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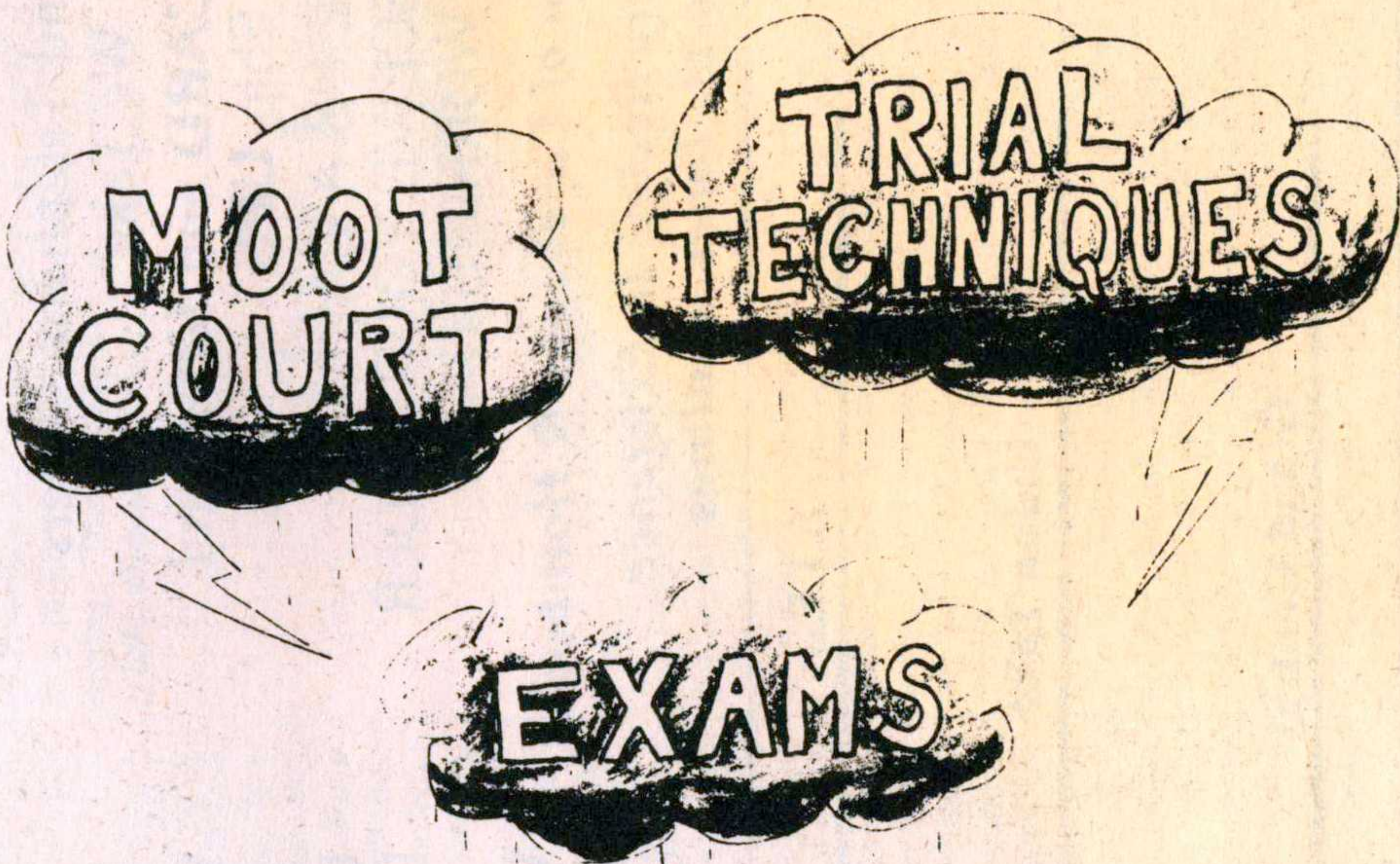
Conscience

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GOOD NEWS, BAD NEWS LAW REVIEW in Top 10 of Most Cited



Linda Keenan
Editor-in-Chief of
Law Review

In a recent study conducted by Richard A. Mann, Professor of Legal Studies at the University of North Carolina at Chapel Hill, the *Hofstra Law Review* was ranked in the top 10 most often cited Law Reviews. In his study entitled *The Use of Legal Periodicals by Courts and Journals*, Professor Mann attempted "to measure the relative impact of legal periodicals upon policy makers (judges) as well as upon academics and practitioners by examining citations in both judicial decisions and law journals." Using a base year (1978-79) and a control group of 161 periodicals, a list was compiled, ranking each as to the relative frequency with which they were cited in various journals and courts. The author noted that a different sample year may have produced different results.

Hofstra was one of nine journals consistently included in the "high impact group" for the four main categories looked at. A "high impact group" was defined as those journals accounting for approximately 50% of the citations in that category. The categories were journal citations, journal citations per 1,000 pages, judicial citations, and judicial citations per 1,000 pages. The nine "accounted for 26.4% of all judicial citations, and 26.7% of all citations." The study concluded that less than 15% of the 161 journals generated over 50% of the total citation by the journals and courts. "Even more impressively, the nine journals appearing in all four high impact groups produced over 26% of all citations while comprising less than six percent of the journal population."

It appears that *Hofstra Law Review* is keeping company with the finest. Alphabetically, the nine highly cited journals are:

University of Chicago Law Review
Columbia Law Review
Georgetown Law Journal
Harvard Law Review
Hastings Law Journal
Hofstra Law Review
Judicature
Virginia Law Review
Yale Law Journal

The students of Hofstra Law School should be proud of such an accomplishment. Both Hofstra and *The Law Review* are examples of the unlimited growth and impact we may all experience in the legal community.

Resignations Force New Review Selections

By David Goldman

The *Hofstra Law Review*, faced with the recent loss of six staff members, invited one member of the *International Property Investment Journal* and 4 members of the *Labor Law Journal* to join the *Law Review*, in order to fill the void left by the vacancies. All five persons accepted the offer. This is the first time in the law school's history that the *Law Review* was forced to take such an action.

Linda Keenan, Editor-in-Chief of *The Hofstra Law Review*, explained why it was crucial that the additional students be invited to work on the *Law Review*: "Usually a couple of students are lost each year for various reasons. This year, we could not anticipate that in addition to three staff resignations, two students would transfer and one would graduate early."

Ms. Keenan furthermore stated that each person who made the very serious decision of resigning from the *Law Review* had personal reasons for doing so. "The workload was only one of several factors that each student took into consideration." She stressed that the Editorial Board made efforts to accommodate any specific problems that the individuals faced, but that the resignations were unavoidable. "Ultimately, the three of them did what they felt was best for themselves and the *Law Review*." Memos

announcing the resignations were distributed to the Placement Office, faculty advisors, and the Dean.

Vice Dean Stuart Rabinowitz denied that the administration put "pressure" on the *Review* to produce a certain number of issues this year. He did say that in meeting with the current *Review* Board early in the year he stressed a fear by the administration that the *Review's* reputation would be hurt if the previous board's "non-publication" schedule continued. He also said that he felt the other two journals do not produce enough either.

Keenan said that the *Law Review* would not have resorted to this option had it not been truly necessary. However, it was clear that in order to maintain their publication schedule and the quality of the review as a whole, new students had to be invited. The *Law Review* Editorial Board decided that the most equitable way of filling the vacancies would be to return to their original list of candidates that had been compiled during the writing competition. The Board wanted to extend invitations to those students who through their grades and writing competition performances had proven themselves to be the most qualified. It would be unfair, the Board felt, to bypass the next person on the list, even if the person had accepted a position on another journal. All of the staff

members of the *Review*, however, did not agree with the Board's decision.

Rabinowitz, the administration member most involved in the situation, said he was informed of *Law Review's* decision, though he could not recall if it was prior to the invitations being made or not. "My primary concern...was not any of the journals as an institutional organization, my primary concern was the students. I think it would be unfair to take a student that was on [another journal]...and say that because they have accepted and began for [on that] journal that they were ineligible for the offer of *Law Review*." Rabinowitz did not think it would be fair to give someone who did not write an advantage over one who did.

Laurice Firenze, Editor-in-Chief of the *Hofstra Labor Law Journal*, said that although she was not pleased with losing two members, and thought about fighting the losses even more seriously after losing two more members, she did not think that it was that important to keep them. "The impact of being on *Law Review* for them is greater than the impact on the *Labor Law Journal* of losing them." Ken Yadvish, the Editor-in-Chief of the *International Property and Investment Journal*, said he also weighed the considerations of a person being on *Law Review* against the disruption to the *Journal* and the precedence this procedure sets.

After being informed *Law Review* would not guarantee this would not happen again, Yadvish only decided to let his staff member transfer journals after learning he already had officially been invited, the invitation coming despite assurances by the *Review*.

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Weintraub Distinguished Professor Lecturer



Michael J. Crames (right) accepts award from Provost Sanford Hammer.

by Doug Lieberman

Michael J. Crames delivered the first Benjamin Weintraub Distinguished Professor's lecture on November 13. Crames' address was entitled "Anatomy of Chapter 11: The Mansville Case."

Crames opened the lecture by setting the stage as to how Mansville filed for bankruptcy. Mansville had a study done which found the projected liability of the company for asbestos claims to be approximately \$2 billion. The realization of the liability would result in its reflection in the company's financial statements, leading to the company's lenders requiring greater collateral, which would hurt Mansville's competitiveness. Mansville, concerned with whether people exposed to asbestos 25 years ago would have a claim against the company in bankruptcy, decided to file for Chapter 11 reorganization to avoid preferences to certain creditors and have money for possible future claimants. However, the case has brought us the question of whether future claimants are in fact included in the definition of "claim" in the Bankruptcy Code. Crames pointed out that the code does not require insolvency for filing, but filing is not something a company does unless it's necessary.

Crames next discussed the various players in the proceeding and their interactions. In Chapter 11, creditors are represented by committees, which in Mansville include those for commercial creditors, other asbestos

manufacturers, present asbestos health claimants, property damage claimants, the company's shareholders, and a Guardian Ad Litem for future asbestos claimants. The committees are trying to determine who should and should not have claims against Mansville's assets. Each committee has their own response to the questions raised by the case, which include whether claims by unknown creditors can be discharged and who is included in the present claim class.

Crames seemed to stress Mansville's desire to have money left to pay any future asbestos claimants. It felt it would be inequitable to use the company's money to pay off claims now without having money left to pay future claims. This led to Mansville trying to forge a plan with the Guardian that the other committees would find satisfactory. Under Mansville's November 1983 plan, which Crames noted would be changed by confirmation, the present asbestos health claimants would have their claims liquidated through a claims facility funded by insurance and a sharing in future Mansville earnings. This facility will also be used to pay future claimants, if they do in fact have a claim, and the property damage claimants, if in fact Mansville is found liable to someone who used this asbestos on a building.

The Benjamin Weintraub Distinguished Professorship in Bankruptcy Law is held by Professor Resnick, and is one of eight distinguished professorships at the Law School. Mr. Weintraub himself was present at the lecture.

Hofstra Law Publishes 1985-86 Catalog

by Ursula Bischoff

How many of us read more than the admissions requirements in the Hofstra Law Catalog either before or after we sent in our application? As upperclass students do we, or should we, care about the information contained in the publication (besides checking to see if our picture was included in the latest edition)?

For many students, the catalog is the first and only impression of Hofstra Law they receive before arriving to begin their first year studies. Published five times a year, the catalog serves primarily as a recruitment device designed to "Provide a comprehensive description of Hofstra Law School" according to Senior Assistant Dean Robert Douglas, its editor. It is circulated to pre-law advisors across the country and is also used in public relations and fundraising campaigns. Dean Douglas cited its most important functions as introducing the prospective student to the law school environment, the faculty and the curriculum.

Several sections in the catalog, including "Goals of Legal Education in the first year of Law School," "Student Organizations," and the newly expanded section "About Hofstra University," briefly describe the kind of atmosphere and the facilities a student can expect to find at Hofstra. However, unlike many other law school catalogs, it contains no information concerning the composition of the student body, the surrounding communities on services offered by the communities, such as public transportation on shopping centers. Dean Douglas feels Hofstra's environment and atmosphere are "best witnessed in person. Many students visit to see what Hofstra is all about. It's the best selling point we have." This may present a disadvantage to students applying from other geographic locations and who may not be able to visit. In light of Hofstra's effort to be recognized as a national law school, evidenced by the Administration's effort to offer a course of study that is not solely based on New York Law and by Dean Douglas' frequent recruiting trips across the country, providing information of this nature may be helpful.

The catalog does contain a very comprehensive section describing the faculty, their qualifications and interests. Dean Douglas believes this is one of the most important sections of the catalog. "Students do place lots of importance on this information because they realize from their college experience that professors are important people in their lives, and therefore, want to discover as much as possible about their prospective teachers." A highly qualified faculty is an important asset to any law school; ours is one of which we can be proud.

The upperclass curriculum receives a thorough treatment as well. The section is included so students will know what courses of study are available to them after they have completed their first year requirements and to attract students who may be interested in a particular field of law. The course selection reflects new developments in the law and the various interests of the professors. Relatively new courses include Anthropology and the Law, Enterprise Liability and Workers' Compensation, Equitable Distribution and Regulated Industries. The Tax Clinic has been dropped from the list because it has not been offered for several years. "Although we hope it will be offered in the future, we're sensitive that no misleading statements are made in the Catalog" stated Douglas. A great emphasis is placed on non-classroom studies, such as the various programs at the NLO, independent study and externships. It is unfortunate that with such a wide range of independent and clinical programs available very few students take advantage of these opportunities to gain practical experience.

This may be due to the pressure students feel to secure outside employment while they are in law school in order to assemble an impressive resume or make "connections" for post-graduate employment. However, the catalog states "outside employment is strongly discouraged except where it involves participation in law school sponsored programs integrally related to the curriculum." **Catalog** at 43. Perhaps it would be more realistic instead for the Administration to adopt a policy of discouraging outside employment during the first year,

and recognizing that Hofstra's proximity to New York City and communities with many smaller firms provides opportunities for second and third year students seeking to obtain practical lawyering skills through outside employment.

Changes in the format of the catalog have been made in three major areas. The discussions concerning endowed chairs and professorships, scholarships and financial aid, and the placement office have been elevated to a position of prominence in this year's catalog. These sections are designed to assure students that resources are available

to maintain a distinguished faculty, a student body that comes from a wide distribution of Socio-Economic backgrounds, and that they will receive aid in finding future employment across the country.

Dean Douglas stated he has received positive feedback from students concerning the quality and appearance of the catalog and that recruiters from other law schools regard our catalog as one of the best in the country. "The catalog merely codifies and describes a very healthy and dynamic law school. It serves us well and we hope it will continue to do so," concluded the Dean.

Labor Law Journal Offices To Move?

by Doug Lieberman

The *Labor Law Journal's* offices, a house on Fenimore Street, are in jeopardy of being turned back over to the University. The reason is the lack of the building's accessibility to handicapped students.

The *Journal's* house has very narrow hallways and entrances, as well as a basement. Senior Assistant Dean Douglas is dealing with the University to make the house 100% accessible. This would include such things as ramps, widening doorways and an elevator. However, Douglas stated that the cost of the renovations could very well be greater than the value of the house itself.

Though the costs of moving the *Journal* would be less than making the house accessible, there is a problem with that also. "The campus is filled up," Douglas said. "There's no empty space." Though the President of the University has referred to the Provost to find a suitable alternative location, the space shortage would preclude a move, if indeed it were to come, for a time. Currently everything is pending. Douglas said the outcome "remains to be seen," but in any event, he didn't know when whatever is going to

happen would happen.

