



ASKING YOU TO ASK YOURSELVES

Vol. 11 No.6  
March, 1984

# Conscience

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School of Law  
Hempstead, NY  
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ASKING YOU TO ASK YOURSELVES

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March, 1984

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School of Law  
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## POST-1ST YEAR MOOT COURT PROGRAM PROPOSED

by Peter W. Shafran

Professor Burton Agata unveiled a proposal for a post-first year moot court program at the February Faculty meeting. The object of the proposal is "to provide the basis for the selection of a National Moot Court Team and to provide an educational experience for all the participants." The program, running for two semesters, would be "essentially student-run, with faculty participation in providing rules for competition," said Prof. Agata.

During the first semester of the course, students will prepare one brief and at least two oral arguments plus arguments in elimination rounds. While the first semester would largely involve teaching oral advocacy, the second would essentially be competition. The problems will be designed by the faculty and the actual program would be administered by the Moot Court Executive Board. The elimination round will be judged by a panel of three judges — a faculty member, a student member of the Executive Board and an outside lawyer, judge, etc. The Executive Board would be compensated for their time with academic credit, Agata suggested.

The elimination round could foster some excitement, Agata said, by offering cash prizes and a (trophy) cup of some kind to the winners. "At least that should get some better participation," said Agata. Members of the National Moot Court Team would be selected from those with the highest scores.

One consequence that Prof. Agata addressed in the proposal is the effect on the Moot Court Board. He advocates its elimination of its memo writing function. He proposes instead that problems and bench

memos can be updated and new ones, as needed, could be created by research assistants under the direction of volunteer faculty and the Director of the Writing program. The Moot Court Executive Board would then, in turn, be limited to third year students, thereby permitting those second year students with the greatest likely interest to participate.

Faculty response to the proposal was generally enthusiastic. "I think it's a very attractive and overdue idea," said Prof. Ronald Silverman, "I wholeheartedly approve the concept." Prof. Richard Neumann submitted comments regarding the proposal in a memo distributed at the meeting. Neumann felt that "a teaching component be integrated into the proposed competition" or that a "scaled-down version of Appellate Litigation" should precede the competition portion of the course. The focus of this course would be on "improvement through rewriting," videotape analysis, and on developing strategy decisions.

Neumann also objected to the total dismantling of the Moot Court Board. While the Moot Court Board "perhaps should lose its role in designing first-year moot court problems, it would still have to have very substantial responsibilities in regard to the first-year program," wrote Neumann.

In addition, Neumann noted that while the National Moot Court Team presently receives two credits, some other teams receive none. He suggests that this is "a situation which could logically be remedied through this proposal."

At the end of the discussion, the proposal was sent back to a committee headed by Prof. Agata for further reworking. "We must come back with a more concrete proposal,"

## LAW ALUMNUS RUNS FOR HOUSE SEAT

by Dennis Warren

Todd Natkin, a graduate of Hofstra Law School, recently announced his candidacy for the Democratic nomination for Congress in the 20th district in Westchester County.

Natkin, a licensed pilot who specializes in aviation law, made his announcement earlier this month at a press conference held at the White Plains Hotel. He is the eighth contender in an already crowded political race for the seat being vacated by veteran Congressman Richard Ottinger.

Claiming that the Federal Government had not provided adequately for airline safety following deregulation, Natkin, a conservative Democrat, said if elected he would make aviation safety an issue.

He also said he would press for Westchester to receive a new microwave landing system which would allow for aviation approaches over nonpopulated areas and increase safety and reduce noise.

said Agata.

The next step towards implementing the proposal involves getting student reaction to the proposal, "to see if some students are interested in running it," said Agata. "We also have some responsibility to inspire some students to do it," he added, "I think the Moot Court competition should give us some idea, at least as to natural abilities."

Prof. Agata encourages all interested students and faculty to contact him or any of the other members of his committee, including: Professors Susan Bryant, John Gregory, Eugene Wypyski and Alan Resnick. Students are urged to submit their comments in writing.

Natkin is expected to make his decision whether to enter a primary, after the March 27 designating convention. He thinks he can win the nomination by holding spending to between \$50,000 and \$75,000.

A resident of Eastchester, the 27-year-old lawyer ran unsuccessfully for councilman in that town in 1977. Natkin graduated from the State University of New York at Stony Brook in 1978; and graduated from Hofstra Law School in 1980. He is single, and has law offices in New York and Washington.

Ottinger, a Liberal Democrat, served in Congress for the past 16 years, but decided earlier not to seek re-election. Besides Natkin, seven other Democratic candidates have declared interest in his seat. The favorite is said to be Rep. Peter Peyser of Irvington, who has the endorsement of House Speaker Thomas "Tip" O'Neill.

The 20th District covers virtually all of Westchester County, including Scarsdale, Eastchester, White Plains, Bedford, Mount Vernon, New Rochelle, and Mamaroneck.

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## DEADLINE FOR POSTING OF GRADES MISSED AGAIN

by David Wankoff

If you are among those students who check the grade board daily in the hope of discovering if you passed your classes last semester? Are you angered by the failure of some professors to post those grades? If you are you will be interested to know the official school policy for reporting grades. According to Dean Rabinowitz, "faculty members

are to hand in their grade reports within four weeks of the last final of the semester." The last final of the fall semester was December 22nd, that would make grades not currently reported five weeks late.

The policy, set by the professors themselves, is self enforcing. No sanction is imposed on professors for late reporting. Rabinowitz stated that, "it is left to each pro-

fessor to abide by the faculty rule." But, he also stated that, "It's now the time, it seems to me."

Professors receive two reminders to pass in their grades, one before the four week period runs and one after. Yet several professors have still not passed in their grade reports.

Professors not reporting grades for the first

year classes are: Bressler, Legal Research and Writing (on maternity/disability leave); Bush, Torts B; Mahon, Contracts; and Twerski, Torts C.

Professors not reporting grades for upper class courses are: Agata, Anit-Trust; Diamond, Family Law; and Thomas, Business Organizations B and Corporate Takeovers. In addition several professors teaching paper courses have not passed in grades.



Prof. Bresler

Prof. Bush

Prof. Mahon

Professors Diamond and Twerski

Prof. Agata

Prof. Thomas



# Hofstra Cultural Calendar • March, 1984

Thurs., Mar. 1

o Harlem Renaissance Art Exhibit. Lowe Gallery. Video and Jazz music Tuesdays, 12-1 p.m. & 7-8 p.m. Through March 18. X5672.  
o Alumni Phonathon continues through Mar. 8 Din. Rms. ABC. 5:50-9:30. X6636.  
o Plant Clinic and Workshop 12-2 p.m. Bio Greenhouse. Gittleson. Free. "Plant of the Month" is Gloxinia.

Sat., Mar. 3

o Gymnastics vs. Keene State PFC. 12 noon. Free. X6759.  
o Movie: Risky Business. St. Centr. Thr. 7 & 9:30 p.m. \$1.00.  
o New College Collegium, Dr. Hofeller & Robert Crowley. "Organizational Theory Related to the NYPD." 10 a.m. to 1 p.m. Wed. Free. X5010.

Mon., Mar. 5

o Sold Exhibition of Wall Pieces. Peter Fleishman. Calkins Gallery. Mon.-Fri. 9 to 5 p.m. Free X5474. Through March 28.  
o Linda Russell sings ballads and songs on Hofstra Hall Plaza. 11:45-12:15 p.m. Celebrating Women's History Week. Free.  
o Linda Russell presents one-woman show, "Pathwork" at 2:30 p.m. in 142 Monroe. Early American Balladeer singing suffrage songs and others covering woman's lifespan in their own words. Free.

Tues., Mar. 6

o Dinner/Seminar, sponsored by Newman Club and Campus Catholic Parish. David Cernic speaks: "Is Christianity Livable?" Dinner at 6, Seminar from 7:30 to 9 -½, ½ 1308 Warwick St., Uniondale. Free. X6920.

Wed., Mar. 7

o 1984 NCAA Div. II Men's and Women's Swimming and Diving Nationals. Hofstra Swim Center. Through March 10. Fee. Call X5081.

Thurs., Mar. 8

o DCE begins 5-session tour and lecture program of major art shows on Long Island. 10 a.m. to noon. Fee. X5994.  
o Plant Clinic and Workshop. See Mar. 1.  
o Annual Shakespeare Festival begins, "A Midsummer Night's Dream." Playhouse \$5/\$4. March 8,9,10,11. 8:30 p.m. or Sat. at 3 p.m. X6644.

Sat., Mar. 10

o The Festival Concert and "The Lover's Tale or 'Where There's A Will.'" Playhouse, 3 p.m. \$3. X6644

Tues., Mar. 13

o Workshop on German Language and Career Possibilities. Multipurpose Room, St. Centr. 7 p.m. Free. X5669.  
o Dinner/Seminar. Dean Jeannine Swift speaks on "My Visit to Nicaragua." Same as March 6.

Wed. Mar. 14

o Peter Fleishman talks in Calkins Gallery on "Surviving as an Artist." Reception. 4:30 p.m. Free. X5474.  
o NOAH 20th Anniversary Convocation honoring Mrs. Marva M. Collins. 2:30 p.m. 142 Monroe. Free. X6976.  
o French Film. "Diary of a Country Priest." 10 a.m., 2:30 p.m. & 7

Wed. Mar. 14

p.m. St. Centr. Thr. Free. X5484.  
o Hampshire String Quartet. Music by Dr. David Hollister. Commentary. 12:30 p.m. E. Lowe Hall, Room 106. Intermission. Free. Second part starts at 2:05 p.m. WRHU will broadcast. X5497.

Thurs., Mar. 15

o Plant Clinic & Workshop. See Mar. 1  
o Contemporary Writers Series. Thomas Berger. 4 p.m. David Filderman Gallery. Reading from his novels. Free. X5468.  
o Mathematics Colloquium. Dr. Robert M. May. Free. 209 Adams. X5574.

Fri., Mar. 16

o Shakespeare Festival through March 18. See Mar. 8  
o Special lecture for NOAH's 20th Anniversary Program. 7 p.m. Free. X6976.  
o Nutrition Workshop (pt. II) Michelle Leane. Room 263. Swim Center. Free. X5808.

Sat., Mar. 17

o Film: Breathless & Hollywood Outtakes. S.C. Thr. Free. 7 & 9:30 p.m.

Sun., Mar. 18

o WRHU & President Shuart present live concert with Dorothy Hoag scholarship winners. E. Lowe Gallery 4 p.m. By Invitation. Free. X5667.

Thurs., Mar. 22

o Plant Clinic & Workshop. See Mar. 1

Sat., Mar. 24

o Film: Blue Thunder. \$1 S.C. Thr. 7 & 9:30 p.m.

Sun., Mar. 25

o Special performance by talented NOAH students. 2:30 p.m. HOFSTRA U.S.A. Free. X6982.  
o Opening of Art Exhibit of paintings by Winston S. Churchill. E. Lowe Gallery. Through April 4. Free. X5672.

Tues., Mar. 27

o French Film: "The Roads of Exile." SC Thr. 2:30 & 7 p.m. Free.  
o Dinner/Seminar. Bro. Mike Moran speaks on "My Visit to the Dominican Republic." Free. See March 6 for details.

Wed., Mar. 28

o Founders Trustee Day Celebration. Filderman Gallery. 7:30 p.m. Frank G. Zarb, Emil V. Cianciulli, Dean Eric J. Schmertz. Advance showing of Dwight D. Eisenhower Art, Book and Manuscript Exhibit. Free. X5669.

Thurs., Mar. 29

o DWIGHT DAVID EISENHOWER CONFERENCE through March 31. Student Center Dining Rooms. Panel and formal addresses throughout the 3-day period. Call UCCIS for program. Free with HUID. X5669.

Sat., Mar. 31

o Plant Clinic and Workshop. See Mar. 1  
o Film: Student Center Theater. Octopussy & Never Say Never Again. Free. 7 & 9:30 p.m.



## FALSTAFFS

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## MID-WEEK SPECIALS

**SUNDAY**

**\$3.00**

Pitchers of  
Bud or Lite

8 - 12

**MONDAY**

**\$1.00**

Slammer Melon Ball  
(SHOOTERS)

9 - 12

**TUESDAY**

Ladies Nite

2 fers for ladies  
between

9 - 12

**WEDNESDAY**

Live  
Entertainment  
★ 3's a Crowd ★  
(No Cover)

## St. Patricks Day Celebrations

**Wed. - March 14th**

Pre St. Patty's Day Taster

**\$1.00**

Guinness Mugs

**\$1.25**

Harp or Bass Ale

Raffle and Prizes —  
T-Shirts Books Albums  
(NO COVER)

**Fri. - March 16th**

"All You Can Eat"

Corned Beef & Cabbage or Irish Stew  
Irish Soda Bread

**\$3.95**

Live Irish Music 4 - 7  
Irish Beer • Drinks

**Sat. - March 17th**

"All You Can Eat"

Corned Beef & Cabbage

Irish Stew

Irish Soda Bread

**\$3.95**

Watch Parade on 2 TV's

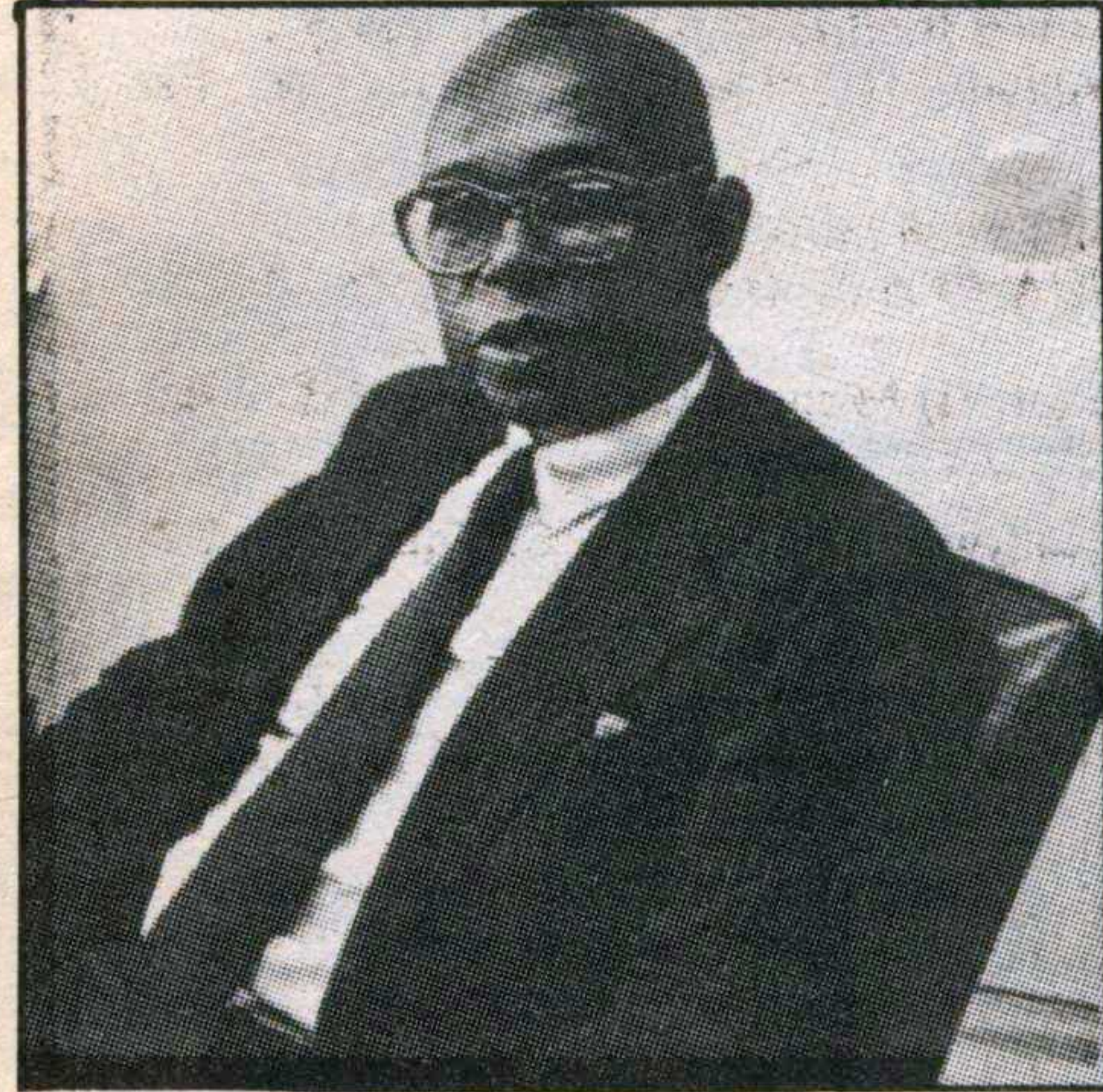
Irish  
Music



## ITEM!

ITEM!

Professor John DeWitt Gregory moderated a program of the Section on Minority Groups, titled "Minority Legal Scholarship: Is There and Should There be Such a Thing?", at the recent annual meeting of the Association of American Law Schools. At the same meeting, Professor Gregory was elected to serve as Chair Elect of the AALS Section on Minority Groups.



Professor Gregory

ITEM!

Tickets are on sale for the "100 Days To Graduation" Party. The party will be held downstairs at the Beverly Hills Cafe on Friday March 9, 1984. \$1.00 Admission. (See Ad this issue)

ITEM!

Conscience Editor Peter Shafran and Labor Law Forum Editor Jeff Schlossberg recently won a "Rock-n-Trivia" contest on HTV's game show of the same name. After their victory, they were asked to come back later this semester for the Championship. The show can be seen on HTV (in Memorial Hall or the Residence Halls) this week only.

ITEM!

Guilty Conscience is Coming!

## Accounting Malpractice Conference Scheduled

A Conference on Malpractice Liability of Accounting Firms will be held in the Moot Courtroom (Room 308) on Tuesday, March 13 at 3:30 p.m. The program is designed for lawyers, accountants, businessmen and corporate finance executives.

The scope of liability, and rulings by the courts under common law and securities law, will be presented by attorneys Alvin M. Stein Esq. and Joel M. Wolosky Esq., partners in the law firm of Parker Chapin Flattau & Klimpl. The accountant's view will be presented by Richard Kron, certified public accountant and attorney, Partner in charge of Touche Ross & Company, Long Island office.

