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DOUBLE ISSUE

March 1998

The REPORTER

Serving the New York Law School Community Since 1984

The Lioness of Liberty

A Look at Professor Nadine Strossen



by **Hansen Alexander**
Features Editor

When Professor Nadine Strossen's hero, Justice William O. Douglas, died in 1975, President Carter called him "a lion-like defender of liberty." The first woman and youngest person to become president of the American Civil Liberties Union, Nadine Strossen has carried on the defense of individual liberties embodied in the Constitution's Bill of Rights in the same flamboyant, controversial manner as Douglas.

Strossen defends the Bill of Rights everywhere: On ABC's "Politically Incorrect." On "The Late Show" with Tom Snyder. On "The Charles Grodin Show." On CNN. On Oliver North's radio program. On Court TV. On Charlie Rose. On Italian national television. Before the House Judiciary Committee's Subcommittee on the Constitution. In a Playboy interview. Debating Justice Antonin Scalia and Phyllis Schlafly. On the nation's premier personality page, the Style section of *The Washington Post*.

Fighting for constitutional rights is often an unpopular business. For example, Strossen wrote in volume 24 of the *Fordham Urban Law Journal*, at 455, "Too many ACLU clients who



"Too many ACLU clients who have asserted their First Amendment right to be free from government-sponsored religion have suffered tangibly, as well as psychologically, for doing so. Many have suffered physical assaults upon themselves and their property."

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and more...

A Life Less Ordinary

Wallace Stevens '03 and a Century of Neglect for One of NYLS's Most Distinguished Graduates

by **Michael J. Fahy**
Editor-in-Chief, NYLS Law Review

Who is New York Law School's most accomplished graduate? Any answer to this question depends on the criteria one uses in considering a person's accomplishments. Obviously, becoming a Supreme Court Justice, a member of Congress, or head of a company, positions in which New York Law School graduates have gone on to serve, must be considered distinguished accomplishments.

However, in addition to the judges, politicians, and business leaders that may come to mind, one has to place lawyer-poet Wallace Stevens among the school's most accomplished graduates. In his article *The Double Life of Wallace Stevens: Is Law Ever the "Necessary Angel" of Creative Art?*, Professor Daniel Kornstein explores the life, the legal career, and most of all the poetry of Wallace Stevens. The article, which is published in the latest issue of the *New York Law School Law Review*, illuminates the many achievements, both legal and literary, of Wallace Stevens, New York Law School class of 1903.

Professor Kornstein's work grew out of a presentation he gave last spring to the New York Law School community. He wrote the article to recognize a man who he believes has been neglected by New York Law School for almost a century. Kornstein points out that 156 people, many of them not New York Law School graduates, have received honorary degrees from this school. Wallace Stevens, the recipient of the 1947 Bollinger Prize in Poetry, 1951 National Book Award, 1955 National Book Award, and 1955 Pulitzer Prize, has never been honored by New York Law School. According to Kornstein, this lack of

honor is an injustice and his article is an attempt to do justice to Stevens for the years of neglect.

Kornstein begins his work by giving us a rare look at the life of Wallace Stevens, his path to New York Law School, and his successful career as a law-

yer. After a brief career in journalism and feeling pressure from his father to go to law school, Stevens decided to enroll at New York Law School in 1901. He graduated in 1903 after completing the two year course of study (standard at



Kornstein uses the work and the life of Wallace Stevens to demonstrate that legal training and a career in law could be necessary to one's art.

the time), and was admitted to the bar in 1904. For several years Stevens struggled in private practice. Having trouble earning a living, Stevens went "in-house" with an insurance company and eventually settled in Connecticut with the Hartford Accident and Indemnity Company. It was there that Wallace Stevens developed into an excellent lawyer and gained a national reputation in the field of insurance law. Stevens became one of only four vice presidents of the company and continued working until his death in 1955.

In addition to presenting readers with Stevens' background, Kornstein's article dem-

onstrates that both the law and Stevens' New York Law School training influenced his prize winning poetry. Kornstein refutes the conclusion of Stanford Law School professor Thomas Grey's book *The Wallace Stevens Case: Law and the Practice of Poetry*, that Stevens's poems reflect no legal influence. He attempts to disprove the beliefs that Stevens' two lives, literary and legal, were kept apart and that traces of his legal background cannot be found in his poetry. Kornstein does this by identifying twelve characteristics evidencing the legal influence in Stevens' poetry, ranging from his explicit legal references to his style and method. Professor Kornstein theorizes that by examining Stevens' poetry—his choice of words, his ambiguity at times and clarity at others, and his advocacy throughout his work—one can see evidence of his legal training.

However Professor Kornstein's examination of Stevens is more than just a biography of a distinguished graduate and it is more than simply a discussion of legal influence on one artist's work. It is an examination and exploration of what Kornstein terms the "double life"—one in law, one in the creative arts. Kornstein also boldly asks the question, as the title states, whether law or legal training is necessary to one's creative art. Kornstein cites many examples of the world's masterful creative artists.

He tells us that poets such as



Wallace Stevens, 1948

Edgar Lee Masters and Archibald MacLeish; writers such as Gustave Flaubert, Leo Tolstoy, Franz Kafka, and

Robert Louis Stevenson; composers such as Peter Tchaikovsky, Igor Stravinsky, and Robert Schumann; and painters such as Henri Matisse and Edgar Degas all had legal training of some kind. Kornstein uses the work and the life of Wallace Stevens to demonstrate that legal training and a career in law could be necessary to one's art. He tells us that Stevens excelled in his legal work and practiced law throughout his life. He then asks how such an enormous part of Stevens' life could not have influenced Stevens'



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Judge, Jury & Expeller

Does the Academic Responsibility Committee have too much leeway in deciding remedies?

by **David Drossman**
Editor-in-Chief



Recently I had the opportunity to speak at length with Professor Samuels regarding the Academic Responsibility Committee (ARC). *The Reporter* had been contacted by four former students and an attorney who claimed to be preparing a lawsuit against NYLS for wrongful dismissal by the ARC. They claim that the ARC's structure and rules give NYLS too much discretion when deciding sanctions.

Professor Samuels said, "We can give sanctions of anything from a reprimand to dismissing students. It's not as if each violation has assigned remedies." He continued, "It totally depends on the circumstances... sometimes it depends on the person."

Further, Samuels mentioned that recent rule changes allow the ARC to infer guilt from a student who remains silent. "Students have the right to remain silent but there are inferences that may be made from that silence." Also, the ARC has the right to take action if they feel that a student's actions are not "appropriate professional conduct." Finally, Samuels said that NYLS does not currently and, to his knowledge, has never compared its procedures and penalties to those of other law schools. These broad grants of jurisdiction should have been questioned and reviewed by students, but they have gone unnoticed.

At every stage of our meeting, I felt like Samuels was holding something back. "This is very tricky to even talk about," he said referring to his ARC duties, "but I'm a very good lawyer... If you ask about it and you don't know about it, I'm not going to tell you" or "you'll hear that in due course" were typical of his side-stepping and vague responses. Although he continually dodged tough questions, he gave a factually informative interview.

The ARC has been keeping law and order at NYLS for over 10 years. Professor Edward Samuels, who sees its function as a mix of prosecutor, judge and jury of NYLS, is the committee's chair. "What's great about New York Law School is that when there's a task to be done, we can set ourselves to the task at



"I think I learned in kindergarden that you don't copy. But the fact is students are not writing papers as much as they used to—they just don't have the sense, they don't know where to begin."

hand—there's no politicking." Dean Wellington appointed Prof. Samuels to Chair the ARC three years ago.

Before that point, there were only 2-3 cases a year. Unfortunately, the year Prof. Samuels took over, the number of cases skyrocketed to 9-10 annually. And although the number of cases for the 1996-97 academic year seemed low when the last report came out in May (two cases), the numbers have since climbed to meet the averages of the last few years. Said Samuels, "In May of last year we were happy. As of May, we had only two cases. We were delighted. But within three weeks of that, we had many more cases." But he pointed out that this is only 10 cases out of 1300 students—a fraction of a percentage. "Maybe the surprising thing is that it

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New York Law School

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NYC ISSUES:

Rent Control

Residents of NYLS Dorms,
Past and Present, are
Subject to Few Protectionsby Bert Ross
Staff Editor

Although The Rent Stabilization Law, Emergency Tenant Protection Act, and Rent Stabilization Codes may not be immediately familiar to you as a Student at New York Law School, they may effect you or someone you know on a daily basis. Specifically, they are part of the city's Rent Control and Rent Stabilization laws, and affect low income housing in New York, including dormitory space for which NYLS contracts through Educational Housing Services (EHS).

If you're new to the city, or even if you've lived here your whole life, you may not be familiar with SRO housing. SRO stands for Single Room Occupancy unit, and has traditionally been an affordable haven for people with low incomes. Typically, SROs are in large hotels in Manhattan, or brownstones in Queens or Brooklyn. By the original definition, an SRO could have a kitchen or a bathroom, or neither, but not both (although some may have both now through renovation and reconstruction). SROs, in addition to helping low income people, fill a vital role in providing housing for people with AIDS. As the value of land in New York skyrockets, SRO units (and the potential megabucks they represent if converted to a commercial enterprise) are becoming a hot commodity.

On a recent Friday morning, I took the 2 train up to 93rd street to meet with Frank Brodhead, Community Organizer at the West Side SRO Law Project. The West Side SRO Law Project has been around since the early 1980's and was set up to help preserve and protect SRO housing units in the city. Frank gave me a general overview of SRO housing in the city, its history, and where it is headed.

Frank The Law project was set up at the same time a couple of pieces of protective legislation were passed by the City Council to preserve or protect SRO housing units; the most important of these was the local law that required a landlord who wanted to convert SRO housing to some other use. In particular this law required that a landlord certify, and if necessary defend, the assertion that no tenant harassment had taken place over the past three years.



Reporter:

Why?

Frank:

The City Council was responding to actual physical assaults on tenants to get them out of buildings. Landlords would evict tenants with an eye to converting the units to different uses. After the laws were passed, landlords who wanted to "recover" the rooms would have to send out a notice asking tenants whether there had been any harassment. Notice would be sent to the West Side SRO Law Project and a couple of other agencies as well. So the law project was set up to be sort of a legal services agency for SRO tenants...

The City Council was responding to actual physical assaults on tenants to get them out of buildings. Landlords would evict tenants with an eye to converting the units to different uses.

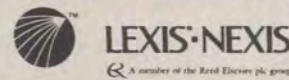
R Essentially, SRO housing in New York has been shrinking at an accelerating rate in recent years as developers convert units to other purposes — commercial space and tourist hotels typically. This shrinkage shows up in numbers that the West Side SRO Law Project track: In 1985 there were 63,000 SRO units in the city, which shrank to 41,000 in 1993. If that rate of contraction had remained constant, the number today would stand somewhere in the neighborhood of 25,000 units.

