



ASKING YOU TO ASK YOURSELVES

Vol. 11 No. 4
November 1983

Conscience

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School of Law
Hempstead, NY
11550

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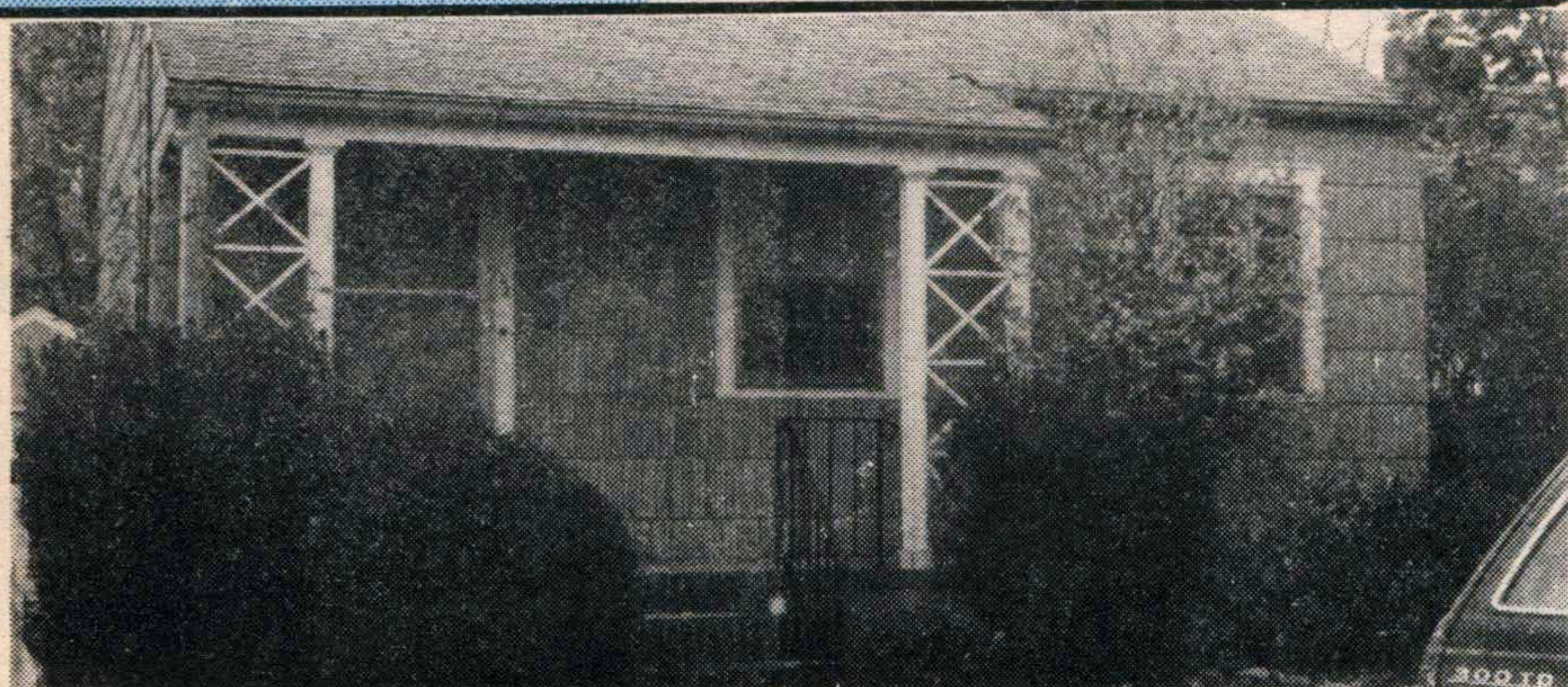


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FORUM HOUSE INSECURE

by Peter Shafran

Earlier this month an incident occurred at the Labor Law Forum House which brought to light security problems the Forum has to deal with since this summer. Several Forum members mistakenly reported a robbery to the University's Public Safety Office. While it was later discovered that no robbery occurred, the incident did trigger an evaluation of the house's security. The Forum House is located just off campus on Fenimore Avenue.

"The problem stems from the fact that the windows don't lock. This summer, the Plant Department painted the windows in whatever position they were in, though most were closed, and they are now inoperative," said Dolores Gebhardt, the Forum's Editor-in-Chief. Approximately 80-90% of the windows in the House don't lock, and some can't even be closed. The night of the "robbery" one Forum member called Public Safety and was told by a P.S. Officer that "the painters would come eventually"—and emphasized that it would not be soon—"to chip at the paint so that the windows could open and close properly." Ms. Gebhardt sent a memo to Dean Douglas outlining the problem and got back a copy of the Plant Department "supposed" investigation of the problem. The report said that the windows couldn't be "de-stuck" without damaging the windows. "I took that to mean that they couldn't free the windows without breaking the glass," said Ms. Gebhardt, "and that was the last I heard of it."

In addition to the windows, there are several other security risks. The front door handle lock doesn't lock, though a working deadbolt has been installed to lock the front door. "The problem with that," said Managing Editor Tony Colleluori, "is that none of

the Forum members have keys to that door, which forces our members to walk around to the back of the House. The back of the House is only somewhat illuminated from Gittleston Hall, where there's a full moon." Colleluori said that there's a need for a flood light facing directly on the back of the House. "My real fear is that one night, somebody might lie in wait for some Forum member to come to the back door and attack," said Colleluori.

Another problem with the House's security is the issue of protection. "I've asked Public Safety, a couple of times, to come over to the House on their rounds and to check the building, and to my knowledge it has not been done," said Colleluori. Many Forum members who work at the House late into the evening have expressed fear for their own safety.

Most Forum members take a shortcut to the House from the Law School by way of the parking lot adjacent to Gittleston Hall, rather than walking around to Fenimore Avenue. The shortcut is well-lit and patrolled, but Forum members often reach the gate located at the back of the House and find it locked. "We don't have keys to the gate and so we must then go around to Fenimore Avenue—a five-block walk—which is potentially more dangerous," said one Forum member. Colleluori felt that it is unfair to Forum members that the Plant Department refused to issue keys to the gate, while Law Review members have similar privileges at the Law School.

Both Gebhardt and Colleluori pointed out that most of the improvements that have been requested have been made, thanks to the concern of Deans Schmertz and Douglas, and that the only obstacles to safety seem to be coming from the Plant Department and the Public Safety Office.

Little Action on Ad Hoc Report

by Randy Montellaro

The Ad Hoc Committee's Interim Report, released last month, has not been acted upon by the full faculty, though "it's being placed on the agenda of the faculty meeting very soon," said Dean Schmertz. The Dean noted, however, that two substantive aspects of the Report have been implemented: proctoring systems and physical plant problems. "Proctoring systems will be continued to be beefed up," said Dean Schmertz. Referring to the historical library climate situation, Dean Schmertz said, "I have gotten an engineer from the University Operations Department, including James Fellman, newly-named Vice President for Operational

Services, to come here. I've insisted they take immediate steps—I've taken a very tough stand on that issue, with regard to the University," said Dean Schmertz.

As far as instituting any other policies, the Dean said that the Ad Hoc Committee Report on Academic Excellence "should be a matter of consideration by the entire faculty before instituting any policies from the Dean's Office."

When the faculty meet to discuss the Interim Report, the meeting will be open to the students, as are all faculty meetings, said Dean Schmertz.

Rep Resigns, New Rep Elected

by Peter Shafran

James Black, the first year representative from Section A, resigned last month because of what he termed "a problematic student government." Mr. Black, who served as an officer in Hofstra's undergraduate student government, felt he could no longer effectively represent his constituency.

Janice Facibene was elected on November 10 in a special election held to fill the vacant position. Ms. Facibene came to Hofstra Law after working as an administrative assistant at the American Broadcasting Company in New York City for eight years. She is a graduate of Fordham University-Lincoln Center with a bachelor's degree in political science and economics.

While Black's official resignation letter to the SGA cited "other pressing commitments," he explained the actual reasons that forced his resignation to SGA President Michael Zarin and to members of his section. "Considering my experience, gained as an undergraduate at Hofstra, coupled with the contacts I've made here, I felt I would have something to add to the SGA," said Black, "unfortunately, a very vocal minority within the SGA felt my style objectionable, and within a very short time, I found that my position had become untenable."

According to Black, most of his problems with SGA started with "a severe personality clash between (SGA Treasurer) Jane Himelfarb and myself. We have had constant disagreements at SGA and Student Cabinet meetings," said Black. At Black's last official Cabinet meeting, Michael Zarin asked Black and Himelfarb to work together on a University alcohol policy project, but,



James Black

"before he finished, Jane made it quite clear that it was impossible for her to work with me," said Black. The following day Black resigned.

"I regretted having to resign because I felt I could work well with the rest of the SGA, but I also felt it would be futile for a first year rep to take on an officer of the SGA," explained Black.

In a related matter, several leaders of student organizations have also expressed their dissatisfaction with the way Ms. Himelfarb has been carrying out her duties as Treasurer, and point to the fact that there has been a great deal of difficulty in obtaining timely check disbursements. At last week's Student Cabinet meeting, ELS President Carol Cassaza, stated that ELS members have not yet been reimbursed for the monies they have spent since the beginning of the semester. In response to this problem, one cabinet member suggested that the Treasurer "walk the check requisitions to Weller Hall" for more expedient approval, to which Ms. Himelfarb replied "Well, I can't do that." Zarin finally suggested that Himelfarb meet with her counterpart in the University budget and accounting office and iron out any procedural difficulties.

Students Vote Increase

On November 10, law students voted to increase the student activity fee for the first time in the history of the Law School. The activity fee, currently ten dollars per semester, will be raised to twenty dollars per semester pending University approval. SGA Vice President Dave Abrams, the organizer of the increase drive, explained that there are certain procedures that must be followed before any funds can be seen. The increase must be approved by Vice Dean Rabinowitz, who, according to Abrams, has been in favor of this move, and then must be approved by Provost Sanford Hammer before going to the University Board of Trustees for final approval. "The problem," Abrams said, "is one of timing, because the Trustees will not be meeting in regular session until the beginning of next semester." The Spring semester bills, however, are processed in early December; without the Trustees approval the activity fee increase may not be implemented until the fall of next year.

Abrams hopes to avert that problem by appealing to the University Board of Trustees for special approval by the Executive committee or by some other manner. "We need this increase now. The SGA has planned a number of activities for the Spring that won't come off unless the SGA can get the extra funds," said Abrams. Many student

groups have already spent substantial amounts of their allotted funds and may be unable to present adequate projects in the Spring without additional money.

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(All photos by Tracey Epstein
unless otherwise indicated)

Recalling His Spirit

by Bob Cerro

November 22nd, 1963 — Dallas, Texas: Is there anyone within the walls of this law school, indeed, anyone walking this campus, who cannot recall the tragedy of that cold November day twenty years ago?

I was standing in the Xerox center, speaking with a law student one day last week when the topic of discussion turned to the late President, John F. Kennedy. The student, Maria Moir, recalled that she had been in high school at the time of his assassination. She remembered hearing the sickening news over the school's loudspeaker. We both discovered we had the same feeling in our hearts for the late President — feelings of admiration and loss. Yet, we were both a generation apart on the worst day in 1963 — she was a high school student. I had spent a mere seventy-two days on the planet. How is it that two different individuals from two separate time spans could still feel the loss of an American president two decades after his death?

In a simple, one-word response, the answer is "idealism." President Kennedy left us with a strong sense of idealism, a vigor, a new hope for America. Anyone who in their heart feels the loss of JFK, feels the loss of his idealism. He was the first American president to captivate the ideals of the American youth. He presented to us an American young people could believe in.

As a President, Kennedy made many goofs, as every president does. However, during his short one-thousand day term in office, he managed to uplift and inspire the American spirit within a period of tremendous unrest, the 1960's. Some of his many accomplishments include: the American Space Program, the Nuclear Test-Ban Treaty, the Peace Corps, Co-existence with the Soviet Union during the Cold War (dramatized during the Cuban Missile Crisis), and most importantly, enacted shortly after his death, the Civil Rights Bill.

Not since Kennedy has the American youth found a president in which they could place their ideals as young Americans. Consider this: Have any of the presidents, numbers 36 through 40, found any great recognition from the American youth during their terms in office? Have Presidents Johnson, Nixon, Ford, Carter, or Reagan contributed anything towards the spirit of young Americans to make them proud to be Americans? What had American youth after Kennedy to look forward to — Vietnam? Inflation? A plunging economy? With Kennedy in office there was a hope of a new future, a future of change.

Kennedy was determined to do more for his country than just sit back and watch the world spin by from his Oval Office chair. He wanted to reach out and grab the globe at the poles and spin it his way — he showed American that there was more to government than Senate meetings and re-election speeches. He dedicated much of his time as President to establishing better relations with the U.S.S.R. Upon his death, Premier Khrushchev mourned the loss of a "great Statesman," acknowledging Kennedy's striving for improved relations between the two respective nations during the Nuclear Age.

He had such a great dream — such a dedication to fulfill that dream. He wanted America to walk tall again, to emerge as number one again within the hearts of each and every American. He wanted the Southern Negro as well as the New York businessman both, to be able to say, with the same gusto, that American was indeed the land of opportunity.

By now, a reader of this article, which is merely intended to pay a gentle homage to the late President, should realize that Kennedy was, and is a favorite of mine. Despite all of the rumours of wrongdoings he was accused of over the years, he still stands in my



Courtesy of Life Magazine

mind as a great American leader. In the twenty years passing since he was fatally wounded by Oswald, *et al.* (will we ever know the truth?), few have forgotten him.

As one law student put it, while Xeroxing some work, "The one bullet which was fired into the wonderful mind of President Kennedy altered history more than any of the bullets fired in World War Two." In a small way, I agree. Although Kennedy's spirit still lives in many of us, the driving force behind that spirit is gone forever.

God Bless You, John Fitzgerald Kennedy.

"Not since Kennedy has the American youth found a president in which they could place their ideals as young Americans."

Law Grad Receives Estabrook Award

Paul Hearne, a graduate of Hofstra Law School (Class of '74), is among six Hofstra University alumni named as 1983 recipients of the George M. Estabrook Distinguished Service Award. Mr. Hearne worked with Hofstra's Program for the Higher Education of the Disabled, and was President of the Undergraduate Student Senate. Besides being Executive Director of a job placement agency for physically disabled persons Just-One-Break he does extensive consulting, teaching and preparation of materials for various programs providing services to the handicapped. From 1981 to the present, Mr. Hearne has served as the appointed chairman of the New York State Advisory Council on Vocational Rehabilitation, and serves on a number of other important commissions and committees for the disabled. In November, 1978, he was awarded the first Barbara M. Paley Award for Service to the Disabled. Mr. Hearne also recently participated in the Law School's Alumni Night.



Prof. Mahon Awarded Bickel Chair

by Peter Shafran

Professor Malachy Mahon has been awarded the Alexander Bickel Distinguished Professorship in Communications Law, Dean Schmertz announced last week. The new endowed professorship has been established in honor of the late Alexander Bickel, a well-known and respected professor at Yale Law School. "The Bickel Chair is supported by a sum of money contributed by a number of people," said Dean Schmertz, "principally financed by Whitney Communications Company and more

Established in 1961 by Mrs. George Estabrook as a memorial to her late husband, the Estabrook Award is bestowed by the Hofstra alumni Association. It honors Hofstra graduates both for their achievements in their chosen professions and for their service to the University. In the past 22 years, 141 alumni have received the award.

The other recipients are: William Bodde, Jr., the Consul General of the U.S. in Frankfurt; Francine Sanborne Taylor, college teacher, author and community organizer; symphonic conductor and freelance composer Gerald R. Humel of Cleveland, Ohio; Robert F. Dall, partner, Salomon Brothers; and Hofstra Trustee David S. Mack of Kings Point, Vice-President and Senior Partner, Mack Management Corporation.

The six Estabrook winners received their awards at a dinner on November 19, in the Hofstra University Club.

specifically, two senior partners of Whitney who are graduates of Yale Law School and who agreed to establish it at our Law School in honor of one of their favorite professors."

A convocation will be held in early 1984, at the Law School, in honor of Professor Mahon and Bickel. Dean Harry Wellington, of Yale Law School, will be the featured guest speaker. Members of both the Hofstra Law School community and the Yale Law School community will be invited. Details on the convocation have not yet been worked out.

Professor Malachy T. Mahon, the founding Dean of Hofstra Law School, is a former Law Clerk to Mr. Justice Tom C. Clark, Supreme Court of the United States. After practicing law in New York City, he taught at Fordham Law School, served as Chief Counsel to the New York State Governor's Special Committee on Criminal Offenders, and then as the founding Dean at Hofstra Law School. Prof. Mahon taught at the University of Texas and was Executive Director and Special Assistant Attorney General for the 1975 Meyer Investigation of the Attica Prosecutor's Office. His book, "Written for a Special Committee of the Association of the Bar of the City of New York, *Mental Illness, Due Process and the Criminal Defendant*, has been widely cited and quoted by federal and state courts, including the U.S. Supreme Court. In addition, he has written a monthly column on developments in Commercial Law for the New York Law Journal, and is a member of the American Law Institute. Prof. Mahon is a Member of the Uniform Commercial Code Committee of the American Bar Association's Section of Banking, Business and Corporation Law.

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South Bronx Prison: Community Protests

by Barbara Lynaugh

Governor Cuomo's proposal to build a 1,000-cell maximum security prison in the South Bronx has met with firm opposition from many community groups there. To achieve their goals, eighteen local religious, community and professional groups have formed the Coalition to Stop the Bronx Prison. Members of the Coalition have conducted community educational programs, local petition drives and have filed a lawsuit challenging the State's issuance of bonds to fund the prison construction.

The main concern of the Coalition has been the impact the prison would have on the South Bronx community. The prison plan signals further disinvestment in the South Bronx, a community already in dire need of funding for jobs, housing and social programs. The group strongly urges that the state funds allocated for the prison be spent within the community itself. Rev. Frank Morales, a South Bronx community organizer, points out that the cost of one cell equals the cost of renovating an entire ten-unit apartment building.

Rev. Morales describes the "outrage" of a community whose leaders were never consulted when the prison was first planned. Proponents of the new prison have repeatedly made the argument that a prison in the South Bronx would be advantageous to the community because future offenders could be incarcerated close to home. Community members object to this line of reasoning; they do not think it is advantageous to their children to grow up in the shadow of prison walls.

The Coalition, with the help of the National Lawyers Guild, has filed suit against the New York State Urban Development Corporation (UDC) seeking an injunction against the issuance of the bonds that would fund the prison construction. The suit challenges the State's bonding authority, specifically the issuance of bonds by the UDC. When the UDC was formed, its purpose was the construction of low-income housing in New York State. The State Legislature has since amended the UDC charter to allow prison construction through the Corporation.

"We consider it a supreme irony that a public corporation originally intended to build low-income housing is building a prison in the heart of a community that desperately needs that housing," states Barbara Pollack, the attorney for the Coalition. There has been no low-income housing built in New York State since 1975. The bonds sponsored by the UDC for the prison construction are to be financed by rents from the New York State Department of Corrections.

The South Bronx prison, as planned, would be the seventh largest prison in the State, approximately the size of the Attica Correctional Facility. By the standards developed by the New York State Department of Corrections, such facilities have been found to be unsafe.

In a recent study done by the Correctional Association of New York, community alternatives to incarceration within the South Bronx would cost the State approximately \$4.5 million; the estimated cost of the new prison is \$700 million.

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IF THAT IS THE QUESTION



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WHN-1050	WALK-97.5	WGSM-740
WCBS-880	WLIR-92.7	WCTO-94.3
WINS-1010	WHPC-90.3	WLIM-1580
WRHU-88.7	CABLEVISION CH.12	

New Election Commissioner Appointed

Craig Heller has recently been appointed to the Election Committee to fill a vacant position left by Seth Mininsohn. The other Commissioners are Laura Ford and Steven Gershbein.



Hofstra Contact Beyond The Ivory Tower

For many reasons, students ought to know more about the numerous substantive activities in which our faculty and administrators are involved outside the classroom. A significant, if indirect, contribution toward enhancing our Law School's reputation is being made in this way, and students and alumni should inform themselves of these activities so that we can further utilize these resources to our collective benefit.

In law practice, the time is certain to arise when one will want to phone a former professor for advice or to consult on a fine point of law. This type of mutual support can provide continuing vitality to our law school experience while shedding an ever more favorable light on the Law School's resources. Further, such information can be invaluable during job interviews — most of which will be coming up early this spring. We're a relatively new school, and unfortunately forced to contend with outdated employers' preferences for law school status rather than substance.

It's not uncommon to find at least one smug interviewer who'll ask, "Well, what's this Choofsta place all about anyway?" In my brief, though not necessarily star-studded experience, I've been able to change the attitude of such an interviewer from defiant pomposity to a more neutral position by praising our faculty and citing some of their significant accomplishments. I think this approach achieves beneficial results for two reasons: it immediately counters doubts as to the quality of legal thinking available for Hofstra students to draw upon; and demonstrates an interviewee's ability to cast him or herself (and school) in a favorable light. After all, employers want to impress clients, and regrettably clients are even more susceptible to pro Ivy-League prejudice than prospective employers — and the latter are hard enough for us to enlighten!