## ELS to Sponsor Panel Discussion

by Gary Jones

Hofstra's Environmental Law Society, in conjunction with St. John's University's Environmental and Energy Law Club, are co-sponsoring a panel discussion that will focus on Governor Cuomo's executive order of December 30th that requires the Department of Environmental Conservation to conduct a comprehensive survey of waste disposal practices in New York State since 1952. The panel discussion will be held at St. John's University Law School on Monday March 12th at 2:30 P.M.

Under the Governor's "Community-Right-To-Know" order, firms operating in New York State must report on the types, quantities, toxicity, and location of potentially hazardous materials that were used, stored, manufactured, or transported within the state during the last 30 years, if such information exists. The panel will consist of representatives from the state and federal environmental agencies, the chemical in-

The smashing success of last year's *Low Revue Show* (a.k.a. The Law School Comedy/Variety Follies), a Hofstra tradition revived, will be followed this year by yet another such spoof, once again directed at law schools and their faculties (naturally, any similarity to Hofstra professors or administrators is pure coincidence), lawyers, judges, and other legal artifacts and elusive concepts.

But we need YOU!

We need WRITERS! If you (a) see any humor in the law school experience or law in the outside world, (b) have ever watched "Saturday Night Live" and (c) are quasi-literate, take pen in hand and write! Then submit any and all such scribbles to us! Or we'd be happy to talk about any ideas you might have about material for the show.

We need PERFORMERS! This veritable extravaganza will be held on the stage in Hofstra U.S.A. (north campus) in early April. If you can sing, dance, or act, or if you can play any musical instrument, or if you can make people laugh (preferably while clothed), or if you've always wanted to be a star, or if you have any unusual talent(s), see us about it! Really!!

We need WARM BODIES! Even if you have no talents whatsoever and think that there is absolutely nothing you could do to help out, see us immediately! We need people to help make props and scenery, to help with lights and sound, etc., etc. We won't turn anybody away, and we'll take as much or as little time as you can give us (We've scheduled the show for early April so as NOT to conflict with final exam studying.)

This is YOUR SHOW! This is a show by law students for law students and faculty and it can and will be as good as you make it. We would like to see everybody involved! We especially need the input of first- and second-year students! And, of course, third-year students, this is your last chance! Go for it!

Contact Glenn Berger or Rick Collins or leave your name, phone number and what you can do for the show in the Student Government box located in the Admissions office.

## Low Revue

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The Hofstra Law School Community

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Cash Bar D.J. All Invited

Admission:

\$1.00

## TKTS ON SALE

See:

Joe Lee-1st yr.-SGA Rep.

Betsy Perry

Peter Shafran

Jeff Schlossberg

Dave Abrams

Al Figueroa

Michael Zarin

Aaron Woskoff

Ann Marie Chmeliewski

Peter Albert

Donna Simendinger

Cathy Sagos



**FACULTY PROFILE:****Professor Debra Dinowitz**

By Tracey Epstein



This semester's course in Copyright Law is being taught by Professor Debra L. Dinowitz, who returns to Hofstra University less than four years after her law school graduation. Dinowitz graduated from Hofstra Law School in 1979.

Dinowitz is teaching for the first time and said that while it takes a lot of work and preparation, she enjoyed teaching and would probably do it again.

Prof. Dinowitz became involved in copyright law while an associate at the New York firm of Colton, Weisberg, Hartnick, Yamin & Sheresky. At Colton Weisberg she worked with name partner Alan Hartnick, President of the Copyright Society, and received a thorough training in corporate and entertainment law. Since May 1983, Dinowitz has been preparing computer agreements for, and is involved with the corporate banking services of Manufacturers Hanover Trust Company. Dinowitz began her legal career at the New York office of Cahill, Gordon & Reindel.

Dinowitz received both her undergraduate and legal education at Hofstra University. She majored in Art History and graduated *magna cum laude* in 1972. She returned to Hofstra four years later to begin a distinguished legal career. A member of the Hofstra Law Review, Dinowitz graduated with honors and as a member of Phi Beta Kappa.

Dinowitz urges all students to take advantage of the vast alumni "network." She feels that there are plenty of graduates who are more than willing to help out students from their *alma mater*. "Many of them are in a position to talk," said Dinowitz, "if not hire."

**Tenure/Reappointment****Committee Needs Student Input**

TO: Students

FROM: Professor Alan N. Resnick

RE: Committee on Reappointment, Promotion and Tenure

The Faculty Committee on Reappointment, Promotion and Tenure will be considering the following faculty members for either reappointment or tenure. The committee is interested in soliciting student opinion with regard to these matters. Students wishing to express their opinion should forward their written remarks to the chairperson of the appropriate subcommittee as soon as possible.

**Candidate**

Prof. Mitchell Gans (Tenure)  
Prof. Robert A. (Baruch) Bush  
(Reappointment)  
Prof. Freda Bein (Tenure)

**Subcommittee Chairperson**

Prof. Twerski  
Prof. Silverman  
Prof. Jacob

**HOFSTRA LAW REVIEW***is pleased to announce*

THE FOURTH ANNUAL

**Hofstra Law Review Lecture**

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**Stephen A. Saltzburg**

Professor University of Virginia School of Law

on

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Calamari—Contracts	Posin—Federal Tax
Dobbs—Remedies	Prosser—Torts
Farnsworth—Contracts	Rodgers—Environmental Law
Gorman—Labor Law	Rosenberg—Patent Law
Henn—Corporations	Siegel—NY Practice
Imwinkelried—Evidence	Sullivan—Antitrust
Kess—Estate Planning	Schwartz—Admin Law
Klein—Corporate Finance	Tribe—Constitutional Law
Lilly—Evidence	Wentraub/Resnick—Bankruptcy
LaFave—Criminal Law	White/Summers—UCC
Manet—Trial Techniques	Wright—Federal Courts
McCormick—Evidence	

1. Left on Hempstead Turnpike, under overpass.
2. Make first right turn (Oak Street)
3. At T in road (second light, Commercial Avenue), make left
4. At first light (Clinton Avenue) Commercial Avenue becomes St. James St. South. Follow St. James St. through next light to stop sign (Chestnut Street)
5. Make right at Chestnut Street, under trestle and follow road around to light (Franklin Avenue).
6. Make right on Franklin Avenue (post office). LIRR tracks are 30 yards ahead. ISLAND BOOKS is five stores past tracks on left. PARK BEHIND STORE





# NON-SENIORS SAVE MARCH IS \$175 THE MONTH

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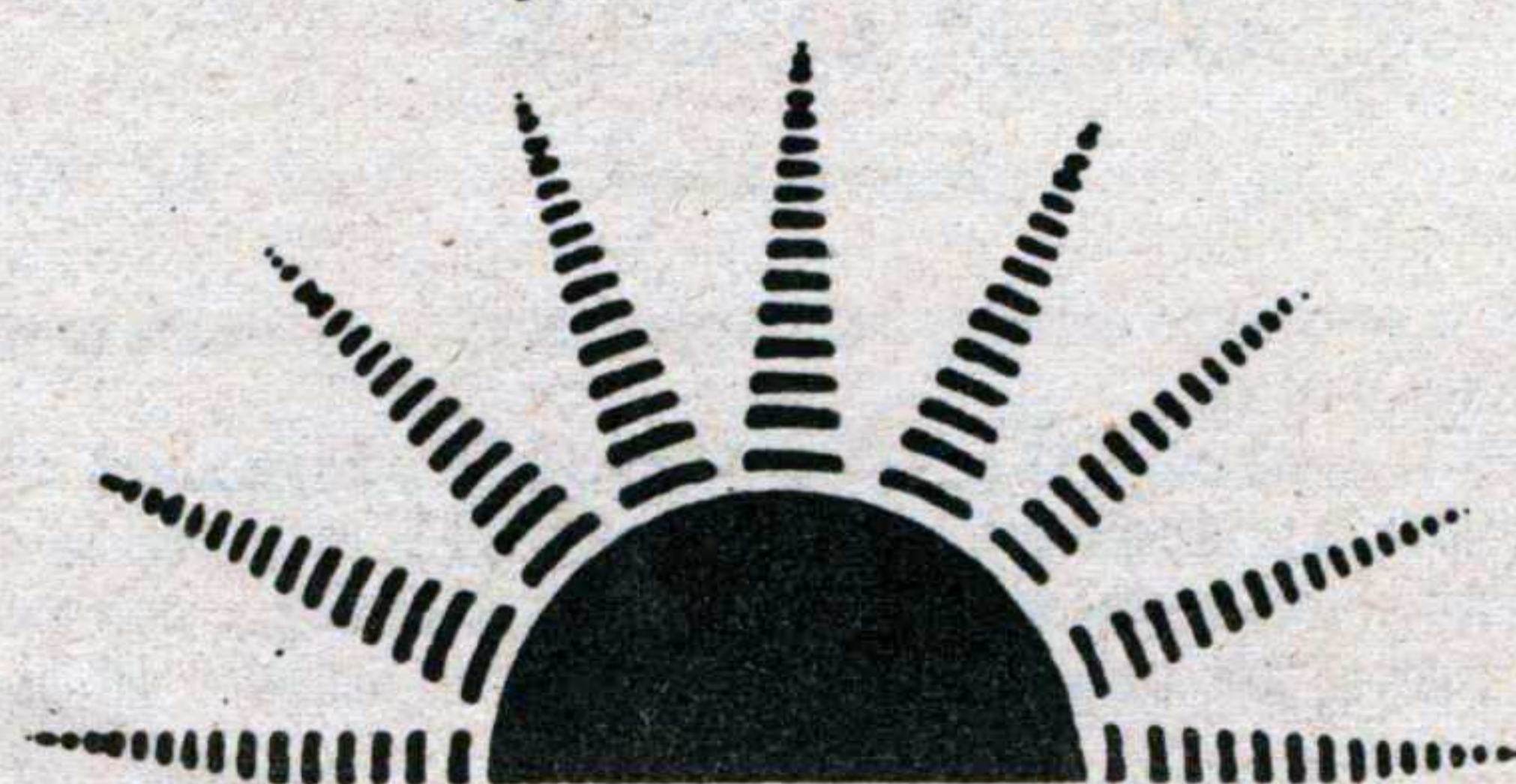
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# COMMUNITY FORUM

## EDITORIALS:

### SGA Reviewed

As Hofstra Law School begins gearing up for the annual SGA election ritual in becomes necessary for us to review the achievements and failures of the present SGA administration.

The SGA, under the leadership of Michael Zarin, kicked off the school year with a picnic to set the mood of what was to come. However, the SGA had not followed up on their promises of increased social events until just recently with a wine and cheese party and the GET WET pool party.

The SGA must be commended for dividing up the budget in a quick rather orderly process. However, some aspects of their private deliberation process raised serious concerns.

The activity fee referendum finally passed thanks to the efforts of "Veep" Dave Abrams. Unfortunately, without blaming Abrams, the University Board of Trustees has not yet approved the increase. Perhaps that has something to do with our lack of representation on that Board.

Early last semester, several SGA-Constitutional questions arose. As a result, Craig Heller, presently an Election Committeeman, was assigned the gargantuan task of developing amendments. Heller's work has yet to be realized and there seems to be little chance of their being enacted this year.

While the Ad Hoc Committee's Interim Report was published last October on these pages, the SGA has not seen fit to examine its findings nor push the faculty to adopt its measures.

Zarin proposed that the Law School hold two symposia this year to increase our recognition. The first, **LAWYERS FOR THE PEOPLE**, held in November, was given universal support by SGA and the second co-sponsored by ELS isn't even being held on our campus.

It must be said that Zarin's administration has accomplished much in comparison to its predecessors but the students demand more. We thought we were getting an "activist" president — instead we got an "invisible" president. Promises were left unfulfilled and students were left disappointed.

### Voters Beware

The great challenge in electing a student government for any law school, but especially for this one, is for the voter honestly to face the following questions: Why do we have a student government and what are the legitimate and reasonable ends our student government should serve?

Membership on the law school student government should be "light years" removed from the normally trivial and ceremonial purpose it serves at the undergraduate level. It should not be a glorified social club or resume filler.

To the majority of employers, the entry on a legal resume of "student government" usually looks like little more than a student's failure to apply themselves to the principle purposes of law school. Many also feel that a student's use of student government to fill up the resume further shows an ignorance of those qualities the employer truly seeks from a professional. The conclusions to be drawn from this are: First, people who seek positions in student government with sophomore notions about its being prestigious on its face, or merely as a way to enlarge social contacts, are both foolish and wasting the resources that students (through payment of student activity fees) invest in them; second, that as voters, all students have a duty to demand of candidates, and those ultimately elected, standards that befit the continuation of a student government at this school.

A fair question is what are such standards? Appropriate standards require more of student government than merely appropriating each year's student activity budget and harping contritely over mundane questions of physical plant maintenance. Over-emphasis of this type of role for student government is misdirected and at best, results in conduct by student government figures principally aimed at self-aggrandizement (or at worst face-saving). The lesson that too many student government-types learned incorrectly from the 1970s and Watergate is that they serve best by striking an adversarial posture "is a vis "the administration."

Interestingly, we at Hofstra have little need for such adversarialism and will likely benefit more by working aggressively toward the shared goals of students and faculty. What are those goals? The enhancement of this institution and its reputation in the professional community. No student should doubt the faculty and administration's commitment to that goal—their professional reputations too are linked to the success of the school's students, and none of these people had to undertake the task of starting a law school. There

are hundreds of self-help initiatives that students here could undertake to hasten the type of national recognition and prestige so many students at Hofstra seek.

Our message is two-fold. We look to student government to take serious responsibility to build an unprecedented spirit of cooperation with this administration and to develop and implement projects in keeping with the character, spirit, and legitimate interests of this law school. Finally, we urge the voters to scrutinize the candidates and reject those who would "hoodwink" the unwary into electing mere resume fillers. We want to elect more than promise and potential—we need results and we must seek to hold SGA members accountable for the obligations they promise to undertake. For the hardworking SGA, the offices they hold will be more than resume fillers. There will be real accomplishments to which they can point to show their tenures were substantive—and there would probably be faculty and administrators who would attest to those accomplishments. The choice is ours. We strongly urge your active rather than passive participation.

## LETTERS:

### To the Editor:

Would you please print pictures of Debbie, Jeannie, Rob and Ron in the next issue of *Conscience*? I would love to see the people who inspired such lovely "Messages From the Heart."

Sincerely,  
A Curious Alumnus  
(Class of '79)

### Dear "Curious,"

We aren't exactly sure who Debbie, Jeannie, Rob and Ron are, but we took a shot, anyway.



Ron



Debbie

Rob

## SGA ELECTIONS NEXT MONTH

The Elections Committee has announced that the SGA elections will be held on Wednesday, March 21. The positions that are up for election are President, Vice President, Treasurer, 2nd and 3rd Year Representatives, ABA-LSD Rep.; NYSBA Rep. and three Community Legal Assistance Corporation (CLAC) Trustees. The petitions may be picked up on February 29 and due on March 9. The petitions may be picked up and dropped off in the Student Representative mailbox in the Admissions office.

The following are the rules and regulations for the campaign:

1. **Qualifications:** Any Hofstra Law student is eligible for position of Student Representative except that
  - a. the student must be a member of the class represented and
  - b. no law review journal/forum editor, *Conscience* editor, ABA-Law Student Division Rep., New York State Bar Association Rep., nor any other officer or Board member of any Hofstra Law student organization may serve concurrently as Student Rep. and in any of the aforementioned positions.
2. **Petitions:** Minimum of ten signatures of the proper constituency.
3. **Finances:** A maximum expenditure of \$20 per candidate, including donations. Each candidate must submit receipts upon request.
4. **Voting:** Only students who will be 2nd and 3rd year students in the Fall Semester, 1984 may vote in the election.
5. **Campaigning:**
  - a. No formal campaigning may begin until March 12. Formal campaigning includes the putting up of signs; passing out of leaflets and discussing of the campaign with groups.
  - b. No campaigning in the library lobby during the day of the election. (Hrs.: 11-4).
6. A Political Forum will be held on Wednesday, March 14. The rules for the forum will be forthcoming.

Any violations of the rules may result in disqualification of the candidate. If there are any questions about the rules for the election, leave a note in the Student Representative Box or contact Craig Heller at 485-9280 or Steve Gershbein at 538-7866.

### EDITORIAL BOARD

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March 1984

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# COMMUNITY FORUM

## DEAN'S CORNER:

Dean Eric J. Schmertz

The Hofstra Law School encourages public service. It insists on ethical conduct by public servants.

I have read Mayor Koch's book *Mayor*. I have also read several reviews of the book. Nowhere have I seen any thought that mayor Koch may have breached a duty of confidentiality to those who work for him in government and to those from the public with whom he has official dealings.

If Mr. Koch was a mediator, as I am, his disclosures of private or personal positions and demeanors of others would be a violation of law.



Federal and state labor laws bar mediators from revealing anything learned in the course of mediating a labor-management dispute. The reason for the rule is obvious. For a mediator to effectuate a settlement, he must enjoy not only the absolute confidence of both sides, but must learn from the participants in private, positions, views and parameters of possible settlement, with which the disputants may not want to be publicly identified. If the mediator breaks the confidence, it would prejudice the credibility of the participants, fatally impede the settlement technique, and generally subvert the mediation process. Participants would never reveal to the mediator information needed to effectuate a settlement if they thought those private, and at times precarious positions, would be later made public.

Is this not equally true for an incumbent mayor, who as the "Mayor of all the people" often must act as a mediator to reconcile the different interests of many divergent groups and forces in order to make government work? From a philosophical, if not legal view, is he so different from the traditional mediator, or for that matter the lawyer, the physician and the clergyman who have well-recognized obligations to maintain the private and personal information learned from those they represent or treat.

Aside from gossip, I hardly think a mayor has a duty to disclose to the public through a book the human weaknesses, personal vulnerabilities or private idiosyncrasies of his colleagues in government or others involved in public affairs. Indeed, like the mediator, I fail to see how a mayor can continue to govern effectively in furtherance of his oath of office, if those who deal with him fear

what they do and say in private, the compromises they are prepared to accept to adjust differing interests and points of view, will be indiscriminately disclosed by the Mayor for sensational, financial and shortsighted political gain.

