100 grams.

Chocolate: Average of 60 microscopic insect fragments per 100 grams; or average of 1 rodent hair per 100 grams.

Green coffee beans: Average of 10 percent or more by count are insect infested, insect damaged, or moldy; or 1 live insect in each of 2 containers, or 3 live insects in 1 container.

Potato chips: 6 percent by weight contain rot.

Peanut butter: Average of 30 insect fragments per 100 grams; or average of 1 or more rodent hairs per 100 grams.

Tomato juice: Average 10 drosophila fly eggs per 100 grams, or 5 drosophila fly eggs and 1 drosophila maggot per 100 grams, or 2 drosophila maggots per 100 grams.

Tomato paste, pizza sauce, and other sauces: Average 20 drosophila fly eggs per 100 grams, or 15 drosophila fly eggs and 1 drosophila maggot per 100 grams, or 2 drosophila maggots per 100 grams.

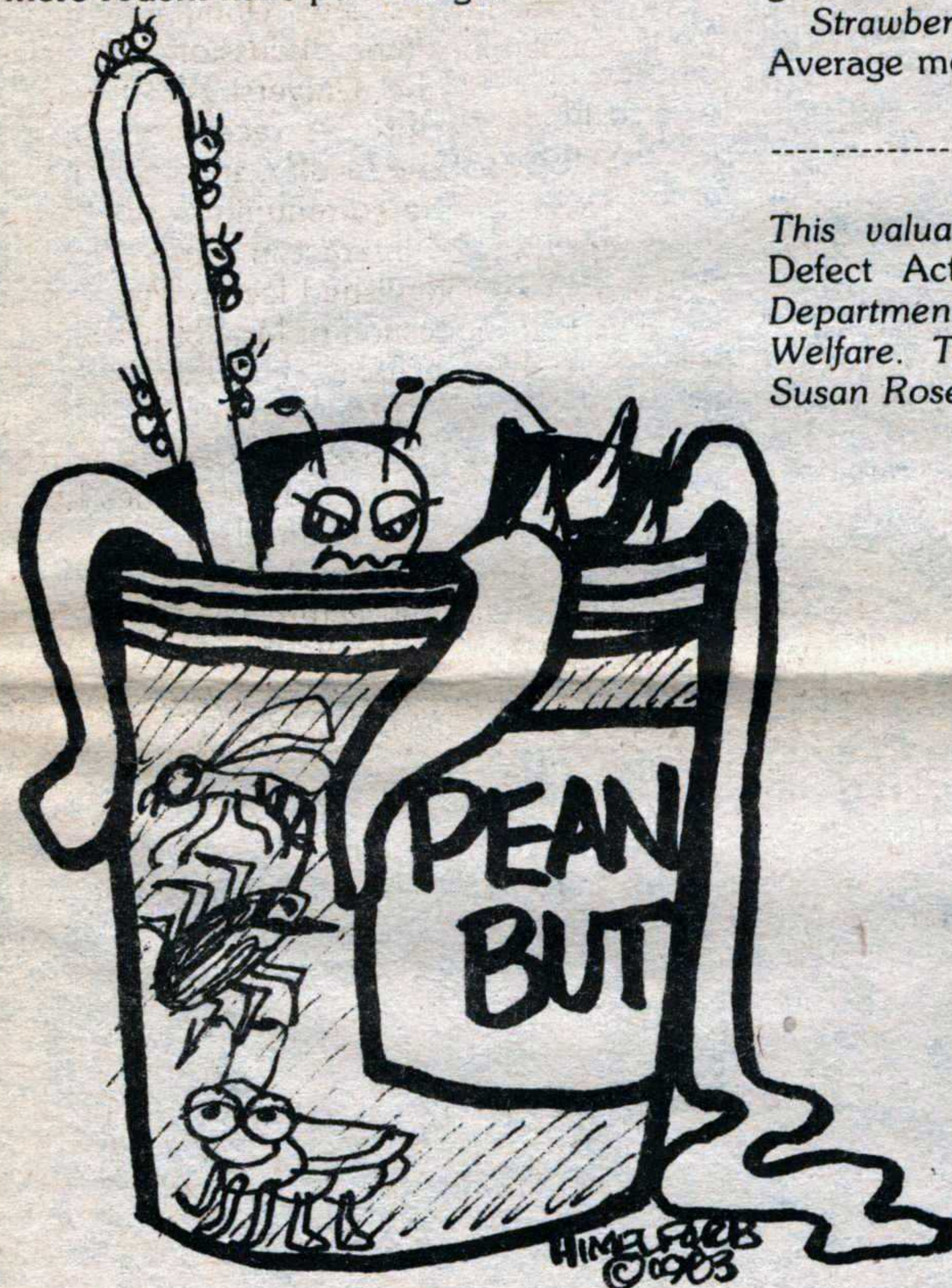
Dried prunes: Average of 5 percent by count insect infested, moldy, decomposed, dirty, and/or otherwise unfit.

Spinach (canned or frozen): Average of 50 aphids, thrips, and/or mites per 100 grams; or 2 or more 3-millimeter larvae and/or larval fragments of spinach worms (caterpillars) whose aggregate length exceeds 12 millimeters in 24 pounds; or leaf miners of any size - average 8 per 100 grams; or leaf miners 3 millimeters or longer, average 4 per 100 grams; or areas of one-half inch diameter affected by mildew or other type of decomposition.

Raisins: 10 whole or equivalent insects and 35 drosophila eggs per 8 ounces of golden bleached raisins.

Strawberries (frozen, whole or slices): Average mold count of 45 percent.

This valuable information is from Food Defect Action Levels, published by the Department of Health, Education, and Welfare. These examples were culled by Susan Rosenthal for National Lampoon.