Not to be overlooked either, is the value of better information of faculty specialties to better education. It's a good learning tool to be able to follow newspaper stories and the journals concerning matters in which our faculty are involved. Plus the student has informal access to faculty members right at

school. The opportunity for out of class discussion or related research work can only increase if students are better aware of the added resources the faculty may be able to offer.

To this end, with the voluntary cooperation of the faculty, we'll seek to report in each edition some highlights of our faculty's work outside the classroom.

Professor John Regan was recently appointed Vice Chairman of the ABA committee on Legal Problems of the Elderly. In October he spoke on the "Growing Case Load of Elderly Clients and the Need for Increased Involvement of the Private Bar in Elderly Clients' Problems." Also, Prof. Regan will participate next month in the Task Force on Domestic Violence. His role there will be to develop legislative provisions to protect against abuse of the elderly.

Professor John Gregory is very active in ACLU and Bar Association groups. To list just a few: ACLU Equality Committee; New York Civil Liberties Union Board of Directors, Executive Committee and Ad Hoc Committee on Church-State Issues; and the Mayor's Committee on the Judiciary, City of New York.

Douglas Colbert, Director Criminal Law Clinic, testified on Sept. 19 at Congressional hearings on police brutality at the Harlem Armory. His letter to the editor was also published in the *New York Times* on Oct. 22 concerning the Civil Complaint Review Board. Additionally, Professor Colbert has been working with the recruitment office and attended meetings at Emory Law School, NYU and York College.

Professor Monroe Freedman provided an affidavit as an expert witness on lawyer's ethics in federal district court in Nevada, in litigation resulting from the MGM Grand Hotel fire. Also, one of Prof. Freedman's articles on lawyer's ethics was selected for inclusion in ABA, *The Litigation Manual*. He has spoken before the National Board of Directors of the American Jewish Congress, on Academic Freedom, and has also served as a member of the Special Committee of the D.C. Bar, which will make recommendations regarding the ABA's proposed Model

Continued on page 5

December Calender

MID-YEAR COMMENCEMENTS

December 21 — Graduation for all graduate students at 7:30 p.m. in the Adams Playhouse on the South Campus in Hempstead.

December 22 — Graduation for all undergraduate students at 7:30 p.m. in the Physical Fitness Center on the North Campus in Hempstead.

ART EXHIBITS

December 1 through 15 — CERAMICS SHOW AND SALE — Annual show and sale of works by Professors Donald Booth and Elizabeth Nields and their students. Calkins Gallery on the South Campus in Hempstead. 9 to 5 p.m. Call (516) 560-5474.

Through December 16 — FOURTEEN FINE ARTS FACULTY EXHIBIT — Representative works by 14 Hofstra faculty members, plus photos of the artist/teachers in their studios and statements about their philosophy of teaching and creating art. Emily Lowe Gallery, South Campus in Hempstead. Reception on December 4 from 2 to 5 p.m. No admission charge. Gallery hours are: Tuesday, 10 a.m. to 9 p.m.; Wednesday through Friday, 10 a.m. to 4:45 p.m.; Saturday and Sunday, 1 to 5 p.m. Closed Mondays. Call (516) 560-5672.

ART AUCTION

December 4 — ALUMNI ART AUCTION — Paintings, ceramics, antiques and collectibles. Previews: 11 a.m. to 1 p.m.; auction 1 to 5 p.m. No admission charge. Monroe Lecture Hall on South Campus in Hempstead. Proceeds of sale for tuition support of students. Purchases are fully tax deductible. Call (516) 560-5420.

MUSIC

December 9 — HOFSTRA CONCERT BAND — Featuring "An Outdoor Overture"

by Aaron Copland, conducted by Raymond VunKannon. Adams Playhouse on the South Campus in Hempstead. 8:30 p.m. \$4 or \$2 for Senior Citizens or non-Hofstra students. Call (516) 560-6644.

December 3 — HOFSTRA CHORUS & BRASS ENSEMBLE — Second Presidential Concert broadcast live by WRHU (88.7 FM). Playhouse at 4 p.m. on South Campus in Hempstead. Traditional seasonal music written for brass ensembles. German carols, Chanukah songs, as well as music composed by Hofstra Professors Albert Tepper and Raymond VunKannon. Chorus directed by Edgar Dittmore. Call (516) 560-5667 for tickets.

December 3 — CHINESE OPERA — "Dream of the Butterfly" — performed by Yeyn Opera Troupe. Adams Playhouse on South Campus in Hempstead. 2 p.m. Free admission. Call (516) 560-6770.

December 11 — THE HOFSTRA SINGERS — Directed by Kathleen Blixt. Holiday songs. Adams Playhouse on the South Campus in Hempstead. \$4 or \$2 for Senior Citizens and non-Hofstra students. Call (516) 560-6644.

DRAMA

Through December 4 — A MURDER HAS BEEN ARRANGED — Unusual, absorbing drama by Emlyn Williams. Directed by James VanWart. West End Theatre on South Campus in Hempstead. 8:30 p.m. except 3 p.m. on December 4. \$4 Call (516) 560-6644.

LECTURE

December 3 — DESTRUCTIVE CULTS — Discussion will center on how one becomes involved in membership, deprogramming and other aspects of cults. Speaker is Carol Giambalvo. University Club on North Campus in Hempstead. 8 p.m. No charge. Call (516) 560-6636.

Trustee Beats Hertz

Last month, a Federal Court jury in Manhattan awarded \$250,000 to Pantone, Inc., and Lawrence Herbert, its president, against Hertz Autovermietung, the German subsidiary of Hertz, the worldwide car rental company. Mr. Herbert is presently Vice-Chairman of the Hofstra Board of Trustees. The award was for the damages suffered by Mr. Herbert and Pantone, Inc., resulting from his unlawful arrest and imprisonment in Cologne, Germany, by the German police authorities in 1977. The arrest was caused by Hertz company's July 1974 request to the German police for Mr. Herbert's arrest on the ground of auto theft. After Hertz had learned that the car had been stolen by someone else and had apologized to Mr. Herbert and Pantone, Inc. for attempting to charge the company for the car's use during the theft period, they failed to notify the police accordingly.

The arrest and imprisonment, which occurred in January 1977, two and a half years after the car rental in May 1974, affected his health and ability to lead Pantone, Inc., claimed Mr. Herbert, in an important new product promotion campaign in West Germany.

The jury's verdict climaxed a six-and-a-half-year lawsuit that was originally dismissed in March 1981 by Federal District Judge Mary Johnson Lowe, who remanded it to Germany for trial on the ground that Cologne, Germany, the place of the arrest and imprisonment, and not New York, where Mr. Herbert lives, was the proper place to conduct the trial. Judge Lowe was reversed

in September 1981 by the United States Court of Appeals for the Second Circuit which said that Judge Lowe's dismissal was an abuse of discretion and ordered that the trial be held in New York. This past June, the case was reassigned and began trial before Judge Charles M. Metzner on Oct. 11. The jury deliberated less than two hours before reaching a verdict.

The recoveries, totalling a quarter of a million dollars against Hertz, are believed to be unique and the highest awards of their kind. Their uniqueness is that Mr. Herbert and Pantone, Inc., never gave up on their pursuit of their case and that they successfully resisted all attempts by Hertz and its insurance carrier to divert the case to Germany.

Mr. Herbert said, "In money and energy it cost me and Pantone, Inc., more than the amount of the jury awards, but it was worth it. I did this as a matter of principle. What happened to me is something that could happen to any businessman who rents from Hertz. I hope that this result will now force Hertz to institute procedures to protect all businessmen from the kind of nightmare of arrest and imprisonment that I went through because of Hertz's negligence. After my release from the Cologne jail, I did not hear one word from Hertz, not even an apology."

As an alumnus of Hofstra University's Class of 1951, he serves as Vice-Chairperson of the Board of Trustees and has been awarded the Estabrook Award for Career Achievement, from Hofstra University.

Cianciulli Reelected to Chair

Emil V. Cianciulli, Managing Partner of the prestigious Long Island law firm of Suozzi, English & Cianciulli, has been reelected Chairman of Hofstra University's Board of Trustees.

Mr. Cianciulli, who is 53 years old, received his Bachelor of Arts degree at Hofstra in 1952 and his law degree at Fordham University in 1957. He is former Vice President of the Great Neck Board of Education and is a Director of Trans-leisure Corporation.

Mr. Cianciulli, who lives in Flower Hill, was Vice Chairman of the Hofstra Board from 1975 to 1982. In 1972, he was recipient of the Long Island Distinguished Leadership Award from the Long Island Association of Commerce and Industry. On Nov. 17, he received the Brotherhood Award of the National Conference of Christians and Jews for "his outstanding contribution in the fields of human relations, business and civic affairs."

As an undergraduate at Hofstra, Mr. Cianciulli majored in sociology and was named to the Dean's List for scholastic achievement.

Mr. Cianciulli is a former Director of the Roosevelt Nassau Operating Corporation.

He served as President of the John L. Miller Foundation from 1972-74 and as Chairman of the Hofstra University Council from 1970-72. He is a member of the Nassau County Bar Association and a member of its Real Estate Law Committee.

Mr. Cianciulli joined the Hofstra Board of Trustees in 1972 and was elected its Secretary in 1975 and later that year became Vice Chairman. He was elected a Director of the Long Island Association of Commerce and Industry in 1978 and has served since 1977 as Attorney for the Village of Thomaston in Great Neck. He was a recipient of the George M. Estabrook Distinguished Service Award of the Hofstra University Alumni Association in 1980. The Estabrook Award is presented for service to Hofstra and for meritorious career achievement.

Hofstra's Board of Trustees has a membership of twenty-two distinguished men and women from law, business, government, community affairs, and other fields. Its meetings are attended by a faculty delegate, two representatives of the University Senate, the President of the Alumni Senate, two student delegates, and a delegate from the Hofstra Advisory Board.

TO: ALL FACULTY, STAFF AND STUDENTS
FROM: Stuart Rabinowitz, Vice Dean

Notwithstanding any prior document, bulletin or information to the contrary, please note the following academic calendar dates:

Fall 1983 Semester:

All classes end: Wednesday, December 7, 1983
Examinations: Monday, December 12, 1983 through Thursday, December 22, 1983.

January Commencement: Sunday, January 15, 1984

Trial Techniques Program: Monday, January 2, 1984 through Friday, January 13, 1984.

Spring Semester - 1984:

First Year Moot Court Program begins: Monday, January 9, 1984
Regular Classes for First-Year AND Upper Class Students begins: Monday, January 16, 1984.

No Classes: Monday, February 20, 1984

No Classes: Monday, March 26, 1984 through Friday, March 30, 1984

No Classes: Friday, April 20, 1984

Legislative Friday (Friday Schedule in effect): Tuesday, April 24, 1984

Classes end: Tuesday, May 1, 1984

Examinations: Monday, May 7, 1984 through Friday, May 18, 1984

June Commencement: Sunday, June 3, 1984

"Lawyers for the People" Symposium Held at Law School

by Eric Zucker

On Saturday, November 5, the Student Government Association of the Hofstra University School of Law, in coordination with the Hofstra Chapter of the National Lawyers Guild, hosted a Symposium entitled "Lawyers for the People." This day-long forum was designed to present the possibility of a progressive legal practice as a vital career alternative to the Big Corporate Law Firm miasma. For many of us who have been dividing our time between being cloistered up in our rooms and being sequestered away in the library, this day was a breath of fresh air.

Starting off the day was a keynote panel that discussed the need for more people's lawyers in present day America. Victor Goode, former Chairperson of the National Conference of Black Lawyers and present professor at CUNY Law School, spoke first, stressing the ability that we, as people's lawyers, will have to "help people transform oppressive political institutions into systems that are responsive to the people."

Barbara Dudley, National President of the National Lawyers Guild, added to this message by reminding the audience that as people's lawyers, we would be able to help bring about "the kind of world we really want to live in." Stating that, "we should not believe that we are incapable of changing the world," she urged the students "not to give in to despair." For those of us who may have begun to forget the very ideal that brought us to law school in the first place, these two speakers provided much needed booster shots to sorely depleted social consciences.

For those students who had not yet lost their conscience in the yellowed pages of *Shepherd's* or in the marbled halls of Wall Street firms, but feared that their idealism would not withstand the passage of time, the next speaker was an absolute inspiration. Arthur Kinoy, co-founder of the Center for

Constitutional Rights and professor at Rutgers-Newark Law School, has been involved in almost every major fight for civil rights over the past forty years. His recent book, *Rights On Trial: The Odyssey of a People's Lawyer*, tells of his role in struggles from Watergate to the Rosenbergs, and from the Montgomery Bus Boycott to the Chicago Seven. In person, he proved to be as powerful and colorful as the cases he has represented. Intoning that, "The service of people's needs is a path that is essential for all decent human beings," he asked: "How shall we save the law from the powerful and return it to the people?" Prof. Kinoy demanded that our duty as lawyers must be to, "Fight to preserve the Constitution, not the power structure!"

The series of workshops that followed provided practical guidelines to the participants on how they could convert such noble ideals into constructive action. Included in the schedule were workshops on Legal Services, Prisoner's Rights, Immigration Law, Housing/Tenant's Rights, Environmental Law, Children's Rights, Welfare Rights, Anti-Discrimination Work, Women's Rights, and Representing Labor. Representatives from various governmental agencies, Legal Aid Societies, private law firms, and unions, answered questions about their lines of work, how they got into it, and what the future held in their respective fields.

After a long day, speakers, students, and other participants chatted over wine and cheese. Based on the good turn-out and unanimously positive comments, it is hoped that Hofstra Law students will have an opportunity to see a repeat performance of this excellent program next year. One student said, as he departed, "I think that this day may have saved me. I'd forgotten that there were options available to me besides being miserable, struggling to be a partner in some New York law firm. I might be in Law School for a reason after all!"

Environmental Symposium Scheduled

In furtherance of the students' desire to hold a series of legally-oriented symposia, the Environmental Law Society and the Student Government, with the strong support of the Law School administration, will be presenting a symposium on Sat., March 17, 1984. The symposium will deal with the Legal Aspects of Hazardous Waste Disposal. The focus will be on both national and local issues.

Invited speakers include State Senator John Dunne, author of the New York "Superfund" bill, and J. Langdon Marsh, 1st Deputy Commissioner of the New York

Dept. of Environmental Conservation. We also expect experts on Long Island's groundwater supply and high-temperature incineration techniques.

As one of the more pressing issues in our society, the symposium should draw concerned citizens from the legal, industrial and academic fields through the metropolitan area.

Those with suggestions or questions can phone the symposium committee of Jane Segal, Gary Jones and Tom Simmons at 560-5007, or contact them personally at their office in 311A Roosevelt Hall.

NLO Hosts Open House

Hofstra's Neighborhood Law Office (NLO) held an open house last Thursday afternoon, giving students a chance to meet the clinicians and to find out more about the clinic. About thirty second and third-year students visited the Main Street offices for the open house.

The NLO is Hofstra's clinical program, which provides third-year law students an opportunity to practice law. NLO students represent real clients, practicing under the close supervision of the clinical faculty. In this context and through seminars, students learn interviewing, counseling, case planning, trial work and negotiation.

At the open house students had an opportunity to talk with current NLO students and faculty and to see the NLO program first hand. In one room, students could view videotapes of students reviewing their performances of lawyering tasks; in another, briefs written by third-year law students were on display.

The NLO runs programs such as those in Federal Litigation, Civil Practice, and the Advocacy for the Elderly Clinic. The NLO operates as part of a separate entity called the Community Legal Assistance Corporation and is staffed by Susan Bryant, Director of Clinical Programs, Jean Bresler, Douglas Colbert, Alice Morey and Kenneth Roths-

At the beginning of next semester, 16

students will remain at the clinic as the rest are January graduates. Prof. Bryant expects another 16 to sign up for the spring semester. Since registration is usually small, most of those students signing up for the NLO will be accepted into the program. In order to sign up students must complete the NLO form and submit it with their registration cards.

Steve Tauber, an NLO intern graduating in January, said that he got a "good feeling actually working with real clients that can't afford representation. It's not like working for someone else, like a regular law clerk." Asked why he decided to work at NLO, Mr. Tauber replied, "I wanted to do a lot of 'in-court' work. I was sent to court many times. I argued twice before an Administrative Law Judge and a Chief Law Clerk in Nassau Supreme Court for a matrimonial action."

Paul Hyams, another graduating intern, pointed out that the "supervisors here are very capable. As far as counseling us, they give you a lot of insights from their experience and a lot of time that you wouldn't get at an outside law firm."

Mr. Tauber, who came to the NLO without any litigation experience except for a course in Pre-Trial Litigation, said when he first got here, "I thought that the clinician would 'hold your hands' every step along the way—I was wrong. I had to do a client interview my first day."

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continued from page 4

Rules.

Professor Alan Resnick is up to his ears in bankruptcy related projects. He's working on a supplement to the *Bankruptcy Law Manual*, a text written by him with Benjamin Weintraub, published in 1980. He is co-author of a quarterly column entitled "From the Bankruptcy Courts" published in the *Uniform Commercial Code Law Journal*. In September, Prof. Resnick spoke at an annual

convention of U.S. Bankruptcy Judges in North Carolina, and will speak to a similar group in Phoenix during February. Not to be overlooked, however, is Prof. Resnick's reported Chairmanship of the Committee on the Welfare and Survival of the Vice Dean. He says, "We stand guard outside the Vice Dean's office to protect him against hostile members of the Law School community."

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MONEYMATTER\$: Airline Deregulation

by Dino Kallenekos

Deregulation seems to have become a trend in recent years. We have seen banking deregulation, energy deregulation, and airline deregulation. Congress passed the Airline Deregulation Act in October, 1978. The Act mandates the abolition of the Civil Aeronautics Board (C.A.B.) in 1984 and the gradual stripping of its functions. The airlines are now left to make decisions on their own for the first time in 44 years. With regard to domestic routes, an airline can now set its fares and choose its routes and schedules without consulting any government agency. In short, airlines can now operate just like ordinary businesses.

It is not quite as simple as it sounds, however. Airlines pay for their new found freedom by being left alone in the fierce battle zone of competition. Competition, after all, was the key reason for the deregulation. Theoretically, market-forces regulate business activity more efficiently than government regulation. Competition, it is said, forces airlines to offer good service at a low fare. Airlines that do not offer good service at a low fare will lose passengers to competitors. To keep fares low, airlines must learn to operate efficiently. Efficiency is socially desirable and if competition brings efficiency, then competition should be encouraged. Under free competition, those airlines that are less efficient must charge a higher fare to cover their costs, and consequently will lose passengers to competitors. This will lead to the demise of inefficient carriers and the strengthening of efficient ones. The underlying social policy for deregulation, therefore, seems to be efficiency.

But, deregulation may not be as socially desirable as theory may suggest. Airlines have (in the name of efficiency) reduced flights or cancelled service altogether on less profitable routes. Everyone wants to fly N.Y.

to Ft. Lauderdale, but who wants to serve Boise? During regulation, low traffic and unprofitable routes were subsidized. Now, if an airline cannot make money on a particular route, sound business judgment says do not operate that route. Every time a plane takes off, there are fixed costs from which the carrier must sell enough seats in order to break even. Fixed costs, such as airport fees and staff salaries, can be reduced simply by cutting flights. Where traffic is low, airlines have done just this and as a result, have inconvenienced travelers. Continental, for example, has reduced the number of U.S. cities it serves from 78 to 25.

On the flip side, many of the high traffic routes have been deluged by carriers hoping to cash in on the demand for service. This was an expected result of deregulation under the theory that supply will follow demand. What is happening is that there are so many competitors in high traffic markets that there aren't enough passengers to fill all the available seats. Many planes are flying with low load factors. That is, they are flying under capacity. To attract more passengers, airlines are forced to lower their fares. Low fares combined with low load factors significantly lowers revenue. Meanwhile, costs, such as fuel, interest rates, and labor have continued to rise.

Fuel prices started to skyrocket around the same time deregulation came into effect—1979. Interest rates, which affect airlines severely due to the need to finance airplane purchases, (a single 767 jet costs about \$50 million) also skyrocketed when deregulation came into effect. Labor cost have always been a major expense of airlines, but recently they have come under attack by airline executives. The average airline employee currently makes about \$40,000 per year with some captains making over \$100,000.

Labor costs have been a major conflict

between the airlines and their employees for some time. Demands for wage concessions have been commonplace and have been accompanied by threats of airline bankruptcy. Most recently, Continental Airlines filed for bankruptcy where it asked for the cancellation of its labor contracts. Eastern recently asked employees for 20% pay cuts and threatened Chapter 11 if it didn't get the cuts.

Many new airlines, however, have taken deregulation and have made it work for them. Airlines, such as People Express and Midway, for example, have succeeded by offering low cost service in direct competition with the large national carriers. People Express has been able to compete with older

carriers by purchasing low priced second hand aircraft from larger struggling carriers and hiring non-union employees.

Whether deregulation is good or bad is yet to be seen. We must wait until the competition weeds out all the inefficient airlines in accordance with Darwin's theory. When the industry stabilizes, then historians will look back and determine whether deregulation was a service or a disservice to our society. In the meantime, if you work for an airline, learn another skill—just in case. If you are an airline, find your niche in the market and continuously evaluate your environment. If you are a traveler, do not believe that the ticket in your hand guarantees you will get to your destination until you are on the plane.