The Plant Department has been to the house in order to make a study as to what renovations would be needed. They have looked at every part of the house, from widening doors to assuring telephones and light switches were accessible.

Douglas said the idea of partial accessibility is also being discussed. It is possible that if the *Journal's* operational routines were compatible with the possible structural changes, it would make the house totally accessible. An example of this would be to move the mail boxes upstairs, as well as holding meetings in the main room.

The possibility of making the other organizations' offices more accessible has not come up. If it did, however, many of the problems would already be solved. The doorways of the other offices are wider and are in buildings with elevators. The cost for making them 100% accessible would be nowhere near the expense of making the house 100% accessible.

The *Journal* members can only wait to see whether they will have to endure the sights and sounds of renovation or of relocation.

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- * AND BAR/BRI STUDENTS CONSISTENTLY OUTPERFORM THOSE WHO TAKE OTHER REVIEW COURSES. AT MOST NEW YORK SCHOOLS LAST YEAR, BAR/BRI STUDENTS HAD A PASS RATE IN THE LOW 90'S AND HIGH 80'S.

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The following is a list of the Hofstra BAR/BRI Representatives:

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Bonnie Smith

Jeff Kuhlman
Lauren Bristol
Lee Greenstein
Damian O'Connor
Faye Feintuck
Bob Baer

Casey Jordan
Ron Lewis
Karen Murray
Jill Garcia
Josie Olsvig

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Library on Horizon

by Doug Lieberman

The long-awaited new library building is just on the horizon. The horizon seems miles away, but on the horizon just the same.

It's been about two-and-a-half years since Dean Schmertz announced plans of building a new library. The plan called for a three-story structure with "lots of glass," to be placed near the front of the Law School. The "logical place" now is the field to the rear of the school.

Currently there is a consensus among the important University officials, including the Board of Trustees, that the new library should be built. The hierarchy has agreed that the library is essential, and that it will be the next building erected on campus. The hitch in the plan is the financing of the library. The slated cost is between \$5 and \$6 million. As of now none of the money is secured. That's a big hitch.

The Dean said major donors are actively being sought to get construction started. These major donors would be people who donate \$1-\$2 million. They are the first people sought in order to start general fundraising. By having the couple of million dollars in hand, it gives a starting point for hinging the general fundraising on.

While discussing the plans for the library, the Dean mentioned his "ultimate dream" — a law center. This would be located on Uniondale Avenue using the District Court-house as the focal point. A new law school building as well as a library would be built there. The center would also include an office building whose space would be rented to practicing attorneys who agreed to be part of externship and internship programs for students. The last piece of the center would be a hotel. The Dean foresaw the University starting up a hotel administration program with those students virtually running the hotel.

After going through his "wish list," the Dean said he would settle for \$6 million from one or two donors and fundraising for the new library. "We're at the stage where we just need the money." The Dean also made it a point to say anyone donating enough money would be highly recommended for immortality by having the library named after that person.

Possible Reagan Appointee

by Dennis Warren

The Reagan Administration is reportedly considering naming Arnold I. Burns, a member of the Advisory Committee of Hofstra Law School, and a Manhattan corporate lawyer, as associate attorney general in the Justice Department.

If appointed, the 56-year-old Burns, a Republican said to be active in philanthropic causes, would fill the third-ranking post in the Justice Department, a job that Attorney General Edwin Meese wanted filled by William Bradford Reynolds.

Reynolds, the controversial architect of the administration's fight against busing and affirmative action, was defeated by the Senate Judiciary in June. He currently is the assistant attorney general in charge of the Justice Department's civil rights division.

Dean Eric J. Schmertz, who appointed Burns to the Law School's advisory board, described Burns as the "consummate lawyer. He gives a lot of time to public service and public interest," Dean Schmertz said.

Dean Schmertz, who was unaware that Burns was being considered for the post, said Burns' expertise was in litigation with a specialty in trade and corporate mergers. He said Burns was an active fund raiser for charities like the Boys Club of America, and had recently traveled to Ethiopia as part of the famine relief project.

Justice Department sources said Burns had met with Attorney General Meese and that the FBI had begun its background check. Unless unexpectedly negative information turned up, his appointment was assured, since unlike Reynolds, he has not been an outspoken advocate of the administration's civil rights policies.

Burns, a Cornell Law School graduate, is associated with the Park Avenue law firm of Burns Summit Rovins & Feldesman.

Since Reynolds' defeat, the associate attorney general's post has remained unfilled. Burns is expected to supervise much of the civil litigation in that department if appointed.

Twin Oaks Residents Circulate Petition

By Eric Zucker

Recently 158 Twin Oaks residents signed a petition demanding that the University take action to remedy the desperate parking situation at the Twin Oaks complex. Sharon Lipper organized the circulating of the petition which accused the university of not acting responsively to a problem that, "poses not only a great inconvenience to us, but also creates an unreasonable danger."

Eric Zucker, the drafter of the petition was quoted as saying; "I'm very disappointed that the University has not taken any concrete action with regard to this grave problem. The fact is that last summer two friends of mine: Claudia Grinberg and Robin Frankel were robbed at gun point in the Twin Oaks parking lot. If the University can't even secure the safety of its students in the parking lot, how can they ever hope to protect the

safety of students who must, at times, park great distances from the apartments late at night and walk home unescorted in the dark through the neighborhood?"

In the face of mounting concern over the incidence of violence against women it does seem curious that providing better facilities for parking has not been made a higher priority. It is a fact that in the immediate vicinity of the apartments is an empty abandoned lot that some students have been using. Presently, the lot is strewn with glass and is unmarked for parking. If properly planned, it is conceivable that an additional 20-30 cars could be accommodated. As it stands, there are less than 100 parking spaces for over 290 residents. The University should consider purchasing this lot or continue its efforts to get the Town of Hempstead to change its street parking limitations.

Trial Competition

On November 25th and 26th the Trial Advocacy Club will sponsor a trial competition open to all law students at Hofstra. The competition will take the form of a bench trial with a criminal fact pattern. Judges will be members of the faculty. Winners of the bench trials may elect to represent Hofstra in one of two national student trial competitions. For specific details look for notices on the Trial Advocacy bulletin board on the second floor. Members of the Trial Advocacy Club will be happy to assist students in their preparation for the competition. A reception will be held on November 26th for all participants and judges.

**SAVE
THOSE
REJECTION
LETTERS!**

(Details Later)

Tom C. Clark Center For Advocacy Moot Court

The fall semester competition of the Tom C. Clark Center for Advocacy Upper Class Moot Court Competition has been successfully completed. The finals were held on November 12, 1985, at 8:00 P.M. in the Moot Court Room on the third floor of the Law School.

Second year students, Marliese Flis and Maria Izzo were the finalists, Marliese Flis was the winner of the final round. We were very honored to have Judge Abbey Boklan, Judge John Thorp, Jr., and Allan Winick, of the Nassau County Court as our final round judges. The finals were followed by a reception in the faculty lounge which was attended by 10 competitors. The next round will begin sometime in January, 1986 with the final round to be scheduled in late March or early April.

The finals were well attended by many first year students who had come to get a preview of what their own moot court ex-

perience would be like. Those who did attend found the argument both informative and entertaining.

The two finalists of this semester's competition will represent Hofstra at the Nassau County Bar Association Moot Court competition. The winners of the Spring competition, as well as the Fall competition will be among those chosen to represent Hofstra at the National Moot Court Competition.

Participants are graded on a pass/fail basis and receive one academic credit for their participation. This year's competitors were, along with Marliese and Marie, Lawrence Buscemi, Paul Delle, Frank Dikranis, Steven Drelich, Francis Gibbons, Jeffrey Kuhlman, Ronald Maggiore, and Christopher O'Hara.

The Executive Board consists of Helene Meltzer, Ann Kalish and Bonnie Hankin, the Faculty Advisors are Professors Agata, Gregory and Neumann.

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WHY DOES PIEPER MISSTATE THE FACTS?

Pieper Fiction:

For those students whose Multistate exams were lost this summer, Pieper said in various law school newspapers, "BAR/BRI simply replayed tapes of their multistate lectures given two months before."

Fact:

BAR/BRI gave each of its students at no cost whatsoever a special 12-session course of exclusive multistate law **AND** a free enrollment (normal cost is \$225) in the 18-hour HBJ Multistate Workshop.

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Affirmative Action Debated

By Eric Zucker

The final topic of discussion at the constitutional Law Conference on the "First Sixteen Years of the Burger Court" was affirmative action. Representing opposing views on this controversial issue were William Bradford Reynolds, Assistant Attorney General, Civil Rights Division and Professor Sylvia Law of New York University Law School.

Mr. Reynolds opened by stating that the Warren Court had thrown itself into the center of political debate "charting a course that strayed at times well outside of the interpretive role contemplated by the framers for our third branch of government."

He criticized the fact that a whole generation of law students were "taught to speak not the language of the Constitution so much.... as the language of idealism."

Returning to the Burger Court, Mr. Reynolds traced that Court's views on affirmative action from **Bakke** through **Fullilove** and **Weber** to **Stotts**. Referring to Justice Powell's opinion in the **Bakke** decision he agreed that affirmative action should not be supported by the States' alleged interest in remedying societal discrimination [which was characterized as]....an amorphous concept of injury which may be ageless in its reach into the past." He argued

that the Court's view was steadily moving towards the ideal of "color-blindness."

Ms. Law attacked Mr. Reynolds' views, citing specific examples from his agencies activities in the matter of civil rights. "For the first time in history, the federal Justice Department actively fights against civil rights laws that benefit blacks and women," she said. She spoke of his agencies inactivity in securing the constitutional rights of psychiatric and mentally retarded patients and of prison inmates. She criticized Mr. Reynolds specifically for advocating tax exemptions be granted to racist private school (The Burger Court unanimously rejected Mr. Reynolds' view on this matter). She saw the actions of the Justice Department to be consistent with the Reagan administration in its efforts to turn back the clocks on civil rights to those illusory good ol' days when "**we didn't have racial problems.**" She argued that in an age when so many people are still weighed down with the oppressive characteristics and history of a hierarchical society that favors only the white male elite, for the government to disregard "gender and race" was to forsake its duty to its people.

Time ran short, so there was no time for any questioning of the panelists from the audience.

Law Review (Continued from Page 1)

that invitations would not take place at that time.

Ms. Keenan said she was aware some members on the two other journals were furious. "I can understand some of their frustration on this matter. I'm not sure that everyone is so upset.... certainly not those students who were chosen. But I have a responsibility to do what is best for the *Hofstra Law Review*. Because the reputation of the *Law Review* directly affects the reputation of the law school, that responsibility is even greater."

Yadvish feels that he too has a responsibility to his journal. Allowing this to happen is disruptive to the journal, and puts "monkey wrench" into the work atmosphere that has evolved.

The editors of the other two journals mentioned that the way in which they were told of the situation did not ease any of their reservations. Yadvish said that when he was first told of the *Review's* decision, it was made clear that he was only being told as a

point of information, not to elicit has comments since the decision had already been made. He was under the impression that his journal "was being told by *Law Review* that they were *Law Review* and therefore could do what they want." Firenze said that though the *Review* never came out and said it, they didn't have to. She noted that the *Review's* prestige would give them a tremendous bargaining position however they tried to fill the vacancies. She also felt it would have been less of a blow if there was an indication it was coming.

Yadvish also has said that he was upset that the administration did not get more involved at the outset. He was told by the *Review* that they made the decision, and that the administration had no say in the matter. Rabinowitz said that this is the kind of thing that should be worked out between the three journals. *Labor Law* started along these lines by forming a committee to deal with formulating a plan to be implemented for the future. The committee, along with

William Bradford Reynolds

Some Facts About William Bradford Reynolds

compiled by Ken Goldman
and Eric Zucker

- More than two dozen representatives of civil rights organizations testified against the nomination of Mr. Reynolds to be the Associate Attorney General. *New York Times*, June '85.
- Ralph Neas, the executive director of the Leadership Conference on Civil Rights said, "The Government is supposed to be the champion of civil rights, under Brad Reynolds, it's now an adversary of civil rights. [Reynolds is] the principal architect of what we perceive to be a complex assault on the civil rights laws." 6/3/85.
- At nomination hearings Senator Kennedy declared that Mr. Reynolds had, "exploited numerous opportunities to roll back the past three decades of progress on civil rights." 6/5/85.
- During the nomination hearings, Mr. Reynolds gave "inaccurate or possibly misleading testimony" about his record on civil rights. 6/19/85.
- Senator DeConcini opposed Mr. Reynolds' nomination because he felt that Mr. Reynolds had shown "a consistent pattern of bending and altering the truth in a self-serving way." 6/20/85.
- The Senate Judiciary Committee rejected Mr. Reynolds' nomination for Associate Attorney General. 6/28/85.
- William T. Coleman, former Secretary of Transportation under the Ford Administration said "The policies of Mr. Reynolds with regards to civil rights have been just about 100 % wrong and despicable. I don't think his positions are consistent with the law, with Republican Party philosophy, or with the long range interests of the country. It would be good if Mr. Reynolds were replaced." 7/9/84.
- Federal District Judge Enslen criticized the Justice Department's Civil Rights Division's handling, under Mr. Reynolds, of a suit charging Michigan's Prison system with cruel and unusual treatment of inmates, as being ineffective in the enforcement of prisoner's constitutional rights. 6/11/84.
- After repeated failures to enforce civil rights in a variety of actions, a majority of staff attorney in the Civil Rights division's special litigation section resigned in disgust. 6/22/84.
- Mr. Reynolds counseled the Internal Revenue Service to grant tax exemptions to racist private schools. The Supreme Court rejected his interpretation 8 to 1. 6/5/85.

All articles are from the *New York Times*.

Nicaragua Presentation

On Wednesday, November 27, at 12 noon in Room 230, Professor Douglas Colbert will continue his presentation regarding his recent trip to Nicaragua. Discussion will include, but not be limited to the World Court case involving U.S. mining of Nicaraguan ports; recent suspensions of some civil rights by the Managuan government; and Professor Colbert's personal experiences with the people of this embattled country as it struggles to survive inspite of mounting activity by the American-backed Contras.

Everyone is invited to attend.

This event is sponsored by the Hofstra chapters of the National Lawyers Guild (NLG) and the Black American Law Students Association (BALSA).

representatives of the *Property Journal*, were to meet with *Law Review*, however Keenan refused to meet with them.

Both journals are afraid that the *Review* may do the same kind of thing in the future if the need arises. Though Keenan is not expecting any more resignations, she has not assured the other two journals that she would not resort to the writing competition list if vacancies occur. Rabinowitz said that though there is no "temporary restraining order" on the *Review*, he is confident that there would be no action taken by the *Review* until first consulting with the administration. "I wouldn't want to say that there's carte blanche from now on to take twenty students...." If there were more resignations, the faculty advisors would be asked to take a "studied look" at the *Review* to see what has been happening.

Yadvish was not able to formulate what exact policy he would be willing to accept regarding the situation in the future without having a full understanding of the other journals. Part of the policy should include the respective boards of each journal meeting to be given notion of mid-year invitations

before they occur.

Firenze thinks the policy should be set by the administration since the journal members who would formulate the policy would be gone at the end of the year, but the policy would still be intact. The policy should stress the commitment of students who decide to join a journal. There should be sanctions of some sort imposed against those who quit, mainly because of the repercussions it has on the journals. One alternative would be to have each journal select a few extra people, and the first month would be a "trial period" where a student could resign without any sanctions imposed.

Currently things are in a holding pattern of sorts. There is no policy in place, and whether there will be one seems up to the journals to decide. And though the *Review* does not expect future resignations, the other journals are taking a wait-and-see attitude, with all of the journals getting back to the business of putting out issues.