Students hear candidates debate at forum

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FRIDAY 5/6		MONDAY 5/9		TUESDAY 5/10		WEDNESDAY 5/11		THURSDAY 5/12		FRIDAY 5/13	
Unfair Trade	205	Products Liab.	230	Wills, Trusts, Est.	206	Legislative Proc.	205	Secured Trans.	308	Crim. Pro. A	230
Adv. Comp. Tax	206	Tax. Partnerships	206	Real Est. Trans.	205			Family Law	230	Crim. Pro. B	238
		Evidence	238	Federal Courts	204			Law & Medicine	205		
<hr/>											
1 p.m.				*Civil Pro. A	230					Contracts A	230
				*Civil Pro. B	238					B	238
				*Civil Pro. C	308					C	308
				(Exam begins at 12:30 p.m.)							
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MONDAY 5/16		TUESDAY 5/17		WEDNESDAY 5/18		THURSDAY 5/19		FRIDAY 5/20			
9 a.m.		Const'l. Law A	308	Insurance	230	Labor Arbitration	205	Indiv. Income Tax	205	Publ. Sect. Lab. Law	205
			205	Estate Planning	238	Collective Barg.	230	Corporate Tax	230	Admiralty Law	206
		Const'l. Law B	206			Makeup Exam	206	Environmental Law	206	Torts A	230
			230					Adv. Civil Proc.	204	B	238
			238							C	308
		Comm'l. Trans. Surv.	204								
<hr/>											
1 p.m.		Comm'l Paper	230	Property A	230					Makeup Exam	206
				B	238						
				C	308						
				Makeup	205						

*Civil Procedure Exam will begin at 12:30 p.m.

EDITORIALS:

Ignoring A Commitment

"Recognizing that research and writing are critical lawyering skills, Hofstra has designed a First-Year Clinical Research and Writing Program which is a departure from traditional programs. In their first semester of Law School, students study research and writing through real clients and cases. While working on these cases, students write legal memoranda, participate with instructors in client interviews, and prepare pleadings. During the semester, students are also introduced to other lawyering skills, including interviewing and counseling. Five teachers conduct classes and hold individual conferences with each student to review the student's written work."

These words are not ours, but the words of the Law School's 1980 catalogue. Our first-year clinical program made Hofstra a unique law school; it was a powerful attraction to many of us when we were deciding whether to come to Hofstra. Yet a special ad hoc committee headed by Professor Regan is recommending that the program be eliminated. According to the Committee, the clinical program created an "inordinate" workload and forced students to concentrate on research and counseling skills instead of just writing.

The committee recommends that the program be replaced with a new program to be taught by six instructors, of which five are supposed to be "recent graduates." These individuals will be hired only for seven months and will only receive \$1500.00 per month in compensation. The instructors are supposed to be recruited anew. We question whether the "recent graduates" will have enough experience to effectively teach the art of legal writing. And we wonder what kind of instructors the school expects to get when it pays so little for instructors who will be terminated seven months after they start.

Much has been said this semester about the problem of "student malaise." The faculty has complained that many of the students just don't participate actively in their own education, and many of the students have said that the current curriculum fails to teach them the crucial skills they need as lawyers. Rather than responding to these concerns, the faculty seems to be dismantling the clinical programs one by one. The Dean may have appointed a "Committee on Academic Excellence," but actions such as killing the first-year clinic indicates to us that the commitment to academic excellence just isn't there.

In Good Conscience

The printing of the last issue of the year always generates a plethora of thoughts and emotions from our hard-working and diligent staff. Throughout the 1982-1983 year, the editors and staff of our newspaper have spent hundreds of hours in investigating, researching, writing and creating a paper worthy of our efforts and worthy of the School of Law.

Conscience has always tried to generate intelligent thought and debate about serious issues affecting the Law School and the surrounding community. We believe that Socrates was right when he said that "the unexamined life is not worth living." In the examination of various political, social and legal issues, Conscience has tried to help make the life at Hofstra University's School of Law worth living.

Conscience is aware of the controversial nature of many of its news stories and editorials. But throughout the worst political storm, the editorial board has always remained loyal to the supremacy of its journalistic standards and responsibilities as well as the public's right to know. It is with these principles in mind, that the newspaper can reflect on Spring '83, in all good conscience, and look forward to Fall '83 with the same esprit de corps.

Freedom At Stake

The two lawsuits filed against the University over its disciplinary action raises some critical issues that this University community must face. Those students alleged that they were disciplined without many of the procedural safeguards that are a prerequisite to the disciplinary system of any community that calls itself free. Most seriously, these students were banned from the campus without a single allegation that they broke any specific rule or regulation of the University. The ultimate issue is whether the University exercises absolute and unreviewable power when it punishes its students. If students can be sanctioned for conduct that breaks no specific regulations, then students can be punished for anything at all.

Intellectual freedom is supposed to be the hallmark of a University community. But if those who run the University have the total power to punish students for rules they make up *ex post facto*, what kind of real intellectual freedom can students really have? Those who live under this kind of authoritarianism must always be careful not to offend those in control. No true freedom of thought and speech can be possible under such a system. The framers of the United States Constitution recognized that. One of the few constitutional rights found in the unamended Constitution was the right of the people not to be subject to any *ex post facto* law.

The faculty and Board of Trustees have a responsibility to pay serious attention to the actions of those who run this University. This University aspires to train those who will take on important responsibilities in our society. It cannot train its students very well when it governs by petty despotism.

LETTERS:

D'Amato Choice Criticized

Open Letter to Dean Schmertz:

The Hofstra Chapter of the National Lawyer's Guild hereby adds its voice to the growing student opposition to the Administration's selection of Sen. Alfonse D'Amato as commencement speaker for the Class of 1983.

We find the choice of D'Amato particularly repugnant.

D'Amato represents the special interests served by the Reagan Administration's policies of huge military expenditures, tax giveaways and cutbacks; all of which have had disastrous effects on the lives of working and poor people of this country. Also, D'Amato is a product of a well-publicized corrupt political organization. As students concerned with improving the lot of U.S. citizens, we strongly oppose the interests and policies for which D'Amato stands.

In addition, the manner in which this selection was made is simply appalling. It offends the sensitivities of a student body which has a demonstrated consciousness of and a right to participate in administrative policies and procedures that directly affect it. The Administration neither sought nor considered student input into this decision. This stands as yet another pathetic example of both the disregard in which student opinion is held and the unresponsiveness to students' needs that exist at Hofstra. This administrative philosophy must change; the law school can no longer be governed by administrative fiat!

Please be advised that since you neglected to consider student opinion at the time when it should have been consulted, we will be displaying our opinion through a public demonstration, protesting the Senator's policies, to take place at the graduation ceremony. We are presently involved in actively soliciting student participation in this demonstration.