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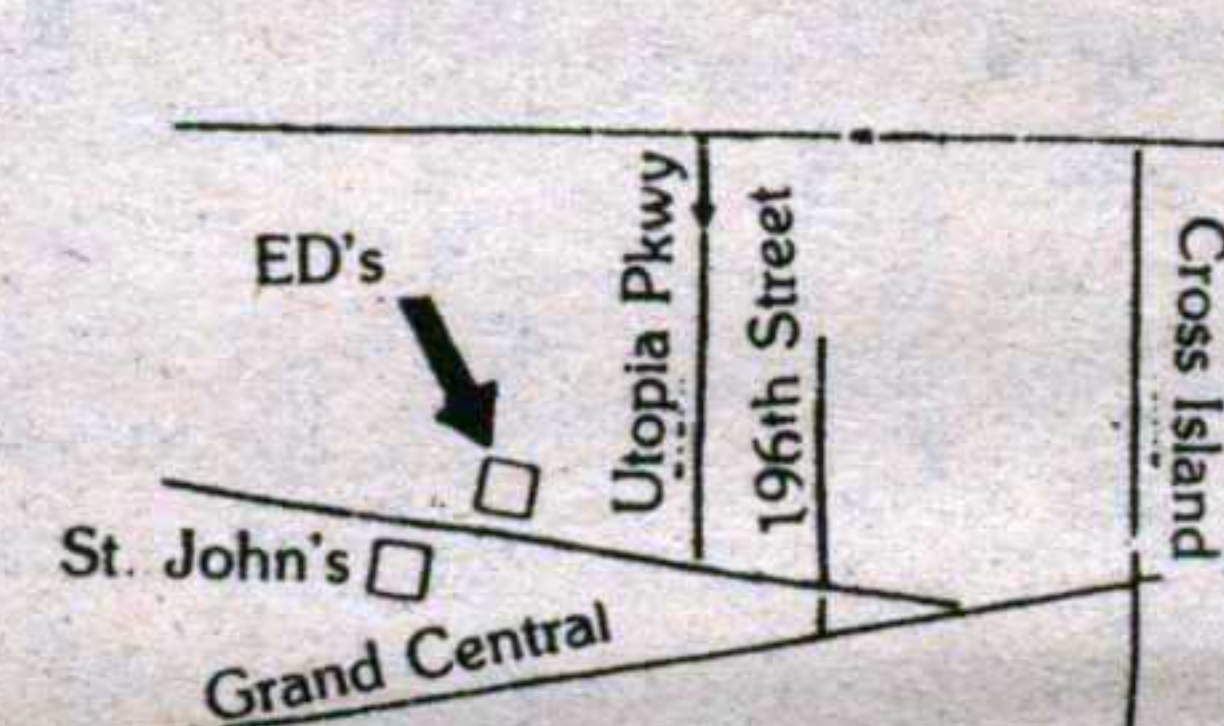
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NLG Holds Week of Seminars on Central America

by Pat Young

The United States has been engaged in an undeclared war in the Caribbean Basin area since 1979. The Reagan administration has described this covert "dirty war" as part of a world-wide campaign by our country against the spread of communism. Specifically, President Reagan has painted the popular uprisings of the peoples of Central America as an integral part of a gigantic struggle between the U.S. and the U.S.S.R. As the recent invasion of Grenada made clear, Mr. Reagan is willing to see American blood shed if that is what it takes to win the struggle.

Beginning on November 7, the Hofstra Chapter of the National Lawyers Guild held a week of seminars designed to put what is happening in Central America into perspective. A common theme in all the seminars was that the present conflicts in Central America are not an outgrowth of the Cold War between the United States and Russia. It was the conditions in the countries themselves that gave rise to the revolutionary movements.

Many Americans had not even heard of Nicaragua, Guatemala, and El Salvador until 1979. In that year, the Sandinistas overthrew the dictatorship of Anastasio Somoza. The following year media attention was focused on El Salvador and Guatemala, which were also in the throes of revolution. So, for most of us, the problems in Central America seemed to have begun suddenly and violently only a couple of years ago. President Reagan took advantage of our ignorance by depicting these indigenous revolutionary movements as being of recent origin. He described them as bands of armed terrorist infiltrators, presumably controlled by Cuba, seeking to overthrow the lawful governments of these nations and install totalitarian tyranny. According to Reagan, the prime example of this new totalitarianism is the Sandinista government in Nicaragua. Two Central America Week speakers, Kenneth Lederer and William Brisoti, dealt point by point with the misinformation about Central America issuing from the White House.

Ken Lederer, a former Peace Corps worker in Latin America, detailed the long history of U.S. domination in the region. In

the early half of this Century, for example, the hated Somoza regime was installed in Nicaragua by American Marines. His dictatorship was propped up by a military force trained, armed, and equipped by the United States. In El Salvador, Marines were used to suppress peasant insurgencies in the 1930s. More recently, in 1954, the CIA planned and aided an army coup in Guatemala that overthrew a popular civilian government. All told, the United States has intervened militarily in Latin America thirteen times since the turn of the Century. According to Lederer, this pattern of suppressing reformist governments and mass movements, often called "gun boat diplomacy," is being continued today.

Lederer also had harsh words for the media and its depiction of Central America and, in particular, Nicaragua. Turn on the T.V. any evening at seven o'clock, and you inevitably can see scary looking Sandinista soldiers parading across the screen, apparently training for their inevitable invasion of Texas. No doubt the anchor man will be



telling us about press censorship in that country or some indignity inflicted on the Mesquito Indians in eastern Nicaragua. Mr. Lederer, recently returned from Nicaragua himself, urged the members of his audience to visit that tiny nation before they accept this view. He explained that Nicaragua has a large military because it is a country under seige by the U.S.-backed Contras. Mr. Lederer did concede that there is limited press censorship in Nicaragua. He added, however, that the press is much freer in that country than it is in countries such as El Salvador, Brazil, and Guatemala, all of whose ruling regimes, the United States supports. "It is important to remember," he added, "that the Sandinistas, unlike the rulers of El Salvador, do not murder reporters with whom they disagree."

Another Central America Week workshop focused on human rights in El Salvador, a country which Reagan has certified as being "on the road to democracy." William Brisoti, a Catholic priest from Wyandanch, headed the workshop. Last year, he journeyed to El Salvador where he met with then-Ambassador Deanne and with various Catholic humanitarian aid groups. During his presentation, he related a telling story of his visit to the American embassy in San Salvador. To meet the U.S. ambassador, he had to first pass through lines of Salvadoran soldiers deployed around the embassy compound. Then, he had to go through barbed wire fences, concrete embankments, and a marine check point, before he got to the fortress-like embassy building. "This physical isolation," Father Brisoti commented, "graphically reflects the ambassador's spiritual isolation from the life of the Salvadoran people."

Michael Schnieder spoke during his workshop about the legal challenges to American intervention in the region. Mr. Schnieder is an attorney, working with the Center for Constitutional Rights in New York City on three suits brought by the Center and the National Lawyers Guild, challenging Reagan's power to pursue his present policy in El Salvador and Nicaragua.

The first case, *Crockett v. Reagan*, was filed in response to the sending of American advisors to El Salvador. The plaintiffs in the suit are twenty-nine members of Congress. They allege that when Reagan dispatched fifty-five advisors to El Salvador, he was introducing the advisors into hostilities. This should have triggered the War Powers Act

which would have required the withdrawal of the advisors within sixty days of their introduction, provided Congress does not act to affirm the President's action. *Crockett v. Reagan* was dismissed on political-question grounds. It is now on appeal.

A second case being pursued by the Center is *Sanchez v. Reagan*. It is being brought under the Alien Tort Claims Act on behalf of the families of Nicaraguans killed or wounded by the CIA-funded Contras. Thus far, the Contras have killed almost one thousand Nicaraguans. The Alien Tort Claims Act allows for recovery for torts committed in violation of international law. The case is now pending.

In the third case Mr. Schnieder talked about, *Dellums v. Smith*, the Center has achieved a victory at the District Court level. The plaintiff in this case, Congressperson Ron Dellums, is seeking to compel Attorney General William French Smith to appoint a special prosecutor to investigate charges that the training of Contras in Florida constitutes a violation of the Neutrality Act.

The last Central America Week seminar focused on the legal problems of Central American Refugees living on Long Island. There are more than 40,000 refugees from the fighting in El Salvador living illegally on Long Island, according to Jose Azar, a Guild lawyer working with refugees in Nassau and Suffolk. Mr. Azar described the many hurdles these people had to overcome to get into this country and to stay here. Perhaps, the biggest problem encountered by the refugees is the refusal of the United States to grant them political asylum so that they can stay in this country until the wars in their native lands subside. Although 50,000 Central Americans have been murdered by government security forces or death squads in El Salvador and Guatemala, the American government does not recognize that people flee those countries for other than economic reasons. Since El Salvador and Guatemala are allies of the United States, the Reagan administration finds it inexpedient to grant asylum to refugees from those countries because to do so would be an admission that the governments of those two countries are responsible for gross human rights violations, according to Mr. Azar. As a result of this callous policy, thousands of Central Americans are rounded up each month by the Immigration and Naturalization Service and are deported.



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COMMUNITY FORUM

EDITORIALS:

No Room for Apathy

One hears recurrently either about student dismay or apathy at Hofstra Law School. In fact, we believe there is no room for apathy here — it is a luxury we can't afford, and one that is undeserved if you assume that the steady stream of criticisms floating through the halls is evidence of students' belief their ideas can improve things.

Our school is undeniably a newer one. There's little doubt that that very fact means there are likely to be numerous aspects of this law school's operation in need of improvement. Yet it's also clear that in our infancy we suffer a lack of financial resources, and correspondingly of enough administrative personnel, to make even some of those changes that are presently within our grasp. (Note, however, the addition of four endowed chairs in the last two years.)

There's no need to get "Polyanna" about this, but in fact our present dilemma, if it be one, is equally an opportunity for student participation. Each of us acknowledges that need every time we too quickly find fault with a system struggling to overcome growing pains. It is not until students have lent constructive energies to help overcome smaller, even administrative, problems. That we can bring into clear focus major issues that require major full time resources to address.

A great example of a positive contribution to the overall law school's interest was the Legal Community Night held in October. There a group of students initiated a program to bring alumni back to campus to discuss professional experiences. This program can continue and expand in the future. Additionally, the Dean's office supported the program (both in person and with financial assistance), as did members of the faculty and alumni.

We must try to look beyond immediate personal concerns to the Law School's overall best interest and seek to be involved in making contributions to that end. We need growth, expansion and improvement at Hofstra Law School, but mere criticism won't hasten the coming of desired change. *Conscience* urges the student body to ask itself to work toward constructive change in 1984 in a way that can establish a new and unprecedented standard of growth and cooperation at this Law School.

The Illegality of Intervention

The United States' recent invasion of Grenada was an action which blatantly disregarded clearly established and widely recognized principles of international law.

A most fundamental value of the international community, the respect for the territorial integrity and political independence of nations, is reflected in both the United Nations Charter (Article 2(4)) and the Charter of the Organization of American States (Articles 18 and 20). The U.S. is bound by both of these treaties.

The invasion also clearly violated domestic law. Section 2(c) of the War Powers Resolution defines the limited situations in which the President is allowed to commit military forces abroad. None of the listed prerequisites existed in Grenada. Further, Section 3 of the Resolution requires the President to meet with Congress before the commitment of American troops. At the time Congressional leaders were arriving at the White House on the morning of October 26, 1983, U.S. Marines were landing on the Grenadian shores. As a *de facto* declaration of war, the unilateral act of the President was in violation of Article 1, Section 8 of the United States Constitution.

As aspiring members of the legal profession, we are shocked and disheartened by this illegitimate use of Executive power. Attempts at justification have been fatally flawed; "democracy" imposed from without and at the point of a bayonet stands in stark contrast to the true purposes of democratic self-determination.

Conscience Wishes The Hofstra Community

Happy Holidays
See You In January



LETTERS:

Kudos for Dean's Letter

To the Editor,

Dean Eric Schmertz should be highly commended for his letter to Philippine President Ferdinand Marcos. He did embody the feelings of many peace-loving Filipinos, who by U.N. statistics are one of the most literate peoples of the world. I only pray that Marcos the political genius — not the military strategist par excellence — would listen to the Dean's sensitive and caring letter.

I feel though as if I am praying for a miracle to change a man who has gotten used to absolute power and unspeakable wealth. Marcos is neither a DeGaulle who never tampered with free elections in France, nor is he a Franco who never became a millionaire as dictator of Spain. He is a master showman who could legalize anything for his own purposes. He pretends to, if he has not stopped to, listen to the real needs of his people (the majority of them want sincere and peaceful reform). Just like law without a conscience! He might end up like the Shah of Iran. As history is still being made in Manila and Marcos' health is failing, the Dean's letter — if read by Marcos himself — will not just be a small pebble into the ocean of waves for reconciliation in my country.

Francis Garbanzos
Class of 1984

(Editor's note: Mr. Garbanzos is a Filipino citizen.)

...And Again

Dear Editor:

Your concern for international issues, as evidenced by the publication of Dean Eric Schmertz' article on the Philippines, deserves commendation. I have worked with U.S. based Filipinos for many years and have come to understand the blatant and insidious methods of the Marcos' dictatorship in thwarting the quest for democracy. While Dean Schmertz' suggestion of a "national interest mediation committee" might be possible in an ideal world, dictators rarely heed such wisdom. As with Marcos, dictators suppress discussions of democratic solutions.

Since Marcos imposed martial law in 1973, his actions make clear that he is unwilling to discuss, not to mention compromise about, any changes clamored for by the Philippine people. In 1973 he arrested Senators who were writing a Philippine Constitution. He consolidated the military and intelligence networks and has consistently used this network to silence and suppress any opposition.

The dictatorial actions are not only within the Philippines, but within the U.S. A closed door Senate hearing in 1979 uncovered a "Philippine Infiltration Plan," begun in 1973, to destabilize and destroy the U.S. based

anti-Marcos movement. Freedom of Information Act requests have revealed the complicity of U.S. agencies in secret surveillance and overt acts of disruption. Both the F.B.I. and the U.S. Naval Intelligence have been part and parcel of these activities.

The murder of Aquino is perhaps the most glaring example of the futility of mediation. Aquino returned to the Philippines to discuss reconciliation and was gunned down. While Marcos continues to deny responsibility for the murder, the vast majority of Filipinos and others throughout the world have raised serious questions about Marcos' contentions.

Several days after Aquino's murder, a classified Defense Intelligence Agency document surfaced. That document names five high ranking Filipino officials who are in the U.S. to "monitor, surveil and operate against" anti-Marcos activists. The document confirms that U.S. intelligence authorities had knowledge of the Marcos plan and were complicit in it — at the very least by refusing to stop these activities.

This atmosphere of terror and destruction has been the hallmark of the Marcos regime. Rather than calling for negotiation with dictators, we should recognize that the only solution, created by Marcos himself, is total dismantling of the Marcos apparatus. The Philippine people want no less. If the people of the United States support the rule of law and democratic governments, then we, too, must require that our government act upon these principles and withdraw our support for the continuation of the Marcos dictatorial rule.

Sincerely,
Ellen Yaroshefsky
Staff Attorney

Center for Constitutional Rights

Tired of Lynaugh

To the Editor:

I have grown tired of Barbara Lynaugh's continual attacks on Hofstra Law School. It is time that the readers of *Conscience* realize that she does not speak for the majority of students here at Hofstra Law.

To date Ms. Lynaugh's single greatest contribution to the law school has been a threat to disrupt graduation ceremonies because she and her friends happened to disagree with the choice of United States Senator Alfonse D'Amato as the principle speaker. This was nothing more than an attempt to embarrass everyone associated with Hofstra Law School.

Having failed to attract popular support for her disruptive activities, and faced with a Dean who would not give in to her threats, Ms. Lynaugh has taken to using the pages of *Conscience* to castigate Dean Eric Schmertz.

In her article, "Ten Years of Hofstra's Political Conscience," Ms. Lynaugh attempts to compare Hofstra Law School today with the Hofstra Law School of the mid-1970's. Her comparison is jaundiced by her own "Alice in Wonderland" values. She refuses to acknowledge the growth that our law

Continued on next page

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

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COMMUNITY FORUM

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school has experienced since the 1970's. She is totally blind to the progress that has been made in the past year alone.

During the short time that Eric Schmertz has been dean of Hofstra Law School, we have experienced a 300 percent rise in the number of endowed chairs of law and professorships. (The only chair in existence before Eric Schmertz was Dean was brought to the law school through his efforts). The law school's endowment has grown by nearly \$1 million, a new clinical program in criminal law has been established, the Louis Lefkowitz Institute of Government and Legislative Studies is now a reality. If we look around the law school we can see improvements in the physical plant that have been paid for entirely with donated funds. New liaisons have been made with the Nassau and Suffolk legal communities to help our students attain better positions upon graduation. Under Eric Schmertz' guidance our law school is beginning to get the recognition it truly deserves. It is ironic that for all of her naysaying Ms. Lynaugh stands to benefit from the growth at Hofstra Law School as much as any of us. The students here do not want to go back to the failed ideas of the past but want to meet the future head on.

Pitting Professor Freedman against Dean Schmertz is indicative of a lack of professionalism and commitment to Hofstra Law School. If Barbara Lynaugh is so disenchanted with this law school I invite her to seek her legal education elsewhere.

Very Truly Yours,
John Ciampoli,
New York State President
Republican Law Students Association

...And Again,

To the Editor,

We found your anniversary issue most interesting and enlightening. However, we wish to assure you that we do not think any less of you for printing the latest in a continuing flow of trash from the "conscience" of the Law School, Barbara Lynaugh. We find it unbelievable that Ms. Lynaugh can equate the desire to be a productive member of society with being morally bankrupt. We wonder if Ms. Lynaugh would castigate a plumber, who makes more than an attorney anyhow, for not donating his services to HUD to insure the free flow of low income toilets. Why does it fall on an attorney to cure societal ills? This does not mean that we feel that those who choose to work for the ACLU, or various other legal services are not contributing to society. People come to law school to learn a skill. The application of this skill is multi-faceted; the direction of one's legal career is a matter of choice.

We also take issue with Ms. Lynaugh's naive and self-serving assumption that the state of the American economy is "oppressive." The current state of the American economy is better today than it has been under previous, misguided Kenyesian administrations. When President Reagan took office, the economy was in ruin. Inflation was running at 18 percent per annum, which seriously eroded at the life savings of the elderly and all others on fixed incomes. Interest rates were at 21 percent, making it impossible for people to go into business for themselves. Unemployment was also on the rise. Today, inflation is almost nonexistent, and interest rates have fallen off dramatically. While unemployment is still too high, the administration figures has set into motion a policy which will reduce long-term unemployment figures and stimulate economic growth. Moreover, the Nassau-Suffolk economy, where most Hofstra Law students will eventually practice is one of the most healthy in the nation. There is oppression only in the minds of those who cannot accept or tolerate the successes of opposing views.

Based upon the "literature" found on the NLG bulletin board, an organization to which Ms. Lynaugh belongs, it is hard to

take any of her positions seriously. We are sorry that Ms. Lynaugh does not approve of the realistic values of the student body. However, underhanded attacks upon Dean Schmertz and the school cannot possibly accomplish anything.

Sincerely,
David Katz and Michael L. Dornbaum

...And Again.

Dear Editor:

Although we have been known in the past to criticize the Hofstra administration where be believed criticism was deserved, we find that the article written by Ms. Lynaugh in the last issue of *Conscience* was off-base, self-righteous, and completely unwarranted.

What is most disturbing is Ms. Lynaugh's narrow-minded adherence to an out-dated view of "social consciousness." Apparently, she believes that her personal views of "social consciousness" are the only proper views of the matter, and that these views ought to be the prevailing views of the majority of students, though her views are held by a small minority.

Those of us who believe that many points of view ought to coexist within the law school community are taken aback by this attempt to denigrate others' views of social consciousness. One can still have a social conscience while employed in a "lucrative, corporate job." Earning a decent living does not imply that anyone's goals have been defined by a price tag.

Believe it or not, "Social Consciousness" is not equivalent to affirmative action, Ramsey Clark, and the ACLU. It is an awareness of the society's wrongs and rights, and this awareness can be present in the thoughts of liberals, conservatives, and moderates, though they may come to differing solutions to society's wrongs.

We would suggest that social consciousness must develop from within each individual, and is not garnered by the number of rallies one attends. If Ms. Lynaugh is so concerned about the school's alleged lack of social consciousness, we would suggest that she attend a school of social work, not a School of Law. General freedoms of choice and conscience should dictate how one uses one's legal education, not Ms. Lynaugh's narrow interpretation of the legal profession.

Yours truly,
Scott Manson
Tom Simmons

Lousy Lecture

To the Editor:

I would like to state that on November 2, 1983, I had the displeasure of attending the recent *Conscience*-sponsored lecture entitled, *The Invasion of Grenada: Legal and Political Aspects*. Although the lecture consisted to Professor Eric Lane (Law School Professor of International Law), Professor Michael D'Innocenzo (Professor of History on U.S. Intervention), and Professor George Jackson (Professor of History on Soviet Policy), it was to my amazement, with the exception of Professor Lane, that this "lecture" was not an informative, unemotional and intellectual lecture but more of an anti-Reagan rally which included some classic political mudslinging. Maybe I was under the wrong impression when I read the flyer and did not realize that the word "political" in the title meant the 1984 Democratic Presidential campaign rhetoric.