F SRO housing is used for a lot of different purposes other than if you're new in town and you need a single room. A simple one is that the city places people with AIDS in non-

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profit hotels and pays the landlord directly. Homeless Services does the same. The number of rooms available is shrinking because there are a substantial number of legal and, we believe, illegal conversions. Presumably what a landlord will do is combine two or three rooms into a suite. But in order to do this legally, he needs to get a work permit. And, in order to get the work permit, if the building is an SRO, he has to get a Certificate of No Harassment.

R And when you combine a couple of rooms, then that's actually a net loss of one unit.

F Well, yes. It's probably more like a three to one ratio because the rooms aren't that big. But usually at a *minimum* two into one. To get a good idea of how many rooms are at issue, you just count how many certificates of Non Harassment are applied for. Last year there were 1493 rooms at issue. Compare that to 1997 where in the first half of the year there have been more than 1400 applied for... and that's really quite substantial.

In addition to the legal conversion that are represented by the Certificates of Non Harassment, there are other illegal conversions go-

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LAW STUDENTS FOR CHILD ADVOCACY



by Jillian Rosenberg

On October 22, Law Students for Child Advocacy (LSFCA) had a panel discussion. Speakers on the panel included Kam Wong from the Legal Aid Society/Juvenile Rights Division, Revish Windam from the State Department of Human Rights, and Debbie Abramson from the Administration for Children's Services.

The speakers discussed what they do and how they got into child advocacy. Additionally, the speakers gave us suggestions on how to get a summer internship at their agencies, or a permanent position after graduation. The panel was very informative and successful.

LSFCA is an organization which focuses on a variety of issues. First, LSFCA exposes students to the wide variety of opportunities available in child advocacy. Such fields include directly being a child's attorney, lobbying for legislation, getting involved with a child in need of a role model, and many other aspects. To be involved in LSFCA a student need not be interested in all of these areas; they only need to be interested in child advocacy.

In addition to having panels, networking opportunities, and fund raisers, LSFCA gives law

students an opportunity to actually be a Big Brother/Big Sister to a young child. This program does not re-

First, LSFCA exposes students to the wide variety of opportunities available in child advocacy. Such fields include directly being a child's attorney, lobbying for legislation, getting involved with a child in need of a role model, and many other aspects.

quire much. It requires only 4 hours a month. Specifically, 2 hours every other week to spend time one on one with a child who needs a role model.

This, I assure everyone, is a wonderful experience. If you are interested, or would like more information, please put a note including your name and phone number in Jillian Rosenberg's mailfolder.

LSFCA has many ideas for the upcoming months. We are currently working



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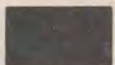
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on putting together a children's book drive, so we can provide books to a community center or children's hospital. In addition, we are continuously creating networking opportunities for students who wish to pursue a summer position or permanent position in child advocacy.

LSFCA is an excellent organization with a wide range of opportunities. I encourage all students to get involved, in whatever capacity they wish. To get involved put your name and phone number in Jillian Rosenberg's mailfolder, and look for signs about our meetings. We look forward to seeing you there.

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A DAY IN HOUSING COURT

by Hansen Alexander
Features Editor



A crude sign, created with red magic marker on white paper and taped to the wall outside Room 1127-A announces that this is the courtroom of Judge Ruben Martino. Judge Martino, a Hispanic judge whose parents immigrated from Puerto Rico, handles residential landlord-tenant cases.

In the hallway just outside the courtroom, single mothers facing eviction nervously hold their young children as public defenders make deals with landlord lawyers; usually some kind of deferral plan that will allow the mother, usually a poor Hispanic or African-American, to pay the back rent in delayed installments in return for fending off eviction. Ninety percent of Housing Court cases involve nonpayment of rent.

An observer outside Housing Court, Part 16, the Civil Court of the City of New York, County of New York, ruefully says, "This isn't justice. How can these people get justice when they're herded out here like animals."

Yet Judge Martino, a badly overworked father of three who has always lived in the Bronx with the exception of detours to Yale and Penn Law School, and who started out as a Legal Services attorney, is determined to provide justice. "I try to balance the interests of both sides," he said during a lunchtime interview. "The landlord needs the rent to pay the mortgage, taxes, etc. The tenant needs a place to live."

"Yesterday, one woman told me I'm the worst judge in the world. Another woman shook my hand and said I was the best judge in the world. I can't be concerned about how popular I am."

"I try to see the human side of things and try not to be too cynical," said Martino, who likes to take his children to the Bronx Zoo on his days off. "In fact," he continues, "I'm considered a softie, too nice."

Judge Martino's courtroom demeanor is

a combination of understanding parent giving poor tenants time to pay debts and stern parent reminding them they have adult responsibilities to pay their debts.

He tells a black condo owner in Battery Park City who is bankrupt, "You have 60 days to locate a purchaser. Negotiate and work out something for court costs if you're not able to find a seller. If you don't, they're going to bring you back to court. You don't want to be evicted from your own apartment before you sell it. Nobody wants to see that happen."

A middle aged white mother who has appealed her eviction from an apartment eight times without coming up with a way to pay off her \$7000 debt to her landlord, says, "I used up five vacation days to come to court. This went on from August to March when the landlord did not appear in court. I have nowhere else to go and can't come up with the money." The landlord's attorney says with sarcasm, "We knew we weren't going to get the money. I don't have authority to give her anymore time." Judge Martino says to the tenant, "Maybe you should consider moving." Shortly after Judge Martino holds, "You have till October 3rd. But after that you're living day to day. The marshalls can come then." The mother, fighting tears, leaves the court room with her teenage daughter.

In *Parker Housing v.*

An observer outside Housing Court, Part 16, the Civil Court of the City of New York, County of New York, ruefully says, "This isn't justice. How can these people get justice when they're herded out here like animals."

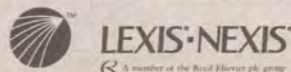
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Davis, Judge Martino hears the story of an elderly African-American on public assistance who owes more than \$9,000. The man, who appears

to be at least in his late 70s, responds that he went to public assistance but that neither public assistance nor the bank had a breakdown on his debts available. The landlord's attorney, who wears a rubber band

"Yesterday, one woman told me I'm the worst judge in the world. Another woman shook my hand and said I was the best judge in the world. I can't be concerned about how popular I am."

on each wrist, says unsympathetically that the tenant has paid no rent since June 1996 and that he has been given numerous Stays by the Court to come up with a way to pay off his landlord.

"You're on a crash course for eviction," Judge Martino tells the man with real emotion and concern. "It's still early. If you can get someone from Legal Services, Legal Aid. Get someone. You need a lawyer. You have no receipts. You told me the same thing in June. I just don't want to see you get evicted. Please call those places." Judge Martino gives the senior citizen

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COURT, continued from page 7

30 days to come up with the money or a letter from the City Welfare Department saying they will cover the debt.

Between sips of his chicken noodle soup and bites of his bagel, the tall, wiry Judge, who has a thin mustache, states the obvious, "I have too many cases and not enough time." Last year 35 judges handled 329,000 Housing cases in New York City. He attributes this situation to "too many high rents and too many poor people." His intern, a local high school student, volunteers, "They should hire more judges."

Judge Martino is concerned about the provision in the The Rent Regulation Reform Act of 1997, stuck into the bill by the landlord lobby at the 11th hour, that requires tenants to put their rent money in escrow while their cases are being decided, because it takes the judge's discretion away and mandates hearings; hearings which will further burden the case overload in Housing Court.

Under sections 35-37 of the new law, the rent deposits to be put in escrow include "rent or use and occupancy accrued from the date of service of the notice of petition and petition on the respondent, and all sums that come due thereafter." The rent desposit requirement was a major victory for the the landlord lobby which spent at least \$700,000 and probably close to \$1 million in an effort to eliminate all rent control and all rent stabilization in the last State legislative session in Albany. The Reform Act essentially preserved the rent control/stablization system for another six years, while giving landlords additional income on vacant apartments and reducing protections for some tenants with higher incomes.

Judge Martino reads many of the petitions for the first time as he sits in the courtroom. He seldom has time to actually read one of the leases in dispute. "Most of the cases you're seeing today are conferencing cases," he says. "The parties have been negotiating. I don't have time for long trials."

Shortly after lunch, a landlord's attorney comes into the courtroom and tells Judge Martino, "Your honor, I just wanted you to know that we're in the hallway trying to settle the Locker case." The Judge looks up from his reading of Stipulations just long enough to let the attorney know how irritated he is that there is no settlement yet and says, "I'd hoped you could have settled that over lunch."

Because there is simply too many cases to try, housing court is basically an informal, work-it-out-between-the-parties kind of law. The most important document therefore in housing court is called a Stipulation of Settlement, which is referred to simply as a "Stip." It is a form agreement, usually drafted by the landlord's attorney,

that is handwritten and sets out the terms of the agreement.

Technically, Judge Martino could simply sign the Stipulation. But, because he believes strongly in everyone's right to be heard and because he believes some people feel freer talking to the judge than the attorneys, he has the respondent tenant brought to him to ask if there are any questions about the agreement and any comments that the respondent tenant would like to make. The judge then tells the tenant that normally there is a right to a trial that is being waived and asks whether the tenant agrees to that waiver. Once in a while, Judge Martino says, the respondent tenant changes his mind about the waiver and a trial may result.

Judge Martino says offering everyone a right to be heard is not just a formality. "It's helpful for me when the parties speak out. You think

Judge Martino says to the tenant, "Maybe you should consider moving." Shortly after Judge Martino holds, "You have till October 3rd. But after that you're living day to day. The marshalls can come then." The mother, fighting tears, leaves the courtroom with her teenage daughter.

a case is all one way and then you listen and you hear it's not."

When Judge Martino conducts a conferencing hearing in his courtroom, he is usually trying to mediate an agreement where the parties are still divided or decide on a Stay Order.

A Stay Order, the salvation of tenants, is defined under New York's Civil Practice Law and Rules, section 204. It delays the action of the court against the tenant. Judge Martino issues them in cases where he believes it is fair to provide the tenant more time to find a way to pay off his debt to the landlord.

Procedurally, during conferences before the Judge, the petitioner, representing the landlord addresses the court first, giving his name and address. After the respondent's attorney, or just the tenant (if tenant has no lawyer) identifies himself, the landlord's attorney provides a quick summary of the case from his point of view.

The favorite defense of tenants in withholding rent is that the landlord did not repair a

broken item or has not kept the apartment's warranty of habitability by not exterminating, etc. Objectively, it is not an unreasonable defense when you consider there are currently more than three million outstanding housing code violations in this city.