**Barbara Lynaugh and
Carol Law on behalf
of the Hofstra Chapter
of the National Lawyers' Guild**

Dean Responds

Open letter to Barbara Lynaugh and Carol Law, Hofstra Chapter of the National Lawyers' Guild:

I am disappointed by your memorandum of April 12, 1983.

It means to me that you and your organization would oppose and demonstrate against any commencement speaker who held political views with which you do not agree. I can think of only one characterization of your position—one of censorship and disrespect for the right of free speech.

I wonder how you can rationalize your position, especially your plan to demonstrate, with the fundamental obligation of lawyers to hear all sides, to act civilly and to respect the rights of all to express views. I did not hear any such complaints by any other group from the student body when we invited Judge Burstein to be the commencement speaker this past January or Attorney General Abrams a couple of years ago. Both are closely identified with liberal political causes.

What of the fact that some students may share the views of Senator D'Amato and even those of the Reagan administration? Are they not entitled to hear those views without the distraction of a demonstration?

Where are the concepts of due process, fair play, the duty to represent unpopular causes that are the obligations of lawyers and which this Law School takes pride in teaching and practicing? Is it your concept of fair play or your concept of due process or only unpopular causes that you support that may be represented at a commencement?

The fact is that Senator D'Amato is an elected United States Senator from New York. He is our neighbor and a demonstrated friend of this Law School and the University. He hires our graduates and involves our faculty and students in government matters. He helped our student lawsuit against cuts in federal aid to higher education. If you took the trouble to study his record, you would have noted that with each passing month he has staked out positions quite independent of and on some points in disagreement with those of the Reagan administration.

You say he is the product of a corrupt political machine? Have you researched and considered the political beginnings of such distinguished national leaders (whom I am sure you would have welcomed as commencement speakers) as Harry Truman, Hugo Black, Lyndon Johnson and even Earl Warren? Surely, your "guilt by association" approach must be apparent to you, if you were to think about it.

If Senator D'Amato's campaign tactics offended you (and as a personal friend of Jacob Javits, I would be the last to defend them), I suggest you look into the level of the election campaigns run by many major political leaders whom you would support because of their political viewpoints.

The point, of course, is that no commencement speaker invitees should or will be vetoed because of their political views, provided those views are lawful and a legitimate part of the political life of this country. Senator D'Amato clearly meets that test. As Dean, I have been responsible for commencement speaker invitations not only to Senator D'Amato but to Judge Burstein, Secretary of Health, Education and Welfare Samuel Pierce and to Attorney General Robert Abrams. It should be apparent that those people represent sharply different political views. They were invited because of their stature and because of what I believe they could do for our School and our students. In my view, the influence of and awareness about the School should reach into conservative as well as into moderate and liberal political quarters. Our efforts in this regard should be evenly balanced and that has been my objective and practice.

You overlook mention of our other honorand Sigi B. Wilzig. If you researched his background and his policies as the head of a New Jersey bank, you will find that his lending practices are extraordinarily liberal for a banker, or for any businessman. He was in a Nazi concentration camp as a child and has not forgotten. As a consequence, his bank helps ordinary people, small businesses, philanthropic and community groups with loans and grants which they would be unable to obtain elsewhere.

You say that I did not seek student input in the selection of the commencement speaker. Frankly, I am not sure that that is

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conscience

May 1983

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COMMUNITY FORUM

Dean Responds

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not a "red herring." Would your position regarding Senator D'Amato be different had I sought your views before extending the invitation?

As far as I know, none of my predecessors as dean involved the students in the commencement speaker selection process. I did it to some extent last year and found it to be divisive. I did not do it in the selection of Justice Burstein this past January nor for Jim Jensen last spring. My discussions with prior deans indicate that there has been no formal or institutional input from the student body in recommendations or selections of commencement speakers during their terms in office.

Finally, it seems to me if there is student input, and I am not opposed to the participation of students on an advisory basis (inasmuch as only the University Board of Trustees can approve a commencement speaker and award an honorary degree and there must always be a need for an evenhanded selection process) it should be a matter for the students who are graduating. I note that both of you are not part of this year's graduating class but are just completing your second year.

In short, I reject your protest. As for your plan to demonstrate, you have the free speech and First Amendment right to do so. But I will not hesitate to take appropriate action if it should be unruly or disrupt or interfere with the commencement exercises.

Eric J. Schmertz,

Dean of Hofstra Law School

Ad Hoc Committee Chided

by John DeWitt Gregory

Several months ago, the Dean addressed a memorandum to the student body noting, among other things, that "the faculty and the Dean's Office are dismayed at deficiencies in class preparation, participation and good and regular attendance of our students, particularly in second and third year courses." Shortly thereafter, he appointed an Ad Hoc Committee on Student Preparedness and Attendance, naming three professors as members of the Committee with two student representatives to be recruited by the Chairman. Faculty hearts sang in anticipation of the Committee's prompt consideration of the perceived problem. Some of us even believed that the Committee would, within a reasonable time, make recommendations which would specifically address the issue of lack of class preparation and spotty attendance.

What has happened since virtually defies description. For several weeks, this august body (having shortened its title to "the Ad Hoc Committee") twiddled its collective thumbs while it awaited the democratic selection of student "representatives" to join in the profound deliberations which were to come. At long last, two students joined the Committee, the selection process having been significantly influence, predictably enough, by the SGA-Conscienceabal.

The Ad Hoc Committee then, mirabile dictu, proceeded again to change its shape, unilaterally designating itself as the Ad Hoc Committee on Academic Excellence and Responsibilities. Ever since, it has proceeded to examine the general state of the world by convening two happenings designated Open Meeting I and Open Meeting II. Presumably for the benefit of that wise majority of the student body who had the good sense not to attend (one hopes they were preparing for class), *Conscience* devoted several paragraphs of its April issue to these events. The reportage is accurate. I attended both Open Meetings and compulsively took notes.

If it were possible to transmute into tangible form the comments voiced to the Ad Hoc Committee by student speakers, Room 230 would resemble the Augean stables. Just a few of the objects of attack were the library (hot), the faculty (unprepared, inaccessible, insensitive and presumably inept), the placement office (horrible), the first year curriculum (too much stress on exams), and a United States Senator. The assailants named no names and provided no documentation. Astonishingly, the members of the Ad Hoc Committee listened silently to all of this with no response whatsoever, except for occasional nods of apparent approval. As far as I can tell, the only issue not addressed was "deficiencies in class preparation, participation, and good and regular attendance by our students."