In analyzing this "lecture" I realize that as prospective lawyers we do seem to deal more with the facts and demand evidence to support questionable conclusions rather than rely solely on our emotion. Perhaps, then, we should forgive our two distinguished guests from the Department of History. On the other hand, all my history teachers always used solid facts to back up their conclusions while in an intellectual setting (I

guess my teachers just handled their burden of production and persuasion better than our guests did).

In analyzing the speeches of our "experts" from the Department of History, I felt that either I lost my sense of humor or maybe it was just that I believed that my intelligence was insulted. For example, Professor D'Innocenzo stated (If I may paraphrase) that "Reagan is not King yet, although trying" and "William Clark is not qualified for office but again neither is the entire administration." Was this man joking or maybe I am just a product of my legal education that demands evidence to support these rash statements. But the more the man spoke, I began to realize that how can you argue with an "expert" in U.S. Intervention that states (If I may paraphrase again) the following: 1. The employment of 6000 troops in the tiny island of Grenada means 600,000 troops in Nicaragua (Step by step, another Vietnam he warned). 2. The U.S. is to share the responsibility for the Bishop assassination. 3. In conclusion, the Reagan Administration is a disaster waiting to happen.

In summation of Professor D'Innocenzo's speech, I decided that I must have missed that logic lecture in my undergraduate philosophy courses.

Although I did not agree with Professor Jackson's speech, I felt he did give a better presentation entitled, "The Age of The Wimp." I was a little puzzled over why he would start a lecture entitled as such; but after hearing his speech, I now have a better

DEAN'S CORNER:

November 2, 1983

Dean's Corner

As *Conscience* enters its second decade, I have some observations and thoughts which I hope will be accepted constructively.

Conscience is a powerful force. It is a "window to the world" through which the world looks at and learns about the Hofstra Law School. We cannot escape being what is written about us and most especially what we write about ourselves.

A good newspaper must be independent, fearless, investigative, probing, informative and challenging to the status quo. *Conscience* has been all that — to its credit. A good newspaper must also be accurate in its stories, responsible in its views and comments, even-handed in presenting all the relevant facts and should eschew its use as a platform by unrepresentative persons or groups.

Unlike some newspapers in France, *Conscience* is not the organ of a political or social point of view, but rather the *student newspaper of the Hofstra Law School*.

I hope and am confident that *Conscience* shares these latter views as well.

Let me be blunt. The Hofstra Law School should no more be in the image of the National Lawyers Guild than in the image of the Republican party.

A reading of recent issues of *Conscience*, particularly Letters to the Editor and certain interviews, would leave the impression that some people believe that the best of times for the Hofstra Law School and the thrust of its philosophy and curriculum was and should be when it gives preference, if not exclusivity, to public interest law, social causes, and aid to the underprivileged, forgotten and oppressed. If the implication is that the present administration of the Law School is not in favor of strong activities in that direction or that that is not part of what we believe and what we are doing, I object, because it is not true.

Whether, as some think, those were the "good times" or as others think the most "counterproductive times" for the Hofstra Law School, is immaterial. Times have changed. Institutional adjustments are required to meet the present demands of our profession, the pedagogical demands of training lawyers and the diverse needs of

understanding of Professor Jackson and his title. Believing Prof. Jackson to be an "expert" in Soviet Policy, I found it remarkable how one can side-step the issues of Soviet policy in the Caribbean and their involvement in the support and exportation of terrorism and revolutionary activity throughout Central and South America, Africa, Mid-East, . . . Professor Jackson seemed to be a firm supporter of the rights of a sovereign government, yet he did not deal with the issue of how one deals with a nation that by terror and revolutionary support develops "new" sovereign governments overnight. I found it hard to believe that a Professor in Soviet policy would use that great unbiased source of expertise in international affairs, the free press of PRAVDA, in supporting his arguments. I am hoping it was done in humor but when Professor Jackson concluded that President Reagan invaded Grenada because he is extremely frustrated with not one single gain in foreign policy, whose terroristic attack into Grenada is similar to his great "B" westerns (Where the hero rides in on his white horse . . . to take action), I realized that everything Professor Jackson said should be taken in humor.

In conclusion, I realized that for the sake of argument, if the above professors of history were to testify in a federal court as an expert in the field of the Grenadian issue that under the Federal Rules of Evidence (Rule 702) they would probably have a difficult time being allowed to testify.

John G. Kavanagh
Legal Editor, *Conscience*

Dean Eric J. Schmertz

society.

I have, repeatedly expressed my views, most recently in my speeches at the last June and August commencements, in my remarks to the entering class, and in my recent column in *Conscience*. I believe a law school's mission is to train skilled lawyers of integrity, honesty and social sensitivity for *all the legitimate sectors* of our complex society and that there should be neither a presumption for nor an omission of any such sector in our training and service.

I want this Law School to be respected by a wide range of diverse societal groups and I want our students hired by all of them. I want our graduates to exert their professional influence to see to it that all these groups carry out their work in this pluralistic society, fairly, honestly, intelligently, ever mindful of due process.

That is why you have seen me select a Burstein, a D'Amato, a Wilzig and a Jensen as commencement speakers. And that diversification will continue. That is why we are committed to our clinical programs and why we will shortly establish a Distinguished Professorship in Banking Law. That is why I have brought the Carloughs, the Horvitz', and the MacDonalds into the teaching and other activities of the Law School's labor law discipline and why I selected Jerry Mehlman from J. P. Stevens to teach the Equal Employment Opportunity course. I am distressed that, unfairly and in un lawyer-like fashion, and solely because of the company he works for, at least one student has made Professor Mehlman a victim of "guilt by association," when his teaching in no way reflects the labor relations policies of that company.

That is why we continue with a traditional curriculum and with the establishment of distinguished professorships in traditional subjects, and why we recently established the Harry Rains Distinguished Professorship in Alternative Dispute Settlement Law, and the present on-going development of a course in Alternatives to Litigation.

That is why, in addition to our nationally renowned Law Review we have developed scholarly student publications in international property investment and in labor law

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COMMUNITY FORUM

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(the I.P.I.J. and Labor Law Forum respectively).

Recruitment of minority students and faculty is tremendously important to me and to the School. But to be effective it must be done professionally, respectfully and realistically. We want results, not disappointments. To treat it as a "political football" is wrong, demeaning, and demagogic.

There is presently under way by the Assistant Dean, by Balsa, by the 100 Black Men of Nassau/Suffolk, and by the Chairman and members of the Faculty Appointments Committee, more quiet recruitment of minority students and faculty than we have seen in many years. I constantly search for new sources of scholarship money for minority students. We recently re-established a faculty-student Committee on the Recruitment and Retention of Minority Students and that Committee, unprecedentedly, includes a member of the Hofstra University Board of Trustees. Also, we have obtained \$31,500 in GOP grants, represented by five fellowships, more than we have had in the history of the School.

It is absolutely right for *Conscience* to publish the Interim Report of the Ad Hoc Committee on Academic Excellence. The work of that Committee, responsive to the concerns of the faculty and students is an extraordinarily candid and honest effort at self-examination of what we are doing. I know of no more open soul searching in the history of the School. But I would like to see *Conscience*, as an ambassador of the Law School to the outside world, give equal attention to matters of which we are justly proud — our three scholarly publications; our four distinguished professorships; our outstanding annual Carrough Labor Law Conferences; our developing series of lectures by the faculty for the alumni and students; the Student Government Association sponsored symposia; the lectures sponsored by various student organizations; and the Max Schmertz Distinguished Professorship lectures. I would like to see more journalistic attention to the federal award-winning work of our Neighborhood Law Office, which now includes the newly-established clinic in criminal justice.

I would like to see attention given to our new recruitment activities, which in one year drew students from new geographical areas and our newly-established liaison for placement and professional work with the Nassau and Suffolk Bar Associations. I am concerned about the apparent under-recognition of

the efforts and effectiveness of our Placement Office. There are no quick fixes in the matter of placement. Each year, in our short 14 years of existence, more firms interview, more firms and other employers hire our graduates, and firms that never considered us before now have several Hofstra graduates in their ranks. The New York University School of Law and Cardozo Law School tried to hire away our Director of Placement because they knew what some of our own constituents apparently do not know — that he is one of the best around. Read the statistics. Over 90% of the graduating classes are placed in or find jobs within eight months of the bar examination. This year we have obtained more important clerkships with important judges than ever before. In a lifetime of a law career, after three years in a law school and considering the present economy and the relative youthfulness of the Hofstra Law School, that is a good record by any standard.

Let me provoke a little more. When I went to law school there was no such thing as a placement office. But that was not good either, and as I said, times have changed. Now, as I see it, we have a duty to help our students as much as we can to find jobs. We are accelerating our commitment in that regard. But we do not have a duty or obligation to guarantee employment. We shall assist and assist aggressively, but the primary responsibility is the student's.

Why not more articles in *Conscience* about our excellent faculty and their important outside activities in the public interest? I would have liked to have seen more reporting on Professor Kadane's study on prisons (which was highlighted in the New York Times), Professor Lane's work in our State capital (which was a front page feature in the New York Law Journal), Professor Freedman's writings and interviews on the American Bar Association's ethics debate (featured in several magazines and newspapers), and Professor Twerski's important role in the Agent Orange case, a matter of considerable attention.

And whether hot, cold or times wet one cannot take from us the proud fact that our library has over 225,000 holdings and that we are trying to begin a campaign to get it into its own new building.

In short, I respect *Conscience* and as I stated last month we would be less of a Law School without it. And I expect it, as the good publication it is, to remain dedicated to responsible, accurate and evenhanded journalism.

My Turn: Unethical Ethics Exam

by Randy Montellaro

"A lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice."

Model Rules of Professional Conduct

Historically, the legal profession as a whole been perceived by the general public, deservedly or not, as a group of individuals who are generally unethical. Whether this is true or not is only partially relevant as the legal profession should also be perceived as ethical in appearance as well as in fact.

A few years ago, NY and other states instituted a separate ethics examination (Multi-state Professional Examination) as a part of the regular bar examination in the hope of eliminating the public's unethical perception of the profession and to instill a sense of ethics and responsibility in the new attorney.

This ethics exam must be taken and passed within a two year period either before or after passing the regular Bar exam. In other words, a second or third year law student is eligible to take the exam. Many students rightfully take advantage of this fact to speed up the process of obtaining their license.

In August of this year the House of Delegates of the ABA adopted the new Model Rules of Professional Conduct which will replace the old ABA Model Code of Professional Responsibility adopted in 1969. The new Model Rules are to go into effect the first of the year.

By the time you have read this article the ethics exam will have already taken place on Nov. 18. But what will have been tested on this exam? Answer: the soon to be superseded Model Code of Professional Responsibility. Any individual who has yet to have passed the regular phase of the Bar exam (be they present law students or graduated students) should not have been allowed to sit for this ethics exam in the form it was given. Assuming, arguendo, these individuals will have passed this ethics exam they will be licensed attorneys upon passing the remaining sections of the Bar exam. This results in the anomalous situation of having attorney's who have passed the ethics exam based on the old Model Code, who may not have even read the new Model Rules which they are obliged to follow in practice.

I'm not advocating, although I could, that every attorney who had previously passed the ethics exam based on the old Model Code or became an attorney before institution of the ethics exam, to retake the exam under the new Model Rules. But shouldn't new attorneys need to know the new Model Rules and how to apply them? Yet for purposes of passing this November's exam they need not. While it is true that this exam will not contain questions that would illicit different responses under the new Model Rules, this begs the question. Individuals taking this exam needn't know how the Code was changed and what their present responsibilities are in questionable situations.

An attorney's professional responsibilities are prescribed in the Model Rules of Professional Conduct, but the attorney will not know of them unless he is later disciplined for violating its provisions. The primary purpose for the existence of the Model Rules is for the prevention of unethical behavior and shouldn't be used merely for punishing those who violate it. But how can unethical conduct be prevented if an attorney doesn't know his conduct is unethical? True, all attorneys should read the new Model Rules and familiarize themselves with it without someone having to tell them. But wasn't one of the reasons for instituting the ethics exam in

the first place to "force" each attorney to know their ethical responsibilities, because they were lax in learning them on their own. However, this justification for the ethics exam will not prevail if the old Code is tested. Furthermore, the reality of the situation is that many individuals who have passed the Nov. 1983 exam will never bother to read the new Model Rules or will give it a cursory reading at best.

Blame must ultimately be placed on those individuals who are responsible for making up the exam. Either the exam should have consisted of questions based exclusively on the new Rules or two forms of the test could have been given. One test, based on the old Code, could have been given to those individuals who have already passed the Bar exam and the other based on the new Rules, for individuals who have yet to pass the regular section of the Bar exam. The former idea certainly seems to be the more desirable alternative. However, the distinction between those individuals who have passed the Bar exam and those who have not, can be justified. The individual who has already passed the Bar exam will become a duly licensed attorney as soon as the ethics exam is passed. Therefore, their license to practice law will take effect before the new Rules go into effect in the new year. This justification does not exist for those who have yet to pass the Bar exam. These individuals, usually students, will be unable to take the Bar exam until they have graduated from law school one or two years hence. Their ethics exam should then be based on the new Rules as they will receive their license to practice law after the new Rules have gone into effect.

Of course, this is all academic as the date for the ethics exam will have passed making the above discussion seem unnecessary. Maybe so, but I present the above scenario to show that there were alternatives for this exam given during the lame-duck period in which the old code would be changed by the new. The exam consists of only 50 multiple choice questions. I find it hard to believe a new test could not have been composed between the time the Rules were adopted in August and the test date in November. At least some of the questions in the original version could have been used in the updated test, so less than 50 new questions would have been needed.

The responsibility therefore falls on those individuals who will have passed the Nov. exam to read the new Rules. Unfortunately, as I have said, I am not as confident in this occurring as I would like to be. It is not hard to figure out that many students are taking this exam instead of a later exam based on the newer Rules, because this exam is reputed to be easier than subsequent exams as it will not present questions in conflict with the new Rules. Do you blame these students? Be that as it may, for those more diligent individuals the complete Model Rules of Professional Responsibility have been reprinted in the Nov. 1983 issue of the ABA Journal. I urge everyone to read it.

There is one caveat to what I have said. While each attorney should be acutely aware of each and every provision of the new Rules, I do not want to imply that I believe the new Rules are perfect. In my opinion some provisions of the old Code are preferable to the new Rules. The old Code's provision concerning disclosure of confidential client information comes readily to mind. But as the Rules state, that while professional responsibilities are prescribed by the Rules, the attorney is also guided by personal conscience.

**Next Conscience
Deadline is:
January 25, 1984**

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JUNE GRADUATES**
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This will be a 10-week course and will meet once a week for 2 hours in the early evening. It will consist of lecture and discussion and will be a thorough treatment of the entire CPLR. Cost will be \$100/person; we need at least 50 students to make this possible.

Sign-up sheet on the *Conscience* bulletin board. For further information, see Barbara Lynaugh or leave a note on the bulletin board by the sign-up sheet.

Good Luck on Finals

COMMUNITY FORUM

Conscientious Insurgency

by Barbara Lynaugh

Oliver Wendell Holmes has instructed us that "those who would strive to greatness in the profession must immerse themselves in the agonies of their times."

In its January issue, *Conscience* will begin to examine the role of the law student as activist. A most fitting introduction to this series of articles is the following editorial written during our first year of publication. It was written by the founding Editor-in-Chief, Norman Elliot Keent, and appeared in the February 1, 1974 issue of *Conscience*. We have chosen its title as the title for this continuing series.

"When do the causes worth fighting for get fought for?"

When student revolts rocked campuses a few years ago, law schools were let relatively untouched. This is easy to understand; law and revolution have never made very congenial bedfellows. For a while though, we could see the media jumping on top of the 'new breed' lawyer—a person with a commitment to social activism. But the longevity of law student activism has equalled only the marketability of the Edsel. The question I ask today is whether silent students are hollow ones.

And the answer is a demonstrative yes. There are no more excuses. It wasn't too long ago that elderly faculty members and novice administrators were threatened by student dissidence. Those challenging moments enabled us to see the links between defoliation agents and universally chemistry departments; caused the English professors to debate the very essence of language; required that sociologists look at the rat-infested ghettos. We asked that corporations have a conscience and that businessmen assume a social obligation. But the fever pitch has become a faint decibel, and it is with a touch of irony that I note Hofstra Law's most prominent activist is its senior administrative officer, the Dean. (Freedman).

Does the name of Jeffrey Miller mean anything to you? I'm sure that Kent State does. Jeff died there on May 4, 1970, a long way from his Plainview, Long Island home. Three and a half years of embarrassing

silence have passed since that infamous date, but perhaps the reopening of the Kent State case marks the rebirth of student dissidence. I see the signs.

In Greece, courageous students recently met with Jeffrey. There, where dissent is comparable to death, students rose against Tyranny. There, where Democracy gave birth, the bullet has been the only governor. The inconsistencies are painful and mind-boggling; that the home of Socratic thought should meet with death again; that the open university is transformed into a battlefield of war; that all this is met by a silent world looking instead to a fleeting comet.

The dissatisfaction I have with law students is more acute. Many of you are my friends who share with me the love and warmth of lighter moments. But too many of you are jellyfish, poisoning your souls in a frivolous enterprise. For you of this gender, commitment is putting a band-aid on a wound that major surgery cannot mend. You are the shallow souls that thought contributions to the McGovern campaign could be measured in dollars rather than devotion. Your measure of participation probably involved one weekend trek in the New Hampshire snows. You are part of the Magic Answer syndrome that looks for solutions by turning outward instead of within. And for a few fleeting seconds, you found justification for your silence in my condemnation of legal education. No way, baby. It's really you that should be up against the wall.

The legal environment is ripe for vigorous dissidence. Ours must be the voices of protest, of leadership, or direction. The caterpillar, you know, becomes a butterfly. The tame cub becomes a roaring lion. And the small egg of an eagle one day becomes a bird soaring to great heights. When do students become men? When do the causes worth fighting for get fought for? Look carefully at the issue of *Conscience*. We've tried to touch some of those causes.

I don't know why we permit beautiful butterflies to become attractive paperweights, but I'm certain Richard Bach didn't write Jonathan Livingston Seagull for seagulls only. I'm sure the naked ape can master his environment, but I don't quite understand

why, when we put on certain clothes, we think differently.

Lying with the lamb is okay, but sometimes, my friends, you have to face the lion.

Some weeks ago a butterfly found its way through a window and into the law school library. No sooner than it had perched itself upon a desk did a student grab it. "This would really look beautiful in a glass paperweight; I have one at home just like it," he said. But then he walked to the window, all the while looking at the blue and orange butterfly. I was desperate to know his thoughts, and I got to the window sill just as he was letting the butterfly free. "What were you thinking when you said you wanted to make the butterfly into a paperweight?" I asked him.

"To tell you the truth," he responded, "I didn't think that. You see, whenever I'm studying at home, I look at the paperweight on my desk and stare straight at the butterfly. I often equate his predicament with my own; locked into a situation he just can't get out of. Sometimes I think being in law school makes me a dead butterfly. That's why it felt so good to take hold of that butterfly and let it free. I felt I was almost liberating myself."

The story says something about legal education and a frustrated human being. I believe that the demand for relevance is a demand for reality. We have at Hofstra a few noble experiments: the NLO, the ACLU, for example. We need more. And we need to do this now while we are still young—before the net falls forever.

Vital education will give birth to vital students. Anything less will perpetuate the disaster we have now.

We are lucky in America. Ours can be a constitutional revolution. If we can impeach the President, we can show the world that the United States can do civilly what other countries must do militarily. Authoritarian regimes would be shattered by the democratic and constitutional show of force. Our country would come to represent something other than an imperialistic bullet sponsored by the corporate dollar. We

would instead come to represent a People, united and strong—letting every nation know that freedom is not divisible within our borders. Power to the people would not be a countrywide dream, but a countryman's truth.

The throes of impeachment are illusory. That's why the Constitution is there. Hell, Nixonian governance has been a tenure in Constitutional preservation. Yet he remains—a small and sneaky man in a house meant for honor. Yet he remains—because silent students have forgotten their enormous strength. And there are no excuses.

Oh yes, I can put together eloquent phrases demonstrating the rule of law our misguided government has abandoned, and its nullifying effect upon us. But adversity should reinforce conviction. It is an old reality of political life that if our course remains that of apathetic acquiescence, our destiny is one of inevitable defeat. Your silence, my friends, is ugly. I want to know how students of law can so quickly forget preventative detention, legal intimidation, and electronic surveillance. I want to know how law students justify abominable Supreme Court appointments, Presidential conspiracy, and Executive defiance to federal court rulings. I want to know how men and women studying the legal profession can remain silent as the first amendment is assaulted, as legal aid programs are abandoned, and as Presidential privilege becomes a guise for Nixonian vice. I want to know how the man who was such a shrew in the Senate can become a God in the White House.