Stubborn landlords who have refused to make repairs for years in some cases agree to them instantaneously when they get into Judge Martino's courtroom. For example, The Judge asked an elderly Haitian tenant if she had read the Stipulation before signing it. "Yes," the woman replied, "but the issue is taking care of repairs." Looking at the landlord's attorney, Judge Martino said, "Why isn't repairs in this agreement?" "I'll put it right in," the attorney replied eagerly. The elderly woman is not passified. She says in broken English, "My window not fixed." The landlord replies quickly, "I'll repair it. Give me two weeks." The woman re-

plies, "I've been there since 1975. Rent went up from \$160 to \$272 to \$316 and they did nothing..." Judge Martino says, "Motion granted. Petitioner ordered to correct windows." The woman says, "No light in my bathroom. Four months." The Judge rules: "They have till the 15th to do work and you have until the 23rd to pay rent."

One of the last cases of the day was 141 Avenue A v. Singh. The tenant, an immigrant from India, had not paid rent for a year because her apartment, located right above a restaurant, had not been exterminated for a year, and apparently draws roaches like a jar of honey draws flies. Singh had already been given a rent abatement of \$1,029 by the lanlord. The five remaining months were in dispute.

Ms. Singh began her argument by pointing out that a sign in her building stated that a certain extermination service regularly exterminated the apartments. The landlord, who has not had Singh's apartment exterminated for a year,

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FEDERALIST SOCIETY LAUNCHED WITH AFFIRMATIVE ACTION DEBATE

by Hansen Alexander
Features Editor



An Affirmative Action debate launched a new student organization at NYLS, the Federalist Society, on November 18. The purpose of the new organization is to stimulate debate on constitutional issues.

A national organization, whose members include U.S. Supreme Court Justice Antonin Scalia, the Federalist Society generally takes what are today considered conservative political positions.

These conservative positions are based on the portions of the Federalist Papers that suggested a limited role for the proposed national government, and assured the states they would retain wide powers.

Written anonymously and published in influential newspapers, mostly by James Madison, John Jay, and Alexander Hamilton, the Federalist Papers were intended to convince ratifying conventions of the states to vote for the proposed Constitution, which had been written in Philadelphia between May and September 1787.

Liberals, noting that Hamilton in particular was the greatest advocate of a strong and expansive federal government, view the Federalist Papers as basically a sales document to sell the Constitution to the states and they do not consider the Federalist Papers to contain the true intent of the framers.

Despite the generally conservative views of the Federalist Society, the NYLS chapter welcomes students of all ideological viewpoints to join in vigorous constitutional debate.

Second year student Dawn Fasano, founder and president of the new chapter, which was formed in September, joined ACLU President and Constitutional Law professor Nadine Strossen in introducing and welcoming the distinguished panel of visitors who debated the issue of Affirmative Action for more than two hours, mostly on policy grounds.

The debate was limited to Affirmative Action remedies that are race-based.

Panel members who argued against Affirmative Action included Max Boot, Op Ed Page Editor of the Wall Street Journal, and Michael Greve, Executive Director of the Center for

Individual Rights, who played an important advocacy role against the Affirmative Action program at the University of Texas Law School that was struck down by the Fifth Circuit Court of Appeals in *Hopwood v. Texas*.

Supporters of Affirmative Action were David Gregory, St. John's University Law Professor and Federalist Society member, Michael Myers, flamboyant Execu-

Affirmative Action will continue through Title VII because "Big Business is ferociously pro-quota,"

tive Director of the New York City Civil Rights Coalition, and Deborah Small, Legislative Director of the New York Civil Liberties Union.

Discussing his success in helping to shape the Hopwood opinion, Michael Greve declared common law Affirmative Action dead and predicted that challenges similar to Hopwood in Washington State, Michigan and Georgia "will easily win." He said affirmative action in contracting, education, and employment, however, will remain and be left to Title VII of the Civil Rights Act of 1964 and the 14th Amendment "till eternity."

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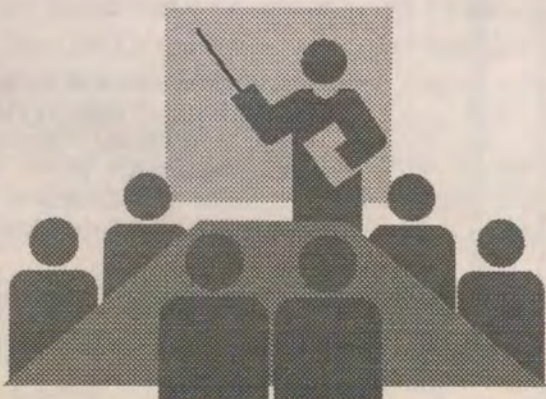
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tion will continue through Title VII because "Big Business is ferociously pro-quota," Greve said.

Greve said regression analysis proved that race is the most important impact factor after grades in admitting students based on Affirmative Action and therefore race was not just a plus, as the Supreme Court had held in *Univ. of Cal v. Bakke*.

Consistently criticizing his fellow panelists throughout the debate for emphasizing public policy points rather than citing specific legal rules and cases, Max Boot said "you can't be an umpire to color blindness." Boot said the 14th Amendment was intended only to provide property rights and court access to black males and not designed to secure social rights such as education and jobs.

Boot attacked both liberals and conservatives for invoking the 14th Amendments Equal Protection Clause to support varied positions on numerous issues and called both the liberal Warren Court and the conservative Rehnquist Court "activists" for hearing such Equal Protection claims.

A distinction between private and public universities should be made in mandating educational programs, Boot said. "Discrimination in private universities doesn't bother me. I don't

Affirmative Ac-

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Religious Liberty Decimated by Supreme Court

by **Hansen Alexander**
Features Editor



Nadine Strossen, President of the American Civil Liberties Union (ACLU), and Professor of Constitutional Law at New York Law School, believes that two recent Supreme Court decisions, *Employment Division, Department of*

Human Resources v. Smith, in 1990, and *City of Boerne v. Flores* in 1997, have decimated religious liberty in the United States.

In *Smith*, 494 U.S. 872, the Supreme Court upheld an Oregon statute that prohibited the use of the drug peyote by members of the Native American Church, even though the hallucinogen is part of the church ceremony and permitted as an exception to drug laws in other

western states where the Native American Church practices, such as Arizona, Colorado, and New Mexico.

The decision, written by the Court's artist in residence on burden shifting, Justice Antonin Scalia, evaluated the First Amendment's Free Exercise Clause "on an even less than a rational basis scrutiny level," said an exasperated Strossen during a February interview.

Previously, Free Exercise Clause cases had been decided on a strict scrutiny, "compelling state interest" basis, a fact noted in a pointed *Smith* concurrence by Justice O'Connor and an impassioned dissent by Justice Blackmun.

"The only thing that will violate the Free



Professor Nadine Strossen

ORDINARY, continued from page 2

true love, poetry.

Kornstein also uses Stevens to destroy conventional thoughts about what an "artist" must be. He states that Stevens' life was proof that a truly proficient artist need not be an "out-law and pariah, violent and mad in order to plumb the depths of his own genius." Even after achieving success with his poetry, Stevens remained an insurance lawyer day in and day out. Stevens himself described the contemporary poet as "simply a contemporary man who writes poetry."

The Double Life of Wallace Stevens acknowl-

edges that rejecting the "double life" is the correct decision for some. These people quite rightly choose either their art or their professional career. Kornstein cites the successful poet Archibald MacLeish as an example of an individual who gave up the law to pursue his art and found happiness and success.

Likewise, one can assume that there are many successful lawyers that at one time or another made a decision to give up their art and direct all their attention to the law. However, Kornstein reminds us that the "double life" is still a possibility. It may be the only choice for lawyers or law students who desire both a stable, professional career and an outlet for their artistic abilities. Kornstein passionately calls on law schools to create more lawyers like Wallace Stevens. He writes, "if a lawyer is interested in more than his

or her profession, if a lawyer's intellectual ambitions are never satisfied by legal work alone, if a lawyer happens to be a polymath, that is no enigma, but a beautiful and rare thing to be encouraged and cherished, not criticized or mocked."

Professor Kornstein's work will be enjoyed by anyone interested in law, creative art, or the relation between the two.

The article will be enjoyed by anyone who desires to be more than a lawyer. It is a call to law students and lawyers liv-

ing a "double life" to let their creative art shine alongside their legal career. Finally, it encourages all of us at New York Law School to use our legal training as Wallace Stevens did—to be successful in law and in the creative arts. I invite everyone to read Professor Kornstein's work.



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THIRD GENERATION

What Really Happened to Nazi Gold? Another Chapter Begins...

by Cynthia Litman
Staff Editor



The eyes of the world are once again focused on what is considered the most horrid of all human experiences. I am referring to what took place over fifty years ago—the Holocaust. To some, it is a myth. To others, it is history. To me, it is my family, my heritage, and my future. About a year ago, my mother came across a newspaper ad which mentioned that Jewish organizations are negotiating with the Austrian and Swiss governments. From this, another chapter in my family's history began.

Upon further inquiry, my family came upon the knowledge that the Swiss Banks are still holding onto accounts belonging to the victims of the Holocaust. Senator Alfonse D'Amato, the World Jewish Congress, and many others are committed to retrieving these dormant accounts. As a result of the efforts, *Holocaust survivors and their heirs* are rewarded with the opportunity to finally catch a glimpse of justice.

As we all know, the Nazis were extremely meticulous in their documentation throughout the war. They were famous for fanatically recording their progress for all the world to see. They kept track of everything! They photographed the round-ups. They monitored the collection of Judaic artifacts and were planning to place them into a museum as their testament to an ancient religion. They sorted and counted every shaved head, each pulled gold tooth, and every single personal possession. They were exact in their quotas for the gas chambers. Yet with all of their organizing they failed to produce a simple document - *a death certificate*.

During the war, the Nazis imposed a law prohibiting any individual from transferring any assets out of their respective countries. In response, Switzerland changed their banking system in 1936. They created a system of secrecy which seduced the European Jews to deposit their wealth with them. Secret numbered accounts were established so the danger of investing capital in Swiss banks could not be detected. Switzerland's new policy enabled European Jews to transfer their wealth to the Swiss Banks and appeared as the only safe and neutral country in an anti-Semitic Europe. However, the Swiss were threatened with invasion. As a trade off, they became the international bankers for the Nazis and closed their doors to the Jews. They even suggested that the Nazis stamp every Jewish passport with a "J" so that each and every Jew could be easily identified.

After repeated and heartfelt pleadings, and more than 50 years after the war, the Swiss banks finally responded to the survivors of the Holocaust, the claimants of the secret bank accounts, with a simple declaration: *An account cannot be claimed without a death certificate*. However, there are no death certificates for Holocaust victims. The Nazis were preoccupied with disposing the ashes and the Swiss were acting under the impression that there would be no one left to claim the accounts.

And now, the Swiss are staring down the barrel as the world speculates.

Besides, the millions of dollars collecting interest from the individual accounts, there are tons of gold that was stolen from the central banks of Europe and traded through the Swiss banks. We are gradually progressing towards uncovering all the facts. Unfortunately, many pertinent documents essential to a full disclosure of the truth have mysteriously vanished.