I am told that all of this is healthy, cathartic and, I suppose, therapeutic. I have been told the same thing about group therapy, but I would suspect that it is not appropriately conducted in Room 230 by people who have no particular behavioral science expertise.

Time and space constraints compel me to conclude by acknowledging my indebtedness to *Conscience* for its free spirit which has provided me a forum over the last several months for these meanderings. Now, having unburdened myself, I shall return to matters far more significant and consequential than the Ad Hoc Committee. For those who are interested, my current project is a major article (certain to be seminal) exploring the legal ramifications of angels dancing on pin points.

A Victory In Itself

It was interesting to come back to school after election day. People looked at me with sorrow and sympathy because I lost my chances of becoming the Student Government's Vice-President/Secretary for next year. As a matter of fact, some of my supporters felt worse than I did about the result. But I want to let the people know that the S.G.A. election was a victory in itself.

Even before the voting took place, something important was evident: Student Concern! The number of candidates participating reflect that we, the students, care about making the Law School a better place. After the voting took place, two things were obvious: First, the candidates who presented themselves as the most experienced were elected. Secondly, more than 50% of the qualified voters exercised their right. This shows that the student body is serious about electing representatives that can deal effectively with the problems that concerns it. Furthermore, I want to be positive and thus interpret the high voter turnout as a cry for improvement, and a willingness to put their energies towards that goal.

We have shown that we are concerned about our education and that we understand the important role that we play. I hope that the administration will realize the importance of this asset (a concerned student body), and join efforts in a common cause.

Fellow students, do not feel sorry that anyone in particular lost the election, since it seems clear to me that we have all won!

Juan Rafael Gonzalez
Class of '85

Conscience invites all readers to write articles and letters. Our next issue will be published the last week of August. We encourage all past contributors to submit articles for our Tenth Anniversary Edition, coming in October. Have a nice Summer!

COLUMNS

NLO Experience Praised

by Peter B. Goldstein

"The Neighborhood Law Office Clinic has taught me more about the practice of law than anyone in my courses at Hofstra Law School," is a familiar cry being uttered from the lips of the enthusiastic third year students at the Community Legal Assistance Corporation office at 77 Main Street, in Hempstead. "What's that?" you say, "Enthusiasm from third year students at Hofstra Law School? Impossible!" Nevertheless, that is exactly the spirit being exuded by those participating in the N.L.O. program.

The N.L.O. program gives students an opportunity to exercise the legal knowledge cultivated through more than two years of classroom work and put it to practical use for the benefit of the indigent clients who come to the Community Legal Assistance Corporation for help. More importantly, the program is a comprehensive learning experience. Students learn about the practice of law, not merely through their efforts at client representation, but under the skilled tutelage of the N.L.O. clinicians. Sue Bryant, Jane Malmo, Jean Bressler, Ken Rothstein and Richard Klein assemble materials for instructive seminars each week devoted to educating students in the arts of lawyering such as: counseling, case planning, persuasion, and negotiation. These seminars are bolstered by frequent opportunities for students to be videotaped and critiqued in the practice of these skills.

What makes the N.L.O. program so special? At least part of the answer can be found in the way that the people at the clinic treat each other. From day one, students are instructed that they are to call the supervisors by their first names and treat them, as well as each other, as colleagues. Unlike at the law school, where the lines between student and professor are clearly drawn and rarely, if ever, broken, at the clinic there is an atmosphere in which students feel free to speak openly, as attorneys-to-be, to their future brothers and sisters in the legal fraternity. In a sense, the students at the clinic are

welcomed into the practice of law by those who practice and enjoy it. This is a greeting which professors at the law school appear loathe to give, even on the verge of graduation.

Instead of being told what to do and how to do it, as in a classroom lecture, students are encouraged to take the responsibility of researching important legal questions, handling clients, and making strategy decisions on their own. That is not to say that the attorneys at the clinic are neglectful of their duties as supervisors. They do not, however, profess to have all of the answers on how cases ought to be handled. While each memorandum and motion must have the final approval of one of the clinicians, the clinicians do not hold the hands of the students under their supervision. Instead, they act simply as more experienced counsel to whom lesser experienced attorneys are inclined to come for consultation.

The enthusiasm of the students at the clinic does not derive solely from the opportunity to gain practical experience in the field in which they hope to be actively engaged upon graduation. More than that, it grows out of the sense of responsibility and pride that comes from using hard earned skills for the benefit of others less fortunate who place such great faith and reliance upon the efforts of the student representatives of the legal profession. There is little problem among the students at the N.L.O. with lack of preparation or absenteeism. They work much more than their required time at the office out of a desire to behave as responsible professionals and give their clients proper representation.

The Neighborhood Law Office is one of the best, if not the best program Hofstra Law School has to offer its students who intend to practice law. Perhaps instead of spending so much time asking students what problems exist at the law school and why, the Ad Hoc Committee should spend some time examining the N.L.O. clinic to learn why the same problems do not arise there.

Reflections on Kahane: One Man's Opinion

by Steve Gershbein

As cursed as Cassandra is Rabbi Meir Kahane. The man who with near perfect accuracy predicted the past two decades of Jewish and Israeli history is once again being ignored by the jungvolk and Yahoos of the Jewish Left and Jewish Establishment. Even after having correctly identified the interrelationships between International Law, Arab Demographics and internal security in Israel years before it was chic and "proper" to do so, he is still not taken seriously enough as to the ramifications of and solutions to these matters.

After having returned the soul, spirit and conscience to the American Jew in the late '60's, he is still taunted with cries of "Racist" and "Fascist" from those whom he so dearly loves. It would not be wrong of Meir Kahane to answer (as the L-rd did to Job) those who "darken counsel by words without knowledge."

Where were you when I laid the fountain of the Jewish Renaissance? Tell me, if you have any understanding, who gave you its guidelines and prin-

ciples?

Who put the rain of words like "soviet emigration," "Syrian Jewish freedom," "Fight for Falashan (Ethiopian Jews) freedom" into your desert of Apathy?

Even here at Hofstra University School of Law, Rabbi Kahane, a man who spent dozens of years in Yeshivot (seminaries), a man who possesses one of the deepest exegetical and Talmudic minds of our day is told that his activities are "not Jewish" by individuals who could not distinguish a ham-bone on their dinner plates from a hamstring in their thighs.