Contributing to this article were David Goldman, Doug Lieberman and Eric Zucker.

COMMUNITY FORUM

EDITORIALS:

Journal Selection Process In Need Of Review?

The loss of four staff members of the *Hofstra Law Review*, and the impending departure of two others, is indeed a very serious occurrence, and suggests that the process for selecting future candidates to serve on this prestigious journal is in need of closer scrutiny in the interest of stability.

These resignations, and subsequent selection of five members from the *Labor Law Journal* and the *International Property Investment Journal* to replace them, has been characterized as being unprecedented in the history of the Law School.

But quite apart from the disruptive effect this situation will have on the work of the latter two journals, whose members undoubtedly regard their work as being equally important to that of the *Law Review* — even if they don't enjoy the same level of prestige and influence — these resignations tell us something about the underlying selfishness of some students selected in the past to serve on the *Law Review*.

This occurrence also suggests that future *Law Review* Editorial Boards need to go beyond the mere criteria of grades and writing competition scores in making their determinations of eligibility, and perhaps also equally consider commitment and dedication — qualities essential to stability of a journal which is publicly a reflection of the scholarly status of the Law School.

The departures, and impending departures, are all apparently based on "personal reasons," and nothing is wrong with pursuing personal goals. But where the incentive to accept membership arises solely because students view such membership as a means of enhancing personal marketability or prestige, without contemplating the heavy workload and the reputation of the Law School, then we are bound to have recurrence of the above problems.

It is indeed unfortunate that so many chose to abandon ship, at a time when there are already widespread queries about the process of selection, not only to the *Law Review*, but to the other two journals as well.

For, beyond the notion that students are chosen based on a combination of grades and writing ability as judged through the writing competition, not much more is known about the intricacies of particularly the latter writing process.

For instance, how are writing scores graded? How are the competitors scored statistically to arrive at their ultimate selection or rejection?

Not that we doubt the judgment of our peers on the journals, nor their ability to competently grade the writing samples. It is just that this process need be more detailed so that those writing in the future will know what qualities are being sought in their writing samples.

Thus, without clear standards, the glaring absence of minority students on the journals, and the inability of minorities to have ever made the *Law Review* in the Law School's 15-year history, is not comforting to this section of the school's population.

Perhaps we are to infer, from this appalling fact, that minority students, despite entering on an equal academic basis with white counterparts, are so clearly intellectually inferior, that of the scores who have passed through these corridors in the last 15 years, none have been found competent by the seemingly exacting standards, to be chosen for the *Law Review*. (One black student was however selected for the *Labor Law Forum* three years ago.)

This conclusion we are hardpressed to reach; and perhaps the journals need take a second look at their selection process to find out where the shortcomings lie or how this situation could be remedied.

In the present situation, we commiserate with Ms. Keenan's plight, cognizant of the fact that the circumstances under which these departures came about are outside her control as editor-in-chief. And we feel that her decision to take members from the other journals is justified based on the fact that the review is woefully far behind in its publication schedule.

But we likewise understand Mr. Yadvish, Ms. Firenze, and other journal members' sentiments about being treated like a "farm club" to the *Law Review*. This treatment doesn't offer much incentive to approach the work of those journals with professionalism, because they don't know who next is going to be taken by the *Law Review*.

Future selection boards of all three journals are therefore urged to ascertain, to the best of their abilities, that those selected will truly want to serve, and not accept an invitation to serve merely because of personal potential job related benefits and an aura of prestige.

Of course, we are fully aware that most of the current staff on the *Law Review* are dedicated and even overworked; but in the future, we must ask that those who, despite their seeming academic brilliance, are not prepared to give of their time, disqualify themselves if selected.

Those selected, who choose to leave in mid-term, should be denied any benefits or subjected to some type of limited sanctions unless they can field some compelling reason for resigning — a determination which can easily be made by the editorial boards, in conjunction with designated members of the Law School staff, or Senior Assistant Dean Douglas.

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COMMUNITY FORUM

EDITORIALS: Continued

Two Days In November

The Berger Conference presented by Hofstra Law School from November 7-8, in commemoration of the school's 15th anniversary, was indeed a commendable event, and undoubtedly, cast a positive reflection on the Law School.

With the theme "The Sixteen Years of The United States Supreme Court Under the Leadership of Chief Justice Warren E. Berger," this conference focused on pressing and controversial legal issues resulting from the Supreme Court's prolific rulings during the 16-year tenure of Warren E. Berger as Chief Justice.

Focusing on a diverse range of subjects — from labor law and trade regulation to criminal procedure and equal protection — the conference brought together some of our nation's most respected legal minds, to debate and discuss various and recurrent societal problems.

But it also provided the audience with keen and sometimes unique insights into legal issues — many of a deeply emotional character, and which, in one way or another, directly touches the very fabric of our society.

Who will forget, for instance, the impassioned rage of Yale Kamisar, in expressing fears that the Berger Court was eroding safeguards guaranteed by the 4th Amendment of the Bill of Rights; or William Bradford Reynolds' unpersuasive, but subtle arguments to explain the Reagan Administration's current attempts to abrogate quotas?

Of course, the above were only two of a handful of widely recognized legal scholars who participated in this conference, complemented by a number of our own professors.

The major criticism of the conference seemed to be that it conflicted with regular Law School classes, thus forcing many students who would otherwise attend to miss presentations. Many of the sessions, also, did not allow sufficient time for participation from the audience on the conference floor.

But, Professor Leon Friedman, as conference director, must be congratulated on putting together a first rate symposium, one which truly testifies to the spirit of Hofstra Law School in its 15th year.

And those who missed the conference entirely missed a rare opportunity to broaden their legal perspective, but one that, hopefully, will come again, in the not too distant future of this institution.

Letter From The Editor

Hello, good evening, and welcome to another exciting edition of "King Kvetch." Tonight, I'll deal with such topics as next semester's courses and *Law Review's* "State of the Basement" analysis. But first, a word from our sponsor.

Do you know me? I take 15 credits a semester. I'm on a journal. I work 15 hours a week. But when I try to get into the library on a weekend, I'm treated like chopped liver. That's why I carry my piece of pizza from the vending machine. When I'm asked for my ID, I take the pizza from my bookbag, and place it on the desk. The guard is so busy being violently ill, I just walk right in. Vending machine pizza. Don't go to the library without it.

Tonight, we're going to start the show with a brief review of how to spot a rejection letter. This is something I've become very good at, collecting upwards of 100 such letters since September started. The first thing to note is that the stationery won't give you a clue. That's because it seems that all firms and corporations have very nice stationery. Besides, even if they did use different stationery for rejections than acceptances you wouldn't know because you're only getting one type.

After removing the letter from the envelope, look at it before you unfold it. If the page is filled with type, it's a rejection. I've been told acceptance letters are very short, along the lines of "Thank you for your resume. Call for an interview," or "Call us at..." You'd think the firm was sending a telegram (Call. Stop.). A rejection letter, on the other hand, is usually three or four paragraphs long. The first paragraph says they received your resume (though I'm starting to get from firms I haven't sent to yet that begin "Thank you for not sending us your resume."). The second paragraph is usually a story about how so many people applied for a job and how it's impossible to hire everyone. The third paragraph lets you know that even though you possess "excellent qualifications" they can't offer you an interview (this always seemed like a non-sequiter to me). The last paragraph wishes you luck.

When you unfold the letter, it's not necessary to read the letter. After all, there's probably another four or five letters waiting to be opened. Instead, just scan the letter, looking for key words. These words are despite ("Despite your excellent qualifica-

Continued on P. 8

DEAN'S CORNER:

Dean Eric J. Schmertz

Gerry Giannattasio, the Assistant Director of the Law Library, had a very good idea which he has implemented. He wrote the following letter to all of the Justices and one former Justice of the United States Supreme Court:

The Hofstra University School of Law is celebrating its fifteenth anniversary with a scholarly conference spotlighting the history and achievements of the Burger Court. I have been asked to create a display for this November conference and would like to take as my theme "The Justices Pick Their Favorite Cases."

Is there a case of which you are particularly fond, for whatever reason — a well written brief, a wild fact pattern, the social issues raised, its checkered procedural history or the point of law involved? If so would you take just a moment to jot down the name and mail it to me in the stamped, self-addressed envelope which I have enclosed?

You can well imagine the intense excitement with which such an exhibit would be viewed by students, scholars, members of the bench and bar, and citizens generally. I hope you will take this opportunity to share your favorite case with the people who will be at this already well subscribed conference.

He received the following answers:

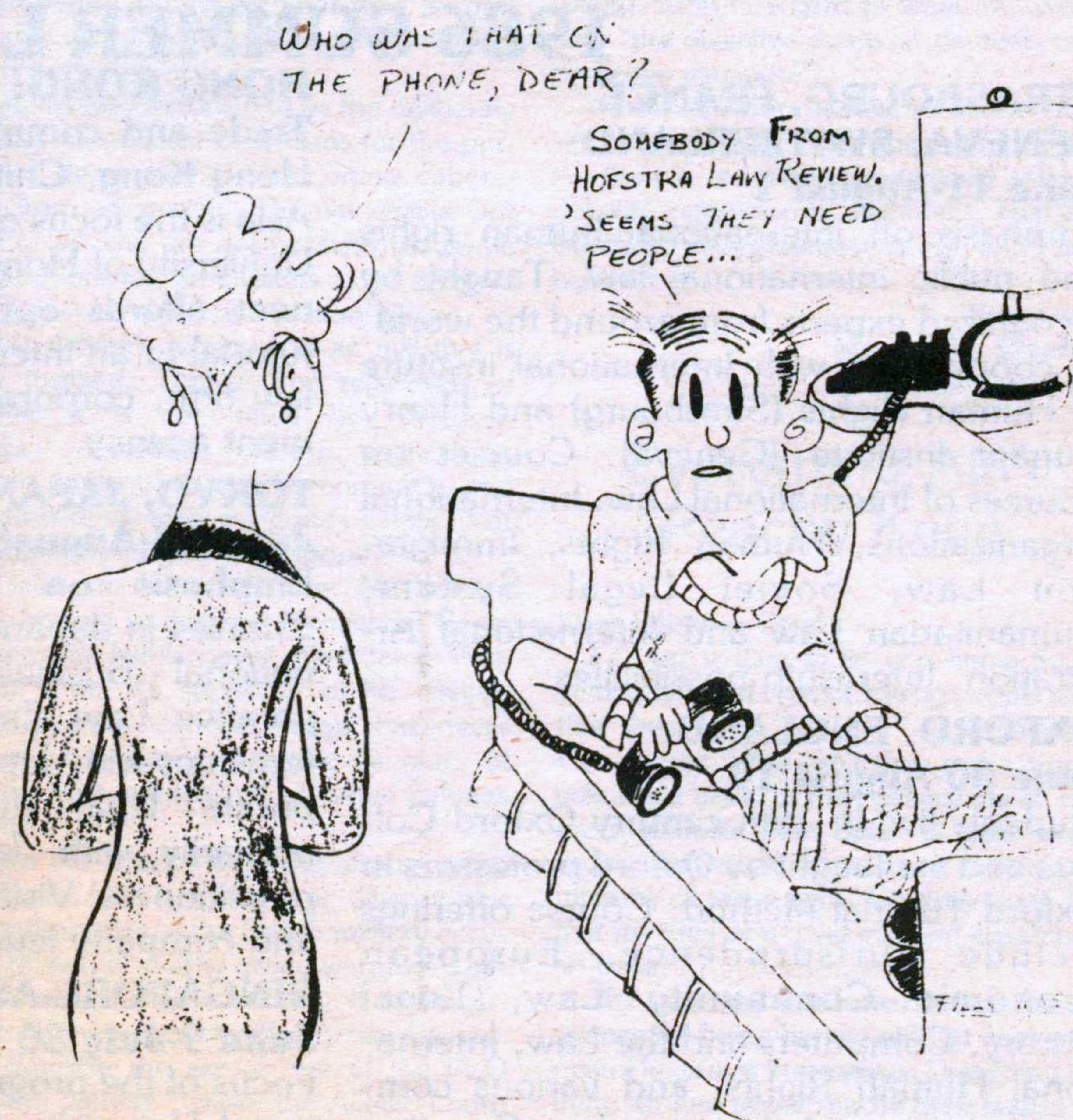
Justice Potter Stewart — "My favorite case is *Rideau v. Louisiana*, 373 U.S. 723 (1963)."

Justice William H. Rehnquist — "Thank you for your letter of September 11, asking me to pick your 'favorite case.' I think a case I enjoyed writing as much as any is called *Leo Sheep Company v. United States*, 440 U.S. 668 (1979), just because it enabled me to get away from strictly case law and into a little bit of history."

Justice Sandra Day O'Connor — "In response to your letter, I think the facts and drama surrounding the case of *Florida Department of State Treasure Salvors, Inc.*, 458 U.S. 670 (1982) make it one of the most unusual and interesting cases the Court has heard since I have been sitting."

Full texts of the favorite cases cited are on display in the display cabinet in the law library student lounge. I think it would be most interesting if students read those cases to see what it is about them that appealed to these distinguished Justices.

CARTOON VIEW



Letter From The Editor

(continued from page 7)

tions..."), unfortunately ("Unfortunately, we do not have a position available...") and future ("Good luck in the future.").

Spotting rejections is an art, not a science. One must practice every day; it cannot be learned overnight. I'm just tired of practicing.

Next on the agenda is my appraisal of the schedule for next semester. Content-wise it's not bad, but scheduling-wise? Pthhhh! I really think the course selection is not bad. There are many interesting seminars, and even those courses which can be deemed practical. True, there are many business and criminal courses, but that may say something.

The timing of the courses, on the other hand, is terrible. It's as if someone wants to put all students out of work by not allowing them any time to work. Four credit courses are three days a week, and are different times every day. Whatever happened to continuity? All of the seminars are being taught at the end of the day. This means you get to have a kangaroo schedule with two hour breaks in between everything, but only on certain days.

What I want to know is why when there are two sections of the same course offered they both are offered at the same time. Wouldn't it make more sense to offer them at different times, to give students more options? This way, if one section overlaps a course you want to take, you just take a different section. I think the different class times would alleviate some of the disparity between class sizes, which is now based on the "better professor" (read easier exam).

I also think that some course currently taught only one semester should be taught both semesters. For example, Debtor/Creditor or Products Liability, though not "core" courses, are courses which would help you on the outside. Both are only taught one semester. True, they wouldn't be taught by the "stars" each semester, but that would be a factor in determining when you want to take them. This also would alleviate any possible conflicts with a "core" course, such as this year's between Debtor/Creditor and Tax (which, when brought to the attention of the powers that be, prompted the reply, "Well, you should've taken tax already.").

One last thing on courses — who decided what should and shouldn't be an elective? Courses such as Evidence and Wills are important, and taken by 99 percent of the students. Why not make these courses mandatory? This would alleviate some of the you-should've-taken-it-already problems. It also wouldn't force you into a choice between a "core" course which you have no interest in, and an elective on a subject you've been interested in all your life, and would kill to work in that field. Another change would be to cut down on Con Law. Why is it two semesters for six credits? It easily could be one semester for four credits — other schools do it. After all, the first semester is virtually meaningless anyway. Personally, I think a day or two on *Marbury v. Madison* rather than a month would be sufficient. A cutback would give you more time so you can take another elective.

Now to switch gears a little bit. Have you ever noticed the ingredients listed on the buttered corn muffin label on the muffins sold in the machine? "Corn muffin. Butter." Pretty enlightening, isn't it? How would these guys list the ingredients for corn flakes — "Corn. Flakes?" Whatever happened to the Fair Labeling Standards Act, or at least consumer awareness? If you're not going to tell me what my corn muffin is made out of, don't

insult my intelligence by simply telling me it's a corn muffin ("Cigarette?" "Yes, that's right.").