As recently as last spring, Christopher Meile, a guard in a Swiss bank, accidentally stumbled upon papers slated for the shredder and saved them. This act imputed the Swiss and their claim that they are innocent victims of a slur campaign. The Swiss banks are presently struggling to maintain trust and credibility with their customers and clients around the globe.

A Tripartite Commission was set up after World War II to investigate the issue of the gold stolen from the central banks of Europe. The task of the Commission was to fairly return the gold to their respective owners. The United States government recently declassified thousands of documents from the Tripartite Commission and established a committee

to investigate the role of the Swiss banks during World War II. After reviewing some of these documents, the Commission reported that the Swiss banks are holding a far greater sum of looted gold in their banks than the Swiss have admitted. More time is needed to fully analyze all of these documents, but time is crucial and non-negotiable.

The survivors of the Holocaust, including my grandparents, are slowly dwindling in numbers. How much more than fifty years is needed to compensate for the injustice perpetrated upon these people?

The Red Cross handed over 60,000 documents to Yad Vashem, Israel's Holocaust Memorial, as well as the Holocaust Museum

in Washington and the Jewish-Documentation Center in Paris, along with an apology for their silence and moral failure to resist the actions of the Holocaust. The Roman Catholic Church came forward and apologized for their failure to acknowledge the French collaboration with the Nazis during the Holocaust. Somehow, the US Treasury has opened their war banking records and admitted to re-smelting Nazi gold lying in a vault in Manhattan and to Citibank's illegal involvement in trading looted gold during the war. Why are the Swiss continuing to deny their involvement while others are openly repenting their actions during World War II?

The Swiss are claiming they are acting in good faith by establishing a humanitarian fund as compensation. The fund is set up to provide reparations in the amount of \$1,000 (One Thousand Dollars). However, the fund only includes needy survivors in Eastern Europe who lived under Communist rule and could not receive compensation previously from Germany. The fund only compensates a fraction of the remaining survivors. The Swiss have yet to be exonerated as to their role in the trading of looted gold and further, to justify the existence of the dormant accounts and why they were withheld from their rightful owners. Asking a Holocaust survivor to accept this fund in lieu of the rightful claim to which they are entitled is like asking a lotto winner to forfeit his fortune!

As recently as last spring, Christopher Meile, a guard in a Swiss bank, accidentally stumbled upon papers slated for the shredder and saved them. This act imputed the Swiss and their claim that they are innocent victims of a slur campaign.

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COURT, continued from page 8

shouts out, "I'll send in the exterminator tomorrow."

Singh, not so easily pacified, says "I want a credit of \$1000 for that." The landlord's lawyer, who is clearly overmatched by Singh's verbal acuity, replies quietly, "\$200." Singh cuts off the attorney instantly and says, "Look, my apartment has not been exterminated since October '96. I had it done myself last month."

The tenant, an immigrant from India, had not paid rent for a year because her apartment, located right above a restaurant, had not been exterminated for a year, and apparently draws roaches like a jar of honey draws flies.

Judge Martino intercedes, "Here's what I recommend. A ten percent abatement for five months. That's nearly \$500." Ms. Singh does not waste an instant and says, "Can we make it a round amount—I'll make the check out right now. The landlord's attorney replies in exasperation, "Miss Singh is a good negotiator." The Judge says to the landlord, "She's willing to give you a check right now for \$500."

But before the landlord or his poor attorney can respond Ms. Singh has upped the ante. "The interest on my apartment has not been given to me for five years."

Judge Martino says to both sides, "It's not a lot of money we're talking about here. I suggest \$421. A trial date to hear this would not be till November." "How about \$400," responds Singh. The landlord's lawyer appears to start to say something but the words come out of Singh's mouth, "I want my apartment exterminated every month."

The landlord says, almost hopefully, "There's a new company."

"I live above a restaurant," Singh reminds everybody.

Judge Martino repeats his recommendation, "\$421.70."

Singh jumps at the offer. "That's good," she declares. "I'll write a check right now."

Finally, wearily, the landlord's attorney, anxious to end the exhausting confrontation with Ms. Singh, says with resignation, "I'll write up the Stipulation right now, your honor."

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To Be "For Women"

by **Carlin Meyer**
NYLS Professor

I want to focus the women of New York Law School who either belong to or are in some sympathy with the Legal Association for Women. And I want to ask a question to you and to myself: What does it mean for us to be "for women"?

Perhaps the answer begins with the fact that if an awful lot of women had not been "for women," I would not be here speaking to you as a lawyer and law professor, and you would not be in law school today.

If a lot of women (and many men) had not objected to and fought against the 19th century status quo, you would not only not be permitted to go to law school or practice law, you would not be permitted to be a parties to a contract, to own property, or to govern your own life. You would not share in the governance of your household or children, and you would not, of course, vote.

As for practicing law, well, let's hear it in the words of Justice Bradley of the U.S. Supreme Court, who wrote the following word, concurring in the refusal to recognize a constitutional right for women to join the legal profession:

"The claim of plaintiff... to be admitted to practice as an attorney... is based upon the supposed right of every person, man or woman, to engage in any lawful employment for a livelihood... It certainly cannot be affirmed... that this has ever been established as one of the fundamental privileges and immunities of the sex. On the contrary, the civil law, as well as nature herself, has always recognized a wide difference in the respective spheres and destinies of man and woman. Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life... the paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother..." Bradwell



v. Illinois, 83 U.S. 130 (1873).

Myra Bradwell was apparently not focusing entirely on her "paramount destiny."

A woman of exceptional ability and talent she was, at the time she applied for admission to the Illinois Bar and was rejected, founder and editor of the legal news, the leading midwest law publication. She had studied law with her husband, a respected judge, and easily passed the for-

I want to ask a question to you and to myself: What does it mean for us to be "for women"?

mal exam for admission to the Illinois Bar.

But unlike you, Myra was excluded from law practice, because she was female.

By her battle, she convinced the Illinois supreme court to reverse itself and admit women even before the supreme court issued its opinion!! So hers was an early act "for women" which lead to your being here.

Thanks to Bradwell, by 1910, women were just over 1% of the profession. [558 Women]. More than 50 years later, however, not much progress had been made. By 1963, a mere 3.8% law school entrants nationwide were women. It took a new flock of 1960's and '70's feminists to get you here. But we got you here.

By 1980, women were about 12% of the profession. [62,000]. And by 1990, the number rose to 22%, 80% of those having entered the profession after 1970, most after 1975.

Today at NYLS, women are almost 50% of the class of 1999, and about 45% of the class of 2000. nationwide, women are about 42% of law school entrants. What's more, today women get hired to practice law!!!

But how did we get from no women to a bunch of you? It wasn't just Myra Bradwell's lawsuit. And what does it mean to be "for women" today?

We got there because a lot of women sacrificed a lot to be "for women." Early feminists like Susan B. Anthony, Elizabeth Cady Stanton,

the Grimke sisters, Charlotte Perkins Gilman, and many others others travelled and spoke and wrote and demonstrated; even to the point of chaining themselves to fences to claim women's right to work, to own property, to make contracts, to serve on juries, and to vote. A lot were villified for it: castigated for leaving their



Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life

children while on the road; made fun of, humiliated and jailed.

The road was a bit bumpy; feminists made some questionable calls along the way. Some feminists helped launch the famous Brandeis brief in Muller v. Oregon, which convinced the Supreme Court to uphold state protective legislation for women, even though it was tossing it out whenever it applied to male workers — like the bakery workers in the famous Lochner case.

There were only two problems with our strategy: the protective legislation was protecting us right out of lucrative employment, and perpetuating our status as second class citizens in the workplace. And our victory was predicated on some rather questionable pseudo-science which perpetuated myths that further justified women's exclusion from workplaces.

I thought you might enjoy hearing some of the arguments and "science" we used to persuade the high court. the brief points out that: "...physicians are agreed that women are fundamentally weaker than men in all that makes for endurance: in muscular strength, in nervous energy, in the powers of persistent attention and application."

Continued on page 38

EARTH MATTERS: Just Look at this Mess!

by **Mirsade Bajraktarevic**



Trash is piled high on the tables. Left-over food, bottles and cans litter the entire room. Fliers are on the floor unwanted and unclaimed. Welcome to New York Law School.

There are two problems the New York Law School community must correct. One is actually throwing garbage away, into available trash bins. The other is recycling as much as possible.

Certainly, there are plenty of facilities throughout school conveniently placed for the disposal of garbage. Unfortunately, not everyone uses them. The question is, how many of us are the ones who act so carelessly?

As members of the New York Law School community, we need



to take pride in our school. We need to keep our school clean so that we won't be embarrassed when visitors come into our school. A sloppy work area reveals a sloppy mind.

There are a few recycling bins in the school, but we must work to change that. Two known bins are one for paper/newspaper by the mailfolders, and one for paper outside the computer room in the basement. In the library,

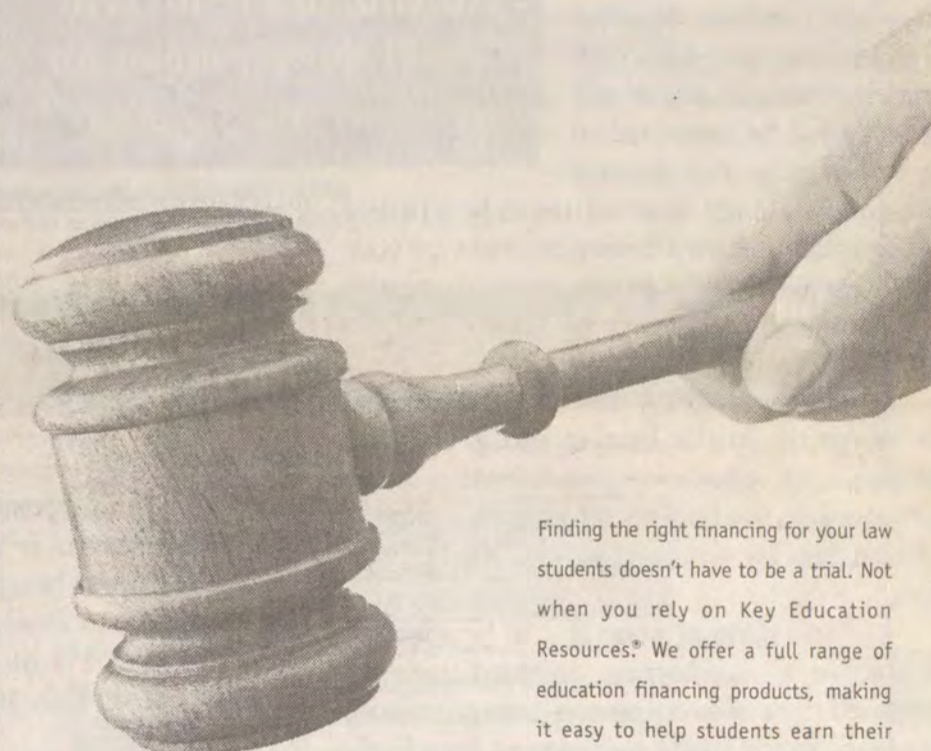
As members of the New York Law School community, we need to take pride in our school. We need to keep our school clean so that we won't be embarrassed when visitors come into our school.

there are some paper bins near copy machines, as well as on the 8th floor. But these are not enough to serve the entire school community. We need bins for cans and bottles in the cafeteria. We need bins for newspapers and each computer room should have one for paper. Each bin should be clearly marked. I implore you, use the ones that are already set up and please utilize any others that we will try to set up.