How this one voice crying in the wilderness keeps from being overwhelmed by frustration is unfathomable. I simply don't know why Meir Kahane continues to be the man who cares and does not turn into...Ah, Bartleby.

But Thank G-d he does.

Steve Gershbein is a first-year law student who has seen Rabbi Kahane speak several dozen times and has visited Jewish Defense League Headquarters and chapter leaders in many cities.

Hofstra Sued For \$4 Million

What started as a disagreement between two students and Hofstra security, and triggered discipline against those students, apparently has culminated in two lawsuits, one for \$4 million, against Hofstra and its employees. Student William Henning, and his girlfriend Laurie Stern, apparently disagreed with Hofstra security over whether Henning should be taken to the University infirmary after he had returned from the Nassau County Medical Center.

Patricia Giardini, Hofstra Dean of Students, Cynthia Banks, Tour Manager of Hofstra's Public Safety Department, and Security Supervisor Thomas Boyle have been named defendants along with Hofstra in a \$4 million lawsuit by Stern. The suit alleges violations of U.S. and N.Y. constitutional rights to due process and equal protection under the law, intentional infliction of emotional distress, disregard of Hofstra University's own rules and procedures as set forth in the handbook of Student Rights and Responsibilities, breach of contract, slander, libel, and assault.

The suit, filed by Laurie Stern, an education major at Hofstra, asked for \$1 million in nominal damages and \$3 million in punitive damages, along with various forms of injunctive relief. Also filing suit is William Henning, a companion of Stern, who also attends Hofstra University.

A tangled story

Late in the evening of March 16, Henning said that he had some pain in his back. He took some prescribed pain-killing medication for it. Security Supervisor Boyle, in his affidavit, claims that Stern told him that Henning had taken an overdose of alcohol and drugs, although Stern denies that she said this. The reaction to whatever Henning took was sufficiently serious to necessitate the summoning of an ambulance, and Henning was subsequently transported to the Nassau County Medical Center emergency room. Stern accompanied Henning to the hospital.

After spending about an hour in the

emergency room, Henning's physicians pronounced him fit to return to his dormitory and told him to get some sleep. At 2 a.m. on March 17, Resident Dormitory Director John Morrissey received a call while he was on duty in Freedom Hall; Henning had fallen in the stairwell between the 12th and 13th floors. Stern was with him at the time. According to Morrissey's report, he arrived to find Henning lying on the floor being tended to by Laurie Stern and two public security officers. The paramedics were then summoned.

The paramedic, according to Morrissey's report, pronounced Henning to be "all right." The public safety officers then asked Henning, "Do you want to go to your room or to the infirmary?" Henning chose to go to his room accompanied by Stern.

About 3 a.m., Hofstra Security returned to Henning's room and knocked on the door, waking up Stern. Security instructed Stern to wake Henning up and tell him that he was to accompany them to the infirmary, where he would be kept under observation for the rest of the night. Security said that it was University policy to keep students who are involved in drug-related incidents under observation for their own safety. Stern said she told Security that Henning was asleep. Security then entered the room and awakened Henning, and told him to get dressed and be ready to be driven to the infirmary.

Henning said he refused to go with security, claiming that they "had no right to force" him from his room. Henning insisted that the Nassau Police be summoned to the scene. According to Stern's complaint, Boyle "violently...grabbed" the phone from Stern as she tried to call the police although she ultimately completed the call. Henning asked the police on the phone if Security was acting in a proper manner. According to Morrissey's report, the police said it would be all right for Henning to remain in his room if he signed a waiver of responsibility, absolving Hofstra of liability if anything happened

as a result of Henning's refusal to go to the infirmary. According to Morrissey's report, the public safety officers called the police back and explained that they wanted to take Henning to the infirmary because they considered him to be a danger to himself. Morrissey reported that he didn't know what the police said, but debate continued.

At this point, Stern lay on the floor and said, "I have to get up in two hours. If you want to take him out of here you'll have to step on me to do it because I'm not moving." Morrissey reports that at this juncture one of the public safety officers called Security Tour Manager Cynthia Banks to tell her that "they would have to use force to remove Bill."

When Banks arrived on the scene she called the police so that they would be present in case Henning had to be restrained. Four Nassau County police officers arrived, but according to Morrissey's report, Banks said privately that "Nassau would back her up in the situation." Morrissey also reports that while he was talking with Banks, Stern tried to interrupt, but Banks said "wait a minute." Morrissey alleges that Stern then said "nigger" under her breath. Banks then decided to allow Henning to stay in the room.

Henning and Stern were awakened once again, this time by Banks and University Psychologist Dr. Robert Guglielmo. Guglielmo says in a sworn affidavit that on his arrival he began asking Henning questions about his condition, but Henning refused to answer. Guglielmo then told Henning to report to his office at 9 a.m. that morning and left. According to Guglielmo, Henning "abusively declined" to attend the meeting and "followed us to the stairs whereupon he lunged at me and Mrs. Banks several times with very threatening gestures." But Henning, in his affidavit, said that he and Guglielmo agreed to a 2 p.m. meeting. Henning insists that although he was very upset, he never made any threatening gestures.

Hofstra's Disciplinary Machinery Swings Into Action

Several hours after Guglielmo left Henning, Dean of Students Patricia Giardini banned both Henning and Stern from their classes and the campus. In identical letters sent to both Stern and Henning, Giardini said she was taking summary action pending an administrative hearing because of the reports she had received about the events that had transpired the night before. The letters did not indicate what regulations Henning or Stern had breached. According to the University regulations, the Dean of Students has the power to summarily ban students from the campus if they have "been charged with changing official records, stealing, physical assault or other serious crimes..."

Sometime after 2:30 p.m., both students met with Assistant Dean Deanna Hunter, who is in charge of disciplinary actions. Hunter confirmed the suspension and ban according to Henning and Stern. Henning alleges that when he asked for a copy of the specific charges against himself and Stern, his request was denied. After about two hours Henning says he went to see Dean Giardini, again asked to see the charges against him and again had his request denied, this time because it was close to 5 p.m. and everyone was leaving for the day.

According to University regulations, students are entitled to receive, by mail, written notice of charges that must state "the specific rule or regulation the student is alleged to have violated..."