The dissatisfaction I have with legal education is persuasive and just. The reasons are not extraterrestrial. Law school has stunted my growth. Effective learning involves risk and experimentation, but law seems to involve a plane of study so lacking in creativity, development, and growth that even the Chief Justice of the United States has decried its efficacy and called for reform. (I don't want to shock first year students, but Chief Justice Burger would like you to know that all cases do not begin on the Appellate level.)

An Analysis of Terrorism

by John Kavanagh

Recently, the United States and France suffered tremendous losses in Lebanon due to acts of terrorism. On an early Sunday morning in October, the peace-keeping forces of the United States and France had awakened, not to the sound of reveille, but to the thunderous and earthshaking detonation of a terrorist truck full of explosives being driven Kamikazi-like into the military compound of these peace-keeping forces. When the rubble settled and the terrifying cries of the soldiers had silenced, the words of the terrorist group, the *Islamic Holy War*, were written in blood.

The *Islamic Holy War* is another of the many groups of terrorists who vow to destroy the "imperialist" United States and its allies. Although they pledge their allegiance to the Ayatollah Khomeini, they preach the often cited terrorist message of "Death to the United States." The murder of these peace-keeping soldiers was their terrorist means to force the United States and its allies out of the Middle East. Before the United States or its citizens succumb to these acts of terrorism and alter foreign or domestic policies, an analysis of terrorism is in order.

To simplify matters, terrorism can be

defined as a weapon of crime or political ambition where violence is used and publicized in order to create fear. Terrorism is war, a physical and psychological war in which the terrorist claims for itself a global battleground. The terrorist strategy can best be viewed in Clausewitz' famous maxim, "war is a continuation of politics by other means." Empowered with an understanding of modern selective warfare, terrorists seek to weaken governments by attacking the often thin bonds between the governed and the government by implementing fear through violence in the hope that the scared public will force the government into conceding to the terrorist. This can be accomplished by concession, by the ultimate terrorist goal of causing the collapse of a government due to that government's inability to handle the terrorist, or by government overreaction to the situation by implementing harsh rules which alienate the government's popular support.

Terrorists gain their important leverage by attacking the vulnerable physical and institutional aspects of society, and then they seek to spread this fear by magnifying their exploits through massive media coverage. Not only is the mass media essential to the publicity of the group and its cause, but these terrorist acts that receive the mass media attention are often planned to convince the

uncommitted to withdraw their support. The *Islamic Holy War*, by attacking the peace-keeping military institutions in Lebanon, not only achieved its goal of the physical damage to the U.S. and French troops, but created the greater psychological terror that a heavily armed military force is unable to protect itself from a group's terrorist activities.

Although the Kamikazi technique of the *Islamic Holy War* was effective, it was crude in an age where the terrorist arsenal has reached high technological ability for mass destruction. Besides the possession of modern conventional military arms, the evidence indicates that certain terrorist groups also have the ability to wage in nuclear, biological, and chemical warfare. The list of nations that are now involved in arming and supporting terrorism includes the Soviet Union, China, Libya, and Cuba. In a world in which the terrorist has now taken up weapons of mass destruction, the effectiveness of which can only be measured in terms of megadeaths and the ability to paralyze entire cities, if not nations, the target governments must be able to foresee and effectively combat such a crisis.

ACKNOWLEDGMENT: This brief essay was inspired by the classroom lectures, works, and wisdom of Professor Richard C. Clark of St. John's University.

Alternate Dispute Competition

The New York-based Center for Public Resources is sponsoring its first national awards program to recognize outstanding examples of alternative dispute resolution, dispute prevention or litigation management. The competition, open until December 31, 1983, consists of two categories. Cash prizes totaling \$9000 will be offered to academicians, professionals and students for original scholarship on alternative dispute resolution. Special awards also will be presented to corporations, law firms, bar associations or individuals, for successful application of alternatives to litigation. For information on how to submit entries, contact Anne Glauber at (212) 541-9830.

*Greetings on
Thanksgiving*

From The
Conscience Staff

COMMUNITY FORUM

Grenada Roundtable

"An Undermined Success"

by Eric Levine

The invasion of Grenada is consistent with the administration's goal of replacing the failed defensive oriented policy of containment over the past three decades, with a more efficacious and realistic policy vis-a-vis the Soviet Union and its regional allies. Giving the Soviets notice that they no longer have a monopoly on the use of military force will encourage Moscow to rely more on negotiations and diplomacy and less on armed struggle. It will also send a reassuring message to our allies that the political and military malaise that has paralyzed America since Vietnam, and which was exacerbated by the fiasco in Iran, is over. This may help instill sufficient confidence in allies like Israel and Jordan to risk opening diplomatic ties and further the cause of peace.

Critics of the invasion have been quick to point out that the international community has condemned the American action. Jeane Kirkpatrick has claimed that what has been said publicly and privately are inconsistent. This diplomatic schizophrenia is not an uncommon practice in forums like the United Nations which seem more interested in having a cause than solving a problem. This is the same organization that did not allow debate on the American invasion or question the presence of the Soviets, Cubans, East Germans and Bulgarians on the island.

The criticism leveled against the invasion that it is indistinguishable from the Soviet's invasion of Afghanistan is pure folly. The Soviet attack in no way forwarded the cause of peace, but succeeded in increasing East-West tension. Neither the Soviet Union nor any of the Southwest Asian States was threatened by the Afghan government. Admittedly, the security of the United States was not directly threatened, but our regional allies, who for the most part are without standing armies, were fearful of the potential Grenadian threat. The persistence of the Afghan rebels demonstrates the unpopularity of the Soviet presence. The American press has reported that almost all Grenadian nationals see the American action as a liberation.

Although a foreign policy success, the Grenada operation has been tainted by its complete public relation failure. The ad-

ministrations official justification for the invasion and its handling of the press has succeeded in fueling the cynicism of those opposed to the President on principle and embarrassing those who would otherwise have given their unflagging support.

The President seems to have misjudged the mood of the country. People, hungry for a military victory, seem to want to support the action. Because the administration's motivation seems clear, it would appear counter-productive to claim the rescue attempt as the main reason for the mission. The fact that American citizens may have been in danger, and with the Iranian hostage crisis fresh in our minds, merely added a degree of urgency to the mission. Had President Reagan explained the real purpose for the attack, the debate would have focused on the merits of the invasion rather than on the possible deception and underhandedness of Ronald Reagan.

The most troublesome aspect of the President's handling of the crisis, has been his policy concerning the press. American policy-makers have misread the recent experiences of the Falklands and Lebanon. In the former there was a tight leash on the media and in the latter almost complete freedom. Israel's image was tainted during the Lebanese invasion not by the relatively objective American newspapers, but by the television news media. Such news coverage distorts and sensationalizes a story. It naturally appeals to the irrational, visceral feelings of people, rather than to the rational objective viewpoint which is the perspective required to formulate a responsible opinion.

President Reagan should have allowed newspaper coverage of the invasion on the first day while limiting the television news media. That is the lesson to be learned from Prime Minister Thatcher and the Falklands war. In that way potential distortions would have been limited while allowing the American people to read the press' perspective. The invasion would have enjoyed a greater degree of support. Instead the public is left with an otherwise well conceived foreign policy initiative which has been undermined by the very people who had hoped to rally America.

"The Futility of Containment"

by Dennis Warren

Before the U.S. invaded Grenada, few Americans had heard of this tiny eastern Caribbean island washed by turquoise waters and pearly-white sands. Today Grenada has become a household word, but not for its tropical splendor.

After a brief but intense struggle to shake the decrepit legacy of slavery and British colonialism, the "Isle of Spice," has been reduced to a mere pawn in the superpower strife for geopolitical hegemony in the Caribbean.

Through its recent actions in Grenada, the U.S. has made one thing unequivocally clear: that it will not hesitate to employ force to maintain the status quo within Latin America and the Caribbean. The invasion may have also bolstered the confidence of Americans in their country's ability to win a war, even if the adversary is a 133-square-mile island with a population of 110,000.

But whether force will lead to realization of strategic U.S. foreign policy goals, or stem the burgeoning tide of communism purportedly threatening to overwhelm Latin America and the Caribbean, remains to be seen.

The past is replete with glaring examples of U.S. intervention in the Caribbean and Latin America similar to that in Grenada. Invariably, the use of force has been rationalized by past administrations as being necessary either to rebuff the communist ogre from the region, or to preserve U.S. vital interests.

A vital interest is presumably one for which the U.S. is willing to fight. Thus, in 1914, the U.S. occupied the Port of Veracruz, Mexico, to gain respect for the American flag. In 1916, the U.S. fought to ensure that customs taxes would be collected in the Dominican Republic. U.S. troops also died in 1922 to ensure free elections in Nicaragua.

U.S. Marines intervened in Haiti in 1915, overthrew Arbenz in Guatemala in 1954, and crushed a fledgling socialist government in Santo Domingo in 1965. But intervention has hardly helped to curb the growing Marxist influence in the area, for over the years, the states within the region have increasingly opted for a non-capitalist path of development guided by the dialectical approach.

After the invasion of Santo Domingo, Johnson promulgated his famous doctrine stating that the U.S. would employ whatever is necessary to "nip in the bud" the development of another Cuba. This was a resurrection of the Monroe Doctrine of 1823 which was opposed to the extension of outside political, ideological, or economic systems within the U.S. sphere of influence.

Today, Reagan's actions in Grenada is an ostensible reiteration of the former Johnson and Monroe Doctrines. Cuba, Castro, Communism — these essentially have been used to justify U.S. intervention in Grenada.

But it is indeed tragic that 160 years after the Monroe Doctrine, and 18 years since the U.S. last intervened in the region, Reagan

has decided to once again espouse gunboat diplomacy as a solution to political problems in the Caribbean.

This reflects a myopic, if not simplistic, approach to regional problems, and undermines the notion of independence and respect for the principles of non-intervention and sovereignty within the Caribbean and Latin America. Besides, it also ignores the tide of historical experience to the contrary.

Historically, containment has proved incapable of resolving the grave socio-economic problems confronting the region and has impeded rather than enhanced diplomacy between these countries and the United States.

Containment as a tactical maneuver is in itself admission of weakness. When a state resorts to force, it is a de facto admission of failure in its diplomatic initiative. Furthermore, in the past, containment has only managed to fulfill short term objectives.

Thus, in Iran, in Cuba, in Vietnam, where the U.S. employed force to contain the political status quo within its favor, such force was eventually rejected. Today stern dictatorships govern these countries, and hostility towards the United States and capitalism runs high.

The U.S. policy towards the Caribbean and Latin America has been severely handicapped by its failure to recognize and to effectively address the root-cause of political unrest within the region — adverse economic and social conditions which has given rise to squalor and dehumanization among these nation-states.

It is self-delusion to persistently blame the Soviets and Cuba for the social unrest in the region, and those countries which have chosen a socialist path — Cuba, Nicaragua, Surinam, Guyana — have not done so out of any affinity for communism. The U.S. and developed Western capitalist states have simply left them no option.

U.S. multi-national corporations have reaped abundant profits from the region over the years, and have been reluctant to reinvest profits for the economic development.

On the other hand, the International Monetary Fund (IMF) and the World Bank (IBRD), the so-called multilateral agencies dominated by the United States, have laid down such stringent policies for aid to poor states, so as to bridle national development.

U.S. strategic goals of security and stability can only be met in Latin America and the Caribbean when its foreign policy begins to address concretely the multiple problems of hunger, decrepit housing, inadequate infrastructure and sub-standard health care within the impoverished countries of the region.

Hence, the much applauded U.S. victory in Grenada may well be a pyrrhic one, unless the present politics of containment can be quickly translated into meaningful economic development for the poor people of the island. Any measure short of this leaves the door open for protracted insurgency and political unrest on the island.



Michael D'Ignocenzo



George Jackson



Eric Lane

Approximately 125 students and faculty members attended a forum on Grenada, sponsored by CONSCIENCE in the Moot Courtroom last month.

Good Luck on Finals

See You In January

Legal Briefs...

Busy Court Frowns on Death Penalty Appeals

by Brendan F. Gallagher

On November 14, the Supreme Court turned down appeals from six men on death row, including an Arizona man who asked that he be sentenced to life without parole rather than face execution. This new angrier mood is a manifestation of the Court's impatience with death penalty appeals, an impatience which has been growing for several years.

It is clear that a majority of the Court is determined to shorten the time between death sentence and execution. The majority, composed of Chief Justice Burger, and Justices Rehnquist, White, Powell and O'Connor, views the lower courts as too willing to allow death penalty appeals to drag on, and too susceptible to the stumbling blocks of creative lawyers. This seemingly harsh point of view is not embraced by the other members of the Court, however, and the approach of the majority has provoked increasingly bitter dissent from a coalition of Justices Brennan and Marshall, who believe the death penalty is always unconstitutional, and Blackmun, who, while not holding that opinion, questions the majority's rush to judgment. On occasion, Justice Stevens gives the dissenters a fourth vote but they have little, if any, chance of getting a fifth.

The disagreement between Justices on death penalty appeals represents more than the usual rift on constitutional issues. The debate is now over the Court's self-assumed role as disciplinarian of the lower Federal courts. The intricacies of this new split raise questions about the Court's ability to manage the coming flood of death penalty appeals in an orderly fashion. At present, there are a record 1,272 inmates on death row, (250 more than last year) and dozens are approaching the final stages of Federal appellate review.

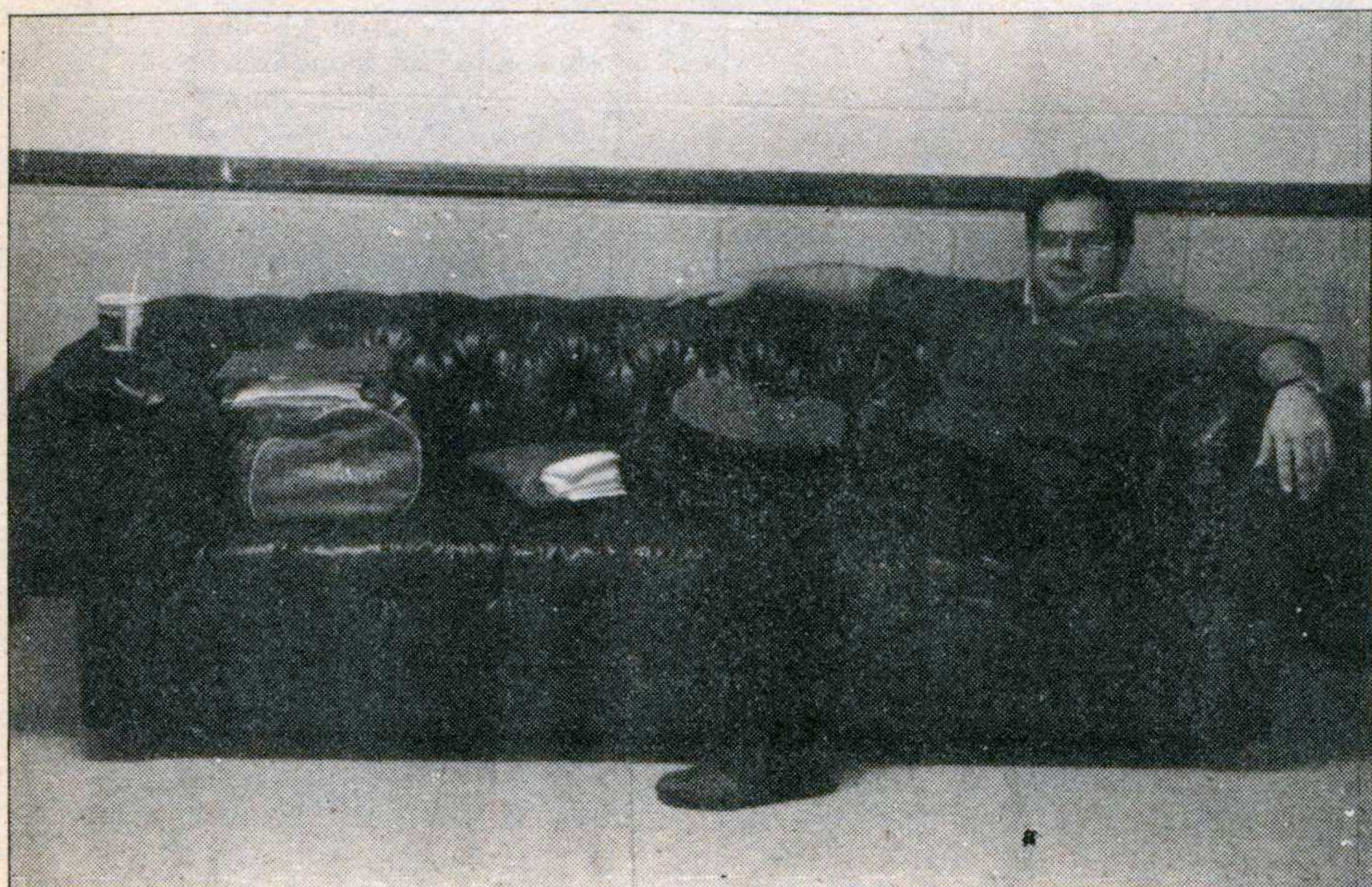
The ominous result of the Court's effort to rewrite the rules of death penalty appeals has been unpredictability—something the Court's capital punishment opinions have always warned the states to avoid. Death row inmates, their lawyers and lower court judges, no longer know what to expect. One of the best examples of the situation involves a Louisiana murder case.

During the week of November 11, the Court voted 6 to 3 to overturn a stay of execution that a Federal appeals court had

granted to the defendant. The appeals court granted the stay explicitly because the condemned man's appeal contained an issue similar to one in a California case on which the Court was about to hear arguments. This seems logical but, the appeals court had even more justification for this action. Just two weeks earlier, Justice White granted a stay to a Texas inmate, James Autry, simply because the eventual California decision could determine the merits of the Autry appeal. The Texas and Louisiana cases both challenged the failure of the state's highest court to assure that their death sentences were proportional to others handed down in the state. The California case would decide what kind of "proportionality review," if any, the Constitution required. While Mr. Autry and the California defendant received no such review, the Louisiana defendant did receive a version of it. His sentence was compared with others in one of 40 Louisiana districts. The majority found that sufficient, and freed Louisiana to execute the inmate, while the California case remained undecided. This rather incongruous move prompted a bitter dissent from Justice Brennan who wrote that an execution "prior to that decision belies our boast to be a civilized society."

The Court didn't stop there. In addition, they used the Autry case to announce another new rule. Under a new approach, the Court will stay an execution only if it concludes that the applicant's formal appeal, even if not yet filed, is likely to be worthy of a full Supreme Court Hearing. The Court also implemented a new approach in *Barefoot v. Estelle*, (5-4). The Court permitted the Federal appeals court to condense into one expedited proceeding, a hearing on a stay of execution and on the merits of a death penalty appeal. The close *Barefoot* decision was also hard to explain. The Court stayed the execution of Barefoot in order to examine the validity of the new "expedited proceedings" one month after allowing Texas to execute Charles Brooks Jr., who had challenged just such an expedited procedure!

A decade ago, the Supreme Court warned the states that the death penalty was not to be imposed in an arbitrary manner. Ironically, many critics of the Court are now wondering if there isn't something inherently arbitrary in many of the Court's own decisions.



Couched in Glory: Jordan Fox sits on new endowed sofa (real Corinthian leather, easy credit terms available).

The War Powers Act

by John G. Kavanagh

With recent U.S. military intervention in Lebanon and Grenada, Congress has again threatened to implement the "infamous" War Powers Act. To understand what this controversial piece of legislation curtails, one must go back to its historical roots.

After the signing of the Vietnam peace settlement in January of 1973, the U.S. under President Nixon continued its military involvement in Cambodia to the dismay and outrage of Congress. After a political compromise was reached between Congress and President Nixon calling for the cut-off of all military activities in Indochina by August 15, the often unstable and stormy relationship between President Nixon and the Legislature remained in effect due to Watergate. At this moment, Congress seized upon the opportunity to wrestle back a greater control in influencing U.S. foreign policy by gaining some control of presidential war powers.

In October of 1973 a more confident and assertive Congress approved legislation H J Res 542 (PL 93-148) limiting the President's power to commit U.S. forces abroad without congressional approval. As foreseen by Congress, President Nixon vetoed the War Powers Act and in his veto message to Congress, President Nixon called the resolution "dangerous and unconstitutional." On Nov. 7, 1973, history was made as President Nixon was dealt a serious blow when Congress voted to override the presidential veto by four votes over the Constitutional requirement of two-thirds majority (284-135), the Senate placed the War Powers Act into the books with a 75-18 vote (13 votes over the more than 2/3's majority).

The provisions of the War Powers Act as enacted into law reads as follows:

As enacted into law, H J Res 542 (PL 93-148):

- Stated that the President could commit U.S. armed forces to hostilities or situations where hostilities might be imminent only pursuant to 1) a declaration of war, 2) specific statutory authorization or 3) a national emergency created by an attack upon the United States, its territories or possessions, or its armed forces.

- Urged the President "in every possible instance" to consult with Congress before committing U.S. forces to hostilities or to situations where hostilities might be imminent, and to consult Congress regularly after such a commitment.

- Required the President to report in writing within 48 hours to the Speaker of the House and President Pro Tempore of the Senate on any commitment or substantial enlargement of U.S. combat forces abroad, except for deployments related solely to supply, replacement, repair or training; required supplementary reports at least every six months while such forces were being engaged.