So the question becomes, what can we do about it? Do we care enough about the image of our school to incoming students, alumni, and on-campus interviewers? Do we care enough about our environment?

Being lawyers and future lawyers we must set a high standards for ourselves. We must begin not only with our own personal appearance and attire, but we must care about the appearance of our school as well. Please be conscious of the half eaten lunch you decide to leave on the table, the flier you decide doesn't apply to you, the newspaper you finished reading, and the excess computer printouts. It takes very little effort to keep our school clean. Remember, there is usually a wastebasket an arm's length away. (If you share similar concerns, please join us at the next Environmental Law Association meeting).

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Citylaw Breakfast Features Daniel Greenberg



by John Pruess
Staff Editor



"Greenberg, you commie, I love ya" said his opposing council in a landlord / tenant dispute. But these are odd words to be uttered to Daniel Greenberg, who raised and championed some fundamental American legal issues at the Citylaw Breakfast organized by NYLS Professor Ross Sandler.

Greenberg is now director of Legal Aid in NYC. But, at the beginning of his career as a Legal Aide attorney, he litigated on behalf of tenants wrongly evicted from their homes. "A few years ago" his opposing council continued, "I could charge a landlord twenty, twenty-five dollars to evict a tenant. Now I gotta' file papers, depose witnesses, do research, I can't evict anyone for less than two thousand dollars. You folks at Legal Aid are making me a rich man."

These sentiments ring of an attorney who is facing a qualified law firm as his opponent in a law suit, and Greenberg says "Le-



Professor Ross Sandler, Director of the Center for NYC Law

gal Aid is a law firm, actually, one of the largest law firms in the city." Legal Aid employs 900 attorneys. As a full service firm, Legal Aid handles state and federal cases, as well as criminal and civil actions. The criminal case load ranges from juvenile misdemeanors

to capital punishment. They argue throughout the various tiers of the state court system, up to the Court of Appeals. The attorneys on staff are chosen from hundreds of applicants every year.

"It would be malpractice if any law firm didn't try to protect their clients' interests," said Greenberg "and maximize their assets through clever legal tactics," possibly forcing settlements in favor of their client by threatening costly liti-

gation to their opposition. But, as Greenberg points out, a strange double standard is held to a law firm operating with public funds.

A firm of this size would be expected to employ every legal tactic available by law to ensure the interest of their clientele. So why are their achievements sometimes less than palatable? Greenberg believes its because their efforts are on behalf of the poor, and, he adds "we don't like the poor." He regards that sentiment as a social reality which exists even within the Legal Aide system itself. The reality is not quite that simple. Most people neither like nor dislike poor people. Greenberg puts the issue better when he describes the social struggle as being in the mind of the public, and centered between the worthy/good and the unworthy/poor. For example, who

eral Constitution, so this issue can never be ignored. With each changing political party and with every changing American era, the relative worthiness of the poor's plight must be examined again.

Greenberg also points out that the National Legal Service was not the invention of a left wing, radical organization. It was in fact provided for by John Dunn, a Republican, in the wake of the Attica prison riots. However, immediately the social stigma raises its head again. This time it sits firmly between the shoulders of Greenberg himself. Is it helpful social policy to equate the rights of protection for the poor with the rights of protection for convicts? Is today's bureaucratic enterprise for defending the poor, the child of yesterdays social ideology for defending criminals? "Greenberg (you commie?) I love ya'." Hardly, Greenberg thinks the whole dilemma is a quintessential American experience.

As Greenberg continued his examination of American issues, he offered the very bedrock of American government. This is a government that society is free and in fact forced to continually recreate. "It is noble to be adversarial to government," he said. He mentioned Attila the Hun and Napoleon Bonaparte.

"A few years ago I could charge a landlord twenty, twenty-five dollars to evict a tenant. Now I gotta' file papers, depose witnesses, do research, I can't evict anyone for less than two thousand dollars. You folks at Legal Aide are making me a rich man."

is to blame for the poor being poor? To what level of legal quality are they really entitled?

Greenberg makes a fundamental observation. Legal Aid cases are usually titled The People v. 'Some Legal Aid Client.' Further, the state legislature provides funds for the operation of Legal Aid, conversely funds can be removed. So, the state is prosecuting and defending the very same client. Perhaps the paradox is one of semantics, but the perfect test for entitlement of the poor is formed. For defensive discovery and litigation a wealthy client's resources can be nearly exhausted, but the poor client's resources can be nearly removed. How worthy is a poor defendants cause, if the social stigma is that being poor is equal to, at best, being not good?

And yet, as Greenberg points out, a defense to state charges is guaranteed by the Fed-

He referred to governments, when at their worst; as masters, racists, brutal and vicious. In the same breath he mentioned the death penalty, here in New York, and the treatment of juvenile defendants. He intended his comments to reflect like a mirror at society; presumably not at any individual politician but at the people who elected them. Greenberg holds society to blame when the ugliest forms of humanity seep from our cul-

ture and he believes it is noble to do so.

Of course, his organization loses a lot of friends. Just as nobody "likes the poor," nobody wants to look at the evils in society and see himself. Especially, to

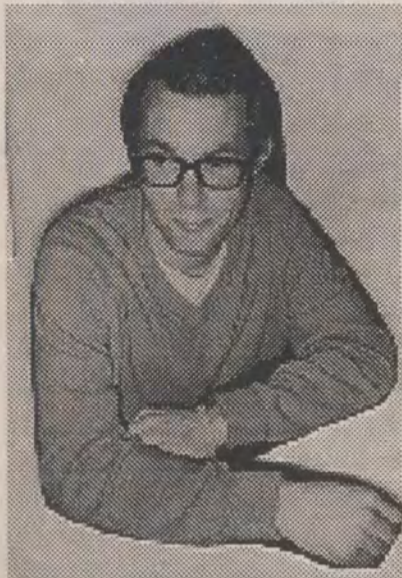
With each changing political party and with every changing American era, the relative worthiness of the poor's plight must be examined again

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humming

by catboy
e.s.e

life is an ashtray with three cigarette holders. each holder represents and marks the cut-off between different periods of your life: (1) birth, (2) the end of your teenage years, and (3) mid-life crisis. death meets birth and the cycle begins again. the spaces in between the markers represent actual living. you begin at birth and move around the ashtray clockwise.



you can rotate the ashtray, all the markers look the same, and birth and death meet at the same marker. therefore, the cigarette holders / markers are all interchangeable even though they are

constant. for example, birth is always present, even though it is often represented by a different marker. the same is true for death and other aspects of your being. moreover, because the identity of the cigarette holders is constantly changing, the ashtray in a sense is always moving. as the ashtray moves/rotates, so do you.



in one sense, you will never visit the same marker more than once. however, you will always visit the same marker with a new perspective. you are simultaneously growing and stable; in flux and passive. some people travel around the circumference of the ashtray thousands of times during their lives without ever passing the cigarette holder which signifies the end of their teen years. those people i admire and adore.

the petitioner is seeking transfer from a maximum security mental institution to a more relaxed facility. the psychologist testifies efficiently like nurse rachet, the petitioners attorneys are incompetent trial lawyers, and the d.a. and the attorney general have an easy case. the



petitioner takes the stand and testifies that black caps and/or red articles of clothing are detrimental to him. he talks about his desire to move to puerto rico to get away from the crime. well?

i can hear the bagpipe players, the twelve tribes, the spanish musicians, the religious devotees, the pamphleteers, the shoeshiners, the check-it-out-ers, the drunk fratboys, the rockstars, and the boom-boxers. i can stand in the sun in the front of the 60 centre street courthouse smoking a cigarette and watching the lawyers. and i will stand on a subway platform chewing gum.

we got a whole band up here y'all, but i want to bring you forward.

on the a-train uptown one evening, this small grrrl is hacking so loudly that she is disturbing the other passengers. in her hands she clutches a carton of parliaments. it's saturday night and i'm standing next to steve sparkes, waiting for the toilet boys to take the stage at coney island high. i turn to steve and

say: "from this point on, it's only about rock n' roll." smiling, and with the demeanor of a true member of the english gentry, steve responds: "it's always only about rock n' roll. that's all it's ever about."



ATTENTION!

LALSA will be hosting the annual NYLS Multicultural Festival, which has been set for Thursday, April 16 from 6:00 p.m. until midnight.

All students and organizations are encouraged to participate!
Call Peggy Sanchez at (212) 431-2100 Ext. 415 for more information.



LALSA President
Peggy Sanchez

Letters To The Editor

Dear Editor,

It is indeed appalling and inconsistent with the "high standards" that New York Law School seems to portray, that an individual like Larry Flynt is being encouraged to be part of New York Law School's academic life.

Individuals like Larry Flynt are only concerned with the millions of dollars they can make by degrading and exploiting women.

It is quite obvious that Larry Flynt does not care one iota about First Amendment freedoms. Individuals like Larry Flynt are only concerned with the millions of dollars they can make by degrading and exploiting women. A law school who is so against discrimination and the treatment of gays in the military should be just as concerned with the degrading treatment given to women by individuals like Flynt.



NYLS constructed a special ramp to allow Flynt wheelchair access to the stage

Pornography leads to violence against women, and the First Amendment does not give blanket protection for such violence. I think Professor Strossen should talk to the families of Ted Bundy's victims before her next public defense of pornography. Ted Bundy was an individual



Larry Flynt fielding questions from NYLS students

who was, by his own admission, addicted to pornography; it is this same pornography that Professor Strossen seems so delighted in defending. I think Professor Strossen should also talk to victims of domestic violence and their families before she engages in so much love and admiration for individuals like Larry Flynt.

This may come as a news flash to you, Professor Strossen, but pornography degrades and exploits women. The First Amendment does

not give blanket permission to engage in and condone such degrading and exploitative behavior.

I have one final word for Professor Strossen and New York Law School: DISGUSTING!

Sincerely,
Disgusted Law Student

Dear Disgusted,

If everyone who contributed to the multi-billion dollar pornography industry was a serial killer or a rapist, our country wouldn't be quite the same, would it?

-Ed.

Dear Editor,

Everything I do as a teacher — including my decision to take advantage of Larry Flynt's and Alan Isaacman's presence in New York to organize the Open Forum — is designed to stimulate students' critical thinking and the articulation of their ideas.