At that time Henning states that he requested a meeting of the Judiciary Board, the student council that adjudicates such matters. He alleges that Giardini informed him that such a meeting could not be scheduled for "weeks." According to the University's "Statement of Student Rights and Responsibilities," a summarily suspended student has "the right to a hearing before the University judiciary within ten days" after

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Hofstra Sued For \$4 Million

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the student demands the hearing. The Dean did offer to hold an administrative hearing the next day. Henning alleges that at that time he was told he could not bring an attorney with him to the hearing.

Henning's hearing took place at about 2 p.m. on Friday, March 18. He alleges that he received a copy of the charges against him at that time, some 10 minutes before the board was scheduled to convene. The charges were: 1) Abuse of drugs and alcohol; 2) Disruption of normal routine and interference with the sleep of others; and 3) Potentially violent and/or self-destructive behavior. Additionally, the letter stated that his "general conduct was unacceptable to the educational mission and community life of the University," although this is not listed as a specific charge. The letter did not cite any specific rules or regulations Henning was alleged to have breached.

Administrative Hearing Officer Virga Jeliones of the Residential Life Department alleges that she met with Henning to discuss his procedural rights. Jeliones alleges that due to the short notice for the hearing, Henning was informed that Guglielmo would not be present. Henning denies that anyone told him who would or would not be there. He also said that Guglielmo's name was not even mentioned.

Under the Hofstra Code of Student Rights and Responsibilities, a student has the right to cross-examine all witnesses against him. Henning alleges that Jeliones told him that the only way to expedite the hearing process was to waive his privilege of cross-examination. In her affidavit, Jeliones swears that Henning signed a waiver of his rights to examine all witnesses at the hearing, and attached a copy of the waiver. But the waiver that Henning purportedly signed stated that Henning waived his right to cross-examine "only those witnesses not present at the hearing," and not all witnesses as alleg-

ed by Jeliones.

Henning was allowed to bring witnesses in his behalf. He alleges, however, that any attempt made by him to cross-examine any of the witnesses was "cut short" by the board. He further states that the decision was arrived at with him present in the room, and without any apparent deliberation by the board. The board exonerated Henning of the drug and disruptive behavior charges, but convicted him of the potentially violent behavior charge. In light of this finding, the sanctions against him were upheld.

Henning received official notification of his conviction in a letter on March 21. In this letter, there are two charges that were not brought up at the administrative hearing. These charges were: 1) Failure to comply with the directives of University officials and 2) Abusive behavior and harassment of University officials. Additionally, he was formally convicted of "general conduct which is unacceptable to the educational mission and community life of the University." While identical language appeared in the March 18 letter, it does not appear in the list of charges, nor does it appear in anyone's testimony concerning the administrative hearing.

On March 22, Henning allegedly phoned Dean of Student Services Mark Dion in the morning and inquired about his appeal. Henning alleges that Dion told him it would take a few weeks, during which Henning would remain suspended. Henning stated that he called Dion again in the afternoon and requested a speedy appeal. He alleges that Dion told him that he could have his appeal the next day if he would again waive his right to cross-examine witnesses. Henning also alleges that Dion told him not to bring any more than three witnesses, because he did not want a "circus."

The appeal was held March 23 at 4 p.m.

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Students V. Hofstra A Legal Analysis

Henning and Stern are not the first Hofstra students to file lawsuits against the University over its disciplinary machinery. Thirteen years ago, Hofstra freshman Robert Ryan successfully sued for his reinstatement after he was expelled for allegedly throwing a rock through a plate glass display window of the University bookstore.

Although Ryan had confessed to the rock throwing incident, the court found that the University's disciplinary proceedings against him were so violative of the University's own procedures and Ryan's due process rights that the court ordered him reinstated. Some of those defects appear to be similar to the alleged defects in Henning and Stern's proceedings.

According to New York Supreme Court Justice Bertram Harnett, Ryan was deprived of the "rudimentary requirements of fair play" when it expelled him at a "summary" administrative hearing held the day after the incident, deprived of the choice to appear before a student judiciary board, and limited his choice of counsel to those who were employees of the University.

The Ryan Court held that Hofstra "must abide by constitutional principles of fair conduct implicit in our society." Hofstra had argued that as a "private" university, it could discipline its students without any legal restrictions. The court tossed aside the argument as "plainly not the law." Ordinarily, private individuals and institutions are not restricted by constitutional limitations. But the Ryan court, applying the Supreme Court test of *Burton v. Wilmington Parking Authority*, held that Hofstra was constrained by the Constitution because it received such massive state support.

The court noted that Hofstra received over a million dollars of its operating budget from governmental grants, that over half the campus sits on land donated by the federal government, and that over half of the University's assets — its dormitory buildings — are actually owned by the New York State Dormitory Authority.

The court ruled that this state participation

amounts to a state presence on the campus making the due process and equal protection clauses applicable for the non-academic disciplining of students.

Constitutional due process has not been the only theory the courts have used to reverse disciplinary actions taken by universities. In *Tedeschi v. Wagner College*, the New York Court of Appeals affirmed a trial court's ruling that the due process clause of the Constitution was inapplicable to Wagner College because "student disciplinary procedures in private institutions will be circumscribed by Constitutional safeguards only if the state is involved in the activities of the college in a meaningful way." But the Court of Appeals, after considering several common law theories, concluded:

Whether by analogy to the law of associations, on the basis of a supposed contract between the university and student, or simply as matter of essential fairness in the somewhat one-sided relationship between the institution and the individual, we hold that when a university has adopted a rule or procedure to be followed in relation to suspension or expulsion, that procedure must be substantially observed.

Another factor a court might consider is the University's legal justification for adopting disciplinary rules. Although the universities' power to adopt such rules was once strongly debated, today universities have been given such power by section 6450 of the New York Education Law. That statute explicitly mandates that universities "adopt rules and regulations for the maintenance of public order on college campuses and other college property used for educational purposes and provide a program for the enforcement thereof."

Henning and Stern have claimed that the disciplinary action against them was not initiated for the breach of any specific campus regulation. That charge may open a claim that the University lacked the legal authority to take action against conduct that was not in breach of its rules or regulations.