I note that Mr. Koch's book is now first on the *New York Times* Best Seller List of non-fiction. I find it unsettling, if not of questionable ethics for a mayor, elected by the public to a high office of public trust, to gain substantial financial profit from an exploitation of private things he learns about others only because he occupies the position of Mayor.

It is proper, of course, for the Mayor to disclose the failures of culpabilities of others when their official duties or public responsibilities are involved or when those characteristics are relevant to the performance of public office. But, it is not proper,



in my view, to ridicule or to express contempt for others because of personal characteristics, habits, or emotional reactions that have nothing to do with how those persons carry out their official responsibilities. The former is legitimate reporting. The latter displays an intolerance and mischievousness not worthy of the Mayor of the largest city.

If I were to write a book *Mediator*, it would include a chapter on Ed Koch because we have had a number of dealings together in labor-management matters. If I was not barred from doing so by the labor law, the chapter would include as many examples of his personal defects that have nothing to do with his effectiveness as Mayor, as he discloses in his book about others. I would be charged with indulging in irrelevant and petty personalities and the charge would be correct. A reading of *Mayor* indicts Ed Koch on the same charge.

Editor's note: Dean Schmertz was the chief mediator in virtually every contract negotiation between the City of New York and its firefighter's unions from 1967 to 1978; was the Impartial Chairman between these parties for fourteen years; and was the Chairman of the Arbitration Board which ended the only firefighter strike in the city's history in 1974. For twelve years, Dean Schmertz was a Public Member of the three member New York City Office of Collective Bargaining by appointment of the city and the municipal labor unions.

## THIRD WORLD PERSPECTIVE

### The Dilemma Of The Haitians

by Dennis Warren

More than 120 Haitian refugees jailed in a Miami detention center, went on a brief hunger strike earlier this month to protest the slow pace at which their petitions for asylum are being processed by the U.S. Immigration and Naturalization Service (INS).

Confined at the Krone Avenue Detention Center, these Haitians are the remainder of 2000 ordered released by Federal District Court Judge Eugene Spellman in June of 1982, after he found that the government illegally detained them; but despite his ruling, they remain behind bars.

Why have Haitians been denied the dignity and respect extended to others who have sought refuge in America in the past? Ever since the Haitians began braving the 700 mile journey from their native island-state back in 1972, aboard leaky, dingy, vessels, and in pursuit of freedom, the welcome extended to them has been less than cordial.

Successive governments, Democratic and Republican, have sought only to repatriate Haitians as expeditiously as possible. On the other hand, such groups as Cubans, Asians, East Europeans and Nicaraguans have been effortlessly accorded full refugee status. But, in the case of the Haitians, the aged precedents upon which refugees have been established in the U.S., appear suddenly reversed and incongruous with past immigration procedures.

This contradiction has stirred heated debate, particularly within immigrant communities across the U.S. Arguments surrounding this issue basically flow into two

which this country was built: The right of the oppressed to seek refuge in this "The land of the free and the home of the brave." Besides, under international law, the U.S. has a non-discriminatory binding commitment to protect refugees from persecution.

Why have Haitians been treated so shabbily?

Although it has become expedient for some to suggest that the motive is primarily racial, examination of past U.S. Immigration and refugee policies seem to contradict this contention. During the Vietnam War, for instance, the most vicious forms of racism towards Oriental adversaries was encouraged as part of U.S. military policy. Yet, after the war, the U.S. brought along every Vietnamese it possibly could. According to INS reports, from 1976 to 1980 more than 322,500 Indo-Chinese were accepted as political refugees.

Why is the government finding it so difficult to establish a few hundred imprisoned Haitians as refugees? The political motive has to be meticulously probed, for therein lies the clue to the double standard of U.S. immigration policies towards Haitians. But, understanding this contradiction requires appreciation of some basic tenets of U.S. Foreign Policy, particularly those upon which the immigration policies infringe.

The subtle distinction made by Jeanne Kirkpatrick, U.S. Ambassador to the United Nations, between totalitarian and authoritarian regimes underscores the rationale. According to Ambassador Kirkpatrick, totalitarian or communist



separate veins: The government contends that while a few Haitians deserve asylum, the vast majority are economic and not political refugees because they are not fleeing political persecution; but, rather, are seeking economic opportunities.

Haitians, on the other hand, confute these arguments, asserting that they are indeed political refugees fleeing persecution. They further assert, that the government's restraint on their freedom is racially motivated, because Haitians are black-skinned; and politically motivated, because the U.S. supports Haiti's notorious despot, Jean Claude "Baby Doc" Duvalier, Haiti's President for life.

The arrival of the Haitians to these shores, therefore, has raised a delicate issue; one which challenges the very foundation upon

governments lack freedom in all fundamental respects, while authoritarian or fascist regimes, although stern, allow some freedoms. Extrapolated to the Haitian dilemma, therefore, Haitians supposedly don't deserve the economic and political assistance of the U.S., for presumably, some freedoms exist in Haiti, while refugees fleeing totalitarian regimes like Cuba are ipso facto fleeing persecution, and accordingly merit American assistance.

The bloody and repressive history of Haiti is well known throughout this hemisphere, and Haitians are, to a large degree, political and not merely economic refugees like Mexican or Caribbean undocumented workers. For unlike the latter class, once repatriated,

**Continued on page 10**

Hofstra University  
Environmental Law Society

and

St. John's University  
Environmental and Energy Law Club  
present

#### Hazardous Wastes and the Community-Right-to-Know Law

a panel discussion of Gov. Cuomo's executive order requiring disclosure of waste disposal practices in New York State since 1952

**When:** Monday, March 12,  
1984, at 2:30 P.M.

**Where:** St. John's University  
Law School-Moot Court Room  
(Grand Central and Utopia  
Pkways.)



# COMMUNITY FORUM

## PARTING THOUGHTS...

by Jordan Fox



It is said that the more rigorous the hazing to join a fraternity, the greater affection and devotion its members have for the group. They will defend the system and impose upon the pledges the same abuse and ceremonial junk they were exposed to. I wasn't a very subordinate frat member and I guess I'm not a blind devotee to the brotherhood of lawyers either. After three years of legal hazing, I have a few things I'd like to say.

First of all, I can state unabashedly and emphatically that I have received a superior legal education here. I'd match the opportunities I have had and the skills I have acquired with any other law student in America. I am equally as confident that the other students here who took advantage of the opportunities available can say the same. My satisfaction is heavily linked to my compliance with Mark Twain's admonition to students that school should not get in the way of your education. At the same time I have developed some serious concerns regarding our profession, which will not be discussed in this article. Instead, this will serve as my evaluation of the students, faculty and administration of the School of Law. It is my State of the School Address.

Many of my perceptions generate from my experience as president of the student government last year. I will be supported in my comments by a remarkably unscientific survey of students taken last year by me. The results have not yet been published and despite their scientific invalidity provide some valuable insight into the attitudes of the student body.

### THE ADMINISTRATION

When Eric Schmertz took over as Dean over a year ago, there was understandable optimism by students and faculty that Schmertz would act to revitalize the school's programs, spirit and finances. Although it is still too early to conclude if Schmertz has lived up to that optimism, his record to date has been a qualified success.

The Dean has secured a number of valuable endowed chairs which have brought prestige and much-needed resources to our school. He has responded to the desperate needs of a law library that has reached critical mass by proposing a new library building and beginning to generate support to raise the necessary resources. Importantly, the Dean has assumed the Herculean task of improving the building's environment with new carpeting, wallpaper, furniture and, of course, those paintings that closely resemble the fake vomit we used to buy in the 5 & 10. Student complaints have significantly diminished concerning the law school environment although some have suggested we employ Frank Field to prepare us for the severe weather conditions in the various ecosystems of our building.

Schmertz has also brought prestige to our school through his support for the Carlough Conference and various other activities, some student-run, that have attracted big names and provocative events for the law school community.

The Dean has also exuded a confidence and pride that has made the faculty and outside world feel more secure about the law school and its future. He is the consummate

moderate and likes everything neat and clean.

At a time when the law school should be taking risks and emphasizing its uniqueness, Schmertz seems content to go the path of least resistance. He, like others, appears intent on exorcising the ghost of Dean Monroe Freedman. That is, to finally rid this school of the liberal/activist reputation it has earned in the past. But, in this attempt, they run the danger of sinking this school deeper into moderation and mediocrity. We need a spark here and Schmertz's laissez-faire approach, at times bordering on apparent boredom, is not enough.

One of the problems is that the Dean is a part-time dean. The University extended its offer to Schmertz knowing that he would continue his lucrative outside practice. Moreover, Schmertz's activities on behalf of the law school have been frequently conducted outside of the law school. That is, he is on the road often and is quietly garnering financial support on behalf of our school.

Dean Schmertz also suffers because to a large majority of the student body he is invisible. He has not held a Dean's Hour meeting with students since he first became Dean and his contacts with the student body are limited to student leaders who seek him out. Students want to know that the Dean is on our side and would greatly appreciate talking to Schmertz informally in the lounges and halls. And, I believe Schmertz would benefit from informal discussions as well. This seems to me to be an essential function for a Dean and one in which Schmertz has failed.

Schmertz, knowing his worktime was limited, surrounded himself with the competent assistance of Vice Dean Rabinowitz and Assistant Dean Robert Douglas. But, Rabinowitz, by all accounts, is an extraordinary professor whose talents are wasted in his current capacity. Dean Douglas has assumed all the Deanly tasks Schmertz *et. al.* has avoided like the plague. He has mastered the obscene University bureaucracy but has created in the process some of his own. Like Schmertz, he is too cautious but deserves credit for his efforts to create some regularity and competence to the maintenance of the law school building. The Dean is too insulated and the school appears to be run by an "Old Boys Club" comprised of the Deans and Professors Gregory, Agata, Wypyski and Lanc.

Schmertz has also displayed lackluster interest in, and sometimes downright hostility towards, the concerns of students. He has stated that such issues as parking, heating and air conditioning, and library conditions are mere inconveniences and as a result, receive low attention. He usually tells a war story about how lousy the conditions were when he was in law school. Although he has made some progress in these areas, he fails to see the devastating effect these conditions will have upon the school's ability to attract the support of the future alumni. Students see these inconveniences as symptomatic of a bigger problem, i.e. that no one cares about their welfare.

The Dean has not responded well to student activists. During orientation last year, Schmertz stated: "There are a few students, and I mean just a few, who insist that there be an adversarial relationship between students and faculty. I don't like it and I will stop it." It would seem, though, that an institution that prides itself on its ability to churn out lawyer-advocates should not stifle the few student-advocates that are willing to contribute to their environment. To be fair, though, Schmertz has registered his support for benign activities of students like speakers and parties, and often attends these functions.

Dean Schmertz must address what has become a Hofstra School of Law malady: constructive notice. Unless you are naturally investigative or omniscient, it is very likely

that you have not found out about an opportunity (contests, scholarships, conferences, committees, etc.) until it has passed or a policy until you have run amuck of it. How many students are aware that the placement office will videotape a mock interview for them and evaluate it? How many are aware that they can audit undergraduate classes (our survey indicated that a majority of our students would take advantage of such an opportunity)? Only 15% of the students here would know where to go if they had an academic or personal problem. While some of the blame rests with the student body, the school suffers when no active, visible encouragement exists to guide the students toward these opportunities. Organized bulletin boards have helped but more needs to be done. Schmertz should use the Dean's Hour to discuss opportunities and inform the student body on his activities. The Dean should also direct the faculty to make more administrative announcements in class. I am sure that if the faculty and staff take a greater interest in this area, more students would become involved and it would go a long way to creating that sense of community which is sorely lacking now.

Other problems persist. Fifty percent of the students surveyed have witnessed some form of academic dishonesty here. Less than 20% believe the faculty or administration take cheating seriously. Schmertz should publicize the reporting and disciplinary procedures, tighten enforcement, and make the consequences clear.

There was an 18% reduction in the number of classes being offered in the Spring of 1983 from the Spring of 1982. Many classes described in our catalog haven't been offered in at least four years. Class schedules defy the most creative of students to work and attend class in any one given semester. Deadlines for faculty submission of grades are a cruel tease, prompting one anonymous student to post a sign reading: "Try paying your tuition late and see what happens."

On the bright side, financial aid seems to be handled in a fair and efficient manner by Professor Regan. Minority recruitment efforts are beginning to receive some attention, and we have secured some additional GOP scholarships despite Ronald Reagan's proposed elimination of that program. Moreover, faculty appointments are moving along nicely and there seems to be a genuine interest in ousting some of the bad apples.

Our survey indicated that most students here maintain a negative attitude towards the placement office. In fact, none of the approximately 225 students that responded said that the office has done "a very good job." Many students complain that the office only serves top academic students. Some just cited general ineffectiveness. Placement director Hugh Christenson, full of the best of intentions and saddled with inadequate support declares that these charges are a matter of perception, not reality.

To some extent, Christenson is correct and is a victim of a bad rap and displaced hostility. After all, of the 80% of our students who reported back, approximately 95% had law-related jobs. In addition, because our school is young, we cannot attract the quality or quantity of employers that many other schools can. Furthermore, as Christenson points out, our placement office was not designed to guarantee any student a job. Instead, it is there to provide some minimal assistance to those who seek it.

Yet some student gripes are valid. Dean Schmertz reportedly put a stop to the embarrassing practice of sending "Dear Employer" letters to attract employers here for interviews. Some of the information provided at the office is incomplete or outdated. The office does not respond as it should to students interested in public interest law and other fields. It does permit employers to recruit students at minimum wages or at no wage at

all. Unfortunately, only students in the top 10% receive the packet to apply for federal clerkships. Yet many judges hire outside of the top 10%. In fact, out of the twenty applications I sent out, I received three interviews and I'm not in the 10%. There are a number of students outside of that academic category who have special backgrounds attractive to some judges that never apply because nobody ever gives them the opportunity to realistically find out about their chances.

Overall, the placement office had done a good job and is getting better, given its limited staff and unenviable task.

That's about it for the administrative areas. Despite my reservations about Dean Schmertz, I hope he remains Dean. We need him to galvanize a student body in which less than 10% believe the school is moving forward at a satisfactory rate and a majority of the upper class students feel their experience here has been worse than they expected. Schmertz can also provide some much-needed stability in a school that has had too many Deans.

### FACULTY

We have an excellent faculty. True, too many rest on their laurels. True also, that many seem to be going through legal menopause or some kind of permanent middle-age crisis. It can't be doubted that we have our share of duds. Their tests are often ridiculous, ill-conceived or lazy. But, when push comes to shove, I'd venture to guess that we have one of the best faculties around. Doubt it? Just ask one of them.

The faculty, by the way, run the school. They set major policy and are pretty much left to do their own thing. That presents some problems. For example, each professor can invent his or her own grading system. Trade schools are required to have a uniform grading system but our law school does not. Is it written anywhere what an "A" means, a "C," or any grade? This becomes a problem when, on one hand, you have Professors Freedman and Scully, and on the other, Professors Shoreinstein and Alcorn. Students, as a result, must choose between taking a good professor and getting a good grade. Academic integrity? Hardly. The faculty used to weigh and balance the first year grades because of this disparity. That policy, however, was abandoned in 1981 despite highly significant inter-section grade differentials in my first year. This problem becomes worse after the first year since the lack of grading standards is especially apparent among our adjunct professors.

Students are generally unaware of the nature and extent of the extracurricular efforts by our full-time faculty. Virtually all of these faculty members contribute, in significant ways, via committees, advisement, recruitment etc. True, they are among the highest paid faculty in the State, but their efforts often generate from a greater sense of purpose and dedication. I have been particularly impressed with the contributions of Professors Kessler, Twerski, Lane and Kadane, to name a few.

Yet, some faculty members suffer from the same conditions as the students they criticize: so over-worked and preoccupied with other pressures that they can't do very much else to change the environment. There is certainly room, however, for the faculty to involve us in their activities and room to revitalize the clinical programs that we have abandoned over the past year.

And what ever happened to that "spark" that reportedly so inspired our faculty to begin this law school in the first place? At a faculty meeting last year, Professor Silverman persistently wanted to know if other schools had tried any alternative first year writing and research programs proposed by the faculty. Finally, Professor Freedman interjected: "Who cares what other schools

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# COMMUNITY FORUM

## IRA Defense:

# Guns Supplied by CIA

by Barbara Lynaugh

In November 1982, a long and politically charged trial came to a close in the Eastern District of New York. The five defendants in the case were acquitted of charges of running guns to the Irish Republican Army. One of the defendants was 81-year-old Michael Flannery, a founder of Irish Northern Aid, who openly admitted throughout the trial that he had been sending weapons to the IRA for over twenty-five years. His attorney, Michael Kennedy, delivered a stirring summation to the jury, which is excerpted here:

The burden is on the prosecution to prove that this was not a CIA operation. That is because under the statutory licensing and registration requirements of the National Firearms Act, and under the National Export Act, if in fact, weapons are in the possession of government agents, government police, or government operatives, and those weapons are being used by the government in a government operation, there is an exemption, an exception to the registration and licensing requirements. So, if this was a CIA operation, there would be no requirement to register weapons; there would be no requirement to license them; and there would be no violation of law.

Given the Alice-in-Wonderland nature of the CIA, that shadowy, murky mirrored world in which they operate, and of which none of us has a great deal of understanding, no one could expect the defendants to prove beyond a reasonable doubt that this was a CIA operation, but we would expect the government of which the CIA is a branch, to come forward and disprove that allegation. And that is what this case is all about.

Do you have within you a doubt, a reasonable doubt such as would cause you to hesitate in the most important affairs of your life, a doubt that would cause you to pause and reflect on whether or not this was a CIA operation? Because if these five men in good faith honestly and reasonably relied upon the manifestations of government and upon other indications that this was a CIA activity, they are not guilty because they have violated no laws.

### NO TREASON...NO CRIME... NO GUILT

When I thought of Michael Flannery coming to the United States as he did in 1927 to try and organize money and weapons and support for an army that the British defeated with brute force and treachery in the early twenties, I thought of some lines from the poet John Boyle O'Reilly and I would like to quote them for you:

"We brought no treason from Ireland  
we brought no crime or guilt.  
The sword we held was broken but  
we proudly grasped this hilt."

When Michael Flannery came here part of his responsibility, in addition to a deep-seated loyalty and respect for the United States government and the people of the United States, was to forge that broken sword into an unbroken sword.