- Authorized the Speaker of the House and the President Pro Tempore of the Senate to reconvene Congress if it was not in session to consider the President's report.

- Required the termination of a troop commitment within 60 days after the President's initial report was submitted, unless Congress declared war, specifically authoriz-

ed continuation of the commitment, or was physically unable to convene as a result of an armed attack upon the United States; allowed the 60-day period to be extended for up to 30 days if the President determined and certified to Congress that unavoidable military necessity respecting the safety of U.S. forces required their continued use in bringing about a prompt disengagement.

- Allowed Congress, at any time U.S. forces were engaged in hostilities without a declaration of war or specific congressional authorization, by concurrent resolution to direct the President to disengage such troops.

- Set up congressional priority procedures for consideration of any resolution or bill introduced pursuant to the provisions of the resolution.

With the enactment of the War Powers Act, the traditional Constitutional arguments concerning the separation of powers and which branch has the power to make war were revived. The Constitutional validity of H J Res 542 (PL 93-148) was also brought into question. The argument supporting the Executive branch arose out of Article II, section 2 of the U.S. Constitution which clearly stated that the President was "Commander in Chief of the Army and Navy of the United States." But since its conception, the President has had wide authority to engage the forces into action. During the 19th century, the President had greater authority to commit the armed forces for limited action such as the protection of American lives and property abroad and the suppression of piracy. By World War II, the U.S. had arisen to world power and the President became the undisputed leader of American foreign policy, thus assuming greater authority to commit U.S. forces to fighting. After World War II, the U.S. Presidents had implemented U.S. forces in Korea and Vietnam without declarations of war by Congress.

But as the need for U.S. involvement in foreign affairs increased and the ability of the President to sidestep the Constitutional Congressional declaration of war in committing U.S. forces to "war," Congress felt the necessity to enact the War Powers Act. The argument supporting the Legislative branch to wage war comes under U.S. Constitutional Article I, section 8, which states that Congress was given the power to "declare War," "raise and support Armies" and "To make all Laws which shall be necessary and proper..."

In conclusion, although Congress has won the battle by gaining in theory a broader control of presidential war powers and an effort to reassert its role in the shaping of U.S. foreign policy, the war is far from being won. In practice, for the War Powers Act to be successfully implemented, Congress is going to need a very supportive populace. If Congress ever implements the War Powers Act which is met by a President who refuses to comply with the act, Congress is left with the precarious situation of deciding whether to cut off the funds supporting the troops, an act that could be very risky both politically and morally.

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Staff Profile: Copying Cohorts

by Winnie Gilmore

Most of us know Fred, Bob and Bernice of the Duplicating Center, but few of us really know them. Fred Johnson, the man in charge, will have worked at the Law School for two years in January. In addition to his full-time job here, Fred is going for a Business Marketing Degree and will graduate from Hofstra in 1986. He plans to eventually get his M.B.A. Bob Cerro has been working full-time with Fred for half a year. He'll be graduating from Hofstra in 1985 with a Political Science Degree and he sees law school as a possibility. Bernice Wiggins is a full-time undergraduate (Junior) working part-time with Bob and Fred. She's majoring in Elementary Education and French and wants to be teacher. The three seem to share a remarkable rapport; as Fred puts it, they work together like a "well tuned machine." (Xerox lingo?)

Copying is not necessarily fun work. Fred describes it as "a long tedious job" which requires "dedication." You have to have a feel for timing. During rush periods (the beginning and end of the semester) certain decisions have to be made as to what must get done first, what work has priority.

As far as the Law School Community is concerned, professors and administration cooperate fairly well with the people in the copy room. It is only a couple of obnoxious students, who happen to be on journals, that give the copy team any trouble. Pushy, aggressive behavior only serves to slow down the xeroxing process.

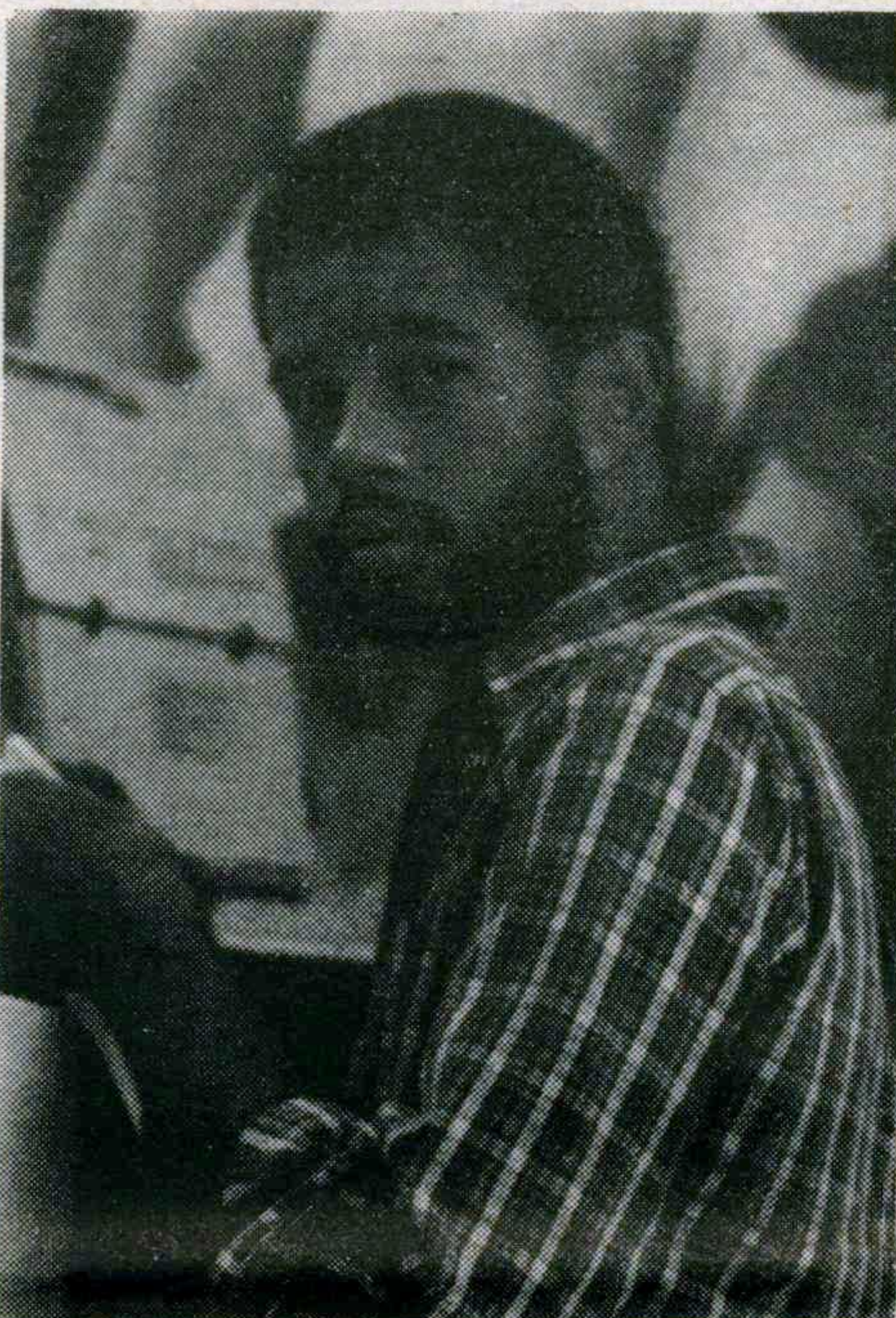
The duplicating center is supposed to be open after 5 PM to the Editors-in-Chief of the Law School Journals. Because the machines were not properly used and hence broke down frequently, these privileges had to be revoked. Privileges will probably be reinstated after journal members

have assured Fred that they will operate machines with more care.

Fred, who estimates the cost of the large xerox machine at around \$100,000 and the smaller ones at around \$4,000 each, is very protective toward the machines. Both he and Bob have taken classes on the basic care, maintenance and use of the machines.

Copying is not the only job done by the team. They are also in charge of the Law School's video equipment and will do the video taping for NITA and trial techniques.

Fred, Bob and Bernice are nice people who, besides working hard, are a lot of fun to be around.



Faculty Achievements

William R. Ginsberg, Professor of Law, has been appointed a Contributing Editor and member of the Editorial Board of *New York Affairs*, a journal published under the aegis of the Urban Research Center of NYU. Professor Ginsberg was also the keynote speaker at the week-long Outdoor Symposium on the Environment in early October. Recently, he chaired a panel on "Recent Developments in Land Use and Environmental Law" at a meeting of the Environmental Law Section of the New York State Bar Association and spoke on the subject of "Conservation Easements and Tax Consequences."

John J. Regan, Professor of Law has just published a chapter on "Legal Concerns of the Cancer Patient" in the book "Supportive Care of the Cancer Patient," published in 1983 by Futura Publishing Co.

Eric J. Schmertz, Dean of the Law School, delivered the dinner address to the Industrial Relations Research Association of Nassau and Suffolk Counties recently. The address was entitled "Expanded Use of Neutrals in Collective Bargaining." Dean Schmertz also spoke at the Long Island Mid-Suffolk Business Action recently on "Hofstra—a National Law School." On October 6, Dean Schmertz spoke at the annual convention of the Society of Professionals in Dispute Resolution in Philadelphia. His topic was "Alternatives to Big Case Litigation: The Transferability of Dispute Resolution Techniques."

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A PRIMER FOR SPOTTING ISSUES ON

by Professor John Delaney

Introduction

Issue-spotting on law exams is like the weather. Everyone talks about it but no one does anything about it. While everyone agrees on the importance of the issue-spotting skill, there is, nevertheless, little systematic unravelling of the specific steps necessary to apply the skill on exams.

The locus of issue-spotting is the classic, multi-issue exam problem: A dense fact pattern extending for one, two, or more, pages at the end of which you are asked, quite typically, to "identify and resolve all relevant legal issues." There may be anywhere from five to ten or more issues in these multi-issue problems. The time allotted may be as little as fifty or sixty minutes.

What Is A Legal Issue?

Issue-spotting presupposes that you clearly understand what a legal issue is. A simple definition is that a legal issue is a question posed by certain facts about a particular legal liability or a defense to such liability. More concretely, a legal issue poses a question about liability arising from a cause-of-action rooted in tort, contract, criminal law, etc., or a question about a defense to such a cause-of-action.

It is important to appreciate that issues about liability arise from facts. Issues are not abstract. Indeed, it is a legal maxim that "out of the facts, the issue arises" and without facts there is no issue. You must, therefore, begin your search for issues by scrutinizing the facts in your professor's exam problem.

To illustrate: is there a legal issue raised by the facts that A stared at B on the street? The first requirement is satisfied — there are facts — but you have not satisfied the second requirement — these facts do **not** pose a question about legal liability. The reason is simple. No cause of action claiming liability of A in tort or criminal law, or elsewhere, arises from the fact that A stared at B. Stated differently, no legal right of B (and no legal rule) is violated by the fact that A stared at B. Distinguish legal liability from violations of etiquette, custom, or morality. There may be an Emily Post violation of etiquette: A may have been rude to B. Rudeness, however, is different from legal liability.

If, in contrast, the facts specify that A stared at B and then rushed at B waving a threatening fist in B's face, these different facts pose a question about A's liability to B for the intentional tort of assault. As lawyers, we are concerned with A's intentional and unprivileged infliction of an apprehension of a harmful touching on B — the tort of assault. (Criminal liability is omitted.) The issue here might be formulated as follows: Is A liable to B for assault when A rushes at B waving a threatening fist in B's face?

With a clear understanding of what a legal issue is, you can concentrate on my method for spotting issues.

PART ONE

The Delaney Method For Issue-Spotting

I specify below a systematic, five-step approach for identifying issues. I list an introductory check, set forth each of these five steps and then explain and illustrate.

FIVE STEPS

Check for "Light-bulb" issue-spotting

1. Identify the harm(s) in each paragraph
2. Identify who has harmed whom and how
3. Identify which topic(s) of the subject seems applicable to each harm and behavior
4. Hypothesize which rule(s) seems most applicable
5. Verify hypothesis

INTRODUCTION TO FIVE STEPS

Check For "Light-bulb" issue-spotting

Happily, when you carefully read the exam problem, certain facts will switch on in your mind a light-bulb type of issue recognition. You almost immediately, without elaborate thinking and without applying the five steps, identify the issue(s) raised by the facts. Why? The reason is that you have seen and heard comparable facts — in your cases, in classroom and study-group hypotheticals, and in relevant sections of the hornbook.

You therefore know that these particular facts raise a question about legal liability.

Suppose, for example, in a criminal law exam problem, you read that A shot his rifle into a crowded gondola transporting skiers up the mountain and killed X, a skier. A was doing his best to avoid hitting the skiers. You might immediately recognize that these facts are similar to illustrative, model examples of extreme recklessness murder — e.g., shooting into an occupied car or house or shooting into a crowd. You could quickly formulate the issue on scrap paper where you are outlining your answer:

Is A liable f/extr. reck. murd. f/shoot. in- to a crowded ski gondola and kill. X?

Suppose for example, in a torts exam, you read that A silently approaches B from behind and punches B on the back of his head? You might immediately recognize the obvious, model example of the intentional tort of battery, which is the intentional and unprivileged infliction of a harmful or offensive touching of another. You might in seconds formulate the issue on your scrap paper:

Is A, by strik. B in the head, liab. to B f/battery?

If you have practiced a fact-centered approach in your studying, you might pause on the facts of "A silently approaching B from behind" and punching B on the "back of his head." You might quickly recall that while assault and battery go together like "ham and eggs," there are exceptions — and these facts illustrate an exception you have seen before in studying assault and battery. In seconds, you might recall that an assault in torts is the intentional and unprivileged infliction of an apprehension of an imminent battery — it requires awareness by the victim. On these facts, B is unaware. This less obvious issue could be spelled out:

Is A liab. to B f/assault when he silent. punch. B from behind?

With careful, fact-centered studying, reviewing and outlining of your courses, this type of almost spontaneous issue-spotting followed by verification (see step five below) may enable you to spot a fair number of the issues raised by the fact pattern. It is a blunder, however, to rely on this type of issue-spotting.

Using the five-step approach, you must also meticulously study the entire fact pattern for the hidden issues which lurk therein. What follows in Part One is an explanation of this five-step process for extricating these hidden issues. It should be applied systematically to each paragraph in your professor's exam problem. After first scanning and then carefully reading the entire problem at least twice, you begin with the first paragraph.

1. Identify exactly the harm(s) revealed in each paragraph.

You should begin by concentrating on the first paragraph to identify the harm(s) revealed therein. Harm is used in its popular, everyday sense. For example, in a criminal law exam, a killing. In a torts exam, a personal injury from a car collision. In a contracts exam, a seller of goods is not paid. In a property exam, someone intruding on the land of another. Identifying the harm(s) is the first step in identifying and specifying the issue(s).

2. Identify who has harmed whom and how.

You next scrutinize the harm(s) in a paragraph to identify who has harmed whom and how. These are, first, the parties to the harm and, second, the behavior(s) which produced the harm(s). Illustrations follow. First, as to parties, in criminal law, A shot and killed B. The parties are A and B. In torts, A, driver, hit and injured C in a car collision. The parties are A and C. In contracts, S (seller) is not paid by B (buyer). The parties are S and B. In property, A against B's wishes, intrudes on B's land. The parties are A and B.

Second, as to harm and harm-producing behavior, in criminal law, when A shoots and kills B, the harm is B's death, and the harm-producing behavior is A shooting B. In torts, when A, driver hits and injures C, the harm is C's injury, and the harm-producing

behavior is A's poor driving.

In identifying the harm(s), the parties to the harm(s), and the harm-producing behavior(s), starting with the first paragraph, you identify the legal conflict(s). Each legal conflict has three parts: a harm, parties to the harm, and harm-producing behavior. Each legal conflict raises at least one legal issue. While some paragraphs contain only one legal conflict, many paragraphs contain two or more legal conflicts.

In identifying the legal conflicts, you have also identified the key facts: those facts which pose a question(s) about liability or a defense to such liability. Of equal importance, you have also identified the non-relevant facts: those facts which raise no question about liability.

3. Identify which topic(s) in your professor's course seems applicable to each harm and behavior.

For example, in a criminal law exam, when A shoots and kills B, you hypothesize that the criminal homicide topic of your professor's course is relevant to this harm and behavior. In torts, when A, driver, hits and injures B in a car accident, you hypothesize that the negligence topic of your professor's course is relevant to this harm and behavior. In contracts, when S (seller) is not paid by B (buyer) for S's delivery of goods, you hypothesize that the breach of contract and damages topics of your professor's course are relevant. In property, when A, against B's wishes, intrudes on B's land, you hypothesize that the trespass topic of your professor's course is relevant.

In selecting one or more topics as relevant to the harm(s) and behavior(s), you are tentatively excluding as irrelevant the other topics covered in your professor's course. For example, if you hypothesize criminal homicide in the above-cited, criminal law example, you are implicitly excluding the topics of larceny, arson, rape, etc.

As you review the topics presented in your professor's course to identify which topic(s) seems applicable to the particular harm and behavior, you must be sensitive to the possibility that the legal conflict you have identified may require the application of more than one topic. To illustrate, if A shoots and kills B to further an ongoing narcotics venture of A, X and Z, the conspiracy segment of your professor's criminal law course is also relevant. If A, driver, hits and injures B and the car's wheel then flies off and injures D because of a manufacturer's defect, the product liability segment of your professor's tort course is also relevant.

In the criminal law example, issues about the liability of A, X and Z for murder and conspiracy are raised. In the latter example, an issue about the liability of A to B for tort negligence and an issue about the liability of the manufacturer to D are raised. The lesson is clear: do not assume that a single legal conflict involves only two parties and one issue. On scrap paper, and using abbreviations, link the parties to the topic(s) which applies to the harm(s) and behavior(s). For example:

A, X, Z liab. f/Mur. & Conspir?
A liab. to B f/T. Neg?
M liab. to D f/prod. liab?

4. Hypothesize which rule(s) seems most applicable.

Next, you must identify which rule(s), within the topic(s) selected, seems to be applicable to the harm(s) by the parties and to the harm-producing behavior(s). The universe of possibly applicable rules is sharply narrowed by selecting one or two topics as relevant (step three). It is only those rules within the topic(s) covered in your professor's classes and/or in the assigned materials which are candidates for application. For example, in criminal law, when A shoots and kills B, you have identified criminal homicide as the relevant topic. Within this topic, your professor typically may have covered the following theories (rules) of criminal homicide liability:

- a- intent-to-kill murder
- b- premeditated and deliberated murder
- c- felony murder
- d- extreme recklessness murder

- e- voluntary manslaughter
- "heat of passion" killing
- f- involuntary manslaughter
- criminal negligence

With the facts of A shooting and killing B, you could exclude felony murder (no underlying felony); extreme recklessness murder (no extreme risk creation exists); voluntary manslaughter (no "heat of passion"); involuntary manslaughter (no criminal negligence). You could quickly eliminate all but the first two possibilities, a and b. With only modest additional scrutiny, you could promptly exclude the premeditated and deliberated murder because there are no facts presented upon which to base premeditation and deliberation. You are left with an hypothesis of intent-to-kill murder.

As you eliminate, you are thinking not in broad concepts but concretely. For example, in assessing the option of extreme recklessness murder by the test of "extreme risk creation" — you concentrate on the specific model illustrations of "extreme risk creation" — e.g., shooting into a crowd or an occupied house or car, or dropping boulders from a roof on a crowded street. Using these vivid, model illustrations, you can quickly conclude that A shooting B is *not* in the legal terms an example of "extreme risk creation" which would trigger a possible application of the rule of extreme recklessness murder.

You are applying legal reasoning — analyzing by comparison. You search for similarities and differences between the harm(s) and harm-producing behavior(s) contained in each identified legal conflict and similar harm(s) and behavior(s) contained in the cases, hypotheticals and hornbook sections you have studied. This search for similarities and differences is comparable to what you do in class in reconciling and distinguishing cases.

5. Verify hypothesis.

Your last step is verification of your hypothesis that a particular rule or rules apply. To illustrate, you verify your intent-to-kill murder hypothesis by first matching the key facts in this legal conflict with the elements of this rule, which are:

- a) intent-to-kill
- b) manifested in an
- c) act which
- d) factually and legally causes the
- e) death of a live person.

You verify your hypotheses by matching the facts with the elements. Your mental or quick, written matching using abbreviations is illustrated below:

Elements of Rule	Key Facts
a) intent-to-kill	shooting implies &
b) manifest in an	manifests inter
c) act which	"but for" factual
d) fact. & legal	cause legal
cause the	(no superseded
	intervener.) cause
e) death of a live	when A shoots
person.	& kills B

You have verified your hypothesis: the key facts spelling out the legal conflict prove the elements of the rule of intent-to-kill murder. This rule, also a cause-of-action, applies to kill murder. This rule, also a cause-of-action, applies to these key facts. Your verification of your hypothesis is akin to what a lawyer does in court when he or she establishes a *prima-facie* case by proving the elements of the cause-of-action.