Everything I do as a teacher is designed to stimulate students' critical thinking and the articulation of their ideas.

Therefore, I was glad to observe the diverse student views that were expressed at the Forum, including some conveying opinions similar to those expressed by "Disgusted," and some rejecting those opinions. I also welcome "Disgusted"'s written contribution to the discussion. Rather than responding to his/her assertions myself, I prefer to continue to let the discussion flourish among students. (In any event, my responses to the points that "Disgusted" makes are fully set out in my recent book, Defending Pornography: Free Speech, Sex, and the Fight for Women's Rights.)

Sincerely,
Professor Nadine Strossen

LSAT(urday)? I Don't Think So.

Dear Editor,

Saturday, December 7, 1996 was one of the most stressful days of my life. As many first year law students may recall, it was one of the days the LSAT (Law School Admissions Test) was being offered. For me, it was also the day that I was to be the maid of honor in my sister's wedding.

When I first realized that this conflict of events was going to pose a problem for me, both academically and mentally, I contacted Law Services and informed them that I needed to change the date of my exam, explaining my predicament to a woman over the telephone. I informed

her that I was aware that the same LSAT was being offered the following Monday (December 9) for Jewish Sabbath observers who were unable to take the exam on Saturday for religious reasons. I also informed her, in case she did not know, marriage for Roman Catholics is a religious ceremony, a sacrament. As a maid of honor, my role was to be a witness to that matrimony. Lastly, I stated that I would be able to obtain written documentation from the parish priest who was going to perform the marriage. She seemed to be indifferent to anything I said. She informed me that she could do nothing about it. I could not sit in on the alternate day. End of story.

Needless to say I was very disturbed. A few days later, I asked my (now) brother-in-law, who is an attorney, to telephone Law Services as a quasi-scare tactic. He explained my situation to someone in charge there, mentioned the priest's documentation I would get, and inquired about rescheduling the date of my exam to Monday. Again, their position was the same. I could not, for reasons unbeknownst to me today, take the alternate test being offered for Jewish Sabbath observers.

I therefore was forced to take the LSAT on Saturday, December 7, 1996. (Did you ever witness someone take the LSAT with an updo and a face full of makeup? Take it from a maid of honor-veteran, it is not fun, or comfortable, or conducive, and most importantly, it is not fair. I could not tell you how Law Services justified their actions in subjecting someone to this. I don't even think Law Services could justify their own actions. Why should they make an exception only for one religion and not another?)

What could their argument be? Are they are afraid of false claims by non-Jews who want 48 hours more to study for the test? This would be ridiculous in light of the fact that (1) I had written documentation that I would be participating in the religious ceremony, (2) Law Services did not offer the Monday exam at all the locations it did the Saturday exam, so I would have had to travel to either Brentwood, Long Island or Buffalo, New York to take the exam. (I live in Staten Island; as they say in legalese: *forum non conveniens*), and (3) two days of additional studying is not going to make the slightest difference in score. Even if Law Services is afraid of false claims, how can they be so sure that every "devout" Jew taking the test on Monday is engaging in prayer or at the temple on Saturday instead of being out on the golf course? The truth is they cannot. But what Law Services can and should do is brush up on the First Amendment— either that or else hire a very good lawyer.

Sincerely,
Danielle Caminiti

continued on page 24

Class Warfare at NYLS



by Martin Asatrian
Staff Editor

OBSERVING THE MAZE IS THE PRIZE

Whether students admit it or not, there exists at New York Law School a strong competitive spirit. The competition is partly fueled from within the institution by such devices as scholarships, grade point averages, and the distribution of expressed and implied honors and awards. In addition to the external imposition of competition between the students, there is at play, a more interesting instrument of competition which resonates from students' social and economic backgrounds themselves.

At New York Law School, we really have three groups of students possessing dissimilar backgrounds. First, the students whose backgrounds consist of the professionals: Lawyers, doctors, accountants, and

The prize for the detached monitor is not social justice or the high salary, rather they are rewarded by monitoring the chase transacting in the golden maze, detached from afar, in amazement.

other white collar derivatives. Secondly, we have the working class students. These are the students whose background are colored blue: Tradesmen, small business owners, laborers, and lower-level civil servants. Additionally, we have the third ingredient tossed into our melting pot; that is colored in red, white, and blue, that is the students that emigrated from outside of the United States.

Some cynics might say that the competition among the students is really rigged to favor the students with white collar backgrounds. Their strengths include strong connections, family support, and a familiarity with the professional world. The proletariats argue that the working class students possess the superior strengths to compete at law school by virtue of their numbers, strong work ethic, 'street smarts,' and an ability to endure. And some optimists argue the immigrant students have the upper hand in competition; they argue that these students have a 'built in' desire to succeed by any means necessary, even against the fiercest of odds, and this psychological component drives them harder than any other group at New York Law School. Although interesting, determining who has the advantage in competition at New York Law School is not the crux of this article.

The intriguing aspect of this inquiry is not to see who wins or loses the competition; it is quite possible that the students' diverse qualities counterbalance each other and render an equilibrium. The real focus here should be the chase for the prize. The prize refers to the fruits of success captured by the students, and usually range from striving toward social ideals to simply accepting a six figure salary. More importantly, the methods used by the students' to compete with one another is the more interesting perspective here, and is not really enjoyed by those involved in the competition, it is only truly enjoyed by the non-participating spectator. Therefore, the prize for the detached monitor is not social justice or the high salary, rather they are rewarded by monitoring the chase transacting in the golden maze, detached from afar, in amazement.

POETRY CORNER

by Elaine Mills
The Writing Specialist

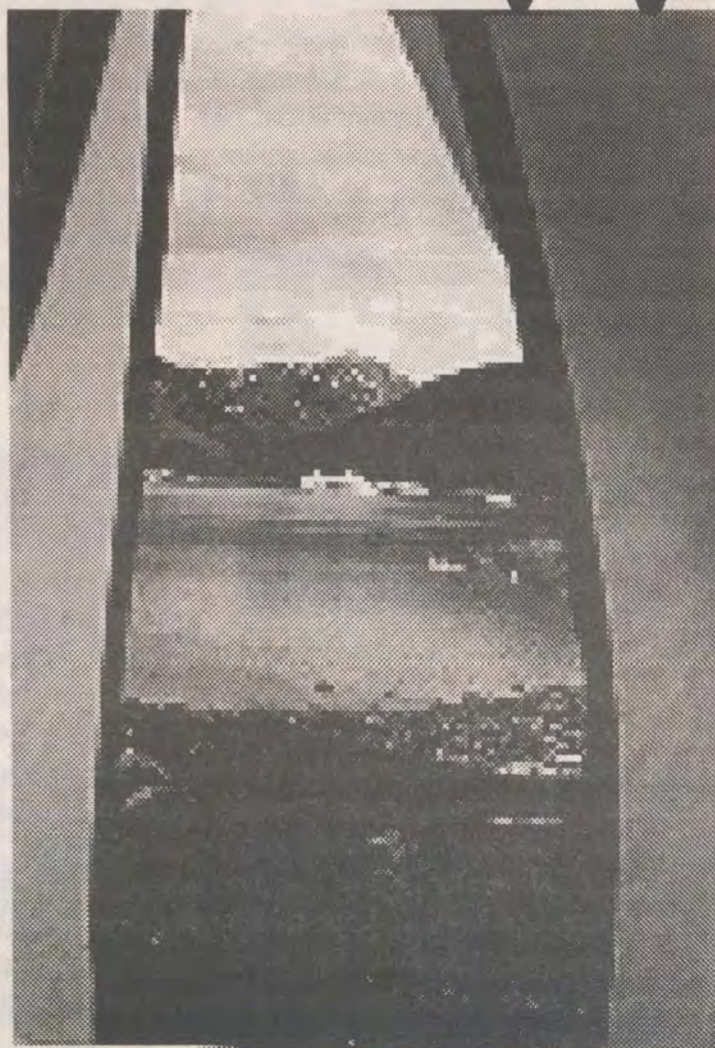
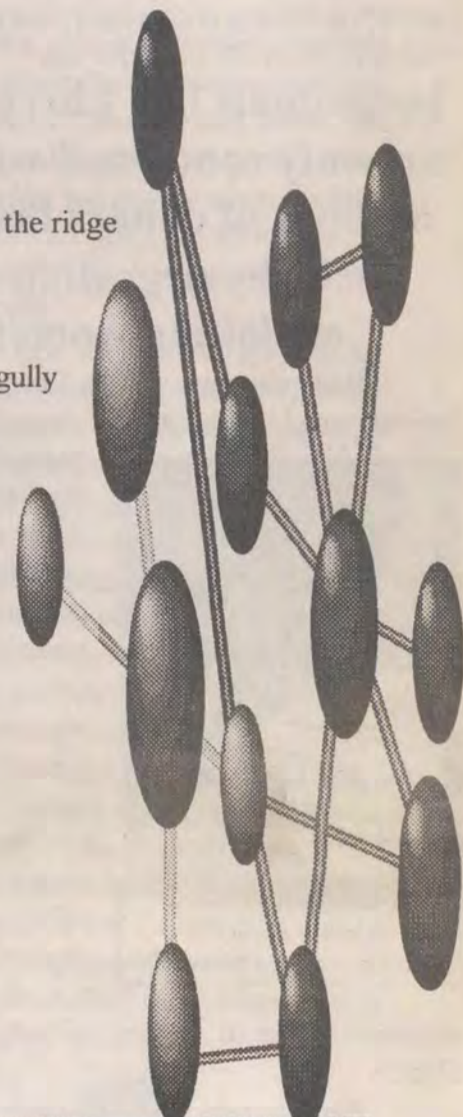
white sound

the others staked their tents high on the ridge
one blew away then two
not far since their owners' presence
bodied them to the earth
but I pitched mine in the fjoed-wall gully
beside this roaring brook and
the boulders to which I've lashed it
are grunting, grumbling, straining
to hold it back from kiting me
into the Greenland sea

the wind brawls
the wather the
wind
together deafen me

will I hear if a gully-washer
comes to tumble my tent
seaward along with the gneiss
that once lodged
three hundred feet up?

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View from the tent

Who's Who at NYLS

by Lisa Miller
Staff Editor

Heather Walters, (Superwoman of Lawyering Skills)



In the hallway between the A and B buildings there is a little office with a constant flow of students and professors coming and going, and in the center of it all is Heather Walters. In the few minutes I spent doing this interview, about 10-15 people came in needing Heather's help. Not only did she help, but she did it with a smile.

Reporter How long have you worked here, Heather?
Heather Eight long years! We started out with just the clinics and we were at 66 Leonard Street. We moved here about seven years ago and created Lawyering Skills, which is directed by professor Larry Grossberg, and the clinics grew along with the externships, judicial externships, ADR (Alternative Dispute Resolution), and NCI (Negotiation, Counseling & Interviewing).