Back to the main event for this month — what's going on with *Law Review*. The events, as I understand them, went something like this. — People were leaving the *Review* for whatever reason, but at numbers never seen before. This meant that the *Review* had to get their replacements from somewhere. After all, there were articles to cite check; Board positions to fill; Mail duty to do! It was then decided by *Law Review* that they would then go to their list from the writing competition and pick the next three, soon becoming five, people. They then let the other journals know of their decision, and "invited" the people on. Let's take a closer look at these components.

First, the turnover rate. One person is graduating early. I always thought that early graduates couldn't be on a journal for that very reason. There were also three resignations, and two people who stepped down from their editorial positions to become "peons." Though I'm sure there are many factors leading to the resignations, I'm willing to bet that working atmosphere is one of them. The picture in the catalogue is far from the truth. People would analogize the *Review* to the Yankees. You know what happens when George doesn't get his way. You also know how George feels about giving his players a day off. I wonder if George would make an apology for poor play?

As far as the selection of new people goes, I'm not sure there was any other way to make the selections, especially after the people were notified, and with there not being any policy set forth as to what to do in these situations. Maybe using the writing competition results is the best method. But why can't *Law Review* take one or two extra people at the outset to cover itself? And what about the whole way in which this was done? It seems like it was another case of *Law Review* playing on that we're-law-review-and-we-can-do-whatever-we-want-attitude. Did anyone ever stop to think the other journals may not

be too keen on the idea? I really think a simple explanation of the situation other than in -we-can-do-what-we-want terms might have alleviated some of the outcry. So would some promise that if more resignations take place, there would not be any more invitations to the land of the styrofoam cup. Instead, the other journals were put in a no win situation, and told that it could happen at any time in the future.

I also like how that matter seems to be fading from the forefront and off into obscurity, which I'm sure some people wouldn't mind. The administration seems to think this is an aberration, and that the journals can work it out between themselves. I'm also sure that by laying low, and not intervening at all, they expect that everyone will forget about what happened, and the issue will slowly go away. There's also *Law Review*, who refuses to meet with the other two journals to come up with a solution for this problem, if it happens again in the future. That's fair. I thought an integral part of the lawyering process was negotiating. Refusing to formulate a policy won't help the situation. If anything, it leads credence to the stuck-up attitude that is associated with those on the *Review*.

And what of the other journals? I think, they were totally justified in their complaints when this thing happened. But where have they gone? They've been awfully quiet about things the last few weeks. Getting on with journal business is important, but trying to maintain your staff is more important. Without any staff, you can't put out a journal. I expected them to try and let their views be known, trying to keep the issue in the forefront. Instead, they seem to be falling into the "stalling" trap that's been set. So be it.

Well, that's about it for tonight's program. By the way, has anyone heard from the SGA? I think they are missing in action. Anyway, until the next time, remember what

Oliver Wendell Holmes said in a time of despair — "Honey, did you see my navy blue socks?"



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COMMUNITY FORUM

THIRD WORLD PERSPECTIVE

Drowning In The Caribbean Basin

By Dennis Warren

On February 24, 1982, President Ronald Reagan unveiled his Caribbean Basin Initiative (CBI) before the Organization of American States, inciting regional optimism that the administration was about to come to terms with the severe problems facing the embattled area.

Through the CBI, the U.S. seems ready to embark on a new Foreign Policy course towards the region, different from previous programs which totally ignored the economic root of the region's social problems.

The CBI plan consisted primarily of five measures which the President said would "create conditions under which creativity and private entrepreneurs hip and self help can flourish."

They involved moves to liberalize trade, to encourage U.S. investments in the area, to strengthen the capitalist sector in the region, to expand credit and facilitate trade, and to provide increased military and economic aid to the Caribbean and Central America. Today, more than three years later, the CBI has not had the desired impact upon the region which is still plagued with increasing inflation, and rising unemployment.

Unfortunately, the only successful component of the CBI has been its plans to militarize the region. And, to some

observers, not unlike the Kennedy Alliance For Progress (Alliance), and Operation Bootstrap of years gone by, the CBI is manifesting itself increasingly as a strategy aimed more at furthering U.S. Geo-Political objectives in the region, than with assuaging regional socio-economic problems.

The Alliance was launched in March of 1961, following the Cuban Revolution, and immediately preceding the Bay of Pigs Fiasco in Cuba. Through this plan, the U.S. was to pump over \$100 Billion into developments projects in Latin America. What happen eventually was that those funds did not find their way to the poor people of the region, but ended up largely in the private estates of corrupt military Latin American Juntas.

At the time of President Kennedy's death in 1963, the Alliance had buttressed dictatorships in El Salvador, Nicaragua and Guatemala, among others, and created a new U.S. trained military elite to protect U.S. interests in those countries. Benefits to the local people was minimal.

The CBI has been likewise been virtually impotent to deal with the problems of the region's poor. Most of the money allocates has been spirited off by corrupt politicians. But there has been, to the contrary, dramatic geopolitical successes in the region since announcement of the CBI.

Grenada, for instance, has been invaded by the U.S. A regional security force headquarters in Jamaica has subsequently been established to patrol the region and to preserve "Freedom and Democracy" all as part of the CBI. Yet, the indigenous populace face growing and unbearable economic hardships.

The CBI funds have also been used to support puppet regimes in El Salvador and Guatemala, and thereby to create a climate of destabilization against the Sovereign State of Nicaragua.

The consistent mistakes inherent to these types of "Mini-Marshall" plans, are that their funds are never channeled directly to the impoverished sections of those societies. Therefore, as domestic economic hardships increase, the people there become restive and create political instability in those countries.

Such instability, reaching the verge of explosiveness in such countries as Jamaica, and Grenada, does not provide the ideal climate for foreign investments. Investors are reluctant to put their money inside a politically volatile country, without full assurance that their investments will not be lost in case of full blown strife.

U.S. policymakers seem to mistakenly assume that the way to counter political unrest is by strengthening the military capacity of incumbent regimes at the top, in order to contain the people below. But the lessons

of history lucidly demonstrate that "Containment" will only lead to temporary restraints. Inevitably, the masses will reach a point beyond which they refuse to tolerate protracted abuse, and these regimes will be swept away in the tide of mass revolt.

True, the CBI has led to some business opportunities by creating markets for regional business men to trade in the U.S. But these opportunities often undermine regional trading associations like the Caribbean Community (CARICOM), while providing largely capital intensive operations, which invariably limit the numbers which can be employed in those Third World countries. Only a handful of merchants therefore, will reap the benefits of this type of facility.

There is the need for more practical aid, in projects that can be directly supervised by the U.S. lending agencies. Much of these funds should be used to directly build hospitals and medical centers, schools and trade centers, and to equip these institutions in the various countries.

Leaving this task up to the locals governments, who will have to go through a barrage of middlemen and political loyalists to get the job done, is no way to assure economic success at the grass-root level.

Until economic aid can be effectively translated into a concrete force in the lives of the people, plans like the CBI will only leave the countries of the region drowning in the Caribbean Basin.

LETTERS TO THE EDITOR:

Two Respond To "One State's Terrorist...!"

To The Editor:

I would like to very briefly rebut Dennis Warren's editorial *One State's Terrorist...* which appeared in the November 1985 *Conscience*. I suggest that anyone reading this refer back to the aforementioned or like to better understand the context of my comments. The thrust of the article suggested to me that in light of the Achille Lauro affair, we should use the term terrorist more carefully. It is often a question of perspective. After all, one state's terrorist is another state's Freedom Fighter. It is this basic premise with which I disagree.

We would all love to live in a world free of violence. Unfortunately, since the days of Cain and Abel, humankind has resorted to violence to further individual goals and to resolve otherwise irreconcilable differences with one's neighbors. Sadder yet is that there is no indication that this trend will ever reverse itself. However, because we are civilized, we have managed to extend the concepts of dignity and humanity (to at best some small extent) to the ways we fight wars. Certain conventions are understood by all nations, all is not fair in war. A terrorist demonstrates that he has thrown off the last vestige of humanity when he contravenes these conventions. Terrorism is cowardice, for only a coward would end the lives of hundreds of American Marines while they slept. Only a coward would launch a terror campaign across the border of a neighboring country and run back across to hide behind the skirts of a civilian population.

Warren has his bias and I certainly have mine. However, regardless of the causes one supports, most people would agree on what

can be classified as a terrorist act. Webster's defines terrorist as "an advocate or practitioner of terror as a means of coercion". I would define terrorist as one who attacks a civilian target, or a military target in a way that shocks the conscience of a person of average moral character. Using this definition, the distinction between a terrorist and a freedom fighter is clear. In other words, it is not the struggle which makes one a terrorist. Rather it is the means by which one chooses to further the struggle. When the Mujaheddin shoot down a Soviet gunship, they are Freedom fighters. But is it not fathomable how the hijacking of the Achille Lauro could be considered anything other than terrorism. By all accounts, after gaining passage by hiding behind false identities, the four Palestinians intended to proceed to an Israeli port and shoot as many people as they could. When their plan failed, they shot twice and killed the most defenseless person aboard then throwing him and his wheelchair into the water. In law we speak of the perfect plaintiff or of the perfect right to demonstrate the validity or sheer stupidity of a law. Leon Klinghoffer represents the perfect victim. His death showed to the world what terrorism in its ugliest manifestations is capable of.

In the future, I hope our country will avoid the use of violence. Knowing this to be totally unrealistic at the present time, I hope America will fight with dignity when she feels she must fight. At the same time I hope America will continue to relentlessly pursue, by any means necessary, those who launch campaigns of terror against our citizens.

—Arthur Bodek

To The Editor:

Dennis Warren presents a mushy defense of terrorism in which the confusion is compounded by his failure ever to define what he means by terrorism.

I understand terrorism to be the deliberate targeting of violence at civilians for the purpose of demoralizing or extorting concessions from an enemy. Distinguishable (for those of us who are not pacifists) would be injury inflicted on civilians as an incident to an attack directed at a military target.

Thus defined, terrorism is an evil that is never justified. That is true regardless of whether it is committed by "freedom fighters," regardless of the political or religious fervor of those who commit it, and regardless of whether it is done by nations or by people aspiring to nationhood.

By failing to define terrorism, Mr. Warren allows himself to describe Menachem Begin as a terrorist (while never mentioning Yasir Arafat). I am no supporter of Mr. Begin. Unlike Arafat, however, Begin has never boasted of masterminding the slaughter of children in a nursery or of other helpless civilians.

Begin did direct a bombing attack on the King David Hotel — at a time when it was the headquarters of the British military occupying power, and after giving warning in advance to evacuate the building. If that is terrorism, then we need a different word entirely to describe the act of one of the PLO "freedom fighters" whom the Achille Lauro hijackers sought to free: he killed a little girl by smashing her brains out against a rock.

As part of their effort to free that man, the hijackers shot a helpless cripple in a

wheelchair. Can't we all agree that acts such as those (and the murder of Alex Odeh) are wrong, without regard to what Mr. Warren calls "the objective merits or demerits of the particular situation?"

As Mr. Warren advocates it, the "Third World Perspective" has nothing more to offer than a moralism determined solely by political motivation or alignment. That looks like the same old spinach to me, and I say to hell with it.

Yours truly,
Monroe H. Freedman
Professor of Law

Everything Ain't "Peachy Keen"

Dear Editor-in-Chief:

I'm just writing to let you know that I'm getting sick and tired of having people tell me that they have "no time" to write for the *Conscience*. Why can't they make time like you and I have? Is their private life so much more valuable than ours? (It goes without saying that anything is more exciting than mine as of late—sigh). Do they really think that my idea of a quiet evening is pasting up an issue?

The next time someone criticizes the *Conscience* for being boring without having submitted an article themselves, I am going to tie them up and paper-mache their bodies with shredded copies of the latest issue and sell them as "conceptual art" in a gallery in Soho.

Continued on P. 13

The MBE Is Worth 40% Of The New York Bar Exam

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FEBRUARY, 1983			FEBRUARY, 1984			
Took	Passed	%	Took	Passed	%	Change in%
2,214	1,065	48	2,105	940	44	-4

**Fact: Most Students Who
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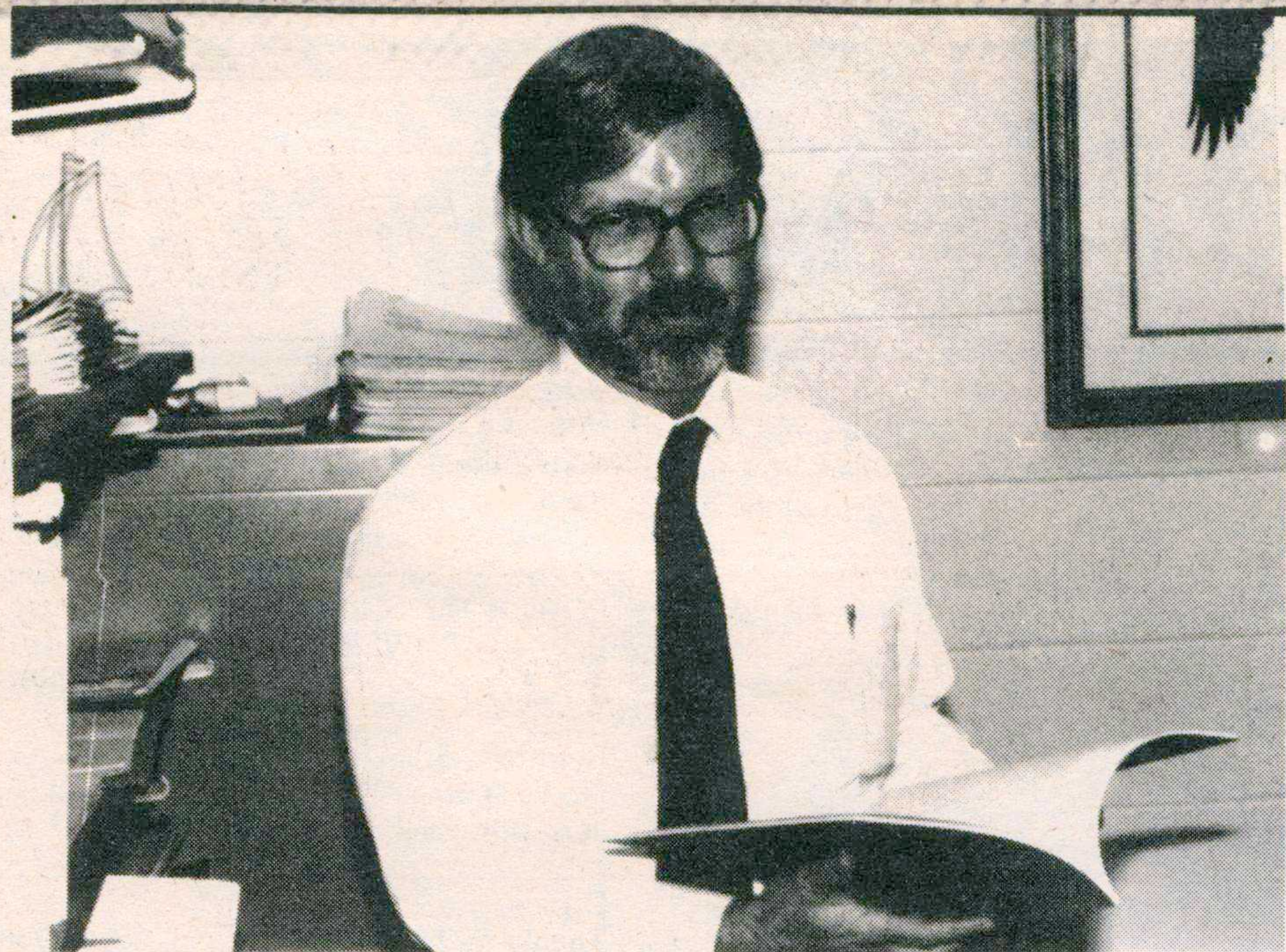
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Encouragement From Placement

by Hugh Christenson
Director of Placement

Unfortunately, Fall Recruiting has prompted the belief that the best 2L and 3L students get the best jobs by mid-December. Aside from the deep anxiety this creates for those people who don't have offers, it induces students to have unrealistic expectations and to look for jobs prematurely. A student in October sends off 100 resumes to small firms, gets only 15 replies and only one interview, and is demoralized by the lack of response to the mailing. The response to the mailing is less reflective of the job market than it is of bad timing or of false expectations.