Finally, you must ask yourself: are there facts in the particular legal conflict which raise a question about the application of a relevant defense. Again, the possibilities do not include all the defenses you have studied. Rather, they are limited to those defenses applicable to a killing and also covered in your professor's classes and/or in the assigned materials. Typically, these might be:

- self-defense
- defense-of-another
- defense-of-home
- prevention of a felony
- apprehension of a fleeing felony

Continued on page 16

LAW EXAMS AND WRITING YOUR ANSWER

continued from page 15

A moment's reflection should enable you to reject all these defenses because there are no facts presented which raise a question about the application of any of these defenses. As noted, issues arise only out of facts. Avoid a beginner's blunder or raising issues when there is no factual basis for doing so, issues about which your professor is not inquiring, what some professors call "red herrings."

The verification of your hypothesis is complete. You might formulate the issue as follows:

Is A liable for intent-to-kill murder when A shoots and kills B?

Note that this formulation of the issue is succinct, incorporates key facts, and refers to the applicable rule. Remember: An issue is both factual and a pointing to the applicable rule.

PART TWO

The Delaney Method For Organizing And Writing Your Answer

All your professors expect that you will display skill in issue-spotting. All your professors also expect that you will resolve the issues you have raised. You resolve the issue with a lawyerly answer: organized, direct, clear, succinct. While there are a number of acceptable ways to organize your answer, I recommend CIRIP for first year law students. If your professor suggests another method, be sure to use that method and not CIRIP.

CIRIP

- C — Conclusion
- Is — Issue
- R — Rule
- In — Interweaving
- P — Policy

It is lawyerly to begin your answer with your legal conclusion stated in one declarative sentence. It is a counterpart to writing a brief on appeal where it is good lawyerly form to begin each point with a one-sentence statement of your legal conclusion. You immediately follow with a one-sentence formulation of the issue. You then demonstrate that you know the rule or principle which applies by specifying the elements of the rule or principle, usually in one sentence. The next step is where many students fail: interweaving. You interweave the key facts with the elements of the applicable rule or principle. Lastly, you ask yourself: Is there any policy interest or objective which should be specified. Often, the answer is no, but occasionally, depending on your professor, the course and key facts, the answer is yes.

An example of CIRIP applied:

- C A is liable for intent-to-kill murder. The issue
- Is whether A is liable for intent-to-kill murder for
- A's shooting and killing of B. Intent-to-kill murder
- R five elements: a) intent to kill, b) manifested
- in an, c) act which, d) factually and legal causes,
- e) the death of a live person. When A
- shoots B, A's intent to kill is inferable. The shooting also manifests A's intent in an act which factually ("but for") and legally causes the death of B.
- P (No need to mention policy objective served here.)

The CIRIP form of organizing your answer is a simple method to resolve, in quick lawyerly fashion, the issue you have formulated. CIRIP is valuable because its use should bar that disorganized, unlaywerly answer which must be avoided. CIRIP is also adaptable to may legal conflicts which require you to argue two or more theories of liability and to legal conflicts to which there is no definite answer and where you lawyerly argument is the answer your professor will reward.

Another illustration of the verifying, organizing and writing process is provided by the following example from the first paragraph of a multi-issue exam problem in torts. Key facts are italicized; relevant facts are bracketed, a technique you should apply on exams.

The Facts

Last weekend, *Buck Hee*, a hardworking first year student at the Get Rich Quick Law School spent most of his time reading torts. By Sunday afternoon, however, Buck Hee was so thoroughly frustrated with what he described as "nonsensical details of legal sophistry" that (in an exceptional moment of rage and anguish), he *threw the hardcover torts book of seven hundred pages at the wall of his apartment, screaming "I can't handle it."* The book flew out of a nearby window of his apartment which is situated on the seventh floor (of a Landmark Greenwich Village building) on a much-walked street. The book struck *Sara Lee*, a senior citizen, who happened to be walking below on the sidewalk. *Sara Lee instantly fell and fractured her knee joint* (under the weight of her body. Hearing the commotion on the sidewalk, Buck Hee ran downstairs and said to the Lady, ("I am extremely sorry), *I had no intention to hurt you."*

Example of Verification (Step Five)

By applying the introductory check or steps two through four as specified above, you hypothesize that the issue raised is one of basic tort negligence. You verify your hypothesis that the key facts comprising this legal conflict raise an issue about tort negligence by first explicating the basic elements necessary to establish the rule of tort negligence, which is also a cause of action. The basic rule has five constituent elements:

- A) existence of a legal duty
- B) standard of care of a reasonable person
- C) breach of standard
- D) causation
 - factual
 - legal
- E) actual harm

You then match, mentally or in quick outlining, the key facts with these rule-elements. For example:

Elements of

Rule

- A) existence of a legal duty
- B) reas. person standard of care

- C) breach of standard

- D) cause:
 - factual

- legal

- E) actual harm

Key Facts

Buck owes a duty to pedest.

Buck owes reas. pers. stand. of care to Lee.

In throw. book at wall near open window, he breach. reas. pers. stand. "But for" Buck's act, Lee would not have fallen and been injured.

Lee: forsee. vict.; w/i scope of Buck's risk-creat.

Lee fract. knee.

You have verified your hypothesis. The answer might be written out, utilizing in part the outline above, as follows:

Writing the Answer

C Buck Hee is liable in tort negligence. The issue is whether Hee is liable to Lee in tort negligence for

Is throwing his book at his apartment wall when the book goes out a nearby window and injures Lee, a pedestrian on the much-walked street below? A cause-of-action in negligent tort requires that the defendant breach a legal

R duty owed to the plaintiff with the breach causing, both factually ("but for") and legally (proximate), actual loss or damage to the plaintiff. When Buck Hee threw the hardcover, 700-page book at his apartment wall near his open window, he is engaged in behavior which

In creates an unreasonable risk of harm to pedestrians on this "much-walked street." He owes such pedestrians a duty to act reasonably so as not to endanger them. A reasonable person of ordinary prudence in Buck Hee's position would not have so acted (objective standard of conduct). Buck Hee therefore breached his duty to Sara Lee who is within the class of protected pedestrians. Hee's breach of duty

then caused Sara Lee to fall and injure her knee. Causation has two elements. First, actual cause is plainly established: "but for" Hee's breach of duty, Lee would not have been struck and fallen. Second, legal (or proximate) cause is also plainly established. The existence of pedestrians on this "much-walked" street was reasonably foreseeable and the injury to Lee was clearly within the scope of the risk created by Hee's careless throwing of his book near his open window. Lee was within the zone of danger created by Hee's carelessness. Lee suffered actual damage — a fractured knee joint. The tort of negligence is complete. Hee's apology to Lee and his denial of "intention to hurt" Lee does not eliminate his liability. Intent is not an element of negligence. (No need to mention policy P here.)

Two caveats here. First, on an exam, you must be quick in outlining your answer on scrap paper. Time is scarce. Second, the torts answer specified above is somewhat more model-like and detailed than time may permit in answering the frequent, multi-issue problem with six or seven issues and sixty or so minutes allotted. You can do well on exams without writing model-like answers.

Conclusion

1. This primer for spotting issues and writing your answer is only a beginning. These suggestions have implications, which cannot be spelled out here, for studying, reviewing, outlining of courses, compiling a checklist, and answering of exam problems. I address many of these matters in my book, *How To Do Your Best On Law School Exams*; and my new book, *How To Brief A Case: An Introduction To Legal Reasoning*, is also relevant.

2. Spotting and formulating issues is a culminating skill. It presupposes:

- skill in extricating key facts
- skill in selecting relevant topics of law
- knowledge of relevant rules, principles and policies

It must be accompanied by:

- skill in rule application, generally by interweaving
- skill in lawyerly writing
- skill in use of policy

3. Skill in issue-spotting, including the presupposed skills specified above, is also of critical importance in law practice. A key difference, however, is that on law exams, the key facts are presented to you in your pro-

fessor's exam problem and the facts are postulated as true, whereas in practice you must uncover the key facts from clients, witnesses, documents, etc. — and you must also verify the truthfulness of the key facts.

4. Developing these skills is a matter of constant study and practice throughout the term, for a skill is a capacity for performance and not simply an abstract understanding. It is a blunder to attempt to apply these five steps on a law exam unless these steps previously have been practiced and internalized.

5. You must gradually develop the capacity to apply these skills quickly. All law exams have time pressures. Answering the typical multi-issue problem is like being in a pressure cooker.

6. This primer is applicable, in addition to the multi-issue problem, to another typical type of exam problem and raises fewer issues with the expectation that your answer will be more fully developed than your typical answer to the multi-issue problem. Where an exam problem presents one to four harms, it may be possible to consider together all the harms, parties and harm-producing behaviors in the entire problem, rather than proceeding paragraph by paragraph. Sometimes, too, it is possible in an exam problem to consider together all the harms, parties and behaviors in two or three simple paragraphs, rather than proceeding paragraph by paragraph.

7. This primer is also adaptable, with modifications, to bar exams. Two quick modifications A) unlike law exams, one problem on a bar exam may raise issues from two, three, or more subjects of law; and B) bar examiners expect you to apply the rule of the particular jurisdiction, not the majority and minority rules.

8. This primer for spotting issues and organizing and writing your answer does not apply to pure policy problems and, without modifications, is of more limited guidance to civil and criminal procedural problems and with multiple-choice or fill-in-the-short-answer exams.

ADIOS

Professor John Delaney teaches at the N.Y.U.L.S. He is the author of *How To Do Your Best On Law School Exams* and *How To Brief A Case: An Introduction To Legal Reasoning*.

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HOFSTRA CHAPTER

NATIONAL LAWYERS GUILD

PLANNING MEETING

WEDNESDAY, NOVEMBER 30th, 12 NOON, Room 206

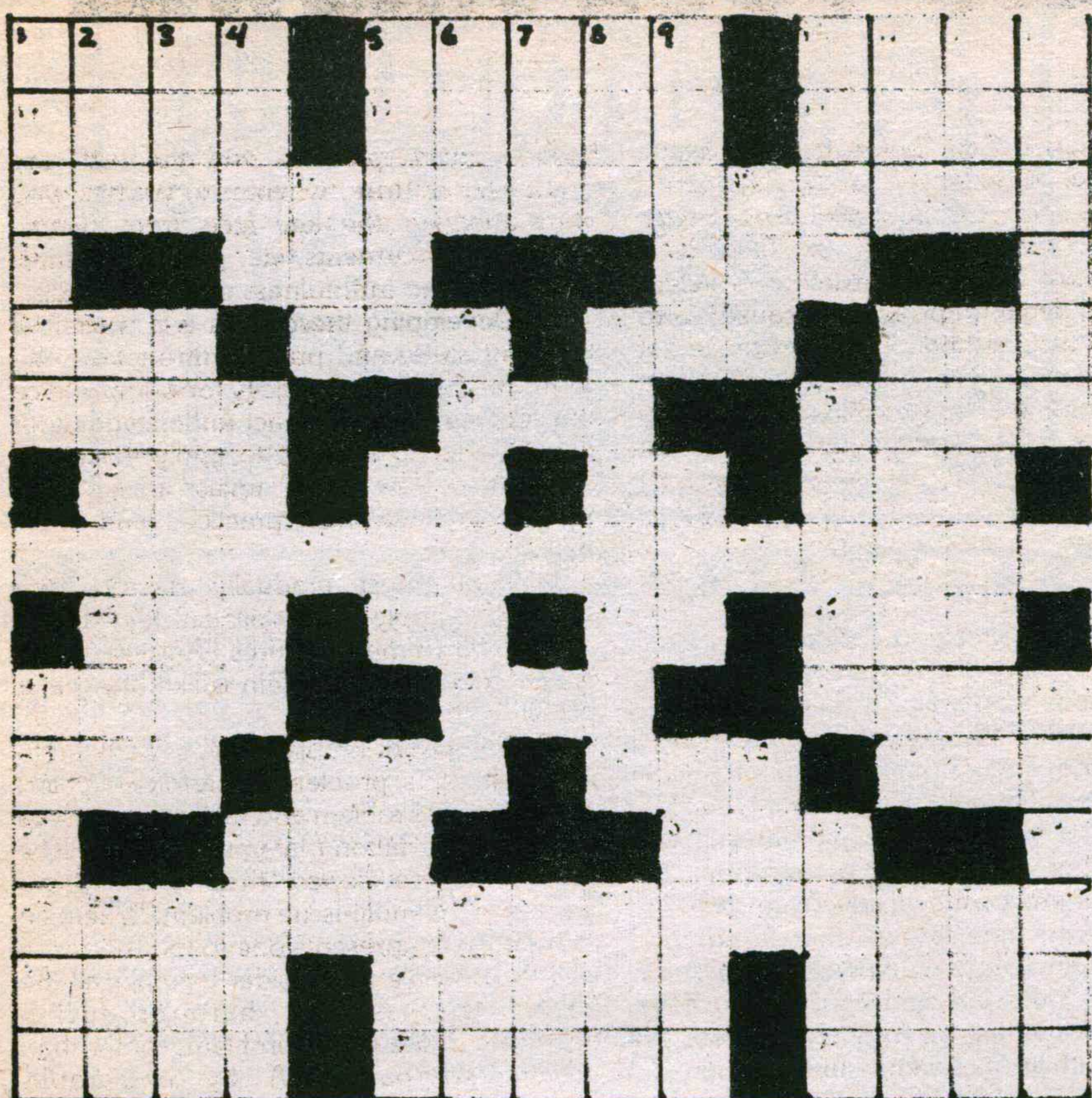
STUDENTS NEEDED to start a local LEGAL SERVICES PROJECT

in one (or more) of the following areas: Refugee assistance, Unemployment representation, Prisoners' services & Family assistance, Matrimonial & Family Court representation, Welfare rights work.

Projects will start next semester. We can arrange training and supervising attorneys. A great way to help people and gain real legal experience. 1st Year students encouraged to participate.

CROSSWORD & CRYPTOCLITE

by Seth B. Lipsay



Across

- 1 Whitewater vehicle
- 5 Less hazardous
- 10 Feudal flunky
- 14 Between ports
- 15 Ultimatum predicate
- 16 MMMLXXI divided by VII
- 17 T.V. Agent
- 20 (23 Across) x (64 Across)
- 21 Energy unit
- 22 Doctor's grp.
- 23 See 20 Across
- 24 Sphere
- 27 To pose, in a way
- 29 U.S. economic indicator

- 30 Compensated enthusiast
- 32 Proximate
- 34 Postal motto conjunction
- 35 _____ the light
- 36 Pub fare
- 37 That is, for short
- 38 Babyspoon element's symbol
- 40 Soft-speaking Pres. monograms
- 41 Tale of Ernest
- 45 _____ kwon do (martial art)
- 46 Point after device
- 47 Really big show host's monograms
- 48 Sense preceder
- 49 Opportunity follower
- 50 What a friend will lend

- 51 "Move _____ greener..."
- 53 Epoch
- 54 Caused to follow
- 56 Ord. lab conditions
- 59 Viper
- 60 Symbol of element in 67 Down
- 61 Suffer
- 62 Gin maker
- 64 See 20 Across
- 65 Lunar phrase
- 73 Subscription-ender, for short
- 74 Beaver-like
- 75 Land unit
- 76 Scarce
- 77 "...to _____ truck"
- 78 Group of dorms

- 49 Blooper beeper
- 52 Expressed a view
- 54 Annie's adjective
- 55 "...someone _____ time."
- 57 1982 Tax Act, for short
- 58 Mideast Grp.
- 61 Old, to Greta
- 63 Warring country
- 66 Grad degree for execs.
- 67 One of Heraclitus' elements
- 68 Tit's companion
- 69 Alter _____
- 70 Vim
- 71 College in Mt. Clara
- 72 Coffee Cup logo

Down

- 1 Allot
- 2 Object of Cinderella's labor
- 3 Charge
- 4 Domesticate
- 5 Hit and Love follower
- 6 Spot's remark
- 7 Northern conifer
- 8 Freud's focus
- 9 Number or empire preceder
- 10 Woman's name
- 11 Editor's parenthetical
- 12 Goose-egg
- 13 Old MacDondald's chorus words
- 18 Parseghian
- 19 Ball-caller
- 25 Plot pusher
- 26 "...as _____ cue ball."
- 28 Had dough in hand
- 29 Mark-makers
- 30 _____ non grata
- 31 Angrily envies
- 33 Pay
- 35 Secty's skill
- 37 _____ way (sort of)
- 39 Auto types
- 42 One leader
- 43 See 60 Across
- 44 Most common element in water

ANSWER TO CROSSWORD IN NEXT ISSUE

CDSMVCLONGV RDHDG YVD
UNNJTLGJV —
OEDW CMJD OEDMG FLSDV
UDRO NHDG
—SLCCLSEGD

—Gallagher
Legislators Never Use Bookmarks-
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LOOP REVIEW

by Rick Collins

ALL THE RIGHT MOVES

The town in which Stef (Tom Cruise, fresh from his whopping success in "Risky Business" and looking very athletic) and Lisa (Lea Thompson) have grown up is a dismal place. Painted in shades of dream-broken gray, its industrial smokestacks billowing more gray clouds into the cold mountain air, Ampipe (it could just as well have been called "Allentown") is a steel town and a steel trap—a young man grows up to work and sweat in the same mill where his father worked and his father before him, and where someday his son will succeed him. Many are those who dream of escape, but few ever make it. Stef and Lisa have dreams—he wants to be an engineer, she wants to be a musician. And just maybe, Stef has a ticket out: football. The theme—the hunger, the drive to escape the workaday world, to rise above the ashes of lost hope—is familiar but stirring, and director Michael Chapman imbues it with the grim and gritty urgency of a Bruce Springsteen song.

Although the film centers around a high school and does incorporate some of the standard elements of "teen movies" (teen pregnancy, high school hijinks, etc.), it is fresh and original in its blend of a bit of comedy with a lot of realism. Like the very best movies in this genre (such as "American Graffiti" and "The Wanderers," "All the Right Moves" touches the nostalgic adolescent in us to elicit a self-conscious, "Hey, that's me up there!"

THE DEAD ZONE

Those who expect a horrifying screamer from this Stephen King-based tale are in for a disappointment (The scary commercials are misleading). The "Dead Zone" is less a journey into the macabre as it is a story of parapsychological episodes and their effect on a man's life. There are few jolts or shocks and no real moments of terror at all, although there is some spooky suspense. At its worst, the movie suffers from a predictable plot and gets painfully ridiculous in its depiction of politics. Martin Sheen does what he can to bring his dreadfully trite role of the megalomaniacal future facist to life but manages only to look a bit less silly. At its best, the movie does offer some suspense and a fine performance by Christopher Walken as Johnny, the hapless main character. Walken's unusual looks add an eerie intensity to his portrayal of the man blessed with the ability to predict and alter the future and burdened with the awesome responsibilities which inevitable accompany such a power.

MONTY PYTHON AND THE HOLY GRAIL

A blend of sight gags, satire, and silliness in this chronicle of Arthurian exploits by the Monty Python comedy troupe, a group of five intellectually inane British comedians and one deranged American animator. It's impossible to describe their wild gags as words on paper without losing the fun; the movie simply must be seen. From silly beginning to crazy ending, those who appreciate outrageous humor will be doubled up with laughter. The Python's usual excesses and irreverence are strongly and hilariously present, but without stretching to the extremes of their recent "Meaning of Life" film. This is Monty Python's greatest achievement, a comedy of epic proportions and now a cult classic. Presently in rerelease to local theatres, if you haven't already seen it, or if you have, it's definitely worth a look and is probably the best prescription around to relieve the pressures of exam season on a weekend evening.

(Monty Python fans should also note that the television series that made them famous in America is now back on Channel 13 on Sunday nights at 10:30. All 48 half-hour episodes are being shown in sequence; so far, about a dozen have been aired.)



by Stephen Orbach

"Blue Plate Special," a musical presently playing at the Manhattan Theatre Club, is best described as "Pump Boys and Dinettes Meets Times Beach/Love Canal at the Edge of Night." For those of you unfamiliar with the aforementioned play, catastrophes and television program, "Blue Plate Special" combines the qualities of musical numbers strung together by a convoluted plot-line describing the trials and tribulations of the owner of a diner in rural Tennessee, the owner's family (including two husbands and one radioactive grandchild) and a pot of stew which glows in the dark. This is an intentionally inane play that occasionally hits the mark with some of its musical numbers and overwhelms most of the remaining tedium with a very enthusiastic cast and strong performances.

Special note should be made of Gretchen Cryer (of "I'm Getting My Act Together..." fame) as the diner's owner, and who is nothing short of great; Mary Gordon Murray as a cousin and has-been C & W star; and Ron Holgate, as one of Ms. Cryer's character's two husbands (the first). I found myself enjoying the play during some numbers and checking my watch for the time with others, with the second act much stronger than the first. If any, or all, of the above craziness is of interest to you, and with the aforementioned reservations, then have a helping of "Blue Plate Special."

I would give my unqualified recommendation to Circle Repertory Company's production of "The Seagull," presented at the American Place Theatre. I have never seen a more satisfying production of any Chekhov play. Richard Thomas is marvelous as the unstable son, and the remainder of the cast is first-rate (including Robin Barlett, last seen in "The Philanthropist," and who continues to amaze me with the range and depth of her skills) but with one interesting exception. Jedd Hirsch is flat as Trigorin, the "famous novelist," and this failing is all the more glaring in contrast with the rest of the performances.