R So Heather, what do you do here exactly?
H I honestly don't know how to answer that. I do a bit of everything. My title is receptionist...

R Receptionist? That kind of understates your job doesn't it?
H Yes it does, but I don't go by titles. I can't label

one thing that I do...

R What do you like most about your work here?
H I like working with the students to be honest with you.

R What else?
H Working with students and GETTING PAID! Outside of my job, I like to play the piano. I've been playing since I was about three or four years old. I can read notes but all I really need to do is hear something and I can play it within two to three hours.

R Do you ever perform?
H I played concerts with a studio when I was younger. Susan (D'Ambra) who works here also plays the piano.

R There's a lot of talented people working at NYLS.
H Yes there are but, I NEED MORE MONEY! I WANT MORE MONEY!

Just then, a man with no name walked in after hearing Heather's pleas for more money:

R Do you have any comments to add?
Man Heather is the BOMB!!
H Ask all the ladies about him, they all think he's a flirt!

(When we stop laughing, Heather pulls out the "Men of the Apollo Calendar" in which her two cousins pose for January and June. I suggest checking this out).

R Basically, Heather, how would you describe your role at NYLS?
H Well, students are always coming in and out of here and we try to please the students.

The office was getting crowded, so I turned off my tape recorder and took off with one of the calendars. "Thanks Heather!"



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Heather Walters

*Footnote to a Postmodern Law Journal

by Perry Lindstrom

April (no longer cruel)

poetry and soy product month
I visited yer school quaffed swimming pool
sized beer dithering in men's room¹
in shadow of JFKJ's cool
intaglio eyes.

Rode cab back to East 57th and Second Avenue
with mad Eastern-Euro taxi artist spoke of poesy
and El Greco quickly realize shared mind frenzy
throwing theory at one another like goo.

He wouldn't talk about himself but for money
I gave him 5 grand I kept in my sock for such
contingencies² funny we didn't want the ride to end
and when it did he looked at me with pieta eyes.³

Later I walked 42nd Street looking like poet walking

42nd Street O market place of ADULT VIDEOS and confusion you have become too clean⁴ for me I wept lugubrious impermeable membrane sterile tears.

I had this dream: law students naked embracing stalagmites in warm cave of Platonic ideals in thermal justice of Mother's womb and somnolent breasts.

This just in:

Professor Pausesnore, legal mandarin, Master Beta-Tester for Fortune 500 company theoretical manifest destiny apologenitalia say:

All good things come to those what born wid brains and no scruples
or money and no pupils
and if you gots both you'll become the Host!!

Someday I shall whisper into ear of Justice Scalia: Human being is volatile organic compound be gentle!

Markets are dreams

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turned inside out
the preference
mapping
of each soul
an intricate patchwork
quilt and I am guilty as
next economist of violating
the sanctity of the convex
function which describes your
furtive smile

"In Xanadu did Kubla Khan
A stately pleasure-dome decree:"⁵

I went inside Chrysler building
to get luminous details
so could write a poem to this most
noble of mankind's structures
and they are: no brochure, info. or anything and
observation deck been closed for 60 years.⁶

O hypodermic to the sky/Chrysler building/my oh my

DANGER! SIGN ERECTIONS ON BROADWAY!

Let's discuss the Metropolitan Museum of Art
where my favorite work was the NAME
of Norwegian painter:

continued on page 24

Views From the Other Side

Poet Perry Lindstrom Discusses His Visit To NYLS, the Influence of NYLS Alumnus Wallace Stevens, and His Own Poetic Vision

The 1996 publication of "Elephant Carcasses Stained with Vulture Droppings Lie in a Field in Uganda" in the magazine *Paper Radio* thrust Perry Lindstrom onto the literary stage as an important figure in the pantheon of contemporary American poets. In addition to composing poetry, Lindstrom is a prolific writer of literary and arts essays as Cultural Correspondent for *The Middle Class Review*, a quarterly journal. Born in London, Lindstrom grew up on Cape Cod and lives today in Arlington, Virginia, with his wife Kristin Lindstrom, a literary agent. In a recent interview, Lindstrom discussed his visit last spring to New York Law School and his own work.

Reporter You came to New York Law School when Allen Ginsberg had just died and Daniel J. Kornstein was giving a Law Review lecture on Wallace Stevens, NYLS class of '03, and winner of the Pulitzer Prize for Poetry in 1955. Can you briefly discuss the impact of each poet on your work?

Perry Lindstrom Ginsberg has had an important impact on me in many ways – probably more than I can even recount. I remember first reading *Howl* and thinking – whoa — this is the kind of poetry I want to write someday (still waiting by the way). I read it sometime in the late 60s or early 70s, and when I saw the date of publication I couldn't believe it. I had heard of Beatniks and all, but it was a dumbed down Maynard G. Crebs version.

It was then that I had this revelation about how important these guys were to our generation – and what it must have been like to have had the kind of thoughts and to live the kind of life they lived in the late 40s and 50s. With Stevens it is more a voice thing. I was always fond of him although I wasn't really a serious reader of poetry till much later in my life. But I liked what he chose to write about – in my youth I didn't appreciate Williams much, for example (I think he was too subtle for me at the time), which is not the case today, but I was always taken with Stevens' metaphysical poetry.

R Do you remember when you first read Stevens?

PL Probably *Postcard from a Volcano* in high school. Isn't that the one they always do – or is it *Thirteen Ways of Looking at a*

by Hansen Alexander
Features Editor



Black Bird. I really didn't read much on my own when I was young – started writing when I was fourteen but didn't think I needed to study anything about poetry in order to write. It really wasn't until college that I even tried to understand poetry at all.

R Where does Wallace Stevens rank among American poets?

PL I try not to rank people numerically, as that is overly Aristotelian (a problem our culture has), but he is certainly, in my opinion, one of the greatest poets of the century – of any nationality.

R As an energy economist, you know the pressures of writing poetry while holding down a fulltime job. Can you discuss those pressures?

PL The pressure would probably be a lot greater if I were trying to make a living writing poetry. I am not one of those poets who tolerates being poor. People who write novels I think have a harder time because they have the possibility of making a living at it dangling out there. Poets don't have that problem – unless they teach creative writing (an oxymoron I believe). Novelists also require a much greater sustained effort, whereas poets can work from bursts – at least that is how I work.

R In our busy lives, does poetry really matter anymore? Why should people read poetry?

PL The poetic matters today more than ever before. It is important that people *live* poetically as an antidote to all the crap we have to put up with. As Andre Breton said: "Poetry, which is all I've ever appreciated in literature, emanates more from the lives of men — whether or not they are writers – than from what they have written or from what we might imagine they could write."

There is so much ugliness and deception in our lives that the search for Truth and Beauty should become a personal priority for everyone. One need not write poetry or even read a lot of poetry to live poetically. It is more a commitment to eternal questioning – to not accepting what has been dished out to us by the social arbiters. In this sense I am talking about poetry as a revolutionary stance more than as an entertainment medium.

What we got from Aristotle (analytical thinking etc.) has helped us in many ways, but our culture tends to overdo it. The next century should see a Bill Gates of poetry – someone who shows the world that poetry is an important component of existence – as important as our left-brain toys. And conservatives need to engage in this revolutionary process as much as the political left – even if their end goals may be different. Wallace Stevens – a perfect example – was a political reactionary at the same time he was a poetic visionary. We need more political reactionary visionary poets.

I am not one of those poets who tolerates being poor. People who write novels I think have a harder time because they have the possibility of making a living at it dangling out there. Poets don't have that problem.

continued on page 28

by **catboy**
e.s.e.

Inevitably, whenever I go to a show I get really pissed off, because I have to sit through a group of terrible bands before the band I'm there to see gets on stage. Seeing *Suite 75* open for *L7* at *The Supper Club* a few weeks back was a lucky and refreshing change of pace. This



rock 4 choice or else!



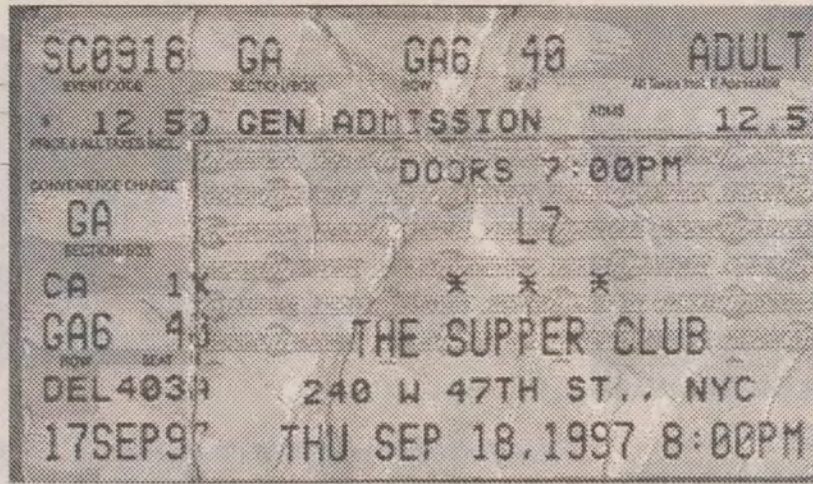
catboy with eva of "suite 75"

band rocks. The *Suite 75* line-up includes Eva on vocals and bass and Chris Novoselic on guitar. I did not speak to the drummer, and I am not sure who s/he is. I will say, however, that Chris Novoselic plays guitar with enough intentional irony to crack me up.

Eva of *Suite 75* introduced herself to me after her performance: "My name is Eva, I'm from Venezuela. I'm a big *Nirvana* fan, so I have a real good time, and I rock out!"

L7 got on stage with *Prince* blasting over the p.a. Donita Sparks screamed, "rock your fuckin' pussy," the band broke into "Andres," and proceeded through a scathing repertoire which included lots of stuff from the new album *The Beauty Process: Triple Platinum* as well as some old school material such as "Death Wish" and "Shove."

Gail Greenwood (formerly of *Belly*), the new *L7* bassist, has definitely been deeply integrated into the *L7* fold. When I saw *L7* earlier this year at the *Irving Plaza*, I liked Gail's work, but I missed Jennifer Finch. I do not miss Jennifer as much anymore, because Gail has gotten dirtier, meaner, and angrier. She has seriously crossed the rockstar



(L-R) Gail Greenwood, Suzi Gardner, Dee Dee Ramone, Chris Novoselic, Donita Sparks, Dee Plakas

line. Do not mess with her.

Although every member of the band is equally aggressive in her own right, *L7*'s music is driven in one direction. Like four positively charged atoms in the same vacuum, Donita, Suzi, Dee, and Gail play on the same team and aim for the same goals, even though they rip shit up and tear around individually at the



gail rockin' the bass

same time. Moreover, at different points of the show different members of the band played on top, while the rest of the band supported that particular member. This somewhat abstract power core and support

system is concretely expressed in *L7*'s music and is the basis for *L7*'s art and rockstar status.