So there is no treason in the hearts of any of these men against the United States. There is no crime and there is no guilt.

### Federal Weapons Law

To understand the law with reference to the possession of weapons, you must set aside some of the things you may have heard before, not in this courtroom but in the newspapers or in your prior experience.

When it comes to the federal firearms act, the question is not the possession of the weapon, but whether or not you have a license, whether or not it is registered.

The issue in this case became clear when (FBI) agent Winslow was on the stand, and I asked him about his possession of these weapons and why, if he didn't have a license, it was legal, and why, if they were not registered to him, it was legal.

His answer was quite correct so far as I can tell, "I was doing the government's work." And, if I am doing the government's work I have no responsibility under the statute, under the law as his Honor will give it to you, to register or license those weapons.

So when the government, our government, possesses these weapons or sanctions an operation that involves the possession or

receipt or transfer or exporting of these weapons, that operation is not illegal. That operation is not a violation of law.

### CIA Lying: A Habit and Custom

But the government, our government, is not a single monolithic, one-minded body. It is, in effect, a myriad of parts, some of which may not know what the other parts are doing.

What is in issue here is: was this a CIA operation, and what evidence is there from the prosecution?

There is this:

Certificates of denial by the Central Intelligence Agency.

Ladies and gentlemen, we had an attorney general of the United States say that not only was it the habit and custom of the CIA to lie to him when he was attorney general, when he was the chief law enforcement officer of the United State of America, but that lying was not just a routine practice, it was a habit to which he knew of no exception.

### Defendants' Political Convictions

One of the few statements of the prosecution that I have agreed with throughout these eight weeks, he made in his opening statement. That statement was that the political beliefs of these defendants are relevant to their motives here, and indeed, they are.

And that comes, I suggest, from an allegory I would like to tell you about.

Many years ago, and you have to bear in mind that Ireland has been under the tyranny of England for 800 years, many years ago, it was a crime in Ireland to even refer to Ireland as a nation. So she was referred to by the Irish poets as Kathleen ni Houlihan.

England's symbol, for those of you who are wondering where the bulldog got its name or the term "bully" came from, England's symbol was John Bull: enormous, voracious man.

Imagine, if you will, John Bull arriving at the land or at the home of Kathleen ni Houlihan. He comes as a guest and she is the hostess. The guest brings unwelcome gifts, his own guns, his own weapons.

The guest, John Bull, insists you stop speaking your own language, Kathleen ni Houlihan. Insists you stop utilizing your own culture, insists you stop working the way you want to work for yourself. He demands and exacts through the power of guns the servitude of the hostess.

And pretty soon the guest becomes the master, and the hostess becomes the servant. And soon he claims that all is his. John Bull says, "The house is mine; your land is mine; the timber is mine; the air is mine; your work is mine; everything is mine; you have no language; you have nothing."

And if Kathleen ni Houlihan should rise up, and rising for liberty is as natural as air rising, she'd be called a terrorist by England, and crushed. If you dare to throw John Bull's boot off your neck, they'll call you a terrorist and accuse you of interfering with his work. And the King and the Queen's work.

### Guns as Tools of Liberty

John Bull is an awesome neighbor, has the worst manners of any guest you could imagine. And with him comes violence. And if you respond to that violence with the only thing you can, which is violence itself, then you're called a terrorist.

Who is the aggressor when a thug comes into your home, takes over your home and you fight back to throw the thug into the street? Not the home owner. Not the host or hostess of the house. The thug is the aggressor. The choice of Ireland was to lie down under the heel of John Bull or to rise and throw them the hell out.

The only power they have are the guns, guns can be tools for freedom, as well as tyranny. Guns in the hands of peace loving people are tools of liberty. And guns can eventually bring peace.

As I talk, the terrible war goes on. The killing goes on in the North of Ireland. We won't stop it with this trial. Because what this trial is about more than anything else is American justice. It's not so much about Irish freedom, this trial is, as about American justice.

# PARTING THOUGHTS

### Continued from page 8

have done?" Right on. It is when we keep on looking over our shoulders that we will sink deeper into mediocrity. Unless that spark is reignited, we will remain just another good law school in the New York area.

The school secretarial staff is overworked and underpaid: It is wrong to deny our already disenfranchised clinical staff a vote in the faculty meeting: And it is not clear yet if last year's shape up or ship out letter to the student body was a genuine effort to look inward and aggressively address our faults or simply a cathartic release of faculty frustration.

### STUDENTS

First, consider these responses to our student survey:

1) Around 40% believe their grades reflect the amount of studying they have done for that course. Less than half believe that preparing for class is time well spent, makes classes more interesting or is valuable during the final. Only 35% prepare for every class every day.

2) Around 50% of our students use hornbooks or other study aids for virtually every class and a great majority view them as "essential" for better grades in a large majority of the classes. This is despite constant admonitions from first year faculty that they do not help and may hurt.

3) Only 25% believe that their tests have generally tested with substantial accuracy their knowledge of the subject matter.

4) Around 65% of us are from Long Island and only 10% from out of state. Less than a majority support administrative efforts to recruit a more geographically diverse student body. Only around 13% support these efforts to gain religious diversity and 23% support affirmative action programs to accomplish the latter goal.

5) Less than 20% expect to become active alumni, with that percentage down to 7% in the third year.

It is hard to convince anybody outside of law school that we are sympathetic characters. Hopefully, we insiders will understand. Ready, get out your violins....

Many of us came to law school with a chip on our shoulders because we didn't get into Columbia, NYU, etc. Regardless, some still perceived law school as prestigious and capable of providing a well-paid and/or otherwise attractive job upon graduation. Some also perceived that Hofstra was "on the rise" and offered many unique opportunities.

Since we have come here, however, we have been kicked around by our professors, administrators, financial aid programs, employers, and creditors. We are preoccupied with financial survival and unemployment.

We are drawn away from the classroom by part-time jobs that provide income and/or experience for the resume. Still, we hover around the grade board as if it were some ancient oracle (it may well be!). We increasingly view the classroom as irrelevant to our needs except to see how little we can do to ensure we receive a decent grade. We consistently underestimate our own abilities, our school's reputation and our proven success at job placement.

Our complaints are to each other and rarely do those complaints manifest in group action. We are resigned to the pitfalls of our environment and have, to some extent, adopted the "prisoner mentality."

Yet, none of these problems is unique to Hofstra. If anything, we have a greater sense of student community here than at the other law schools I have visited. We all seem to genuinely get along. And there are increasing signs that students are becoming more active and willing to make things happen to improve our environment. There is also a growing and active community of students and faculty that are concerned with some of the radical activities by the Reagan Administration, both for and against.

We remain too monolithic, but hopefully the administration will take some bold steps to diversify our student body in all respects. We also have our share of professional

neurotics, students who are miserable no matter what their situation or environment. They make people like me nervous. To these people I offer the following advice:

1) Stop drinking ARA coffee.

2) If you ever feel inferior just go over to the Nassau County Supreme Court and watch how bad some of those lawyers are.

3) Don't worry too much about your rank. Those in the middle of the class become the best attorneys. The top of the class become professors, and the bottom of the class is elected to Congress.

Finally, I never understood why it isn't the bottom of the class who edit journals and write comments and the top of the class who get real jobs. Law Review should be a student cooperative designed to provide legal assistance to the community. If the Law Review represents our best and brightest, then it seems like community service is where we need that talent the most and would provide the participants with the best education.

### CONCLUSION

Like my fraternity, I have completed (almost) my pledging and have developed some radical notions on how the system should be changed, few of which are discussed here. But, I also leave knowing that there are a number of exceptional students and faculty who will ensure the continued vitality and relevance of our training.



# COMMUNITY FORUM

## Lawyer's Role: Court Officer or Clients Advocate

by Steve Brodsky

In our adversary system of justice, the lawyer finds himself or herself sporting a slightly schizoid mental apparel. In one frame of mind, the lawyer wears the colorful and flamboyant suit of a partisan advocate. As a wily, albeit scholarly, legal professional, the veteran trial lawyer is motivated by a singular purpose: to present his client's cause of action or defense zealously in order to achieve ultimate victory in the form of a favorable judgment.<sup>1</sup> Yet, this adversary system of justice also obliges the lawyer to don the conservative attire of an officer of the court. In this role, the lawyer must, from time to time, temper his zeal as a partisan advocate by maintaining a heightened consciousness of advocacy conducted within the bounds of law and disciplinary rules of the Code of Professional Responsibility.<sup>2</sup>

There is an inherent paradox in the lawyer's dual roles of partisan advocate and officer of the court. In one sense, the lawyer's only allegiance is to his client whose cause he must zealously represent until victory or defeat; yet, in an entirely different sense, the lawyer is obligated to patrol the very parameters of his or her own behavior for excessive zeal.

Despite the inherently paradoxical behavior of these dual roles, our system of justice demands neither more or less from a lawyer. Indeed, in the adversary justice system this duality is supposed to be synergistic:

Truth is the basic value and the adversary system is one of the most efficient and fair methods designed for finding it. That system proceeds on the assumption that the best way to ascertain the truth is to present to an impartial judge or jury a confrontation between the proponents of conflicting views...<sup>3</sup>

Beyond any doubt, the ultimate objective of our system of justice is the achievement of a truthful judgment based upon the conscientious and zealous presentation of evidence and argument by adversary counsel.<sup>4</sup> Yet, eminent commentators<sup>5</sup> concede that the quest for a truthful judgment is often subordinated to important procedural and evidentiary rules designed to protect deeply cherished constitutional rights such as the protection against unreasonable searches and seizures and the privilege against self-incrimination. All too often, we pick up our favorite daily newspaper and read that some very able criminal defense lawyer has obtained a reversal of a conviction on the grounds of an illegally-procured confession or of an unlawful seizure of incriminating evidence by resourceful policemen. In many of these cases, evidence tainted by unconstitutional police procedures is incontestably reliable and, under otherwise proper circumstances, would almost certainly warrant conviction and punishment for the criminal defendant.

Yet, not without a touch of irony, our system of justice tolerates these insults to the truth and the human conscience. This tolerance proceeds from the noble values of personal dignity, liberty and decency which the framers of our constitution sought to memorialize in the fourth, fifth and sixth Amendments.

Similarly, we find truth not infrequently subjugated by viselike rules of evidence artfully employed by crafty criminal litigators to snuff-out damaging, though perfectly reliable, evidence. For example, the hearsay rule, long championed by Anglo-Saxon jurisprudence, is the potent weapon of many a wily litigator. And, again, irony shows its magnificent face, for quite as often as the hearsay rule serves its intended purpose of excluding untrustworthy evidence, it also obfuscates the truthful statements of persons who, for one reason or another, have made themselves unavailable to testify. The inherently flawed nature of the hearsay rule is

dramatically demonstrated by the prolix exceptions that have been engrafted onto it; yet, again, our adversary system of justice tolerates the subordination of truth in this manner in order to preserve the notion that no person shall suffer a loss of personal liberty without a fair trial.

Few rational men would seriously argue that an advocate should not avail himself or herself of these evidentiary and procedural rules of law in furtherance of a client's legal interests.<sup>6</sup> Indeed, it is hardly debatable that a lawyer is duty-bound to seek these legal rights for the client under the potential pains of professional censure and malpractice.<sup>7</sup>

Although he or she is foremost a partisan advocate tirelessly pursuing the vindication of the client's interests, the lawyer does not do so without some weighty ethical reservation. Specifically, as an officer of the court, the lawyer is forewarned by the Code of Professional Responsibility<sup>8</sup> that, in certain defined circumstances, the interests of the client must obediently give way to the superior values embodied in our system of justice.

DR 1-102 of the Code proscribes lawyer misconduct in broad, almost amorphous, terms. For instance, subsection 3 proscribes 'illegal conduct involving moral turpitude.' In the words of one court:

Moral turpitude has been used in the law for centuries. It has been the subject of many decisions of the courts, but has never been clearly defined because of the nature of the term.<sup>9</sup>

Canon 1 broadly sets the state for the specific admonitions against lawyer misconduct found in Canon 7. It is in Canon 7 that we observe restraints placed on the advocate's zealotry. We are repeatedly told that a lawyer may advance any good faith argument in support of a client's legal rights, so long as it is confined within the bounds of the law.<sup>10</sup>

The phrase, 'bounds of the law,' is given considerable breadth and flexibility by Canon 7. EC 7-4 tells us:

"His conduct is within the bounds of the law, and therefore permissible, if the position taken is supported by the law or is supportable by a good faith argument for an extension, modification or reversal of the law." It is fairly clear that so long as a lawyer does not stray from these legal boundaries, he may select or exclude all such evidence and legal arguments as is necessary to win a favorable judgment for his client.

Beyond this point, the lawyer becomes a public officer who must scrupulously avoid situations which involve falseness and illegality. DR 7-102 prohibits the use of perjured testimony or false evidence and false statement of law or fact. It prohibits the lawyer's participation in the creation or preservation of false evidence and even his or her assistance in conduct which he or she knows to be illegal or fraudulent. The lawyer is directed further to call upon his or her client to rectify frauds perpetrated upon the court, and if the client refuses to do so, the lawyer is under an affirmative obligation to reveal the fraud to the 'affected person or tribunal,' except when information is protected as a privileged communication.

While a lawyer must scrupulously keep a client's secrets and confidences, even this sacred precinct of the lawyer-client relationship must yield to an overbearing public interest in a legal system free of corruption, dishonesty and indecency. In 1975, a New York appellate court dismissed an indictment brought against an attorney stemming from the lawyer's failure to disclose, directly or anonymously, certain confidential information revealed to him by a client whom he was defending against a murder charge.<sup>11</sup> During the course of this representation, the client told the lawyer that he not only killed the person with whose murder he was being charged, but that he also murdered two

other young women. The lawyer not only knew the identities of these two young women, but they also knew where their bodies were located. In fact, the lawyers themselves went to these locations, observed, and then photographed the two deceased young women.

For six months, the two lawyers remained silent with this ghastly information, knowing full well that the parent of these young women experienced unrelenting torment and anguish over the unsolved disappearance of their daughters. One of the parents even approached the two lawyers to find out if they had any information about the missing girls — both lawyers steadfastly refused to disclose any of the ghastly knowledge they had gathered from their client and their own independent investigation. They even tried to negotiate a plea bargain with the district attorney in which they offered to help solve the disappearance of two young women, if the district attorney agreed to ask the court to have their client committed to a mental institution.

As parents, we would have little difficulty having these two men skinned and blubbered for the grossest kind of indecency and contempt for humanity. As lawyers, we are caught in a distressful, ethical quandary. If we opine that these lawyers should have followed reasonable expectations of moral responsibility and reported the unspeakably barbaric gravesites to the authorities, then we must acknowledge a concurrent violation of the two lawyers' obligation to protect their client's confidences.

There are obviously no hard and fast solutions to this dilemma of the conflicting interests of client confidentiality and the proper administration of justice. However, it is submitted that knowledge and participation on the part of lawyers might be instructive guides on how to resolve this ethical problem. DR 1-102 of the Code mandates that lawyers cannot engage in any activity involving dishonesty, fraud, deceit or misrepresentation or any other conduct that is prejudicial to the administration of justice. DR 7-102 reaffirms these prohibitions and requires a lawyer to counsel his client to rectify frauds perpetrated on the tribunal or affected persons, or else the lawyer himself would reveal such frauds in the absence of a confidentiality privilege. Presumably, the presence of a confidentiality privilege would in the very least entitle the lawyer to petition the court for his withdrawal as counsel.<sup>12</sup>

Commission of a fraud upon the justice system presupposes a knowledge of the subject matter of that fraud. The lawyer who possesses knowledge of highly incriminating evidence and who confirms that knowledge through personal observation necessarily commits a fraud upon the justice system by knowingly concealing evidence requisite to the administration of justice. To be sure, a lawyer has no duty to discover the complete truth of his client's case, for the lawyer is not an impartial fact-finder. But should the lawyer come into possession of the truth, he cannot then shield it from the view of his own conscience and inspection by the judicial system.

The two lawyers in the case above had no duty to discover from their client the grisly facts concerning the heinous murders of these two young women. Apparently, the lawyers, desirous of learning all of the client's past activities, encouraged him to tell them everything about his recent sordid past, no holds barred. And when he very matter-of-factly quenched their thirst for knowledge with their sacred assurances of confidentiality, he gave them a case pregnant with competing ethical duties. Armed with the knowledge of the murders and location of the victims' bodies and aware of the state's investigation of the reported disappearance of the two women, the lawyers fraudulently concealed this knowledge from the district

attorney and even attempted to use it as leverage in plea bargaining discussions.

To avoid the 'Catch-22' situation of pitting the advocat's duty of confidentiality against his or her duty as officer of the court, the lawyer should inform the client that a confidential communication of an incriminating nature would not be revealed, but that the lawyer could not ethically continue to represent him.<sup>13</sup>

Although some might criticize this position on the ground that it would chill the free and uninhibited flow of important information from client to lawyer,<sup>14</sup> it seems doubtful that a criminal defendant, so informed of these ground rules, would refuse the benefit of legal counsel in situations of compelling need and high personal stakes. He might very well fabricate a story of innocence and insist on its truthfulness, but what earthly difference would that be from a midstream revelation of dishonesty. In the former event, the lawyer may accept with relative equanimity the facts as his client relates them and argue them zealously; whereas in the latter case the lawyer has no choice but to withdraw from his representation.

In sum, the lawyer as partisan advocate is not a truth-seeking investigator. He works only for his client and must lawfully exert his best skills and energies to advance his client's interests; however, as an officer of the court, he cannot be a falsifier or concealer, but must observe his duty to respect the lawful administration of justice.