In conducting your search for a position with a private law firm, always be aware of timing. With the exception of the large corporate firms whose hiring needs account for the phenomenon of "Fall Recruiting," very few firms hire in advance of the time they actually need someone. Despite their visibility, large firms account for only a small fraction of the job offers that are made to law

students and graduates nationally. The bulk of law firm offers come from small general practice firms that have unpredictable hiring needs. Most firms could not begin to accurately respond to a student's inquiry about a summer job or a job upon graduation if made several months prior to that time.

You are not a failure if you don't have a job offer by December 15. Have faith that all jobs are not filled by December. Even the firms that recruit during the Fall sometime hire people late in the school year. A firm will not let an outstanding applicant go by merely because she/he applied out of the so-called hiring cycle. Each of you has a unique combination of goals, and background. Identifying, pursuing, and securing a rewarding career are important tasks. Please stop by — we are always available to discuss placement strategies on an individual basis.

This is the first of a series of articles on legal employment to be published in *Conscience*.

Nix v. Whiteside: Can Incrimination By Counsel Be Effective Counsel

By Monroe H. Freedman*

Nix v. Whiteside is a case in which the unappealing facts threaten to obscure the immensely important constitutional questions at issue. If that were to happen, the case could seriously impair the traditional relationship of trust and confidence between lawyer and client, a relationship that the Supreme Court has termed "imperative." *Trammel v. United States*, 445 U.S. 40, 51 (1980).

In one sense, the defense lawyer's conduct in *Nix* clearly did not "undermine the proper functioning of the adversary process," which is the test recently laid down by the Supreme Court in *Strickland v. Washington*, 104 S. Ct. 2052, 2064 (1984). The defendant took the stand and made a plausible claim of self-defense. His less-than-compelling complaint now is that he had wanted to embellish his testimony by falsely swearing that he had seen "something metallic" (i.e., a weapon) in the victim's hand; however, his defense attorney improperly coerced him into omitting that detail by threatening to testify against him. Since no other witnesses had seen anything metallic in the victim's hand, and no weapon belonging to the victim had been found at the scene, the defendant's embellishment would not only have been perjurious but bad tactics as well.

*Author, *Lawyers' Ethics in an Adversary System* (1975) (ABA Gavel Award Certificate of Merit, 1976); "Lawyer-Client Confidences and the Constitution," 90 *Yale L. Jour.* 1486 (1981).

Whether the Supreme Court allows Whiteside's conviction to stand, therefore, may be of little moment. What is crucial, however, is what the Court says along the way about two questions that are at the heart of the criminal defense lawyer's role.

First, in the initial interviews with the client, should the defense lawyer encourage candor, or should the lawyer, directly or indirectly, warn the client to withhold information that might be incriminating?

Second, if the client confides to the lawyer that the client is contemplating perjury, and if the lawyer is unable to dissuade the client from that course, should the lawyer reveal the client's confidences to the judge and/or jury?

The answers to those questions turn on the Sixth Amendment right to the effective assistance of counsel and on the Fifth Amendment privilege against self-incrimination.

One of the most important Supreme Court decisions bearing on those questions is *Fisher v. United States*, 425 U.S. 391 (1976)—a case that, unfortunately, is not cited in the briefs before the Court in *Nix*.

In *Fisher* the Supreme Court held that the attorney-client privilege protects documents in the hands of an attorney if those documents would have been privileged under the Fifth Amendment if they had been retained by the client. That is, a client does not lose his Fifth Amendment privilege by confiding in his lawyer. As Professor Charles H. Whitebread has commented in his treatise on *Criminal procedure*, the Court has thus

“extended Fifth Amendment protection to the attorney-client privilege for the express purpose of encouraging the uninhibited exchange of information between citizens and their attorneys.”

Speaking for the Court, Justice White explained in *Fisher* (425 U.S. at 403): "...[I]f the client knows that damaging information

could more readily be obtained from the attorney following disclosure than from himself in the absence of disclosure, the client would be reluctant to confide in his lawyer and it would be difficult to obtain fully informed legal advice." Accordingly, Justice White held, the lawyer-client privilege protects

Continued on page 13

Important Facts In Nix v. Whiteside

The lawyer in *Nix* appears to have acted unprofessionally and in violation of his client's rights under almost any view of the criminal defense lawyer's role.

First, the defense lawyer did not forewarn the client that he would reveal the client's confidences to the judge and jury if the client were to commit perjury. The lawyer testified that the "only time it came up" was after the client had already incriminated himself by being candid with the lawyer and admitting that he had not seen anything in the victim's hand. Iowa Sup. Ct. App. 100. Thus, as in *Henry and Smith*, the lawyer in *Nix* elicited incriminating information in a false relationship of trust and confidence.

Second, the lawyer did not threaten to violate confidentiality for tactical reasons based upon his independent professional judgment. Rather, the lawyer testified that he took the course that he did only because of his understanding that he was required to do so "[u]nder the Canons." Iowa Sup. Ct. App. 100. The Iowa Code of Professional Responsibility therefore preempted the in-

dependent professional judgement that is contemplated by effective assistance of counsel.

Third, the defense lawyer never urged the client against giving the false testimony on the important tactical grounds that the embellishment lacked credibility and that the judge could be expected to increase the sentence if he believed that the defendant had committed perjury. Iowa Sup. Ct. App. 97-98. (Testimony about seeing “something metallic” in the victim’s hand would have been inconsistent with all other testimony in the case and with the absence of any weapon in the victim’s apartment.) Nor did the defense lawyer threaten to violate confidentiality only as a last resort. Rather, the threat to inform the judge and jury of his client’s confidences was part of the lawyer’s immediate response when the client indicate an intention to give false testimony. *Ibid.* Thus, the threat to divulge client confidences was at best premature and very possibly unnecessary.

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PERSONALS

Aaron,
DON'T BOTHER ME. I'm working on a case!

P.S. Thank you Power Tee Shirts

Laura,
You homewrecker you!!!

Dear Frank,
How are you feeling? We are still concerned with the plight of student aids.

Love,
Library workers without aids

Jackie,
Sorry we've been teasing you about having to go to Waldbaum's on Thursdays.

J.P.

Adj,
Your triceps are better.
The Point Lookout Peanut Gallery

Bouncing Baby Brockett,
God, do I want your body! Meet me at McHebe's.

Robin,
Please don't dance on the speakers anymore, It's really embarrassing.

J.P.

Dr. K.,
I'll be yur nurse any time.

Dear Lee,
You are a woman!

Love,
2L

Lisa,
I still love you even though Frank and Tank are no longer such a "big" part of our lives. Let's get married one day—O.K.?

Anonymous

To M.B.G.,
"Meet George Jetson, his boy Elroy..."
Thinking. Look fine!

Grandpa-face

Regina,
Come here, Come here, Get out of here.

Pat,
What's with the sudden interest in bankruptcy and short men?

A squid eating dough in a polyethylene bag is fast and bulbous; Got me?

Urs

That's right the mascara snake—fast and bulbous. Bulbous also tapered. That's right!

Raul? Raul from Pennsylvania?

To all my friends:
Thanks so much for making my birthday a special day!

Love,
Lori

Adam,
I don't care what anyone says—you do have good taste! Thanks.

Love,
Lori

Ursula dear,
I do hope that this year you will wear those Long Johns I bought for you last year.

Love and kisses,
Your Mother

Diane, Paige, Robin:
Is Gadgets open yet?

Zoe,
You can sleep in my bed any day!

Mommy

Frank,
Do you have any preference for funeral music? How about Bach's Tocatta and Fugue?

MAL,
Have you gotten your POWER TEE SHIRTS yet?

Aaron

Wherefore art thou, my fair weather friends?

POWER TEE SHIRTS!
POWER TEE SHIRTS!
POWER TEE SHIRTS!

MEN and WOMEN!
JAZZ, DANCE, EXERCISE, MOVE!
Class: Tuesday & Thursday, 4-5:15 pm
Where: Dance Studio in Gym
Who's Teaching? Robin
Be there!

POWER TEE SHIRTS!
POWER TEE SHIRTS!
POWER TEE SHIRTS!

Pat D.,
Don't be so married. We miss you!

L.

I hate 3rd year: the Conscience, journals, clinics, classes, applications, etc... I wanna go home to LA!
—A dog that's been beat too much.

Eric,
Dancing with you is like putting on a long black negligee and lying on pink satin sheets.
—One of the three

Lois,
Get any hickies lately?

To Section C:
Hang in there and you will get the value of the benefit conferred. Never worry about being made whole.

Your contracts lawfellow

Claudia,
Congratulations and good luck in your new, highly demanding job on the Conscience staff!

Urs

Stew,
I can't wait to see you in your tights and leotard!

LET'S GO METS '86!

Steve, Ron, John, Tom and Rich,
Thanks for the great laughs!

Frank,
I don't get mad. I get even, see?

Yvonne

Jean,
Baby, Baby, Baby... Estranged though we may be you know you are still my woman. Forget all about D.C. and law school and come live with me!

Prince

Rangers v. Calgary
Rangers in 6!

Mike and Wayne—Hofstra's own Miami Vice.

POWER TEE SHIRTS!
POWER TEE SHIRTS!
POWER TEE SHIRTS!

Eric,
Dancing with you is one of the more sensual experiences I've had. The other? You guess.
Two of the three

Paige and Robin,
What's it like having school on FRIDAYS?

Ozzie,
Not tonight!

Harriet

Vampirella,
If you sucked my blood, I think my Parkinson's Disease would finally do me in!
The Old Lady

Doug R.,
Cutest 2L, can I join the line for a fun-filled date with Doug?

I broke a mirror in my house this morning. I'm supposed to get seven years of bad luck, but my lawyer thinks he can get me five.

Oh, my little French maid, how I'd love to get my fingers caught in your fishnets.

Monroe Freedman: A Lawyer's Lawyer.

I.G.,
Is it true you have a new-found appreciation for your environment (i.e., plants and animals)? Try to contain your enthusiasm, I miss you. Suzy is still making my days brighter.

Love
Frap

BALSA Members — Happy Thanksgiving!

That's - Woman! I've been you-know-whatting for over ten years.

Claudia,
Please consider this a warm personal note and refer to all the aforementioned upon receipt of same.

Frank & John

c/c Ursula

To Library Patrons,
Shelve your books!

Keep Hofstra Law Beautiful — DON'T LITTER. Your maid doesn't follow you to school.

Grandma,
I have never seen such wild moves on a dance floor by a woman your age. Have an enjoyable Thanksgiving and please don't put prune juice in the pumpkin pie.

Love,
Fifi

Fifi,
Never prune juice! Probably just a mixture of laudanum and arsenic.

Grandma

To Spiderman:
Six inches lower and you could have been famous!

Ripley

BALSA IL's,
So far, so good. Your diligence and hard work will pay off. Keep up the good work.

J.C.

Silverman,
I haven't caught you yet, you fox.
Just a plow horse

Scott,
You and the three of us. We'll wear mini skirts, fishnets and heels. Think you can handle it?

Hortense, Fifi and Gertrude

POWER TEE SHIRTS!
POWER TEE SHIRTS!
POWER TEE SHIRTS!

Bernstein: Frankel here,
How's Normie? Feldman called, she's doing Jane this week. Wanna, join her?

D.E.,
Thanks for believing in me and sticking your neck out.

R.F.

J.B.,
Please clean up after yourself, especially those grapefruits juice containers. Please show a little consideration in this holiday season.

Clip-on ties, a disfiguring disease. We can cure this hideous affliction in your lifetime, but only with your help. Send donations to the Artie New Suit and No Clip Tie Fund. We need your help. He needs your help: A mind is a terrible thing to waste.

I love Hofstra Law School.
Alfred Jackson, Copy Room

Baby Stew: I would have noticed your absence in Bus Org had I been there myself. The "chinless wonder" scared us away!
—Baby Scott

Lois: Pay attention in Con Law!

Steve D: I'll shave my legs for you.

Second Year Sucks.

To Dave "KASSAKOFF": Can't Kessler pronounce your name right?
—Baby Scott

Meryl: Stop it! You're making me blush!
—S.B.

To the one I love ... Me!

To the woman of my new Wed. Nite class:
Thanks for the support!

To Orange Firebird: Gee? No, GTE!

To Baby Scott:
Without you, there would be no Baby Stew.

Alan G. — Shut Up!

M.Z. — Let's keep up the good work!
S.B.

Steve D. & Baby Stew:
Let's go to Friendly's & Look for Dawn Marie!

Eric,
Thanks for helping out this semester.
Conscience

Don't You Worry
Never Fear
Guilty Conscience
Will Soon Be Here

L.I.N.,
If I print "A dozen roses," and then give you the paper, does that count as giving you a dozen roses.

More Personals on P. 17

LETTERS

(continued from p. 9)

I mean, hell, if this letter gets printed, isn't it obvious that we print everything we receive? Don't they realize what a great forum this could be for them? And if they want, we'll put them in the Masthead and they can put us on their resume. (Suddenly they're paying attention.)

Sincerely (semi-facetiously),
Eric Zucker
News Editor

Hofstra Should Divest

To The Editor:

The following is a letter written to the University's Board of Trustees regarding the Commission on South Africa's recommendations pertaining to the issue of divestment. It is my express hope that more faculty and students will take an active role in making

their views concerning this subject known. Commission on South African Investments
President's Office
Weller Hall
Hofstra University

To The Committee:

It is my position that Hofstra University divest its entire holdings in South Africa. The policy of constructive engagement is a failure. The university, by continuing its prior investments, tacitly supports a racist and killer regime. The South African government continues to imprison virtually all of its opposition, kill innocent and defenseless men,

women, and children, and deny basic political rights to the majority of its people. If the year were 1941, would there be any hesitation or debate over whether to divest entirely from Japan? Would prior investments have been acceptable under Hitler's murderous regime? Why is the South African situation any different? Except for Columbia University, most American universities and colleges still are procrastinating over this matter. Hofstra University needs to get off the fence and follow the vanguard set by Columbia University.

(continued on p. 14)

Nix v. Whiteside (continued from P. 11)

informed legal advice and which "might not" have been made absent the privilege. That language accurately describes Whiteside's disclosure of the truth to his attorney in the *Nix* case.

The Court's reasoning in *Fisher* bears upon the Sixth Amendment as well as the Fifth. For example, the Supreme Court has unanimously held, in an opinion by Justice Rehnquist, that the lawyer's knowledge of all the facts is "essential to proper representation." *Upjohn v. United States*, 449 U.S. 387, 391 (1981) (quoting ABA Code of Professional Responsibility EC 4-1). Obviously, if the client is apprehensive that his lawyer may be required to convey damaging information to the court, the client will be reluctant to confide in his lawyer in the manner that effective representation requires. *Fisher v. United States* at 403; *Upjohn v. United States* at 389-393.