The production is benefited by a small theater, excellent direction, and lighting and scenery which enhances the performances without calling attention to themselves. This production deserves the wildest possible audience, and I would urge all but the most casual of theatergoers to see it.

Neither play has opened as of the date of Conscience's deadline, so I can only present my own opinion. "The Philanthropist," previously reviewed in this space, received good notices and has had its run extended. "My Uncle Sam," also previously reviewed herein, was much less favorably received.

Stephen Orbach, class of '77, practices in NYC by day. In the evening, he can be found wandering the streets of Manhattan in search of good theatre.

Creative Cooking

***** BANANA BREAD *****

by Tracey Epstein

- 1/2 C honey
- 1/2 C butter (1 stick)
- 1-1/2 C mashed, ripe bananas (5 or 6)
- 2 eggs
- 1/2 C chopped walnuts
- 1/2 T cinnamon
- 1/2 t vanilla extract
- 1-3/4 C whole wheat flour
- 1/4 C toasted wheat germ
- 1 t baking soda
- 1/8 C buttermilk

1. Melt butter & honey in small saucepan over low heat.
2. In a large bowl, mash the bananas. Add the honey/butter mixture, eggs, walnuts, cinnamon and vanilla. Mix well.
3. Mix the flour and wheat germ into the mixture.

4. Dissolve the baking soda in the buttermilk and add, stirring all together.
5. Lightly grease an 8-1/2 by 4-1/2 inch loaf pan...sprinkle some cinnamon sugar on the top.
6. Bake at 350° for about 1-1/4 hrs, or until a knife inserted in the bread comes out clean.

Hints — 1. If you double the recipe and make two loaves, you can freeze the other one for later. Leave it out overnight and it'll be great in the morning. It's delicious with cream cheese or peanut butter.

2. If you don't have the buttermilk or the whole wheat flour, you can use regular milk and flour — but I think it's worth splurging for the original way.

Theatre At Hofstra

Hofstra University's Drama Department will present "A Murder Has Been Arranged," a 1930's play by Emlyn Williams, from November 25 to December 4, in the West End Theater.

Emlyn Williams is also the author of the classic melodrama, "Night Must Fall."

"A Murder Has Been Arranged" is a psychological thriller combining elements of a ghost story, murder and mystery. It was first produced in London in the 1930's.

The director is James Van Wart of Hempstead. His stage manager is Matthew Parent of Milford, N.H. A student, Kym Grethen

of Schenectady, is in charge of lighting design. David J. Markley of Baldwin is designing the set, and Deirdre McGuire of Hempstead has created costumes. Music for the production was written by Albert Tepper of Levittown.

Performance dates are November 25, 26, 29, 30, and December 1-3 at 8:30 p.m.; and November 27 and December 4 at 3 p.m.

Tickets are \$4. Further information is available at the Hofstra Box Office at 516-560-6644.

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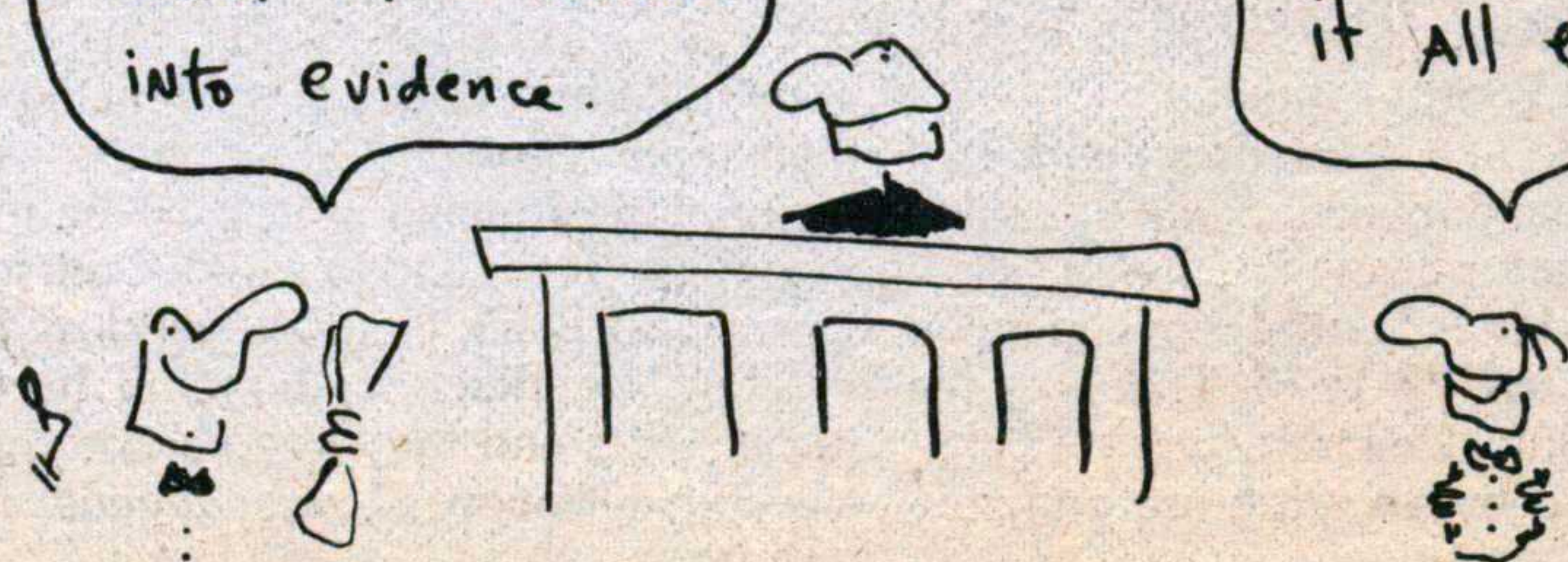
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Your honor, I
would like to
enter a Conscience
into evidence.

Your honor,
where will
it all end?



SPORTS

Buzz Words

by "Buzz" Busceti

Sports Briefs

The National Basketball Association Board of Governors unanimously named David J. Stern as their new commissioner last week. Stern is currently the league's No. 2 man and will succeed Larry O'Brien, who recently announced his resignation after having served as the NBA's third chief executive since 1975.

Stern, the league's current executive vice president, became involved with the NBA in 1967, as an attorney with the New York firm of Proskauer, Rose, Goetz & Mendelsohn, the NBA's legal representative. Stern became a partner in Proskauer Rose in 1974 and a year later fought alongside the newly-named Commissioner O'Brien to solve the various legal problems facing the league.

In 1976, Stern negotiated an out-of-court settlement with the National Basketball Players Association, establishing free agency in the league, and laying the groundwork for the merger which allowed the N.Y. Nets, Indiana Pacers, Denver Nuggets and San Antonio Spurs to join the NBA.

Stern left Proskauer Rose in 1978 to become the NBA's general counsel and in 1980, O'Brien decided to name Stern executive vice president, business and legal affairs. This O'Brien-created post put Stern in charge of marketing, television and public relations, and made Stern the league's No. 2 man.

Stern is a graduate of Rutgers University and Columbia Law School and is an adjunct professor at Cardozo Law School. He also lectures on sports and cable television issues and anti-trust and labor law.

Other Sports Briefs —

The NBA referees' union and the league are reportedly "still far apart financially" in their contract dispute that has resulted in a "lock-out." While many hoop fans are upset over the capability of certain "substitute" officials, the league has not scheduled any new negotiations as of press time. Coach Kevin Loughery of the Chicago Bulls and league career leader in technical fouls (245) predicts a jump in the number of "T's" called if the "subs" continue to officiate NBA games. The Refs' union filed charges with the NLRB accusing the NBA of using "barking, snarling German Shepherds" and "goon" tactics to

interfere with the refs' right to picket. Meanwhile, the NBA charged that veteran officials vandalized Barry Rogan's ("sub ref") car and let the air out of all four tires on an NBA negotiator's car.

Concern over the fate of the Chicago Bears after the unfortunate death of Papa Bear George Halas, has been dispelled by its new owner Virginia McCaskey. Halas' daughter, Halas has held the titles of team chairman, president and CEO until his death and McCaskey will probably take over as chairman of the board and CEO, and appoint others in the Bears' organization to fill other key roles.

Jerry Vainisi, Bears GM and former club attorney and treasurer, indicated that the team would not have estate-tax problems like those of the Wrigleys who were forced to sell the Cubs. Halas set up generation-skipping trust funds four years ago, following the death of his only son, George Jr. The funds, amounting to 89% of the team are controlled by Mrs. McCaskey.

The Jets' dancing lineman Mark Gastineau and rookie quarterback Ken O'Brien pleaded not guilty to charges that they assaulted three men during a brawl at Studio 54 in September. Speaking about the Jets, how about a review of that (fairly) new disco, Klecko's, in our entertainment section?

Would Art Modell, owner of the Cleveland Browns, be upset if a USFL team moved into Cleveland Stadium in the event the baseball Indians left town. Yes! And no! It might provide some competition but it would fill up Modell's wallet — he also owns Cleveland Stadium Corp!

Conflict of interest? Leigh Steinberg, the lawyer for Warren Moon, the star quarterback for the Edmonton Eskimos of the Canadian Football League, also represents Scott Brunner, the Giants' quarterback. The *New York Times* last week reported that Moon is interested in going to the Giants next year. Moon's contract with the Eskimos expires March 1, but according to NFL orders, no team can negotiate with him until then. Would it be in Brunner's best interests to bring another quarterback to Jersey? Not with Simms and Rutledge already in the locker room.

Sports in the Courts

Former University of Arizona kicker Bob Boris has sued the USFL and the Arizona Wranglers for damages for money he could have received during the 1983 season. Boris also wants a permanent injunction prohibiting the USFL from enforcing its collegiate eligibility rules. A hearing, scheduled for November 21, will determine whether the USFL can bring in the NFL, Canadian Football League, College Football Association and the American Coaches Association as co-defendants.

Boris, who left college to try out for the USFL Wranglers was denied by the league because he still had collegiate eligibility remaining. The Wranglers own his USFL rights. Summary judgment, sought by Boris, was postponed until mid-December with the consent of both parties.

Another eligibility suit involved Kenneth Durrell, an ex-Illini, who sued the NFL, USFL and the Chicago Blitz for similar reasons. Durrell filed his suit earlier this month in federal court in Chicago for \$500,000.

Thomas (Hollywood) Henderson, ex-Cowboy lineman, was arrested in Long Beach, California for kidnapping a 15-year-old girl and forcing her to have sex with him at gunpoint.

Otis Armstrong, formerly of the Broncos, sued seven doctors and a neurological clinic for medical malpractice. He alleged that the doctors who had treated him for a spinal in-

jury fraudulently concealed a neck injury he suffered in a game against Houston in 1980, as being congenital. He contends that the injury occurred during training early that season. A neurological examination last February showed a cranial fracture, three fractures of the cervical spine, a fractured spinal column and five rib fractures.

Jon English, would-be Tulane quarterback tried to overturn the NCAA's ruling him ineligible to play under its transfer rule by appealing to a state court, a U.S. District Court, a U.S. Circuit Court of Appeals and even the U.S. Supreme Court. Mr. Justice Byron (Whizzer) White, a former All-America halfback at University of Colorado turned down English's request for a temporary injunction while appealing the decision on his eligibility.

West Virginia University defensive back Mike Scott — found not guilty of a misdemeanor battery charge following an altercation earlier this year.

Closer to home, Mike Robustelli and Bob Monti, co-captains of Pace University's football squad have been ordered to appear in court January 3 on assault charges against two other students. The captains were kicked off the team after the assault charges were filed.

"Buzz" was a water boy for the Long Island Ducks before coming here. Buzz will be back next semester with more BUZZWORDS.

Hofstra Falls

Hofstra, in a Division III NCAA football playoff game held here at Hofstra on Saturday afternoon, went down to a stunning defeat at the hands of Union by the score of 51-19. Hofstra was unable to stem the Union offensive surge in successive scoring drives. Hofstra came into the game undefeated (10-0), ranked third in the nation among

Division II powers. Union came in ranked eighth in the standings with a 8-1 record. Union will now move into the next round of the playoffs against Salisbury State who upset Carnegie-Mellon the same day. The winner of this game will go into the Amos-Alonzo Stagg Bowl to determine the Division III champion.

Recreation News

Winter Arts Fest

Winter Arts Festival

The Long Island State Park and Recreation Commission has announced plans for the eighth annual Winter Arts Festival to be held on four weekends, November through February, at the Bethpage State Park Golf Clubhouse in Farmingdale. The festival, co-sponsored by A&S, will include competitive art, photography and craft exhibits and a "Mardi Gras Gala."

The three competitive events will be open to amateurs only. Commercial artists, professional painters, sculptors, craftsmen, photographers and teachers in any of these areas are not eligible to compete.

A jury of prominent experts in each of the competitive fields will judge the entries and A&S gift certificates will be awarded to first (\$20), second (\$15), third (\$10) and honorable mention (\$5) winners in each of the entry classes.

The festival began earlier this month with a Thanksgiving Art Show, and continues next month with a Holiday Crafts Exhibit of entries in the following categories: clothing embellishment (including applique, embroidery, beading, etc.), needle lace and needle weaving, embroidery (including crewel, bargello, canvas, candlewicking, etc.), hand-quilting, crocheting, macrame, papercrafts, dollhouse and miniatures, stained glass and ceramics. These crafts will be on

display from 10 a.m. to 6 p.m. on Thursday, Friday, and Saturday, Dec. 8, 9, 10 and from 10 a.m. to 2:30 p.m. on Sunday, Dec. 11. The presentation of awards is slated for 2:30 p.m. on Dec. 11.

The highlight in January will be a New Year's Photography Contest of black and white and color entries. The contest theme will be "Our Island"—all photos must be taken on Long Island. The following three classes will be featured in both categories: animals, people and places and things (landscapes, still life). The photo exhibit will be open to the public from 10 a.m. to 6 p.m. on Thursday, Friday and Saturday, Jan. 12, 13 and 14 and from 10 a.m. to 2:30 p.m. on Sunday, Jan. 15. Prize winners will receive their awards at 2:30 p.m. on Jan. 15.

A Mardi Gras Gala will wrap up the Winter Arts Festival on Sunday, Feb. 26. The day-long event (10 a.m. to 6 p.m.) will feature a full schedule of Free fun and entertainment (musical presentations, folk and square dancing, cooking demonstrations, children's theatre and balloon and lollipops for youngsters).

Persons wishing to participate as competitive exhibitors in the Winter Arts Festival may obtain application forms and rules and regulations at all Long Island State Park offices or by writing: Winter Arts Festival, P.O. Box 247, Babylon, NY 11702.

Nature Tours

Nature Tours

Fall season nature tours are scheduled at Caleb Smith (formerly Nissequogue River) and Caumsett State Parks, according to John G. Sheridan, General Manager of the Long Island State Park and Recreation Commission. Caleb Smith State Park offers the following fall nature programs:

Nature & You: A walk through the woodlands and cultivated fields at Caleb Smith State Park with an emphasis on habitat improvement and wildlife requirements. Saturday, Nov. 26-Northside: 10 a.m. to 11:30 a.m.

Photography Workshop: A nature photography program, with Ron Vogt. Sunday, Dec. 4-Northside Part I, and Dec. 11-Southside-Part II, 9 a.m. to noon.

Autumn Nature Walk: An autumn nature walk to observe fall colors and to discuss how plants and animals prepare for winter. Sunday, Nov. 27, 1 p.m. to 3 p.m.

Advance reservations are required for all above programs and may be made by calling the respective park offices. For Caleb Smith programs, call 516-265-1054, for Caumsett programs, call 516-423-1770. There is a fee of \$1.00 per adult. Children under 12 that are accompanied by an adult are admitted free.

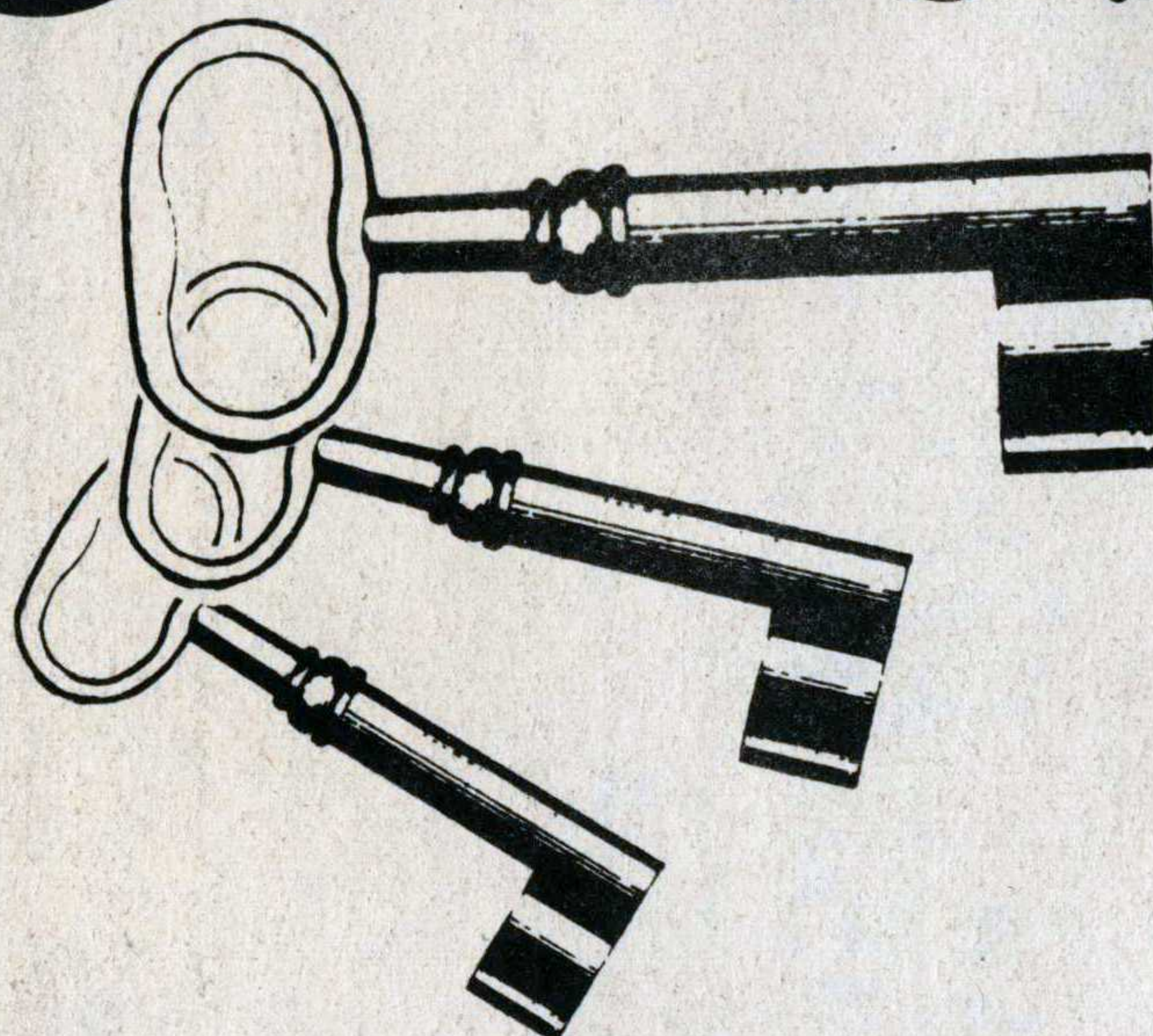
Golf News

Golf Fees Reduced

The Long Island State Park & Recreation Commission has announced a reduction in golf green fees at Bethpage State Park in conjunction with the utilization of temporary greens on the Blue, Red and Yellow Courses from Monday, Nov. 28 through Friday, March 30, 1984. Golf carts will not be available during this four-month period. Green fees during this period will be reduced one-half for the four 18-hole courses to a rate of \$3.50 on weekdays and \$4.25 on weekends and holidays. Play on the two 9-hole courses will be \$2 weekdays and \$2.25 weekends and holidays.

Tees and greens on all courses will be seeded, aerated and top-dressed. Miscellaneous repairs (i.e.: fencing around tees, tree pruning, sand traps, selected restoration of teeing areas) will be made on the Blue, Red and Yellow Courses. The Green and Black Courses are closed for the season; the Black undergoing further improvements and the Green slated for extensive rehabilitation of tees, greens, fairways and traps.

The key to our success is your Success



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BAR REVIEW

Last Book Distribution of the Semester

WEDNESDAY, NOV. 23

9 AM-2 PM – Library Lounge

Old Books Must Be Returned To Be Issued New Books

Happy Thanksgiving

REPRESENTATIVES

1984

Barbara Kornblau
Barbara Lynaugh
Tracy Miller
Paul Ross
Marc Gann
Sara Keenan

George Basara
Dari Schwartz
Raymond Moss
Dolores Gebhardt
Lori Goldberg
Richard Kaufman

1985

Mindy Aaron
Peggy Gartenbaum
David Rabbino
Jill Weinberg
Jamie Stokel

Alan Kaye
Laurie Lubetski
Jeanne O'Neill
Robert Fleischman
Stuart Schoenfeld
Joseph Natoli