### Notes

1. Frankel, M. "The Search for the Truth: An Umpireal View," 123 U. Pa. L. Rev. 1031, 34, 35 (1975).
2. ABA Code of Professional Responsibility, DR 7-101 (A). See also, Thode, "The Ethical Standard for the Advocate," 39 Texas L. Rev. 575, 584 (1961) and *In Re Wines* 370 S.W. 2d 328, 33 (Mo. 1963) (Lawyer's conduct should be characterized by candor and fairness. He should not knowingly commit any act against interest of the public. His conduct should be always in harmony with justice, honesty, modesty and good morals).
3. Freedman, M. "Judge Frankel's Search for Truth," 123 U.Pa.L.Rev. 1060, 1065. (1975).
4. ABA Code of Professional Responsibility, EC 7-19.
5. Freedman, M. *Supra* at 1063-4.
6. Rochelle and Payne, "The Struggle for Public Understanding," 25 Texas B.J. 109, 159 (1962). The author's comment: "Lawyers are accused of taking advantage of 'Loopholes' and 'technicalities' to win. Persons who make this charge are unaware or do not understand that the lawyer is hired to win, and that if he does not exercise every legitimate effort in his client's behalf, then he is betraying a sacred trust."
7. ABA Code of Professional Responsibility, DR 7-101(A)(1),(3).
8. *Id.* EC 7-25, 7-26 & 7-27.
9. *Commission on Legal Ethics v. Scheer*, 149 W. Va. 721.
10. ABA Code of Professional Responsibility, EC 7-1, 7-2, 7-3, 7-4, 7-6, 7-19.
11. *People v. Belge*, 376, NYS2d 771, 772 (4th Dept. 1975).
12. ABA Code of Professional Responsibility, DR 2-110 (B)(2), (C)(1) (c).
13. Orkin, "Defense of One Known to be Guilty," 1 Crim. L. Q. 170, 174 (1958).
14. Uviller, M. Richard, "The Advocate, the Truth, and Judicial Hackles: Reaction to Judge Frankel's Idea," 123 U. Pa. L. Rev. 1067, 1072 (1975).



# MONEY MATTER\$: Tax-Exempt Bonds

by Dino Kallenekos

With the filing deadline for tax returns just over a month away (April 16), people are looking for ways to cut their tax bills.

One way people are finding to reduce their taxes is by investing in tax-free municipal bond funds rather than in taxable money market funds or savings accounts. A municipal bond fund is a mutual fund that invests its shareholders' funds in state and municipal bonds. The interest income from these bonds is tax-free and so is the dividend income distributed to the shareholders of the fund. Most of these bond funds require only a \$2500 initial deposit and many even provide checks for easy withdrawal from the fund.

A municipal or state bond is exempt, by law, from federal taxation. An investor will keep whatever he earns from a municipal bond without paying any of it towards taxes. An investor in a money market fund or bank account must include interest earned from these investments in his gross income and therefore will have to pay taxes on the in-

terest. For example, a taxpayer who earns 12% in a money market fund and who is in the 50% tax bracket, will only end up pocketing 6%. The other 6% will be paid to the government in taxes. Conversely, the same taxpayer who invests in a municipal bond fund earning 12% will not include any interest in his income and will therefore keep the entire 12%.

From a straight greatest after-tax income analysis, a municipal bond fund is always preferable to a taxable investment paying the same return. (It should be noted, however, that there are non-tax factors that may influence where an investor invests his money). Municipal bonds, however, do not usually pay interest on a par with taxable securities. For example, a municipal bond fund may pay 7% when a money market fund is paying 9%. Deciding which fund will provide you with the greatest after tax yield depends on your individual tax bracket. The higher your tax bracket is, the more sense it makes to invest in the tax-free bond fund,

even though its rate of interest is lower. For example, a taxpayer in the 50% tax bracket would rather invest in the 7% bond fund because after taxes he would have the entire 7%. If, however, he were to invest in the 9% money market fund, he would have only 4½% after taxes. Therefore, this high bracket taxpayer comes out ahead by investing in a non-taxable bond fund with a lower nominal interest rate.

On the other hand, if a taxpayer in the 10% bracket were to invest in the 9% money market fund, he would have 8.1% remaining [9% - (10% x 9%)] after taxes. By investing in the municipal bond fund, he would only earn 7%. In this scenario, the taxpayer comes out better by investing in the taxable money market fund and paying the tax on the interest income than by investing in the tax-free bond fund.

Tax-free municipal bond funds are not for everybody, but for those who are in higher tax brackets, a bond fund may be a sensible alternative to taxable savings accounts.

There is a simple formula to determine whether, in your particular tax bracket, it makes sense to invest in tax-free bonds: Take your tax bracket and subtract it from one. Then multiply by the rate of interest from the taxable investment. Then compare this with the rate of tax-free interest from a bond fund. If the rate of the bond fund is greater, then it makes sense to invest in this fund. **See Box**

\$

If the tax-free bond rate (the rate on taxable investment) x (1 - tax bracket), then it makes sense to invest in tax-free bonds at these interest rates and this income bracket.

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## Grossman on Economics: Keynes Revisited

by Rob Grossman

This being an election year, national politics again becomes the focus of debate for the most important domestic issue, the economy. Over the past several decades, we have tried to fine-tune, or manipulate, the economy to meet various social ends, but the only consistently achieved results have been an increasing accumulated deficit, or national debt, and inflation.

The idea that we can achieve social ends through fine-tuning of the economy has its roots in the theories of John Maynard Keynes. While applied economics had previously required that each budget be balanced, meaning that receipts should equal or exceed disbursements, Keynes recognized a failure of this idea which could aggravate the effects of the extremes of economic activity, depression and boom.

Specifically, Keynes realized that, when a country is in a depression, total spending falls far short of the value of goods and services that the country as a whole could produce if all the elements of its productive capacity were fully employed. For example, on a small scale, if a factory can produce 5,000 units per year, and buyers want only 4,000, spending for this item will total less than could be produced. Production will be less than full capacity, capital and labor will be less than fully employed, and profits and wages unearned.

We have seen this repeatedly in recessions and depressions, where industries cut back in the face of shrinking spending (demand), leading to other reductions in supplier and support industries, and so forth, until the economy as a whole is suffering. Under these conditions, increased spending will spark the activity which will bring production closer to the full employment level. Keynes theorized that in these conditions, increased spending by government would be beneficial, even if the spending were to exceed tax receipts, resulting in a short-time deficit.

Conversely, in a period of great activity, we may try to spend more than our capacity to produce. For example, if we can produce only 10,000 Eldorado convertibles in one year and fifteen thousand people want to buy them, the price will rise. This auction effect is an allocation mechanism for scarce resources in a free economy.

The same mechanism applies to the country as a whole. If all spenders suddenly had ten percent more money to spend, they would probably try to spend most, if not all, of it (as opposed to trying to save). If productive capacity were being used at or near full employment, this increase in total spending, in a short period of time, would result in a bidding up of prices, an inflation. To counteract this general price rise, a reduction of spending would be required.

Our economy has four major groups of spenders (or areas of spending), private con-

sumption, investment, government and foreign sector. Of these, private consumption accounts for approximately 70% of net national product (1981), and government spending approximately 25%. Effective control in these areas, through fiscal policy, will obviously have the greatest impact on our economy. Fiscal policy works to control total spending by changing taxes and/or government spending.

When economic activity is reduced, an appropriate response by government is to try to increase total spending. This is done by decreasing taxes, so that individuals and businesses retain more of their earnings, most of which will be spent, and/or by increasing government purchases and payments. When activity is increased, taxes should be raised and/or government spending decreased. Effective use of fiscal policy in this way is supposed to keep production and employment high and avoid cycles of boom and bust.

What exactly is a depression? A depression can be measured as the difference between total spending in the economy at some level less than the total value of goods and services that could be produced at full employment, and that total value at full employment, where the difference exists for an extended time.

How much additional spending is enough? Enough to bring total spending up to the full employment level, but not to exceed it.

What exactly is full employment? Full employment cannot be determined exactly. It is an estimate of many factors which make up productive capacity, including labor supply, tools, raw materials, factories, etc. Each of these have to be evaluated as possible constraints to estimate capacity.

What if the reduced taxes and/or increased government spending result in a budget deficit? Keynes' great lesson is that the fact of a deficit (or surplus) should not be critically important by itself. The issue is how total spending compares to full employment, and the status of the budget, balanced or not, is secondary.

What if spending exceeds full employment capacity? When total spending exceeds full employment, the result is inflation. The remedy is to reduce total spending. This is done by raising taxes and/or spending less by government.

Given the huge accumulated deficits of the past decades, how can the national debt be reduced? Government spending must be cut back during inflationary periods, and/or taxes increased, which will probably produce a surplus. The surplus should reduce past accumulated deficits.

There are two major problems on the government side with this type of tinkering. The first is that the goals of government spending may not be achievable. The second is that once a program is initiated, it is rarely cut back, and programs are added on

so that spending is almost never reduced.

For example, in 1977, when President Carter took office, his advisers estimated full labor employment, to which the President had committed himself, to be 95% of the labor force. In an attempt to achieve this, his budgets increased government spending year after year. The result, however, was not the 95% labor employment sought, but, rather, dramatically increased inflation.

President Carter had made two mistakes. The first was to incorrectly estimate full labor employment (actually then at about 96%). The second was to fail to respond to the first.

Since our political realities work against effective use of fiscal policy, but at the same

time encourage ever increasing government spending, we have experienced continuous inflation, persistent deficits and growing national debt. These have caused serious problems, which will become worse as the trend continues.

The solution is to reduce total spending when there is inflation. There is a choice here, whether to reduce our personal spending or the spending of the government. Reduction primarily of personal spending (through increased taxes) will lead to an increase in the relative size, strength and freedom of government, and a corresponding decrease for all of the rest of us.

## Haitian Dilemma

Continued from page 7

Haitians face certain death or indiscriminate torture and imprisonment by members of the political death squads, the dreaded Tom Tom Macoutes or Leopards.

Moreover, those freedoms allegedly existing in Haiti seem, at best, illusory. In the House Sub-Committee on Immigration hearing on refugees held in 1980, Chairperson Elizabeth Holtzman asked the State Department's human rights officer stationed on Haiti what he could say positively about the status of human rights in Haiti, and after stammering for a while, he mumbled that Haiti had freedom of religion.

Haitians being held in Miami and other centers throughout the U.S., are mere victims of the U.S. policy of political separation. This policy is elsewhere reflected in statistics of the American Council for Nationalities Services: Between 1974 and 1975, no Filipino or South Korean requesting asylum received it; neither was it granted to 16 Greeks fleeing the Junta before its fall, nor to eight South Vietnamese fleeing the Thieu Regime. During the same period, however, the council reports that scarcely any requests from Eastern European countries were denied.

Between 1975 and 1976, 96 percent of the applicants fleeing right-wing governments were denied refuge in the U.S., while 95 percent from communist states were granted sanctuary during the same period.

This partisan policy is in contravention of the United Nations Protocol on Refugees signed by the U.S., which does not recognize the political distinction between left-wing and right-wing governments, but calls for acceptance of refugees based on whether they are, in objective reality, fleeing persecution.

The problem is that it is not easy to prove Haitians are fleeing persecution, for many, upon repatriation simply disappear. But it is equally difficult to discern the difference between an authoritarian Haiti and a totalitarian Cuba which the State Department suggests exists on the question of human rights. They both have atrocious human rights records. Hence, Haitians, like the Cubans who arrived on the Flotilla, should be granted political asylum and freed from their lengthy captivity.

Arising from the Haitian dilemma, the Refugee Act of May 1980 was brought into conformity with the United Nations Protocol of the Status of Refugees, and the distinction between those fleeing left-wing and right-wing regimes was eliminated. Nonetheless, there is abundant evidence that this policy is not being adhered to in principle.

Along with the Haitians in Miami's abominable detention centers, a growing number of Salvadorans, many fleeing the atrocious right-wing death squads, have been increasingly denied asylum as political refugees.





## Legal Briefs...

# Pulley vs. Harris: The Death Penalty Misapplied

by Randy Montellaro

The debate still rages over when the death penalty should be imposed for those convicted of capital crimes. The Supreme Court's decision last month in *Pulley v. Harris* concerning the propriety of death sentences will add new fuel to the fire. The Supreme Court held in *Pulley* that a state court need not compare the sentence of the defendant awaiting judgment with the sentences imposed in other similar capital cases and thereby determine if the imposition of the death penalty is proportionate. *Pulley*, by not constitutionally mandating comparative proportionality review, has made an unwarranted erosion of the earlier Supreme Court decision in *Furman v. Georgia*.

*"The race of the defendant and the race of the victim, often were the crucial but impermissibly applied factors which determined whether the death penalty would be imposed on the defendant."*

In 1972, *Furman* invalidated the then-existing capital punishment statutes of the various states. Although each Justice wrote a separate opinion in *Furman*, it has since been accepted that *Furman* held, at a minimum, that the death penalty could not "be imposed under sentencing procedures that creat[e] a substantial risk that it [will] be inflicted in an arbitrary and capricious manner." *Gregg v. Georgia*. The *Furman* court struck down the states' capital punishment statutes as it realized that they were being imposed in a nonrational discriminatory manner. The race of the defendant and the race

of the victim, often were the crucial but impermissibly applied factors which determined whether the death penalty would be imposed on the defendant.

As a result of the *Furman* decision, roughly two-thirds of the states redrafted their capital sentencing statutes in an effort to limit jury discretion and to avoid arbitrary and inconsistent results. All of the new statutes provided for automatic appeal of death sentences and most require the reviewing court to determine to some extent whether, considering both the crime and the defendant, the sentence is disproportionate to that imposed in similar crimes. The California statute under review by the Supreme Court in *Pulley* did not require such comparative proportionate review. The Supreme Court in *Pulley*, by not declaring the California statute unconstitutional, may return us to the pre-*Furman* method of imposing arbitrary and capricious death sentences. Those states which do not presently require comparative proportionate review will continue not to do so and those states which presently require comparative proportionate review may determine it is no longer necessary. In either case, the result could be the imposition of death penalties unevenly within a jurisdiction.

The majority, per Justice White's opinion, held that while the Supreme Court in prior cases had upheld the constitutionality of some state comparative proportionality review schemes, it did not mean to imply that such a review was indispensable. Comparative proportionality review in those cases was considered only an additional safeguard against arbitrary and capricious sentencing and not the critical feature in the constitutionality of those state statutes. The majority

concluded by saying that "[a]ny capital sentencing scheme may occasionally produce aberrational outcomes...and there can be no perfect procedure for deciding in which cases governmental authority should be used to impose death."

Admittedly, there is no perfect capital punishment system, but before the state im-

*"A state court applying Pulley in two similar capital crimes may constitutionally impose the death sentence in one case while sparing the defendant in the other. It is hard to see a more arbitrary and capricious death sentencing system."*

poses the death penalty, shouldn't it be required to use the most equitable system available? While I do not question the constitutionality of the death penalty per se (but I do have moral objections), I do question the possible scope and manner of its application after *Pulley*. A state court applying *Pulley* in two similar capital crimes may constitutionally impose the death sentence in one case while sparing the defendant in the other. It is hard to see a more arbitrary and capricious death sentencing system. Who will be saved and who will die? Factors such as race (or sex) could again become the deciding factor. This is exactly what *Furman* purported to prevent.

Justice Brennan in his *Pulley* dissent recognized the possible reoccurrence of events *Furman* attempted to proscribe. "Given the emotions generated by capital crimes, it may well be that juries, trial judges, and appellate courts considering sentences of death are invariably affected by impermissible considerations." A sentencer's consideration of aggravating and mitigating cir-

cumstances, combined with some form of appellate review will not insure the end of arbitrary and capricious sentencing. However, comparative proportionality review for similarly situated defendants "might eliminate some, if only a small part, of the irrationality that currently surrounds the imposition of the death penalty." If for no other reason but this, comparative proportionality review should be mandatorily performed by state courts.

To require the states to implement comparative proportionality review would not be overly burdensome, especially when one considers that a life or death situation is involved. A court of statewide jurisdiction would need only conduct comparisons between death sentences imposed by different judges or juries within the state. It is important to note that over thirty states had previously taken it upon themselves, either by statute or judicial decision, to conduct some form of review. These realize the importance of comparative proportionality review and thus are willing to accept whatever slight burden the review entails. Furthermore the courts in at least the states of Georgia, Arkansas, Florida, Kentucky, Mississippi, Missouri, and Oklahoma have vacated death sentences after performing a review because they were convinced the death sentences were imposed in a comparatively disproportionate manner.

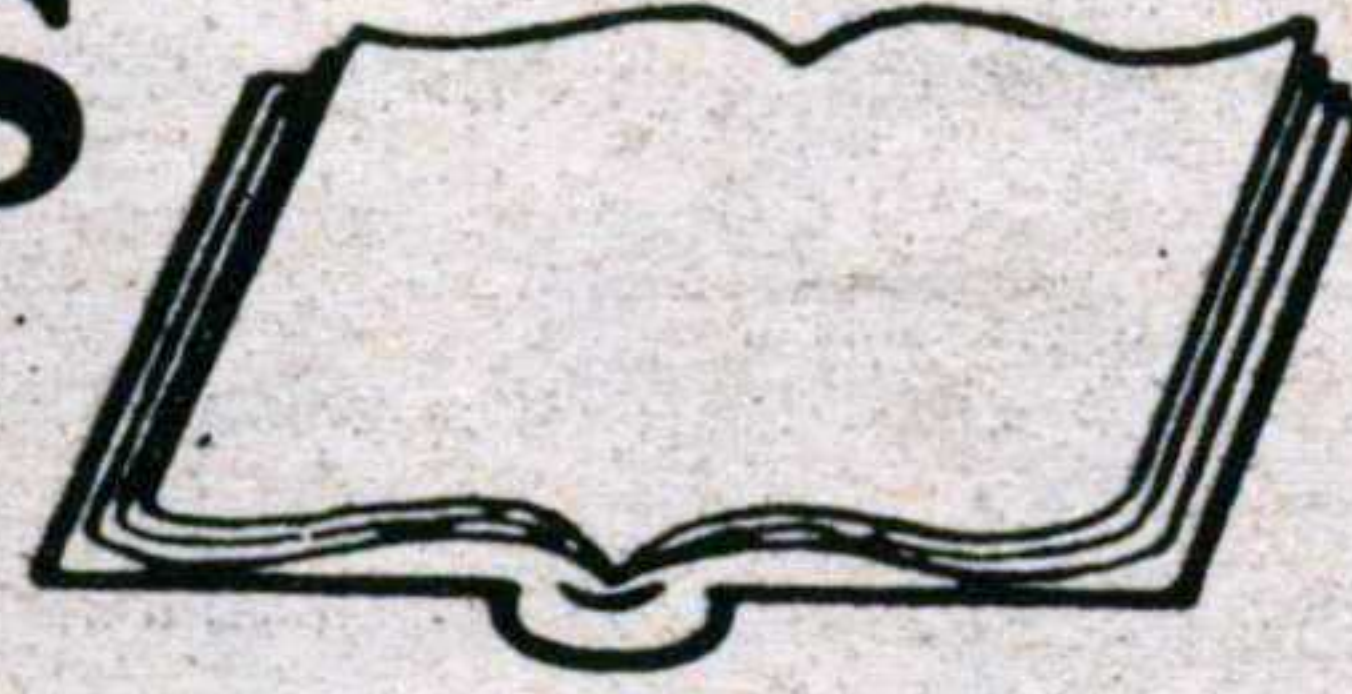
The Eighth Amendment's proscription against cruel and unusual punishment should not only be read to prohibit barbaric punishment and sentences that are disproportionate to the crime committed, but also for disproportionate death sentences that are or are not imposed for similar crimes.