In answer to the first question posed above, therefore, if the lawyer were to warn the client to withhold possibly incriminating information, the lawyer would impair the effective assistance of counsel by discouraging the full and candid communication that is essential to it. The burden would then be on the client to keep the lawyer "selectively ignorant" by deciding what is incriminating and what exculpatory, and by withholding what the client believed—correctly or incorrectly—to fall into the former category. That kind of decision, however, is uniquely the lawyer's responsibility by virtue of special training and skills. *Hickman v. Taylor*, 329 U.S. 495, 511 (1947); *Upjohn v. United States* at 390-391.

Moreover, in cases like *Nix*, in which counsel is court-appointed, it is especially difficult to establish the essential relationship of trust and confidence between lawyer and client. The question in the client's mind is, "Can I really trust you?" And the client will hear a negative answer to that question if the lawyer invites candor but, at the same time, warns the client that the lawyer might reveal the client's confidences to the judge. "Tell me everything, but..." is not calculated to convert mistrust into candor.

A lawyer-client *Miranda* warning is therefore incompatible with effective assistance of counsel under the Sixth Amendment. The lawyer must encourage candor with assurances of confidentiality, not discourage it with warnings or with mixed signals.

A further problem with the "Tell me everything, but..." approach, is that it compels the client to choose between the Sixth Amendment right to effective assistance and the Fifth Amendment privilege against self-incrimination. The client is told, in substance, that a fully informed lawyer is essential to effective assistance, but that the lawyer may be a conduit to the court of incriminating information that the client has the right to withhold.

Thus, if the client confides all in the lawyer pursuant to his Sixth Amendment right, and the lawyer then reveals that confidence to the court, the client loses his privilege against self-incrimination. If, then, the client must withhold confidences from his lawyer in order to guard against self-incrimination, the client loses the effective assistance of counsel. As Justice Harlan wrote for the Court in a similar context (also involving the

choice of a criminal defendant to commit perjury) it is "intolerable that one constitutional right should have to be surrendered in order to assert another." *Simmons v. United States*, 390 U.S. 377, 394 (1968); see also *New Jersey v. Portash*, discussed *infra*.

Turning to the second question, assume that the lawyer has succeeded in establishing a relationship of trust and confidence, and has thereby learned that the client is contemplating perjury. All authorities agree that the lawyer should attempt to dissuade the client from that course. Indeed, it is generally recognized that an important benefit of the relationship of trust and confidence is that it puts lawyers in a position to dissuade clients from improper conduct. *Upjohn v. United States* at 389. As Justice Stevens had observed, "the lawyer is the essential medium through which the demands and commitments of the sovereign are communicated to the citizen." *Brewer v. Williams*, 430 U.S. 387, 415 (1977) (concurring opinion).

The lawyer's arguments to the client may be based upon moral, legal, and tactical grounds. Perhaps the most persuasive point the lawyer can make in the case of client perjury in a criminal case is that the judge can be expected to increase the sentence if the judge believes that the defendant has committed perjury. See *United States v. Grayson*, 438 U.S. 41 (1978).

But what if the lawyer is unsuccessful in dissuading the client from testifying falsely in his defense? Can the lawyer be compelled, by ethical rules or otherwise, to betray the client's confidences and expose the perjury to the judge and/or jury?

Speaking through Chief Justice Burger, the Supreme Court has noted that to compel an attorney to disclose incriminating confidences would create "significant risks of unfair prejudice, especially when the disclosure is to a judge who may be called upon later to impose sentences on the attorney's clients." *Holloway v. Arkansas*, 435 U.S. 475, 487, n. 11 (1978). Two Supreme Court decisions illuminate that unfair prejudice in the light of the Fifth and Sixth Amendments.

In *United States v. Henry*, 447 U.S. 264 (1980), a government informer was placed in a cell with Henry and established a "relationship of trust and confidence" with him. As a result, Henry revealed incriminating information to the informer. In an opinion by Chief Justice Burger, the Supreme Court held that because Henry's conviction was based in part on the admissions elicited through the false relationship of trust and confidence, Henry's Sixth Amendment right to counsel was violated.

In *Estelle v. Smith*, 451 U.S. 454 (1981), a psychiatrist examined the defendant regarding his competency to stand trial. The defendant was not advised of his privilege against self-incrimination, nor was his lawyer informed of the examination. After conviction, in a separate penalty phase of the trial, the psychiatrist testified that the defendant was dangerous. Chief Justice Burger again wrote the opinion for the Court. He noted that during the psychiatric evaluation, the defendant "assuredly...was 'not in the presence of [a person] acting solely in his interest.'" Rather, the psychiatrist's apparent role of neutrality changed, and he became at the sentencing trial "an agent of the state recounting unwarmed statements" made in a

postarrest custodial setting. Accordingly, the defendant's Fifth and Sixth Amendment rights had been violated, and the sentence was vacated.

Clearly, a lawyer cannot do what the cellmate in *Henry* and the psychiatrist in *Estelle* could not do—that is, establish an apparent relationship of trust and confidence with the accused, elicit harmful information from him, and then disclose the information contrary to the client's interests and desires.

The *amicus curiae* brief submitted to the Supreme Court for the ABA in *Nix v. Whiteside* refers to the Fifth Amendment only in passing and cites none of the cases in point discussed above—not *Fisher*, *Upjohn*, *Trammel*, *Holloway*, *Henry*, or *Smith*. Instead, that brief relies principally upon *Harris v. New York*, 401 U.S. 222 (1971), and *United States v. Havens*, 446 U.S. 620 (1980). In those cases the Court allowed the prosecution to impeach defendants with evidence obtained in violation of *Miranda* and as the result of an unlawful search and seizure. However, neither of those holdings intruded upon a constitutional right; *Harris* and *Havens* both involved prophylactic procedural rules of non-constitutional stature. In *Nix*, however, disclosure by the defendant's own lawyer would impinge directly upon the Fifth and Sixth Amendments.

Harris does say that when defendants testify, they must testify truthfully or suffer the consequences. And *Havens* does say that a defendant has no constitutional license to commit perjury. But no one has ever suggested otherwise. The adverse consequences of perjury, the Court explained, include "the risk of confrontation with prior inconsistent utterances," which is the "traditional trust-testing [device] of the adversary system." *Harris* at 225-226. Disclosure of confidences by defense counsel is not in the same category as traditional adversarial cross-examination. Other adverse consequences of perjury include increased sentencing and criminal prosecution.

That potent arsenal against perjury does not need to be augmented by incrimination through defense counsel.

Of far greater significance than *Harris* and *Havens* is *New Jersey v. Portash*, 440 U.S. 450 (1979) (also not cited in the ABA's *amicus* brief). Portash had been granted use immunity for grand jury testimony. When prosecuted thereafter, he presented an alibi that was inconsistent with his grand jury testimony, and the prosecution sought to impeach him with that testimony. The Supreme Court held that Portash had a constitutional right to present his alibi without being impeached with his inconsistent grand jury testimony. Certainly the Supreme Court did not mean that Portash had a license to commit perjury, but the court did hold that forfeiture of his Fifth Amendment privilege was not one of the consequences of his perjury. Moreover, there was no suggestion that Portash's lawyer acted improperly in presenting his client's perjurious alibi. Clearly, therefore, although "truth is a fundamental goal of our legal system" (*Havens*), it sometimes must be subordinate to constitutional rights. See also, e.g., *Tehan v. United States*, 382 U.S. 406, 416 (1966).

The solution ultimately proposed by the ABA *amicus* brief is that the lawyer must reveal the client's perjury to the court and "seek the court's guidance," thereby passing

the buck to the trial judge. Invariably, however, the court will pass it right back, saying, "I understand your problem, counsel, but you'll have to carry on as best you can." Thus, nothing is accomplished other than prejudice to the client by revealing the client's confidences to the sentencing judge.

In addition, the *amicus* brief recognizes that the client is entitled to be forewarned of the risk of being candid with his lawyer. As a consequence, the client will probably withhold the truth from the lawyer, and the perjury will therefore be presented to the court without the lawyer having the opportunity to dissuade the client from that course.

A similar solution, with the same consequences, is that the lawyer compel the client to testify in narrative form and that the lawyer omit reference to the client's false testimony in summation. Originally proposed in 1974 as section 7.7 of the ABA Standards Relating to the Defense Function, that provision was not approved by the House of Delegates in 1979 and has been expressly repudiated by the ABA's Katak Commission.

The principal difficulty with section 7.7 is that the lawyer's conduct is a clear signal to the judge, and often to the jury as well, that the client is testifying falsely. That point is made effectively, if unintentionally, in *State v. Fosnight* 679 P.2d 174 (Kan. 1984). There the defense attorney, in a typically futile attempt to withdraw, effectively revealed to the judge in chambers that his client intended to commit perjury. Defense counsel then followed the course prescribed in section 7.7. The Kansas Supreme Court approved section 7.7 and went on to hold that the lawyer's in-chambers disclosure to the judge of his client's perjury was not prejudicial, because it "did not inform the trial judge of anything he would not have surmised at once" from counsel's presentation of his client's testimony pursuant to 7.7. Thus, the section 7.7 solution is tantamount to direct incrimination of the client by the lawyer.

In sum, the Supreme Court is faced with two possible models of the lawyer-client relationship.

Under the traditional model, the lawyer makes every effort to be fully informed of the client's case by establishing a relationship of trust and confidence with the client. The lawyer then honors that trust, but uses it to dissuade the client from wrongful conduct, going forward with the client's perjury only in those rare instances in which dissuasion is unsuccessful and withdrawal not feasible. Under the second model, the lawyer remains purposefully ignorant of potentially embarrassing facts because the lawyer warns the client (or because clients become aware in time) that lawyers are required to disclose harmful information to the court. There, too, lawyers will go forward with clients' perjury—probably much more frequently—because they will be ignorant of the truth.

It seems clear that this second model would in a real sense, "undermine the proper functioning of the adversary process," *Strickland v. Washington* at 2064, and that only the traditional model is compatible with effective assistance of counsel and with the privilege against self-incrimination.

Letters

Continued from P. 13

The South African government will never relinquish its power through peaceful negotiations unless they are forced to do so. There cannot be any realistic negotiations as long as the government continues to rule with a fascist hand. Recently, the foreign press was banned from reporting the escalating racial violence and governmental response. Since the South African government's answer to violence has been further violence and oppression, the outside world should not assist South Africa economically. The argument that the black majority would suffer the most from total divestment is unconvincing. The fact that the black South Africans are the most oppressed and disadvantaged group proves that the status quo of their country's economic and political system will change nothing if left unaltered. By example, the United States should realize that the gains of American blacks did not occur in a vacuum. Race progress in America came by force and not from the moral or ethical considerations of government. The South African situation requires the same understanding.

If the principles of freedom and justice are universal, then profits cannot take precedent over people. Whatever gains Hofstra receives from its prior investments are inevitably lost in terms of morality and ethics. It is my hope that the Commission will recommend total diversiture to the Board of Trustees.

Very truly yours,

Jeffrey C. Taylor

Hofstra University School of Law

Class of 1988

PRACTICING LAW

I don't care if my client's guilty
As long as he can pay my fee
And contribute to my Mercedes-Benz
I've been called a hired gun
For all the lawsuits that I've won
But I'm not in this to make any friends

I'm not some idealistic jerk
I don't do pro bono work
All my clients pay me through the nose
I don't work for justice's sake
I only care how much I make
I'm a mercenary in designer clothes

So if you can afford my cost
Read my ad in the New York Post
And let me know who you want to sue
I'll find you a cause of action
Guaranteed to your satisfaction
I'll get you ten times more than you are due

I'm a credit to my profession
I can invalidate any confession
And assault the testimony of a nun
Whatever you've done I'll get you free
(Psychopaths a specialty)
Oh, practicing law is so much fun

by Bruce Robins
1L Section A

CONSCIENCE

Wishes Everyone

**Luck on
Finals**

&

**Have A Happy
Holiday
Season**

FALL 1985

1st, 2nd, 3rd YEAR FINAL EXAM SCHEDULE

Time		Monday, Dec. 9	Tuesday, Dec. 10	Wednesday, Dec. 11	Thursday, Dec. 12	Friday, Dec. 13
9 am.	Immigration Law (to be arranged) Int'l. Law (to be arranged)		Bus. Org. A Bus. Org. B Secured Trans.	Copyright Products Liab. Labor Law	Securities Reg. Family Law Enterpr. Liab.	Evidence A Evidence B Remedies
1 pm.				Property A B C		
Time	Sat./Sun.	Monday, Dec. 16	Tuesday, Dec. 17	Wednesday, Dec. 18	Thursday, Dec. 19	Friday, Dec. 20
9 am.		Debtor/Creditor Indiv. Inc. Tax A B	Acct. Lawyers Environ. Law	Comm'l. Paper Const'l. Law (arranged)	Wills, Tr. & Est. Estate & Gift Anti-trust	Real Estate Admin. Law
1 pm.			Crim. Law A B C		Torts A B C	
	Sat./Sun.	Monday, Dec. 23				
9 am.		Contracts A B C				

CONFLICT OF EXAM forms may be picked up in the Admissions Office beginning 11/4/85 and should be returned by 11/12/85

THE LAST DAY TO WITHDRAW FROM A COURSE IS NOVEMBER 20, 1985.

ORGANIZATIONS

BLSA Report: Letter On Apartheid

This is BLSA's submission to the Board of Trustees re-the University's investment policies in South Africa.

To: Dr. James M. Shuart, President
From: Dennis Warren, BLSA President on behalf of BLSA members.
Date: Nov. 11, 1984.

We the members of Hofstra Chapter of Black Law Student's Association heartily welcome the recently imposed Hofstra University moratorium on any further investments in companies doing business in South Africa and hail it as a bold step forward.

But we feel that the University's policies at this time need go further, and therefore we call for nothing less than a total divestment of all Hofstra University funds from companies doing business in South Africa — even investments in accordance with the Sullivan Principles.

BLSA is aware that since early 1977, a number of U.S. companies with operations in South Africa have been endorsing an employment code called the Sullivan Principles.

Consisting of six principles, the code calls for desegregation of the workplace, fair employment practices, equal pay for equal work, job training and advancement, and improvement in the quality of the workers' lives.

According to recent statistics, as of October 25, 1984, 126 of approximately 350 U.S. companies doing business in South Africa have signed the employment code. These companies employ roughly 64,724 African, Colored, Asian and White workers out of a total national workforce of 10.6 million.

Although apparently a worthy ideal, this code must be considered within the wider South African context to appreciate its lack of effectiveness as an instrument of change, or even reform.

U.S. companies in South Africa participate in the Apartheid Political-Economic System, which has legally deprived the African People — 72 percent of the South African population — of their citizenship and political rights, and dispossessed them of their land.

The Africans have been relegated to fragmented Bantustaws or "Homelands" created by the White minority government. The impoverished areas constitute only 13 percent of the South African territory, and are those worn out plots of land without mineral wealth or industrial development, which serves as reservoirs of cheap labor for White farms, mines, and industrial centers.

Colored and Asians who constitute another 12 percent of the population, are also deprived of all but token political rights and are confined to Ghettos in the White 87 percent of the country.

As a result of South Africa's Apartheid policies, therefore, the 72 percent of the African population take home only 29 percent of the nation's wages, while the White 16 percent of the population walks off with 59 percent of the national wages. Thus, cheap labor is the essence of the Apartheid system, and a cheap and docile labor force has been the major drawing card for foreign businesses in South Africa.

U.S. companies have taken advantage of South Africa's good investment climate over the years, rapidly expanding their investments in the Apartheid economy.

Between 1943 and 1978, U.S. direct investment in South Africa grew from \$50 million to \$2 billion, an increase of 4,000

percent. Stimulated by the Reagan Administration's Policy of "Constructive Engagement," U.S. investments rose to \$2.6 billion in 1981. In 1983 U.S. financial investment was reported in excess of \$4.6 billion.