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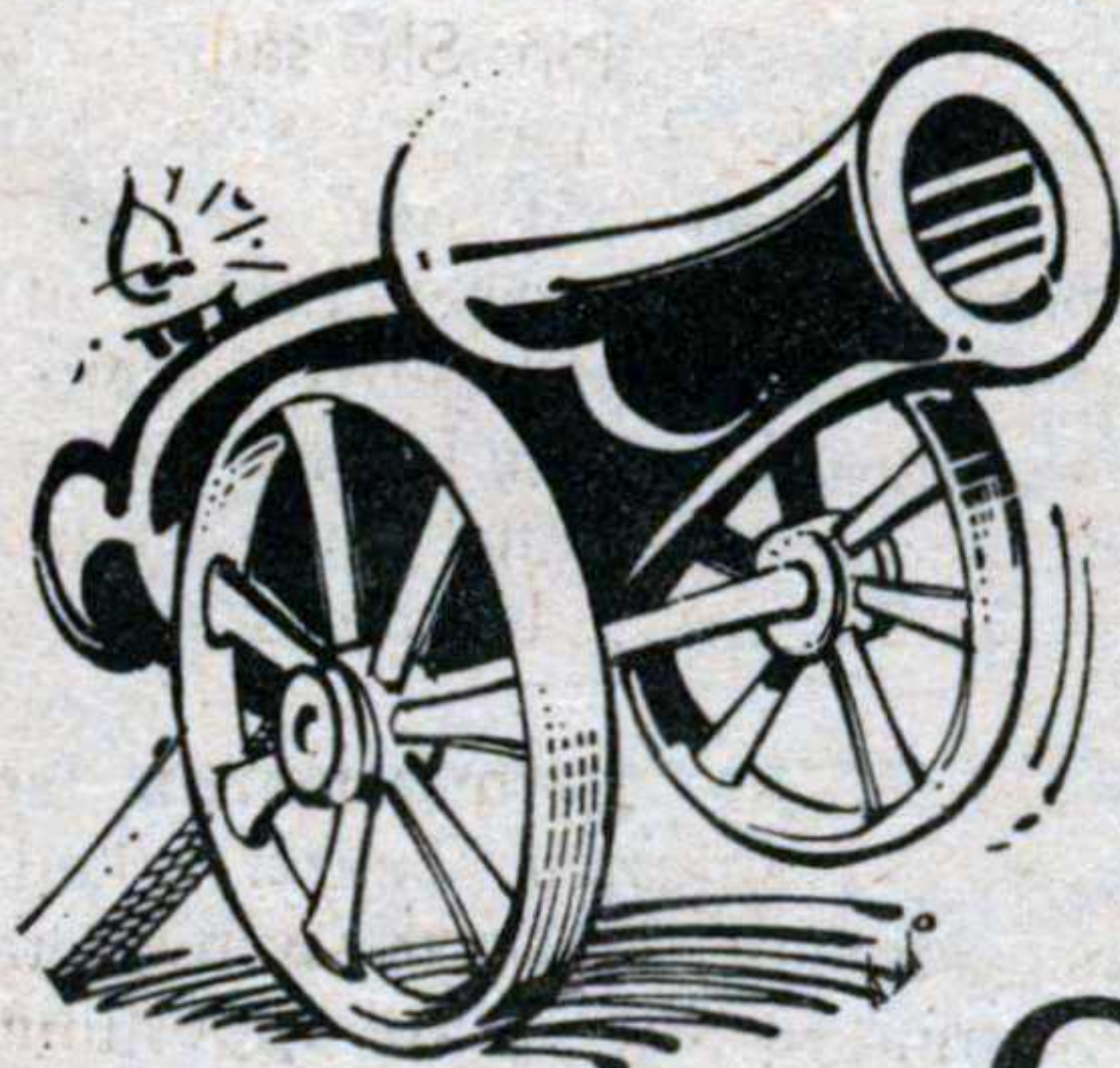
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Creative Cooking

by Jane Himelfarb

Small pools of cool rainwater decorate the pavement as the warmth of summer peeks out from behind April. Once outside, the smell of freshly cut grass and sprays of forsythia are reminders of the rebirth of the world. It's actually easy to get up in the morning, but sitting inside is like having been sentenced. The minutes on the clock, if you're lucky enough to be in room 238, seem to last indefinitely, as the countdown begins and the svelt black hands sweep leisurely over the numbers that have jailed us.

Summertime brings activity and lighter appetites; cool sweet watermelon and barbecues on the beach. Food is not as much a priority as it was during the winter when you needed something to keep your mind off the blanket of white that limits all but a warm smelling kitchen. As *Conscience* has travelled the globe in this series, I feel compelled to print another international epicurean delight. This time off to sunny Spain, where summer never ends, where the coast of the sun meets morning with a kiss of lavender and gold; and paella is served late in the evening after the melon glow has faded to deep charcoal, and the soft Mediterranean waves quiet the song of midnight birds. Paella is easy and

light. Serve with chilled Sangria loaded with freshly cut oranges, apples and grapes.

Paella

Lightly saute diced chicken in olive oil until meat is white. Set aside. In large casserole dish, toss cooked white rice sprinkled with saffron (or use Rice-a-Roni Risotto—it's the same thing), peas, corn and any other leftover vegetables you want to use. Add green olives and pimentos, as much as desired. Stir in one cup chicken broth and the cooked chicken. Add cooked shrimp—it's up to you if you want to broil fresh shrimps or just throw in a can. Now it starts to get expensive; at this point, add mussels, clams, lobster (depending, of course, on your budget), though paella is just as good without the expensive additives. Lightly sprinkle tobasco sauce or salsa picante to add that extra zest. Toss and place in hot oven for 20-30 minutes. This is the best casserole you'll ever make—try it. Depending on how many people you want to serve will determine the quantities of your ingredients, and your tastes will dictate which of the above foods you want to throw in. Enjoy this meal with Sangria and flamenco. But if you don't mind, we'll leave the bullfight where it belongs. Adios, and enjoy the summer!



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All the witnesses at the original administrative hearing were present except Jeliones and Morrissey. Henning said that he spoke with Morrissey over the phone later that same evening. Stern was with Henning while the conversation took place. Henning states that Morrissey said he was approached by the Director of Residential Life, Pam Pellicia, who told Morrissey that he was "not needed" at the appeal, and that she would go in Morrissey's place. Henning also alleges that when Pellicia showed up at the appeal, she was "not invited" to participate by Giardini and therefore took no part in the appeal.