# University

## HOFSTRA

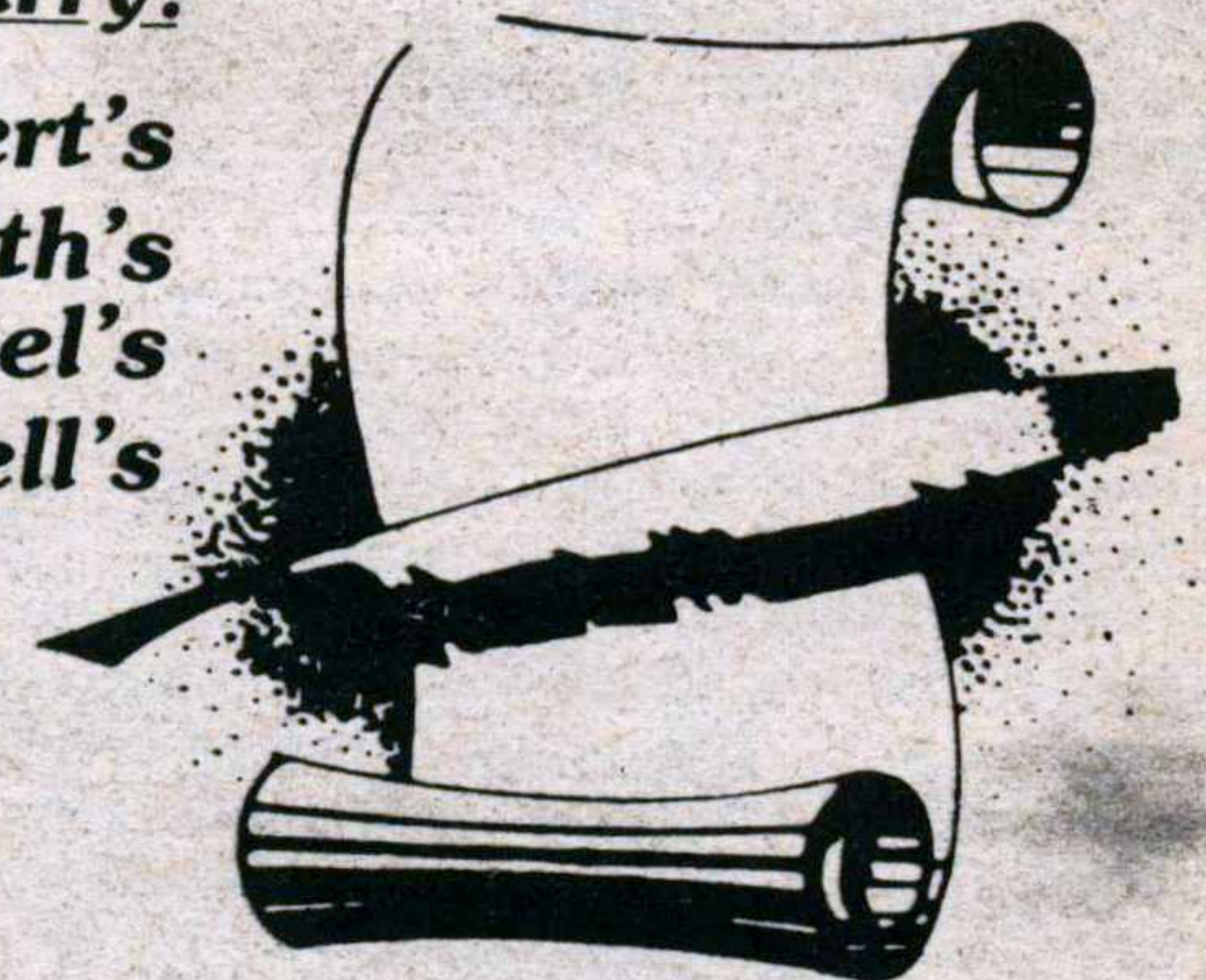
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## Hofstra Accounting Program Rated 2nd In Nation

An independent survey of Certified Public Accounting firms has rated Hofstra University among the top ten schools for accounting students in the United States.

Hofstra was the highest rated New York school, placing seventh on the list, which included schools from all over the country.

The survey was conducted by the *Personnel-Newsletter* for CPA firms, which asked the top 25 CPA firms in the nation to list the schools that produce the best accountants.

Other schools considered by CPA firms to have the most desired graduates were: Illinois, Michigan, Texas, Michigan State, Illinois State, Western Michigan, Virginia Polytechnic Institute, City University of New York — Baruch College, Northern Iowa.

"We are pleased that another independent group has verified the quality of the Hofstra Bachelor of Business Administration Degree," Dr. Herman Berliner, Dean of the Hofstra School of Business, said.

In 1982, Hofstra's undergraduate programs were reaccredited, and its Master of Business Administration Program was accredited by the American Assembly of Collegiate Schools of Business (AACSB).

Hofstra has the only School of Business in Nassau-Suffolk to have its programs officially accredited by the AACSB, the most important business accrediting agency in the nation. Hofstra is one of the 200 Schools of Business in the country, out of approximately 1,200 to have earned AACSB approval.

The AACSB certifies that a school has an appropriate number of faculty members with terminal degrees, that it has a large percentage of full-time faculty, that the student body meets quality standards of admission, that it offers a curriculum of well-balanced courses, that its library and computer center facilities are of excellent quality, and that it treats its evening programs the same as its day programs in terms of allocation of full-

time faculty and resources.

Hofstra President James M. Shuart said of the most recent acknowledgement of quality: "Our standing in the *Personnel-Newsletter* survey indicates that Hofstra accounting majors get a solid education. The emphasis at Hofstra is on good teaching, and a solid foundation in many business areas, as well as the Liberal Arts."

Hofstra business majors are required to take business courses in many disciplines, including economics, management, marketing, finance, business computer information systems and quantitative methods. There is an emphasis on good writing and oral presentation skills, as well.

The School of Business has the only chapter of Beta Gamma Sigma on Long Island (the business school equivalent of Phi Beta Kappa), and of Beta Alpha Psi, the national accounting honor society. Hofstra is the only private university in Nassau and Suffolk Counties to have a Phi Beta Kappa Chapter (national honor society), an honor that only ten percent of all American colleges and universities qualify for.

The following academic departments constitute the School of Business at Hofstra: Accounting; Business Computer Information Systems and Quantitative Methods; Banking and Finance; Management and General Business; Marketing and International Business, and Business Law. Students who qualify for admissions can enroll for business studies during the day or evening, on either a part-time or full-time basis.

Hofstra University is located in Hempstead, L.I., N.Y. Hofstra has a student body of 11,500 and 53,000 alumni throughout the United States.

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# HOFSTRA LAW ALUMNI

## Continuing Legal Education Program

The Law School is pleased to present the third Hofstra Law Alumni Continuing Legal Education Program. These lectures are part of the Law School's efforts to provide continuing service to our alumni and we hope that you will attend. We believe they provide a unique opportunity to return to the Law School, meet with members of the faculty, and participate in a valuable professional activity.

### LECTURES

<b>LECTURE I</b> Tuesday, April 3, 1984	Professor Malachy Mahon Professor Alan N. Resnick	"Uniform Commercial Code" "Bankruptcy"	at 7:00 p.m. at 8:00 p.m.
<b>LECTURE II</b> Thursday, April 5, 1984	Professor John DeWitt Gregory Professor Bernard E. Jacob	"Family Law" "Real Estate"	at 7:00 p.m. at 8:00 p.m.
<b>LECTURE III</b> Tuesday, April 10, 1984	Professor David K. Kadane Professor Aaron D. Twerski	"Drafting Legal Documents" "Products Liability"	at 7:00 p.m. at 8:00 p.m.
<b>LECTURE IV</b> Wednesday, April 11, 1984	Professor Lawrence Kessler Professor Leon Friedman	"Evidence" "Criminal Procedure"	at 7:00 p.m. at 8:00 p.m.
<b>LECTURE V</b> Thursday, April 12, 1984	Professor M. Patricia Adamski Professor Mitchell Gans	"Corporations" "Tax & Business Planning"	at 7:00 p.m. at 8:00 p.m.

APRIL 4	APRIL 25	APRIL 25	APRIL 26
Dean's Hour Moot Courtroom The Honorable John V. Lindsay, Former Mayor of the City of New York, will deliver a Max Schmertz Distinguished Professor Lecture.	Dean's Hour Moot Courtroom The Honorable Basil A. Paterson, Former Secretary of the State of New York, will deliver a Max Schmertz Distinguished Professor Lecture.	Third Annual Edward F. Carrough Labor Law Conference: "Regional Labor Relations in Health Care, Retail Food, and Transportation." Edward Cleary, the newly elected President of the New York State AFL-CIO, will deliver the luncheon address. Admission is \$50, \$35 for alumni, and \$20 for current law students.	Cocktail Party for Alumni sponsored by Hofstra Law School (in connection with the annual meeting of the New York State Bar Association) will be held at the New York Hilton from 5:30 p.m. to 7:30 p.m. Admission will be free.

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CT, MA, NH DC, VA, MD VT, FL, ME	\$650	\$525	\$125

\*Deadline: March 9, 1984

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# BLACK HISTORY MONTH

by Dennis Pottinger

In commemorating Black History Month, we should pause a moment to reflect on the struggles of blacks in this country to cast off the chains of physical and mental slavery, and to establish themselves as a free and equal race.

Less than 150 years ago blacks were still slaves in this country. Through the efforts of the missionaries, black and white Abolitionists, the Emancipation Proclamation by President Lincoln on January 1, 1863, declared 'free' all persons held as slaves

within any state. The Emancipation Proclamation was the seminal effort to recognize blacks as equal citizens of the United States.

Freedom did not come easy, nor was it inexpensive. Freedom was won after many hard fought battles, which were financed by the sacrifice of many lives. The winning of freedom was the harbinger of a long and winding road for the black race. There was still many more battles to be fought, because although recognized as free, our country was plagued with segregation and racial discrimination. Fortunately, segregation and racial discrimination has gradually lost its

place in our society and is now becoming a remote and negligible existence in our future.

The struggles of the Black race have been unique, difficult, and onerous, but progress has been made. Black pride, unity, and determination have made them overcome the darkness of the underground railroad. It is with deep pride and gratitude that we take time out to reflect on the people, whose efforts have made us mindful of the light at the end of the tunnel. Although, there are many, we would like to pay tribute in the accompanying photographs to some of the

people who were movers of men and people of destiny. They have earned their place in history, and their efforts will continue to influence our society. A man without history has no existence. It is through the understanding of one's history that molds one's destiny. One's future is just another step of his history.

The route of the underground railroad has been long, and there have been many stops along the way. Nevertheless Blacks keep marching on. Who knows where the next stop will be. Do you know?



John H. Rock — First Negro lawyer to be admitted before the U.S. Supreme Court.



Black protest the 1978 Sup. Ct. Bakke decision.



Marcus Garvey — Founder of the Universal Negro Improvement Association in 1914.



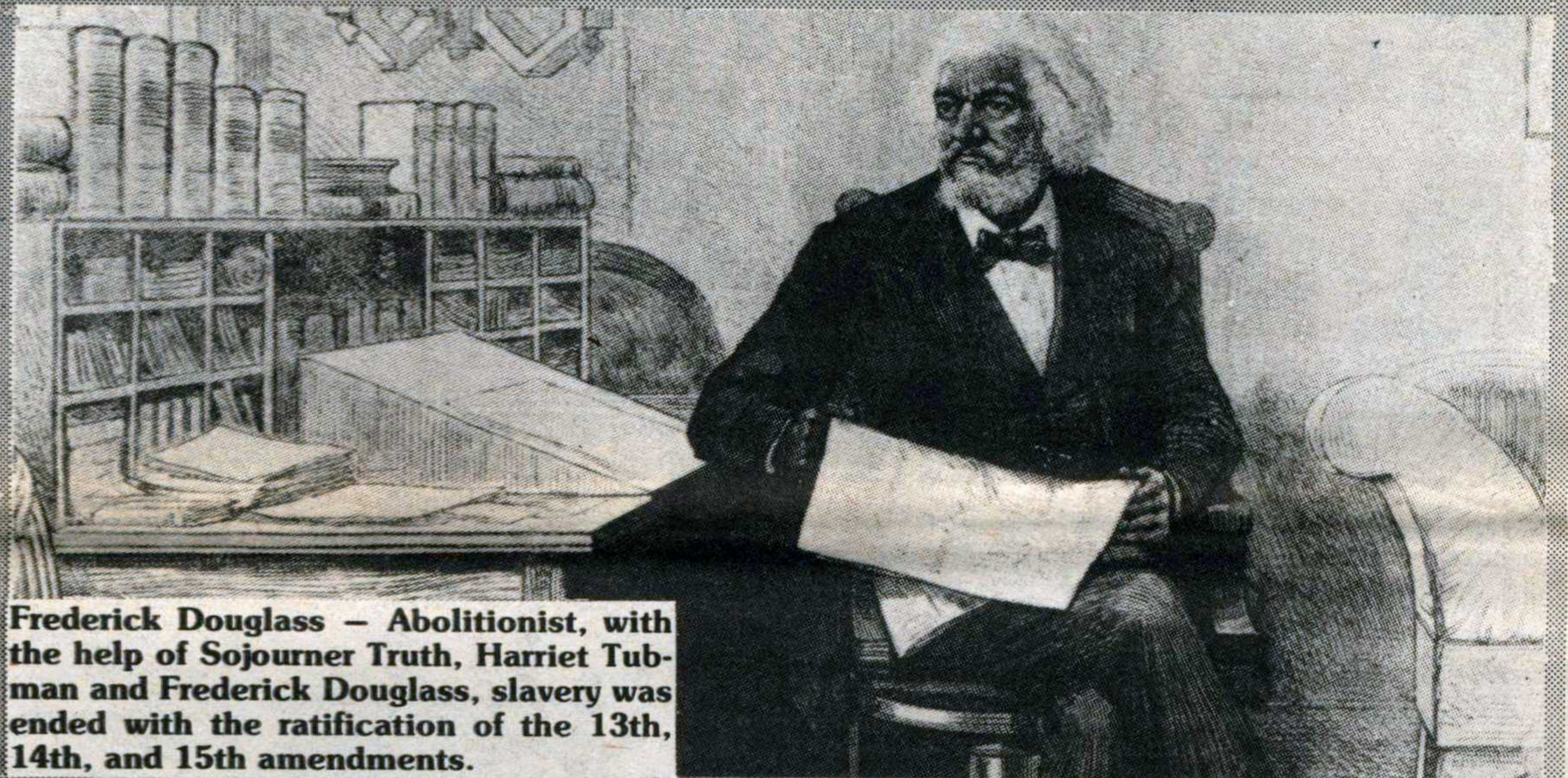
Mifflin v. Gibbs — First Negro Municipal Judge in the U.S., the electorate being largely white.



Dred-Scott — Sued for his freedom in *Scott v. Sanford* and lost.



Sojourner Truth



Frederick Douglass — Abolitionist, with the help of Sojourner Truth, Harriet Tubman and Frederick Douglass, slavery was ended with the ratification of the 13th, 14th, and 15th amendments.

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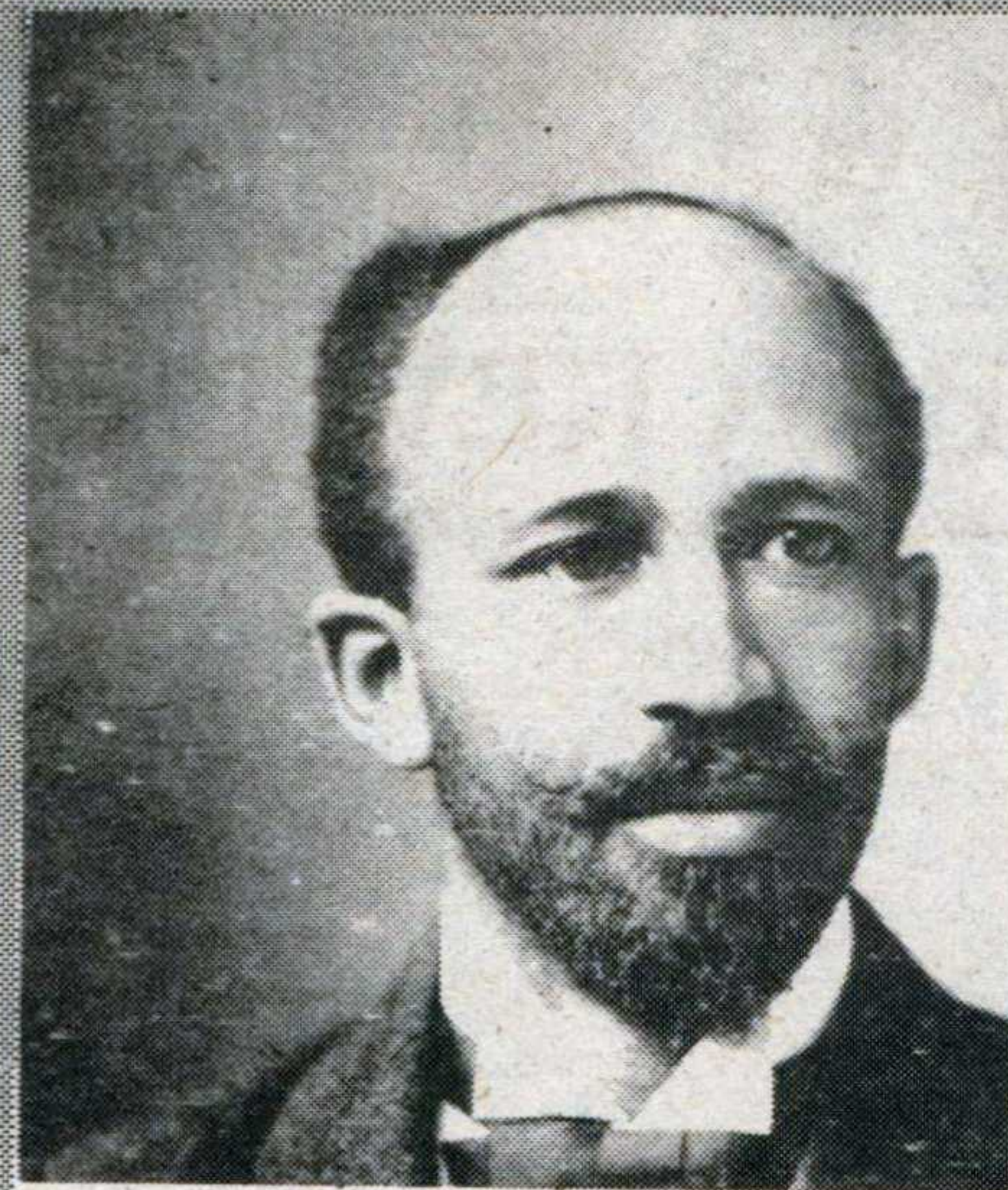
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John Mercer Langston, an attorney, was the first elected black official (1855).