The net effect of U.S. investments has been to strengthen the economic and military-self sufficiency of the Apartheid system, thereby allowing it to preserve its system of ruthless exploitation of the Black majority.

The Sullivan Principles have been highly touted as a conduit to constructive and progressive change in South Africa. But a study of the principles reveal they are merely a vehicle of rationalization through which foreign investors continue to seek profits, in face of mounting international moral outrage at the Apartheid system.

The major criticism of the Sullivan principles are essentially twofold: The first criticism is the fact that American businesses have never used their leverage to force fundamental change in South Africa, (i.e., the granting of equal political rights to all South Africans, the Abolition of Influx Control, the pass laws, and the policy of separate development). Their employment practices are little — if any — better than those in South African companies and affect only a fraction of the Black workforce nationwide.

Therefore, the minimal socio-economic benefits provided by these companies are of little significance juxtaposed with their strategic importance to the South African economy. Certainly, U.S. companies have no business operating under conditions where their presence serves chiefly to maintain the status quo.

The second criticism focuses on the implementation of the Sullivan principles themselves. There is a general misconception that these principles are actually being implemented. But American companies are highly capital-intensive, employing a disproportionate number of skilled — (i.e., White workers). Thus, although White workers constitute only 18 percent of the workforce, they compose 37 percent of the workers in the Sullivan signatory companies. While Africans, on the other hand, constitute 71 percent of the national workforce, they take up 43 percent of the Sullivan workforce.

These companies employ only 0.4 percent of the African workforce, and only 0.5 percent of the Colored and Asian workforce combined.

Thus the impact of the Sullivan reforms must be considered within these political and economic realities. Progress that occurs under these principles affects only a fraction of South Africa's Black population, thereby proving virtually incapable of making any significant or meaningful change. The idea that economic reform of Apartheid can be effected through the Sullivan principles are therefore, at best, illusory.

Furthermore, as long as American companies are operating in South Africa, they must adhere to South African law which has historically only sought to restrict the rights of the African majority. Thus the Sullivan principles cannot override the Segregationist laws of the state.

The implications of this fact were made clear in 1980, for instance, when the racist government passed a national Key Points Act. This law requires all companies designated as key industrial companies, to co-operate with the South African Defense Forces in the event of Black unrest. Under penalties of heavy fines and/or imprisonments of their top executives, foreign subsidiaries would be forced to obey com-

mands of the South African Defense Forces even if in violation of the Sullivan code.

Few Black South Africans have been fooled by the corporate claim that the Sullivan principles constitute a progressive force in South Africa.

Desmond Tutu, recipient of the 1984 Nobel Peace Prize, has described the progressive force argument as a humbug and declared corporations lying if they claimed they were helping the Black population. He added, in an March 27, 1981 interview with "The Sowetan"; "They must know they are investing to Butress one of the most vicious systems since Nazism."

There should be no doubt about it, even based on the foregoing superficial analysis of the South African economic reality, that every cent invested in South Africa help to shed the blood of Africans.

Hofstra University had a moral obligation not to be part of mass Genocide. We must send a clear and unequivocal message to South Africa that our investments, though modest, can no longer be an part of a system which grossly violates human rights, and murders Black children with impunity and scorn.

We at Hofstra University must reject the Sullivan principles because they are not geared to address fundamental reforms.

Rather, they are designed to be ameliorative. As Bishop Tutu has repeatedly said: "Apartheid must not be made comfortable, but must be dismantled."

Increasingly measures which have proved effective against the Apartheid Regime have been economic sanctions, boycotts, divestment, or corporate withdrawal. The fact that these measures are treasonous in South Africa, speaks to their potential as effective weapon against that racist system. Of course, these measures do put some economic pressure on the Blacks, but they certainly have even more of a debilitating effect on the South African Regime itself.

As one South African adage goes: "When a ladder falls, the man on the highest rung is hurt most. The people at the bottom escape with a few bruises." Blacks will; not suffer most if there is divestment and economic disengagement.

We the members of BLSA therefore strongly reiterate our request that Hofstra University divests all its funds from South Africa. Let our institution be a part of that growing enlightenment; that vanguard and moral voice calling for an end to the Black Holocaust of Apartheid.

Sincerely,
Dennis Warren, President, for BLSA

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ORGANIZATIONS

ELS Hosts Alumni Dinner

By Carl Howard

On Friday, October 25, 1985, the Environmental Law Society (ELS) hosted a dinner with a truly impressive list of Hofstra law graduates currently employed in the field of environmental law.

The dinner was intended to strengthen the presently fragmented network between students and alumni sharing similar professional goals. While the field of environmental law is expanding into more and more legal fields (such as bankruptcy, real estate, business organization or corporate law, as well as into international relations with respect to common property such as the air, the atmosphere, the oceans, and the Great Lakes), the number of individuals employed in this area is relatively small (relative to the number of attorneys working in general practice, corporate or family law, or in will, trusts and estates). One explanation for this is that environmental laws provide enforcement powers in federal, state and local govern-

ment and governmental agencies. Thus the amount of plaintiff work is somewhat limited (limited to causes of action brought by private citizens sounding in common law nuisance, trespass, assault and battery, ultra-hazardous activity and negligence, or brought pursuant to limited citizen suit provisions in federal and state environmental laws). On the defense side many law firms are currently expanding their hazardous waste divisions as the number of cases brought by governmental entities continues to increase.

Hofstra Law School, while not offering any program specifically designed to further an interest in environmental law, can boast of two outstanding professors in or closely related to this field: Professors Bill Ginsberg (ELS' advisor, who teaches environmental law and runs the environmental law clinic, which is perhaps the single most effective route to pursue to job in this field), and Aaron Twerski (who teaches products liability,

and who was one of the lead attorneys in the, on-going, Agent Orange litigation). Virtually all of the alumni in attendance spoke of the outstanding introduction to this field of law which they received from Professors Ginsberg and Twerski.

It is astounding to me that Hofstra, unknowingly, can point to such a large number of individuals holding significant positions of authority in the field of environmental law. Those in attendance included: Richard Gross; Chief, Existing Chemical Control Branch, U.S.E.P.A., Wash. D.C.; Gary Jones; Staff, Existing Chemical Control Branch, U.S.E.P.A., Wash. D.C.; Carol Casazza; Attorney, Region Two, U.S.E.P.A., NYC.; Barry Cohen; Attorney, Rivkin, Radler, Dunne & Bayh; Jim Rigano; Attorney, Rivkin, Radler, Dunne & Bayh; Louis Evans; New York State Department of Environmental Conservation, Environmental Crimes Unit.; Rocky Paggione; New York State Department of Environmental Conservation, Environmen-

tal Crimes Unit.; Fred Eisenbud; Suffolk County District Attorney, Environmental Crimes Unit; Ron Turbin; United States Attorney General's Office, Environmental Prosecution Unit.

Additional alumni unable to attend included: Randye Stein, EPA, Region Two Attorney; Allan T. O'Sullivan, New York State Attorney General's Office, Albany, NY, Environmental Crimes Unit; Jeffrey Silberfeld, partner, Rivkin, Radler, Dunne & Bayh, Hazardous Waste Division; and Eric Goldstein, Attorney, Natural Resources Defense Council.

Finally, it should be noted that Huge Christenson, Director of Placement Office, was supportive and helpful in combing through placement records to help compile such an impressive group of alumni. Similarly, Gerry Giannattasio, Assistant Director, Law Library, has provided ELS with constant assistance on all ELS projects. We at ELS thank them both for their support and for attending the first ELS Alumni Dinner.

GLA Notes

A memorial to those who have died of AIDS is to be established in the Cathedral of Saint John the Divine in New York City, it was announced by the Episcopal Bishop of New York, the Rt. Reverend Paul Moore, Jr. The Memorial was dedicated at a special service at the Cathedral on Saturday, November 9, 1985.

"We hope that this will not only be a place of mourning," said Bishop Moore, "but also a place of hope, where those who have lost loved ones, relatives and friends can find consolation and strength."

The AIDS Memorial is to be located in the Medical Bay, a chapel on the south side of the Cathedral's nave.

"The Medical Bay is the appropriate location for this memorial," noted the Very Rev. James P. Morton, Dean of the Cathedral. The chapel is dedicated to Saint Luke, the patron saint of physicians and contains a window depicting Christ's miracles of healing. The window also commemorates the leading figures in medical history, including Pasteur, who was the first to prove that infectious diseases were caused by microorganisms; Father Damien, missionary to the lepers of Molokai; and Florence Nightingale, the founder of the modern nursing profession.

The Memorial will consist of a book, to be placed on the altar of the chapel, in which the names of those who have died of AIDS

or of AIDS-related conditions will be inscribed. "Eventually, a permanent Memorial will be established," said Dean Morton.

In conjunction with the Memorial, a fund has been established, 85 percent of which will be given to AIDS research and services, with 10 percent set aside for the creation of a permanent memorial and 5 percent going to the Cathedral for the maintenance and upkeep of the Memorial.

"Including the name of any person in the Memorial Book will not require a contribution to the fund," the Dean stressed. "The book will be open to all those who have died of AIDS without regard to nationality, religion, sex, or sexual orientation."

The Memorial is sponsored by Integrity, the organization of gay and lesbian Christians of the Episcopal Church.

Anyone wishing to inscribe the name of a deceased person in the Memorial Book and/or contribute to the fund should write: AIDS Memorial, Cathedral of St. John the Divine, Amsterdam Avenue at 112th Street, New York, N.Y. 10025.

Checks should be made payable to "The Cathedral AIDS Memorial Fund."

If there are any students who are interested in reviving the Gay and Lesbian Alliance (GLA) here at Hofstra they should leave a message in the National Lawyer's Guild Box in the Administration Office. Discretion will be practiced if requested.

The Faculty Committee on Reappointment, Promotion, and Tenure will be considering the following faculty members for either reappointment or tenure. Students wishing to express their opinions should forward their written remarks to the chairperson of the appropriate subcommittee as soon as possible.

The names of the candidates and the chairperson of the subcommittee are as follows:

Candidates

Prof. Robert Baruch Bush (Tenure)
Prof. Janet Dolgin (Reappointment)
Prof. Dwight Greene (Reappointment)
Prof. James Hickey (Reappointment)
Prof. Lawrence Joseph (Reappointment)
Prof. Norman Stein (Reappointment)

Subcommittee Chairperson

Prof. John Regan
Prof. Mitchell Gans
Prof. Malachy Mahon
Prof. William Ginsberg
Prof. Aaron Twerski
Prof. Burton Agata

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The 25 Greatest Things Ever Said About The Law And Law School

The Editors of *Conscience*, in an effort to help all the first-year students prepare for their initial round of law school exams, have compiled these words of wisdom from some of the greatest thinkers of all time. Heed well their messages.

1. "We learned more from a three-minute record than we ever learned in school." Bruce Springsteen.

2. "This law is an idiot and an ass." Dickens. **Oliver Twist**.

3. "There is a vague popular belief that lawyers are necessarily dishonest...Let no young man choosing the law for a calling for a moment yield to the popular belief. Resolve to be honest at all events; and if in your own judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer. Choose some other occupation, rather than one in the choosing of which you do, in advance, consent to be a knave." Abraham Lincoln.

4. "There's a difference between doing good and doing well." Haywood Buins, Professor of Law and Civil Rights Advocate.

5. "Some of you will make a pot of money, some of you will do good, and some of you will do both, but how you rank in this Law School is irrelevant to that." Guido Calabresi to the first-year class at Fordham Law School, January 30, 1985, as reported

in the *New York Times*.

6. "When you have no basis for an argument, abuse the plaintiff." Cicero.

7. "We find in the rules laid down by the greatest English judges, who have been the rightest of mankind, (that) we are to look upon it as more beneficial that many guilty persons should escape unpunished than one innocent person should suffer. The reason is because it is of more importance to (the) community that innocence should be protected than it is that guilt should be punished, for guilt and crimes are so frequent in the world that all of them cannot be punished, and many times they happen in such a manner that it is not of much consequences whether they are punished or not. But when innocence itself is brought to the bar and condemned, especially to die, the subject will exclaim, 'It is immaterial to me whether I behave well or ill, for virtue itself is no security.' And if such a sentiment as this should take place in the mind of the subject there would be an end to all security whatsoever." John Adams during final argument in defense of the British soldiers accused of committing murders at the Boston Massacre.

8. "When I talk of law I talk as a cynic. I don't care a damn if twenty professors tell me a decision is not law if I know that the courts will enforce it." Oliver Wendell Holmes, **Holmes-Laski Letters**, Vol. 1.

9. "We are not final because we are infallible; we are infallible because we are final." Monroe Freedman, quoting some Supreme Court Justice whose name we can't remember. Professor Freedman brought it to our attention though, so he gets credit as far as we're concerned.

10. "Law school is **not**, contrary to the mystification heaped around it by people who have done time there, difficult. **Boring**, would be a better word, but not tremendously or profoundly boring, just boring in the ordinary, everyday senses, which leaves room for the occasional peak of interest by which the broad valleys of torpor are defined." James S. Kunen, **How Can You Defend Those People?**

11. "Make love not *Law Review*." Ancient law school proverb.

12. "Make love and *Law Review*." Lori Barenkoff, recent law school graduate and legend in her own time.

13. "Education is hanging around 'til you've caught on." Robert Frost.

14. "I used to be disgusted, now I try to be amused." Elvis Costello.

15. "The first thing we do, lets kill all the lawyers." Shakespeare, **Henry VI**.

16. "Oh lord I feel like I'm tied to that whippin' post, tied to that whippin' post, tied to that whippin' post. Oh lord I feel like I'm

dying." Duane Allman on his first-year law school experience.

17. "He that goes to law holds a wolf by the tail." English proverb.

18. "Who said anything about justice? I'm talking about the law." (fill in favorite law school professor).

19. "One of the worst forms of mental suffering is boredom." Erich Fromm, **The Sane Society**.

20. "Separate educational facilities are inherently unequal." Justice Warren, **Brown v. Board of Education**, 1954.

21. "No man can imagine, not Swift himself, things more shameful, absurd, and grotesque than the things which do take place daily in the law." Sir Arthur Helps, **Companions of my Solitude**.

22. "Career opportunities, the ones that never knock, every job they offer is to keep you on the docks, career opportunities, the ones that never knock." The Clash, on the Hofstra Placement Office.

23. "My advice to you is start drinking heavily." Blotto, **Animal House**.

24. "Goldman! Jurista! Get your butts out of bed!" — Steve Brockett.

25. "McHebe's, Wednesday nights, Beer blast, undergrads." *Conscience* Board of Editors.

GOOD LUCK ON FINALS

More Personals

Is it true when Claudes was younger a Castro Convertible attacked her?

Judy,
Thanks for being everything in the world to me. You make the good times *BETTER* and the bad times not so *BAD* — I love you...
Karen

Cheryl,
Can you take a bath in a tub that is in 72 pieces?
Andy

Bill F.,
I love you more than words can say! XoXo
Love,
Bill F.

Janet,
... this is subtle material. Laugh until you cry.
Dave D.

Larry Shaw,
Park it someplace else!
Andy

Ursula,
Please refer to Nov. edition of *Conscience*.
"See Claudia" for warm personal greeting.
Frank & John
c/c Claudia

LaVallee,
Ain't it great to be young, single and BORN IN EAST L.A.!

Ursula,
I just love that name!

John,
You don't know how much your name means to me!
Your waitress

Leslie, Janet, Karla,
If you take children into an adult atmosphere they're going to hear adult conversation. Let's eat sush; and talk dirty.
Andy

Is it true that Jerry O'Shea lost \$5.00 on a football bet and then \$5.00 more on the instant replay?