At the proceedings, Henning allegedly asked Dion about extra charges that were not part of the first hearing. Henning alleges that Dion replied that since Jeliones was not there to provide any clarification, he could only surmise that the charges were an "expansion" of the charge that Henning was ultimately convicted of — "potentially violent and/or self-destructive behavior." Henning further alleges that at the appeal, he was denied any opportunity to cross-examine the Director of Public Safety, or the Public Safety officers. Henning also said that he was questioned extensively during the appeal regarding possible drug abuse on his part — a charge of which he was exonerated by the administrative board. The appeal board ultimately upheld the finding of the administrative board, and the sanctions stood.

Stern's story is similar. After she received her notification of suspension, she said she went to see Giardini at approximately 4:15 p.m. on March 18. Giardini refused to discuss the incident, and allegedly told Stern that she had "45 minutes to pack and get out." Stern alleges that board hearings were scheduled and subsequently cancelled no less than three times over the next three days. She was finally granted a hearing on the condition that she would waive her rights of cross-examination and sign a statement to that effect. She did so, but included in the statement the words, "Under Protest." George Hutchison, attorney for the University, allegedly rejected the protested waiver. Hutchison insisted that a valid waiver be procured, which was done. Stern, however, subsequently revoked the new waiver. She

was then told that she would be scheduled for an administrative board hearing on either March 24 or March 25. On the 24th, Stern was called at 7 a.m. to be informed that her hearing was scheduled for that day at noon.

At the hearing, Stern was charged with: 1) Uncooperative behavior, 2) Abusive language and 3) Exacerbation of a volatile situation. She was not permitted to bring a lawyer. The next day Stern said she received a letter saying that she could continue to attend classes, but that she was still banned from the dormitories, and would be placed on disciplinary probation. She said the letter also demanded an apology from her to Banks. The letter did not contain any disposition of the specific charges at the hearing. It is further alleged by Stern that when she inquired of the Dean's Office and the Office of Residential Life what had become of the charges, both refused to comment.

On March 26, Stern retained Jerrold Tenzer as her attorney. Tenzer asked the University for: 1) a copy of the administrative board hearing record, 2) the opportunity to cross-examine witnesses and 3) to be present himself at the appeal. All three requests were denied. When the appeal was finally scheduled, Stern, on the advice of her attorney, did not attend the appeal. She therefore forfeited her appeal. The next day was the initiation of the lawsuit.

The University administration and its officials have refused to comment on the case. However, University President James Stuart, although refusing to comment on the case, said he considers the University rules and policies to be adequate and appropriate, and that if someone wishes to challenge those policies they were free to do so in court. He refused to comment on any specific matter regarding the procedure currently subject to litigation. Stuart acknowledged that he "exercises a general oversight over the process" and that he was confident that the Senate always stands ready to listen to any suggestions regarding changes in procedure.

Stuart said that "we [the University] do things by principle," but "if you want to go to court, I'll meet you."

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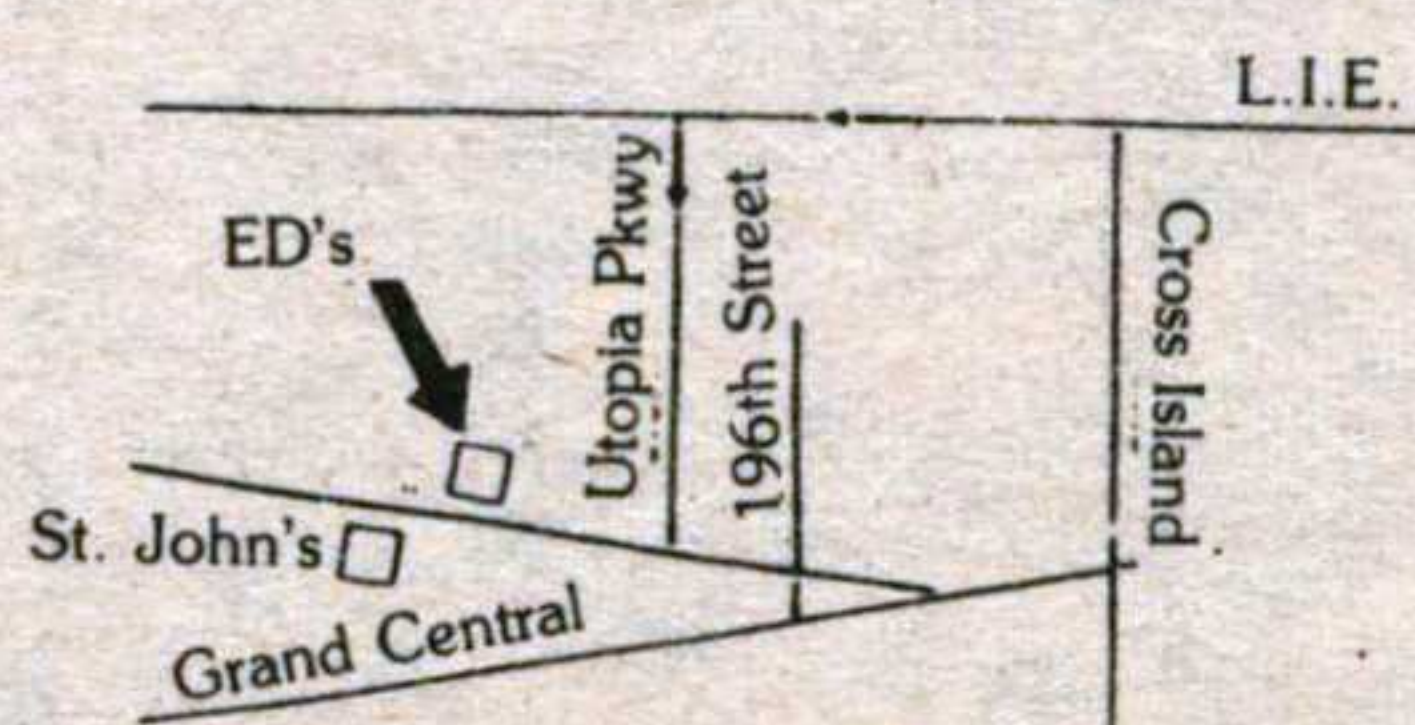
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