**The Hofstra University Alumni  
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will hold a dinner  
on Saturday, March 24, at 8 PM  
at the Rusty Scubard Restaurant  
at 1044 Old Country Road in Westbury.



Reservations are a must.

You must put in your reservation four days in advance



All students are welcome to join.

For further information and RSVP, call 938-8619.



# GALLERY OF INSPIRATION



**Martin Luther King, Jr.** — One of the most memorable mementos of the civil rights movements of the 60's.



**Andrew Young** — Along with Rev. Jesse Jackson were protege of Dr. Martin Luther King. Andrew Young was former U.S. Ambassador to the United Nations. He is presently the Mayor of Atlanta.



**Tom Bradley** — Black Mayor of California



**Thurgood Marshall** — Supreme Court Justice. First negro to be appointed to the High Bench. Appointed by President Lyndon B. Johnson on Oct. 2, 1967.



**Shirley Chisolm** — Former Congressional Representative. She had support of both black and white women throughout the nation. In 1972 she was an unsuccessful candidate for the Democratic Presidential nomination.



**1st Black Senator & Reps.**



**Speaking in Harlem, Adam Clayton Powell** — former Chairman of the House & Labor Comm.

## Hofstra Celebrates Black History Month

Hofstra University continues its celebration of Black History Month with a discussion of repression and reform in South Africa and an exhibit of memorabilia from the life of Dr. Martin Luther King, Jr.

The University will sponsor a forum on South Africa in the Student Center Theater, 2-7 p.m. February 28th. A panel will include Randall Robinson, Director of TransAfrica; Gay McDougal, Director, — Lawyers Committee for Civil Rights Under Law, South African Project; Dr. Bernard M. Magubane, Professor of Anthropology, University of

Connecticut; and Morley Nkosi, Associate Professor of Economics and Director of Africana Studies at Hofstra. Topics will include "United States/South Africa Relations" and "State Repression and Constitutional Reform in South Africa."

3) "Martin Luther King, Jr., and the Civil Rights Movement, 1955-1963," is a collection of books and photos exhibited through March 16 in the David Filderman Gallery, 9th Floor, Hofstra Library, South Campus. It will run concurrently with another collection, "The Harlem Renaissance in Print."

The 1984 NCAA Division II Men's & Women's Swimming & Diving Nationals are being hosted by Hofstra University on March 7-10, 1984. Peter Clark, the NCAA Meet Director, and Director of Hofstra University's Swim Center is looking for fifty volunteer workers for each session. "We could sure use your volunteer help in assisting us to make this nationally cable televised event a big success," said Eve Atkinson, NCAA Women's Swimming Committee, and Director of Women's Athletics at Hofstra University.

### Volunteers who help out all four days will receive free:

1. Admission to the total NCAA event (a \$32.00 value)
2. NCAA Official Timers Shirt
3. NCAA Championship Hat
4. Admission to the Coaches Social at the University Club
5. NCAA Certificate of Merit



Fill out the form below today and return it to Peter Clark, NCAA Meet Director. He will contact you about your assignments. Thanks for putting forth that extra effort. Looking forward to seeing you in March.

Yes, I would like to volunteer to work at the NCAA Division II Men's & Women's Swimming & Diving Nationals. I will be able to work the following sessions:

Wednesday, March 7, 1984

9:00 a.m. to 4:00 p.m. \_\_\_\_\_

6:00 p.m. to 9:30 p.m. \_\_\_\_\_

Thursday, March 8, 1984

10:00 a.m. to 3:00 p.m. \_\_\_\_\_

6 p.m. to 9:30 p.m. \_\_\_\_\_

Friday, March 9, 1984

10:00 a.m. to 2:30 p.m. \_\_\_\_\_

2:30 p.m. to 6:00 p.m. \_\_\_\_\_

6:00 p.m. to 11:00 p.m. \_\_\_\_\_

Saturday, March 10, 1984

9:30 a.m. to 3:00 p.m. \_\_\_\_\_

3:00 p.m. to 6:00 p.m. \_\_\_\_\_

6:00 p.m. to 11:00 p.m. \_\_\_\_\_

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Please return this form by March 5, 1984 to:

Mr. Peter Clark  
NCAA Meet Director  
Director of the Swim Center  
Hofstra University  
Hempstead, NY 11550  
(516) 560-5081



# FITNESS FORUM

## Exercise and Diet For a New You!

by Tracey Epstein & Rick Collins

### PART ONE: DEBUNKING THE MYTHS

The fitness revolution has taken America by storm. A 1977 Gallup poll revealed that almost 50% of the adult population, or 55 million Americans, exercise daily. That number has been constantly on the rise — at least 72 million Americans had joined the movement as of March, 1983.

It's all really rather hard to ignore. Madison Avenue, always quick to keep up with the times, is using fitness to sell everything from diet colas to designer jeans. Even the coffee industry has launched a series of fitness-oriented t.v. commercials! Health food stores are opening up all over; gym and health spa memberships are soaring. Joggers are everywhere. Fad diets make fortunes before anyone realizes that they don't work.

Why this preoccupation with fitness? What makes it all worthwhile? Its potential benefits are many, including: fun, relaxation, athletic conditioning, freedom from illness and disease, fat reduction, enhancement self-image, vigor, longer life. Orthopedic surgeon Richard H. Dominguez, M.D., puts it more succinctly in *The Complete Book of Sportsmedicine*: "Why become fit? Because fitness makes life more productive and enjoyable. You will become trimmer, feel and sleep better, be more creative and energetic, and probably live longer." Indeed, the many medical benefits from a fitness lifestyle have been documented; exercise and a healthy diet will make you feel better.

For many healthy Americans, however, the primary attraction of a fitness lifestyle is *looking* better. As Freud said, "The body is the ego." Lisa Lyon, world women's bodybuilding champion, writes, "Changing your body goes beyond just changing your outward appearance; it can have a significant influence on everything in your life." For many years, words like "superficial" and "narcissistic" were used to deride those who became "too" concerned about their physical appearances and who took steps toward change. Today, the same people who spoke those words can be seen running or working out to firm up their flabby bodies.

If law students have been slower to join the fitness revolution, it's really not totally their fault. The law school experience is designed to be an all consuming exercise for the mind. So what if you can't do a push-up — you can brief a case. Who cares if you can't see your feet without deeply inhaling — you're on Law Review. Law school, in its emphasis on developing reasoning and analytical abilities, focuses only on the mind. The implication is that the body is *de minimus*. This outlook, when taken to its logical extreme, supposes that mankind's evolutionary destiny is to be an oversized, bodiless brain in a Pyrex flask. At best, the outlook is merely a great rationalization with which to avoid the effort of physical improvement.

Don't be fooled! The ideal of the ancient Greeks — mind and body as coequals — is still alive and valid. Like the mine, the body must be nourished and developed. There should be a balance between the two. Our minds have been preeminent for all of our years of higher education. Doesn't the body deserve some attention now? In this installment, the first of a three-part series, we will try to dispel some of the more common fallacies associated with health and fitness. We hope to both enlighten and stimulate you enough to take the first step toward a new you.

### MYTH #1: PHYSICAL FITNESS IS JUST A STATE OF MIND.

**False.** Then what is "fitness?" It can be broken down into separate aspects: freedom from injury and disease, muscular strength and endurance, optimal lean-to-fat ratio, balance and agility and cardiovascular endurance. The last aspect refers to the heart's capacity, along with the circulatory system, to do work (i.e. to deliver oxygen and nutrients to the entire body efficiently). Research indicates that cardiovascular fitness may be a key to the preservation of youth

and prolongation of life. To achieve cardiovascular fitness, you must push your heart rate to more than 60% of its maximum for at least 30 minutes three times per week (for people between 20 and 40, maximum is about 200 beats per minute). Activities like swimming, bicycling and jogging require much oxygen, resulting in heavy breathing and increased pulse rate, and are great for cardiovascular endurance. Such exercises are called *aerobic*. Exercises which can be performed without a marked and sustained rise in pulse or respiratory rate are called *anaerobic*. Examples are weightlifting and downhill skiing (as opposed to cross-country skiing, which is definitely *aerobic*.) To achieve overall fitness, a routine should include both anaerobic and aerobic exercise, as well as stretching to maintain and improve flexibility. A properly constructed routine can improve overall fitness without heavy time demands.

### MYTH #2: DIET ALONE IS THE BEST WAY TO LOSE WEIGHT.

**False.** Gaining or losing weight is simple mathematics. Instead of numbers, we deal with *calories*, which are just units of energy. There are 3,500 calories of reserve energy in one pound of fat. This means that if you eat 3,500 calories more than you need, you will

diet, but these pounds will be mostly water. Your body stores a sugar called glycogen — about one pound of it with four pounds of water. The glycogen is suspended in the water. When you begin to reduce your intake of calories, your body turns to the most readily available source of energy for fuel — glycogen. It first goes after the glycogen in the muscles, and when that is depleted, it switches to its auxiliary supply in the liver. While all of this is going on, the fat under your skin remains untouched. As the muscle glycogen is used up, your body's natural excretion processes push out the unneeded water. Body size decreases, as each pound of glycogen burned causes about 4 pounds of water to be excreted. A diet will only work when combined with exercise. Exercise attacks the body's fat stores because the physiology of exercise is different from the physiology of dieting.

### MYTH #4: I'M TOO OLD TO GET INTO SHAPE.

**False.** It is never too late to benefit from exercise and proper nutrition. An older person's body may respond less *rapidly* than that of someone younger, but it will respond. Of course, anyone who has not exercised for a long time or who has any kind of health problem should consult a physician before



## GET PSYCHED!

gain one pound of bodyfat. If you eat 3,500 calories less than you need, you'll lose one pound of fat. There is, however, another side to the equation! Our concern on this side is not what you take in, but what you *burn up*. Calories are expended throughout your day, as "fuel." Reading your hornbook at a desk in the library uses up only about 90 calories per hour (that's about what you'd take in if you had a large apple or a light beer!). Aerobic activities like swimming or running use from 350 to 600 calories per hour, depending upon speed and intensity. By exercising, you cut down on both sides of the equation, making your weight loss that much faster and easier.

### MYTH #3: I CAN LOSE 8 TO 10 POUNDS A WEEK IF I GO ON A DIET OR USE APPETITE SUPPRESSANTS.

**False.** Studies show that exercise, rather than appetite suppressants and crash diets, produces the most effective method of weight control. The present panoply of drugs for suppressing appetites only work for a few weeks, at the very best. Abuse of them may produce anxiety, restlessness, insomnia and drug dependence. Regular exercise not only burns calories, but it also increases the *resting* metabolic rate, which causes round-the-clock calorie burning. Regular exercise also restores a normal appetite, which for many people means a reduced caloric intake. You may shed pounds from a crash

embarking upon an exercise program.

### MYTH #5: IF I WORK OUT REGULARLY, I'LL EAT MORE AND GAIN WEIGHT.

**False.** Numerous studies have shown that any type of vigorous exercise, if performed regularly, will tend to *decrease* your appetite. While weight training will inevitably increase muscle mass, you will tend to lose body weight if you have excessive fat deposits around your body. At the very least, you will maintain your body weight, as your muscle mass increases at about the same rate as your workouts burn off fat...and remember your metabolism — as it increases, so does the amount of calories your body burns up.

### MYTH #6: WEIGHT TRAINING WILL MAKE ME MUSCLEBOUND.

There is a kernel of truth here because there are some bodybuilders who handle exceptionally heavy weights, with improper form, and who also do no stretching. Such activities will decrease flexibility. If done properly, with correct form and posture, weight training will actually increase body flexibility. It will also strengthen your skeletal muscles to such an extent that you will have better manual dexterity for such sports as golf, basketball and softball. Many of today's professional football players have highly developed muscularity and yet exhibit remarkable speed and agility on the field.

### MYTH #7: IF I STOP WORKING OUT, MY MUSCLES WILL TURN TO FAT.

**False.** It is physiologically impossible for muscle tissue to turn into fat; it is just as impossible for an apple to turn into an orange! A once-fat person who has developed his or her body has not changed fat into muscle; that person has dieted to lose fat and exercised to gain muscle. When you stop training with weights, your muscles will gradually shrink back to their original size, which will take about as long as it took to develop the muscle tissue in the first place. If you fail to watch your diet, whether training or not, you will get fat. Former athletes who grow fat after they retire do so because they both lose muscle and gain fat. Similarly, their metabolisms revert back to their natural state. If you continue to consume more calories than you expend, you will gain weight, whether you work out or not.

### MYTH #8: WOMEN WHO WORK OUT WILL GET BIG, MASCULINE MUSCLES.

**False.** It is amazing how many women (and men) even today believe that lifting a dumbbell a couple of times will make them look like Lou Ferrigno. This fallacy is a particularly handy rationalization with which to avoid adopting an exercise routine. Very few men, with many years of hard training behind them, will ever approach the degree of muscularity exhibited by professional bodybuilders. In terms of ability to develop muscle, women were seriously short-changed by Mother Nature. To build massive muscles, a woman would need to have a man's level of testosterone in her body. While both men and women have both estrogen and testosterone in their bodies, women have very high levels of estrogen and men have high levels of testosterone; in fact, most women possess only one-tenth the testosterone level of men! For a woman to develop even a little muscle takes a good deal of effort. The problem, for both men and women, is *getting results*, not in preventing "runaway development." A proper analogy would be to an anti-egghead who refuses to read a book because he doesn't want to be "too smart." Concentrate on getting some results before worrying about going too far!

### MYTH #9: I CAN'T WORK OUT BECAUSE I HAVE MY PERIOD.

**False.** You can continue all forms of physical activity while menstruating. In fact, most women find that they suffer far fewer complications (lower back pain, cramps, fatigue, depression, etc.) *after* beginning to exercise and improve their diets.

### MYTH #10: I'LL HAVE TO TRAIN FOR LIFE IF I BEGIN WORKING OUT, SO THAT I BECOME A SLAVE TO MY WORKOUTS.

**False.** but you will probably want to! With time, you will find that your exercise time is one of the most enjoyable things you do each week. It will relieve tension and will relax you so completely that you will soon find yourself positively addicted for life. It will also enhance your concentration and studying, so that the time you spend with your books will be more intense and productive.

### MYTH #11: THERE MUST BE SOME GIMMICK TO SHAPING UP.

**False.** A lot of people believe this — why else would fad diets be so popular? Can you imagine how many of those ridiculous rubber "slimming belts" have been sold each year? The truth is, there is no gimmick; but there is a *formula*. If tailored to your specific needs and followed closely, it will guarantee success in nearly all cases: diet, aerobic activity and anaerobic exercise. *How* to make this formula work for you will be the focus of our next two installments.

About the authors:

**Rick Collins**, a 3L, is a health enthusiast, competitive bodybuilder and former instructor at the Valencia Health Club and Jack LaLanne/Holiday Spas.

**Tracey Epstein**, also a 3L, is an aspiring bodybuilder, runner and gourmet cook. She is the Features and Photography Editor of *Conscience*.



# LOOP REVIEW

by Rick Collins

## SCARFACE

Brian de Palma (*Carrie, Dressed to Kill*) serves up a generous helping of ultra-violence in this remake of an old gangster film about Al Capone. De Palma moves the action from the Italian crime world of Prohibition era Chicago to the new Cuban crime jungle of South Florida, replacing bootleg alcohol with smuggled cocaine. The central character, played convincingly by Al Pacino, is Tony Montana, a young Cuban thug who arrived in the wave of Marielitos in the late 1970's. Power-mad, ruthless and arrogant, he is propelled by his burning ambition from dishwasher to super-rich crime lord of the cocaine empire. But this is a morality tale, and his meteoric rise is inevitably followed by his decline and fall. The story is an old one, but it works beautifully in this setting. De Palma was the brunt of much criticism for his excesses of violence and foul language in this movie (the Rating Review Board forced him to do extensive editing before granting him an "R" rating), but he maintained that these elements were integral to the story. Whether you find the excesses offensive or exhilarating will probably color your overall impression of the film. Not the squeamish type, I love it and give it an A.

## BROADWAY DANNY ROSE

Woody Allen's newest movie, hot on the heels of *Zelig*, is an unassuming comedy about the entertainment world and its less fortunate denizens. Woody plays the title character, a two-bit theatrical agent who really cares about his clients. Whether they be blind xylophone players or husband-and-wife balloon-folding acts, no matter how seemingly unmarketable, Danny Rose tries

to book them, give them hope, and remind them of the "three S's": Star, Smile, Strong. As the story unfolds (as told by a bunch of comics who have gathered at the Carnegie Deli in Manhattan to tell "Danny Rose" stories), we learn that Danny's last chance to make it big rests with an overweight, boozing has-been of a nightclub singer named Lou Canova (played by Nick Apollo Forte). But Lou's involvement with a "cheap blonde" (wonderfully portrayed by Mia Farrow) gets poor Danny mixed up in a wild adventure through the swamps and warehouses of New Jersey, pursued by the mad Rispoli brothers who are out to kill him (mistakenly thinking he did them wrong).