Claudia,
Give up that Bimbo, you need a man, not someone on *Law Review*!

Leslie,
Your dog is ugly but trust her intuition. Can I borrow her? I have a date on Saturday nite.
Andy

Kenny,
You're my very own Champion — and then some
Love,
Karen

Cheryl,
I heard they came out with bathroom floor tile that resembles plywood. It's real cheap too!
Andy

Fifi,
You were O.K., but the Bible has got to go. Grandma and the Vamp

John,
Refer to the hereinbefore mentioned salutations and sincerest good will.
Claudia & Ursula
c/c Frank

To Monroe Freedman:
How dare you walk in on Professor Resnick's Debtor/Creditor class the way you did! For a man who teaches ethics you were not only unethical but extremely rude!
— A student who admires and respects Prof. Resnick

We believe the last personal was meant to be read tongue in check.

Helaine,
You can have it all! Be careful of those who don't want you to!
Andy

Pat,
I really think Vodka Gimlets are still cheating.
Your waitress

Frank,
Chiccolino's or Bust!

Frank,
Enclose please find salutations and sincerest good will. Please acknowledge receipt of same.
Claudia & Ursula

c/c John
Tom,
I miss you in the office.

Joey,
I gave up tickets to "La Cage Aux Folles" because I saw it all right here in the lounge. How's Katherine?
Your Fan

Ronnie,
Riiiiight!

Cheryl,
We're having a phone line put in 238 for you.
Andy

Cheryl,
So how is it to bathe in a bathtub laying on its side in your bathroom?
Andy

Edwards,
Get on your high horse and ride!

Jean,
Stop bugging me!
C.G.

Lori,
I think Maurice and Bialosky are sleeping together. I'll put Zoe on guard dog duty.

Key Operatos,
Why are you never around when the red light flashes?
A concerned student

R.K.,
Don't play with Mommy. Play with me!
Love,
Your niece

Claudia and Marianne,
May I buy all the fine artwork in your house? I think they should be displayed in prominent places throughout the law school. They'll fit right in.
Ursula

Labor Law Journal,
One more "Short" assignment and we'll scream.

Gentleness is the soul. Love will clean your mind and make you freeeeee. Yeah, yeah, yeah,
Yeah, yeah, yeah.

First years,
We're sick of hearing about your procedural postures. Give us a break, will you?
Huh? Huh?

Prof. Silverman,
Good luck on your time away. We'll miss seeing your smiling face. You were an inspiration to us all.
Section A, Class of '87

To my first year contracts class, I will fail you all. 3X.
M.F.

SPORTS

Marathon Woman (And Men Too)

by ERIC ZUCKER

On Sunday, October 27, three law students from Hofstra ran in, and successfully completed, the famous New York Marathon. Steve "Bouncing Baby" Brockett, Karen "No Radios" Newman and Howard "Dude" Rudolph trained for months for this grueling exercise in pain, and have survived to tell all.

Questioned by *Conscience* reporter Eric Zucker (who ran the Marathon last year, but suffered such irreparable brain damage from oxygen depletion that he actually volunteered to be a newspaper editor — a decision he has regretted all year), Howard Rudolph was quoted as saying, "Dude — I was one hurting puppy. I mean, it was de agony of de feet." Despite his frustration with the inability he was experiencing to move his legs following the race, Mr. Rudolph was, nevertheless, able to twinkle his bedroom blue eyes and grin that irrepressible grin that is famous all over the luxurious Twin Oaks complex, and state philosophically, "Dude — it wasn't a picnic."

Steven Brockett was quite cavalier about this race, his third marathon: "Well, as you

know, this is my third marathon. My best time is 3 hours and 5 minutes. I'm not disappointed by my time of 4:59, because my only intention was to keep my friend Karen company."

Ms. Newman in response replied, "Bull-pucky! Coming into the last stretch, I blew him away. I moved past him so fast, he looked like he was running backwards." Actually there was some accuracy in Ms. Newman's claim. Apparently Mr. Brockett became confused as he approached the finish line. For reasons that were not sufficiently clear as the

Conscience went to the presses, Mr. Brockett seemed to have the impression that somewhere in the cheering throngs he saw Linda Keenan with another cite check. Although no one would confirm the rumors, Mr. Brockett reportedly tried to flee down Avenue of the Americas while screaming, "I don't have any Liquid Paper with me!"

All of these runners have recovered from the race by now and are looking forward to the Turkey Trot race on Thanksgiving where they will be representing Hofstra's "Learned Feet."

Hofstra Law graduate Billy Condon leads Karen Newman and Steve Brockett with the N.Y. Marathon finish line almost in sight.



Howard Rudolph is still able to manage a smile after completing the 26 mile race.

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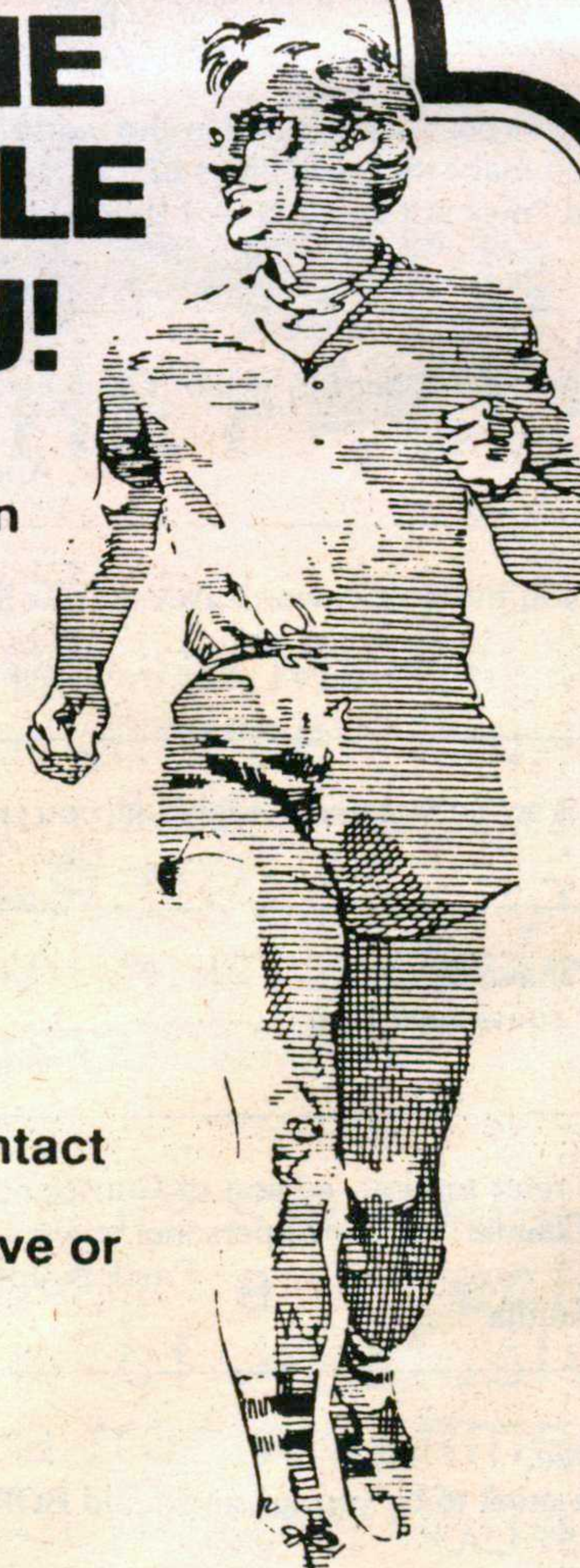
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LEISURE

"Sun City" Reviewed

by Eric Zucker

Last year when "We are the World" came out proclaiming to the nation the need of reaching out to the starving people of Ethiopia, many people saw it as the fruition of the seeds that had been laid in the 60s. The fact is, however, that "Let's start giving" was a message that was appealing to the artistic community not out of any new-found solidarity to the third world's suffering, but rather simple humanity. This is not criticism; but it must be acknowledged that the content of the song written by Lionel Richie and Michael Jackson was politically "safe." It certainly was not as hard-hitting as Bob Geldof's "Feed the World" which at least implicitly laid some of the blame at the Western World's feet: "Be glad it's them, instead of you."

Now there is another compilation album in the store. Like others in the past its proceeds are going to a cause and it features the performances of a host of stars. But what a difference! Whereas it can safely be said that "We are the World" was a middle-of-the-road album that was legitimized in the rock community by the presence of Bruce Springsteen's searing vocals on the title track and his harrowing rendition of "Trapped," on "Sun City" Bruce could almost be seen as the traditional rock influence in a swirling dir-vish of Jazz, Rap, and African-Beat. (Don't

worry — Bruce holds his own.)

"Sun City" starts off with the first version of the title track. Immediately you sense the urgency of the message in the desperation of the voices and the thunder of the Arthur Baker-produced drums. This song, written by former E-Street Band member Miami Steve VanZandt, doesn't pander to the tastes of the middle-of-the-road. It is defiant: "Our government tells us we're doing all we can/Constructive Engagement is Ronald Reagan's plan/Meanwhile people are dying and giving up hope/This quiet diplomacy ain't nothing but a joke!" Those people who heard Little Steven's "Voice of America" album last year shouldn't be too surprised by the directness of the message. What is so startling is that so many stars have had the courage to join their voices with such a bold polemic. Among the over 55 participating musicians are: Pat Benatar, Jackson Browne, Jimmy Cliff, Daryl Hall, Lou Reed, Ringo Starr, Pete Townshend, Peter Wolf, Bobby Womack, Peter Gabriel, George Clinton, Herbie Hancock, Nona Hendryx, Grandmaster Melle-Melle, Gil Scott-Heron, Bonnie Raitt, Run-DMC, Joey Ramone, Bob Geldof, and Miles Davis.

For me, there are two moments that stand out in their sheer brilliance and outrage. The line is the same both times: "We're stabbing our brothers and sisters in the back!" Both times it is shouted with such moral authority

that it shocks the conscience. In a stroke of genius this line was placed in the care of the two greatest voices in Rock'n'Roll today: Bruce Springsteen and Bono Vox of U2. Anyone who disputes Bono possessing the voice has to listen to the song "Silver and Gold" that was added to the album at the last minute. Keith Richards and Ronnie Woods provide the guitar background to this breathless bluesy contemplation of apartheid. I defy anyone to remain composed as he cries, "Jesus! Say something! I am someone." The first time I heard this song on the radio, I froze. Finally Bono has realized on vinyl what I saw in his Live-Aid performance: the almost evangelical fury and spiritual catharsis that his voice carries. U2 will be the band to watch.

Another highlight on this album (which, besides for being the politically correct album of the year, is also a kick-ass dance album) is "No More Apartheid." This poly-rhythmic work-out is by Peter Gabriel whose "Biko" was the original inspiration for Little Steven to go to South Africa to investigate the racist regime in power there. "Biko" was a solemn prayer in the wake of the murder of Stephen Biko in 1977 that cried "You can blow out a candle, but you can't put out the fire." Now that the fires of Jubilee seem to be on the verge of swallowing the oppressive Botha government, it has proven to be an appropriate inspiration indeed.

Photo Contest

A grand prize of \$1,000 will be awarded to the photographer who best captures the intellectual, cultural and recreational life of the Hofstra University campus, in a photo contest just announced by the University.

Shutterbugs are being asked to submit photographs depicting the intellectual growth of Hofstra from a small suburban college to a university with an emerging national reputation.

"Though intellectual growth is not easy to photograph, we seek images of Hofstra that will make visual something of that quality, as well as artistic, cultural, social, athletic and recreational life on campus," a spokesman said.

The contest is open to all. Photographs may be black and white or color (no slides). They should be mounted (minimum 8 x 10, maximum 11 x 14), labeled with the entrant's name and address, and sent c/o Dr. J. R. Block, Office of the President, Weller Hall, Hofstra University, Hempstead, N.Y. 11550. Entries must be postmarked by March 1, 1986.

The grand prize will be \$1,000, with an additional "President's Purchase Award" of \$250 and an Alumni Purchase Award of \$250. There will be prizes offered in Black and White (first, second and third prizes of \$350, \$200 and \$100); and Color (first, second and third prizes of \$350, \$200 and \$100).

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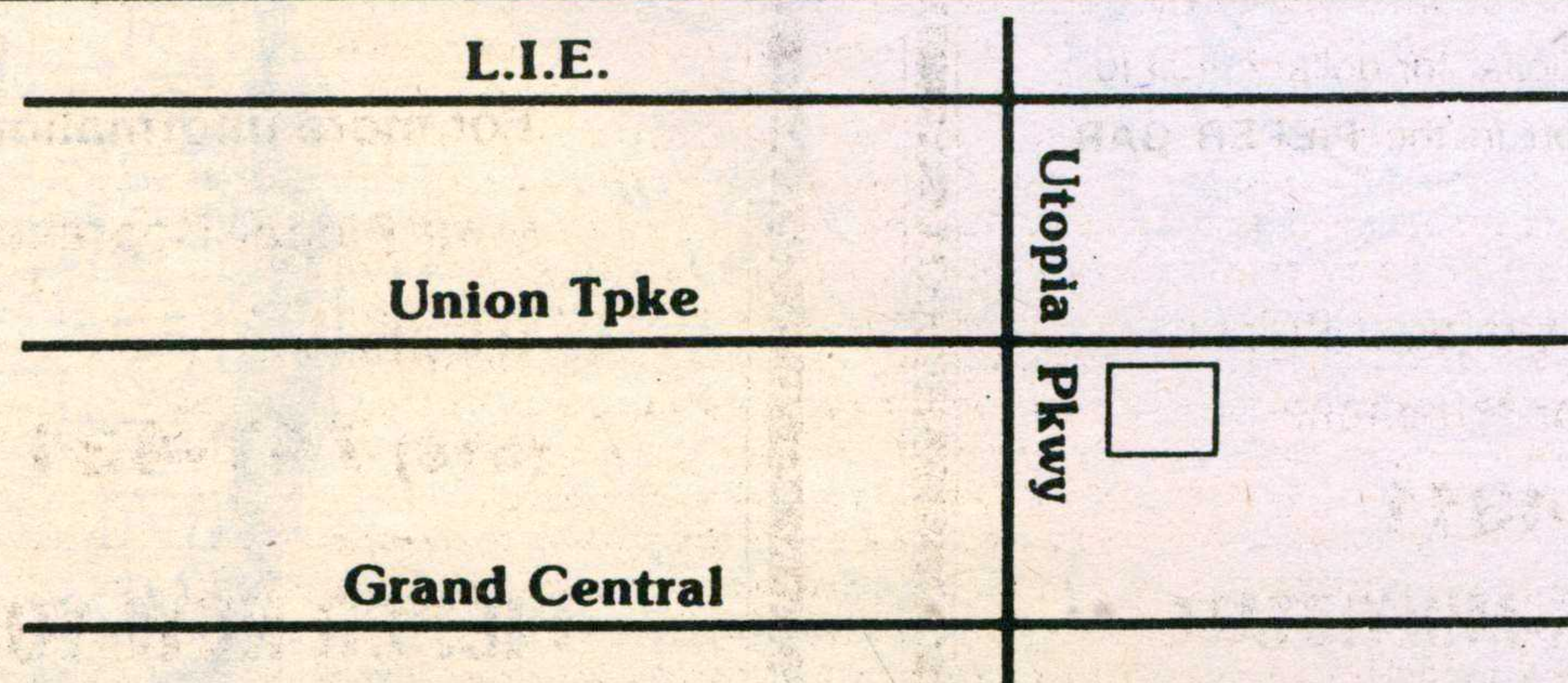
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