The movie is fun at times; for Woody Allen as filmmaker, it appears to represent a move back toward his early classics (*Play It Again, Sam, Annie Hall*). However, the black-and-white photography detracted from the film; there was an aloof quality to Allen's character; and the zanier bits were too underplayed. As a long-time Woody Allen fan, I feel guilty that I didn't like it more. But Danny Rose would say, "I believe guilt is good for you. We're all guilty in the eyes of God." Mia Farrow: "Do you believe in God?" Danny: "No. But I feel guilty about it." Grade: B-

## UNFAITHFULLY YOURS

The elements are woefully familiar: the jealous husband mistakenly believing his wife is cheating on him, sets out for revenge, his lack of trust driving him toward destroying his beloved. But Dudley Moore ("10", *Arthur*) and Nastassia Kinski (*Tess, Cat People*) manage to breathe new life into the well-worn premise (the film is a remake of a 1948 comedy).

The movie gets off to a sleepy start. It's a shame things couldn't have perked up quicker, because one thing starts rolling, it's great. While in the middle of a performance (Moore plays a symphony conductor), the husband concocts the perfect revenge: the murder of his young wife and the frame-up of her suspected lover (played by Armand Assante). As his mind runs through the dastardly plan, it seems flawless. But the fun starts when Moore begins to carry it out — and Murphy's Law takes over. Aside from wasting funnyman Albert Brooks in a peripheral role, the casting and performances are very good. Moore is properly righteous as the untrusting husband, and Kinski's unusual blend of innocence and animal-like sexuality suits the role to a tee. I'll give it a B, as I'd give a time-tested but perfectly spiced recipe that just took way too long to heat up.



by Stephen J. Orbach

There are three certified hits on Broadway today, and I had an opportunity to see two of them within two weeks of each other. *La Cage aux Folles*, playing at the Palace Theatre, is the extravaganza it is billed. The moving set, eye-filling costumes and engaging (if not always memorable) music all make for an old fashioned but high-tech, Broadway musical hit. The plot roughly tracks the movie of the same name, with Georges (Gene Barry) as the owner of a drag nightclub in the South of France known as *La Cage aux Folles*, his lover and star attraction, Albin (George Hearn) and Jean-Michel, George's son, played less-than-convincingly by John Weiner, who has the bad taste to become engaged to the daughter of a local Moral Majority-type politico. The son decides to bring his fiancée and her parents to dinner to meet his family. So much for the plot.

I must confess to not having liked the movie (or its sequel), so it is with some surprise that I found that its musical adaptation worked for me. It can't be the plot, because if you omitted the homosexuality from the play, you are left with a more standard sitcom where Show Business meets Main Street. George Hearn really centers this play, providing a modicum of self-respect to Albin, who too often crosses the line into caricature. He also gets to sing the show stopper, "I Am What I Am" (which works an interesting, if probably unintended, parallel to God's enigmatic response to Moses in the Book of Exodus). Gene Barry was ade-

quate, as was the rest of the cast. The play is really a sociologist's field day, as an essentially heterosexual audience gets to identify with the plight of a homosexual couple. While any implicit lesson of tolerance may not survive the exit doors, *La Cage aux Folles* is strong on entertainment, and can be recommended.

Not far from the frivolity of *La Cage aux Folles* is Tom Stoppard's latest hit, *The Real Thing*, playing at the Plymouth Theatre. Jeremy Irons is Henry, a successful playwright in the Noel Coward and Tom Stoppard mold. Henry is having an affair with Annie (Glenn Close) the wife of the male lead in his latest West End hit and an actress in her own right. Henry's and Annie's marriages fall apart on stage, and Henry and Annie get married. The play's epicenter is Henry, as seen through the wreckage of his first marriage, the problems of his second marriage, and the plays Henry has written. Stoppard's skill is evident in his extraordinary wit and language, and his deft use of so many parallel scenes that one begins to imagine oneself in a funhouse's Hall of Mirrors. Unfortunately, many theatergoers have been reported lost in Stoppard's maze of language and parallel scenes. Be forewarned that this play is not one that spells it all out for you, and you must keep your ears and eyes open to all its subtleties for full enjoyment.

You must also see *The Real Thing* with at least one other person, as some of the play's best moments occur in the post-mortem which will invariably ensue. The play is extremely thought-provoking, and can easily provide hours of analytical (and self-analytical) discussion, even if just to wonder what all the hullabaloo was about. I'm going back for another look as soon as I can, as I had a major problem with its ending. Where many have seen (and written about) a true change in Henry, (as he discovers the "real thing?") I only saw a mood change, a fault which I attribute solely to the script. The acting can be faulted by no one (even though Christine Baranski's accent, as Henry's first wife, seemed to slip on occasion). I strongly suggest you see *The Real Thing*, if only to form your own opinions of an important play.

Mr. Orbach (class of '77) is an attorney with a New York City law firm.

# Creative Cooking

by Tracey Epstein

## ONION SOUP (serves 3)

2 large onions  
1 T peanut oil  
3 T butter  
1 bay leaf  
1 T flour  
½ C dry white wine  
5 C bouillon or broth  
1 slice bread, ripped into pieces (preferably French bread)  
Pepper for taste  
Paprika for color  
3 oz. mozzarella cheese

1. Cut onions into very thin slices.
2. Heat oil and butter in large casserole. Add onions and bay leaf. Stir often until onions are golden.
3. Sprinkle flour on top. Lower flame and

cook about 20 minutes or until onions are slightly browned.

4. Add wine. Stir and heat for about 5 minutes at low flame.
5. Add broth, pepper. Bring mixture to a boil, then cover and simmer for about an hour. Skim surface, if necessary.
6. Transfer into individual crocks. Top with cheese and bread. Place in broiler until cheese is bubbly and brown. Top with paprika.

## Hints:

- 1-Make sure your crocks or bowls are over-proof.
- 2-Soup can be a meal in itself. Use more cheese if desired. Serve with a hearty salad.
- 3-Don't use "cooking wine" — It's loaded with salt and chemicals. Use a moderately dry wine in the soup. It will make all the difference in flavor.
- 4-For a change, try monterey jack cheese instead of mozzarella.

# ANNUAL 'BAR' BIKE RIDE

The Annual Bar Bike Ride will be held on Friday March 16, 1984, beginning at 3 p.m. The locations of the start, finish, and our stops in between will be announced soon. Look for posters in the Law School. All students, faculty, staff and alumni are invited and encouraged to participate.

Various members of the Hofstra Law Community expressed an interest in reviving

the Annual Bar Bike Ride. Alumni of the last ride (Spring '81) freely reminisced about that last adventure.

Chris D'Amato — Though it poured (cats & dogs, torrents, hail, gale force winds) on our last Bar Bike Ride, we did not allow the horrendous weather conditions to interfere with our biking pleasure. A little quick thinking on my part, some maneuvering on my

bike partner's part and, quick as a whiff, we had those bikes high and dry in the back of my Rabbit. We headed straight to Buttles where we were able to completely forget about weather conditions. No, nothing could dampen our enthusiasm that day!

Marianne McCarthy — Although I was unable to attend the last annual bike ride (no bike), I do intend to go this year (bike or no bike). If Chris D'Amato, mother of two, and Winnie Gilmore, friend of mother of two, could brave the elements, well then, damn it, so can I! Count me in.

Winnie Gilmore — I just have a few comments. Chris D'Amato made a wonderful team captain last time. I hope she runs for the post again. Another thing, although Marianne was not at the last bike ride, due to Chris' quick thinking, we were able to forge on without her. (Chris, you're the greatest!) I know that the last Bike Ride's "no shows" (not to mention names, Mark Gan, George Basara, Bob O'Connor) really regretted not being able to attend and join in the last biking

experience. I'm sure they'll be in attendance this year!

James Hoar — Yes, I'll admit I'm not in tip-top biking shape though I'm sure my friends will deny that. However, I have been in heavy training for the bar aspect of the ride. I'm going for the gold.

Mark Gan — Enthusiastic? You bet!

George Basara — I think the Bike Ride is a great idea. It brings about cohesiveness to the Law School. Especially when you get bubble gum on your tire.

JanLori Goldman — (Uninvited to the last biking extravaganza, Goldman is considering attending this year's event; she says she'll show if given a bicycle and invitation).

Nominees for positions of importance on this year's Bar Bike Ride include:

Victor Emanuelo-new Fuji for Christmas Billy Condon-Fuji owner and stiff competition for Vic.

Kevin Blessing-has agreed to ride motor-

Continued on page 19

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# SPORTS

## Is there hope after the MAGIC has gone?

by Pat McCartney

The Olympics are over, the college basketball season is winding down, so the time for Spring Training is here. Baseball fans are typically happy around Spring Training time — the slate is clean and once again faithful fans can safely state: "This will be the year we go to the Series!" However, one particular group of fans has had much more practice (11 years to be exact) at this annual prayer to Abner Doubleday. They are the followers of the New York Mets.

Met fans are necessarily unique. It's sinful for a Met fanatic to lose hope, for to do so would realistically leave him with nothing. So, the fans continue to hope. We hope that maybe the Mets can finally climb out of the N.L. East cellar. We hope that, with good luck and everything going according to plan, the Mets can play .500 baseball for an entire season rather than a week. We hope that, with more than the grace of God, the Mets might even be involved in the pennant race in September. To hope for more than this, you need a case of Shea Stadium Bigger Beers.

Met fans, unlike most others, tend to be optimistic without any reason to be. This was the case throughout most of the '70's. But, when the change in ownership brought Frank Cashen, a genius in Baltimore, to the Mets front office, Met fans had real reason to

think a good team would be two or three years away. Changes on the field brought more hope, but the return of Tom Seaver made it official. The Mets, in the near future, would become a good team. "The Franchise" would lead the Mets back to respectability. The midseason additions of Keith Hernandez and Darryl Strawberry had Met fans dreaming of a pennant in only a year or two. Some fans who blindly love their team thought a pennant could be had even sooner. A friend of mine, possibly the most optimistic Met fan of all time, thought the Mets could win the pennant last year. Last August, with the Mets 20 games out, in dead last place, and with only 40 games remaining, he looked at me and with a straight face said: "If we could go 30-10, we could win the division." Not only was he serious, but even more incredible, he was sober. He is a fan who is truly afflicted by the lure of the Mets **magic**. Always hoping lightning will strike again.

The fear among Met fans this year is that the lightning might never strike again. The magic left the Mets when Tom Seaver inexplicably, unbelievably became a Chicago White Sock. Frank Cashen took a big gamble, not realizing what Tom Seaver, the man, was worth to the fans of the organization; not realizing what Tom Seaver, the pitcher, was worth to the team. Cashen's blunder has deeply hurt, not only "Tom Ter-

rific," but every Met fan as well. Frank Cashen will go down in Met history as a graduate of the M. Donald Grant School of Mismanagement. The Mets organization will suffer greatly but will recover. Despite speculation, Seaver probably will return to the organization upon retirement. The loss of Tom Seaver has shocked Met fans out of the **magical** fantasy land and into the real world. We now realize the wasted years of mismanagement are so great that to overcome them one needs more than the wave of a **magic** wand.

Met fans are no longer as optimistic as they once were. We can't get excited about spring training this year. New manager Davey Johnson has been talking all winter about his new team. The now disillusioned, disheartened Met fans are no longer satisfied with words. We can see through such enthusiastic double talk. We realize the pennant will be earned through hard work and quality play, not mystical **magic** as in the past. We look at this year's team and still see Hubie Brooks at third base; still see Ron Hodges behind the plate; still see a minor league double play combination in the form of Ron Gardenhire and Wally Backman. Yes, there are times I'd rather be blind.

Has the **magic** left the Mets for good? I would say the **magic** will return to Shea once again when Tom Seaver becomes the general manager after he retires. Of course, that will be after he records his 300th career victory and quite possibly, another world

championship. He will come back to New York as a winner which is more than can be said of the team and front office he left behind.

So, what can Met fans do in the meantime? Should we once again put on our now tattered masks of hope for the up-coming season? Well, as a true blue (and orange) Met fan, I must hope. I find myself hoping for individuals such as Keith Hernandez, Mookie Wilson, Jesse Orosco and Davey Johnson. I utter silent prayers for the rest of the team to show some character and to produce on the field, the way major leaguers should.

It's tough for a fan who feels doomed to root for another loser. That's why most Met fans have developed masochistic tendencies. We keep showing up at the ballpark hoping not even for a victory, but just a good game. And, the masochists will show up again this year even though Seaver will never perform at Shea again. The difference between this year and last is that some of the fans will require proof (to reignite a glimmer of hope) before returning to the stadium in numbers. I doubt 48,000 will show up on opening day like last — and rightfully so. The fans are no longer blind, just visually impaired. It will take time to bring us back. I thought about boycotting Shea for the entire summer but I know I'll be drawn back by the hope and promise of the future — no matter how long it takes.

### Annual 'Bar' Bike Ride

Continued from page 18  
cade in the rear.

Ed Gaffman-has not agreed to anything yet.

Pat McCartney-great biking legs!

Trevor Campbell-will hopefully agree to lead the riders in the *Trevor I*

Joe Megale-biking shape unknown, possible contender with James Hoar.

John Auerbacher-claims to be in drinking shape.

Eric Horowitz-last year's Mr. Hofstra.

Bryan Curran-this year's favorite

John Scotto-Stolen Fuji.

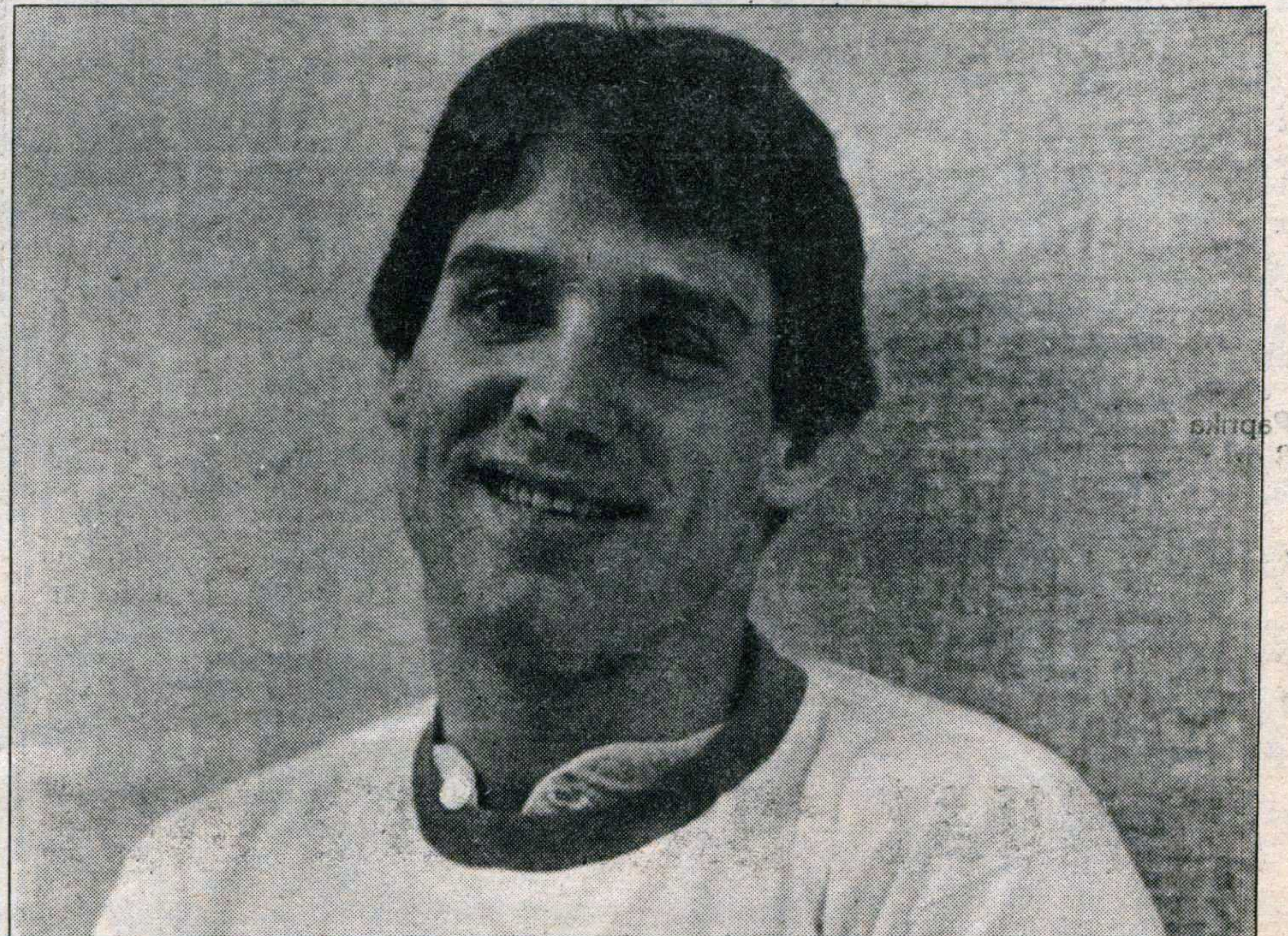
Louis Schenker-some Italian bike.

Jeff Herman-no bike, but he'll be there.

Tommy Fendick-Bars, Biking & Books.

## Guilty Is Coming!

### McCarthy Wins 2nd Golden Gloves Bout



by Tracey Epstein

Randy McCarthy, a 3L at Hofstra Law School is the recent winner of a Golden Gloves championship fight. On February 15th, at 8 p.m. in Elmhurst, Queens, Randy won his second Golden Gloves bout. It ended in the third round when the referee stopped the fight. Randy's first title was won on February 11th — that fight ended in a knockout.

A former wrestler at the University of Rhode Island, Randy has been training for about a year and a half. After winning the Long Island Regionals, he went on to the Empire State Games last summer. He presently trains at the Empire Sporting Club in Manhattan. Randy's exhibition record, so far, has been 6-1.

Congratulations, Randy and the best of luck in future bouts.

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18 hour lecture to be held as follows:

Sunday, March 11 - 10am - 5 pm (1 hour for lunch)

Monday, March 19 - 6 pm - 10pm

Monday, April 2 - 6pm - 10pm

Monday, April 9 - 6pm - 10pm



Price Information:

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