As usual, *L7* sounded like a combination of metal grating, jackhammers, and twine, scraping gravel off your street, slicing through your skin, and digging into your brain. When *L7* plays, they speak to those who listen and scare those who cannot or refuse to.

Postmodern Poetry/Law Exam

by **Perry Lindstrom**

The first footnote [see poem, page 20] refers to a particular event in art history.

- 1) What was the title of the work?
- 1) Who was the artist?
- 1) What name did he use on the work?
- 1) Who photographed it?

- 1) As regards non-linear optimization — a convex function would describe a search for what point?
- 1) Who was Larry?
- 1) What was his wire?
- 1) Where did it appear?
- 1) What famous art collector spent many years of his life searching out the hidden codes in Shakespeare and Dante?
- 1) Who did the art collector beat out for the honor of Harvard class poet?

- 2) Who is the poet satirized in the two lines on Howl?
- 3) What is the particular poem?

- 4) In what year was the "pleasure-dome" poet born?

Short Essay:

Discuss the constitutional justification for taking someone's house or other major property because they grow a couple hemp plants.

J.L.S.A., B.L.S.A., Civil Liberties Union, A.A.L.S.A.,
L.A.W., L.A.L.S.A., @ New York Law School

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PROFESSOR NADINE STROSSEN

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A Typical Lazy American

by **Anthony Lowenberg**

Government bashing is cool these days. Until recently, I've been sitting on the sidelines. The machinery of the country is working, I figured, so what if it just needs a tune up — why not take the bad with the good? Lately, though, the government seems to be like the beat-up old Saab that I used to have before I moved to New York. It had more miles than the dollar amount of 18 semesters at NYLS, the suspension was shot, the engine was louder than the radio, the inside of the car was more wet than the outside when it rained, and I had stapled Star Wars bedsheets to the ceiling to replace the fallen upholstery. But it was still a Saab, I told myself, the ultimate symbol of upward mobility and sophistication. Pshaw.

Like the faulty battery connection that ticked me off on cold mornings, something isn't getting through the thick shell of the Beltway. We are used to seeing the government blackmail other countries. Heck, we're Americans, the government says, just follow our example! Watch out, kids, an "embargo this, embargo that" attitude comes back to haunt the house of complacency.

Since 1983, NYLS has had a policy of non-discrimination, and a

result of that policy was that the school has barred the military, namely the JAG Corp, from recruiting students on campus.

For those of you who live in a vacuum, the military has that bizarre gays-in-the-military "don't ask, don't tell" policy. Not long ago, a federal act called the Solomon Amendment told schools like NYLS that it will lose government student aid funding if the military is not allowed to recruit on campus. Of course, the school is doing what it has to. The faculty will resolve to reaffirm its commitment to the 1983 policy, and at the same time allow the Army to recruit on campus.

Perhaps I am a typical lazy American—not complaining about the government's strong-arming other people until it affects my school. I don't deny that I, like many, have to be prodded into action. I'm awake now and wondering if anyone else out there sees

something wrong with a government that has to blackmail a school that is doing the right thing in the first place. If the Army's discriminatory employment policy was followed at NYLS, we know that it would not be tolerated by our community or by our government.

I cleaned out and washed my car and made it look more yuppyish. I sold it soon enough, and I remember walking away with more money than it was worth and a smug feeling. Maybe I'll go into politics.

I'm awake now and wondering if anyone else out there sees something wrong with a government that has to blackmail a school that is doing the right thing in the first place.

Justice



by **Charles Hymowitz**
Staff Editor



In the 3½ years I have spent studying at this law school, justice is not a word that I've heard bandied about regularly. Truth is that I have not gone looking for it, either. There are plenty of courses which focus on "Justice" and there are a few professors who do talk about it. But, for the most part, most of the time we spend in school is not focused on "justice." Perhaps we should.

Funny thing is that in the legal world, even in the world of civil litigation, there are moments where we do participate in meting out justice. I was just involved in a situation where justice was done. It was a sexual harassment suit. I was a witness. The woman involved reported to me; the man involved (no, it wasn't me) was my boss and a partner in a company I was working for at the time. We worked in close quarters. I was hard to work for; my boss had little to do. (If you think it's possible that a man would have nothing to do in a small company, think twice).

This man did little except try to find ways to criticize everyone. I was his whipping boy - #1 on his hit parade of people to complain about and yell at. He was a beast, very reminiscent of Alf in personal appearance and Godzilla in temperament and breath.

Having said that, I will say that those he liked were the objects of abject generosity. He was quick to buy lunch for everyone (including me since he couldn't pick up the delivery check without including me. Taking my money would have made his animosity too obvious). He was quick to take his favored ones aside to talk, complain, and dig for information.

The plaintiff in the lawsuit was an intuitively smart woman who

realized that playing him was the right move. She was one of those who talked, complained, and gave him information. She knew that her life would be much easier if she played his game. He took her to lunch; she borrowed his money. She complained about me to him all the time and, as a result, felt encouraged to give me a hard time. All of us involved will tell you that this was mutual — he needed it, she smelled it, she manipulated him, he fell for it.

Did something happen between the two of them which none of us involved can attest to? Did he do to her what she alleges he did? Did he touch her? Did he make her uncomfortable? Did he do a number of other things that constitute a "hostile environment?" Maybe he did. That would be truth and from truth comes justice.

But, big but, there are many different versions of truth. The wonderful film *Rashomon* illustrates that perfectly. I saw what I wanted to see; I remembered what I wanted to remember. My testimony at the trial indicates that I remembered little.

I remembered little because I chose not to. I was miserable, unhappy, underpaid, and poorly treated during that period. I should have quit but didn't. She remembered things very differently and the boss involved, if you ask him, he'll tell you he was a perfect angel.

Where does this end? In a trial which ends midway through it with a confidential settlement. For all of his noise, bluster and nonsense, he gave in and paid her money. And in the end, Justice was served. He deserved to fall and I'm thrilled that he did.

All of us involved will tell you that this was mutual — he needed it, she smelled it, she manipulated him, he fell for it.

FOOTNOTE, continued from page 20

Odd Nerdrum⁷ –

And all those rooms filled with nothing
That can advance the material conditions
Of the human race
But art, poor pathetic art
Languid eternal slacker of
Minds internal eye
Nefarious drunkard child
Copious reasons to expire
Living hand to mouth constantly
Risking absurdity on Larry's wire

Meanwhile the aged professor
writes on his student's paper:
O beauteous student I long to brush
the back of my hand gently cross your cheek
I shall design for you a course of study so
sublime that you shall weep at the end of
every class⁸

On the train home I read *Howl* – Uncle Al I'll miss you so
but we shared time in the Village tho⁹

The next day is a Sunday and
I go to a poetry reading and when
I come home my wife is crying, my
wife who hates most sports -- golf in
particular -- is crying cause Tiger Woods
has won the Master's. Tiger Woods son
of African-Asian Americans (who would be
outcast half-breed in most countries on this
Earth) stands triumphant waving his smile and
endorsements about in frenzy of real American
fantasy come true O Rosa Parks what made you
take that seat was it economic efficiency or the
passionate bleeding of soul's lost parameters
in sweet iambic pentameters the articulate
bombardment of every atomic particle
with visionary tears

O Odd Nerdrum, O Chrysler building,
Beloved queer Allen someday the molecules
that swam in you will design sky scrappers on the moon¹⁰
someday Tiger Woods will be President, someday the
Pleasure Dome of true Paradise will allow everyone in

Is this a great Constitution or what!

¹ A shadow fell across the urinal suggesting a veiled Madonna.

² Poetry is a lie that tells the TRUTH.

³ I fear he cared too much and caring too much as we all know can drill
holes in space/time continuum.

⁴ Look I understand why fat Republicans don't like sex, I don't like the
idea of sex with fat Republicans.

⁵ What are the legal ramifications of a pleasure dome in today's moral
climate – its impact on efficient resource allocation etc.. (discuss).

⁶ You see fellow Americans since it is not the tallest building we care not
for it although it is certainly the most aesthetically pleasing of buildings.

⁷ It would be more utilitarian if everyone had numbers instead of names.

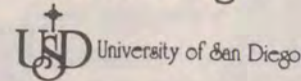
⁸ I understand that next semester they will offer a course that investigates
the secret codes and symbols in Shakespeare and Dante.

⁹ Remember footnote number 2.

¹⁰ A fellow poet was reading once and he said "Look! Madonna's Nipple!"
just as Allen Ginsberg walked in -- and of course it's true.

SUMMER
LAW STUDY

in
Barcelona
Dublin
Florence
London
Moscow
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Paris
San Diego



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Practicing Like a Lawyer

Dear Editor,

Thank you for sending me a copy of the October 1997 *Reporter*. I was especially interested in the article by Martin Asatrain. While the substance is quite accurate, the form is an excellent example of what indeed is "thinking (or in this case, writing) like a lawyer" -- it's not in English. Therefore, please allow me to offer the following translation:

Organize the facts: Clients, particularly divorce participants, love to give their side of the story. If allowed, they will go on for days about how awful the other individual involved is. Given that usually one example will do, pick out that one example and use it. Make the client write down all the other details claimed as critical. If nothing else, it will wear the client out. The sequence of events may be important (especially in auto accident cases); the attorney can write that down herself. Drawing pictures sometimes helps, too.

Try to describe your case to the court graphically but simply. Anyone who has ever clerked for a judge or even sat through a calendar call will understand how important this is.

Apply the law: All legal cases must have two parts. First comes liability; someone did something wrong. Next comes damages; even if the car did knock someone over, if the person is unhurt, the person goes home, not to his attorney's office. Figuring out liability is the important part about applying the law. If no statute was violated, stupid act committed, or gross insensitivity inflicted, write off the incident to accident or experience.

"Enframe the fragments of legal analysis in a pictorial." Translated: Describe your case to the court. Try to do so graphically but simply ("The defendant's car hit my client and broke all of her bones"). Anyone who has ever clerked for a judge or even sat through a calendar call will understand how important this is. Judges are very busy folks who can't remember everything and sometimes don't try to. If you are making a contract claim, and it's even remotely complicated, this part is absolutely critical. Any claim which requires more than six words to explain is doomed in lower courts. Those of us who represent a major telecommunications company love the work, because even the most dense jurist can grasp the concept when told the claim is for "yellow pages advertising."

Having spent ten years trying to introduce English as a first language to the legal system, I would be pleased to enlist law students to the cause. Anyone with questions may feel free to call.

Sincerely,
Carol G. Morokoff, Esq.

VIEW FROM THE RIGHT: Sympathy for the Devil

by **Matt Brew**
Staff Editor

"...to be free from such force is the only security of my preservation; and reason bids me look on him, as an enemy to my preservation, who would take away that *freedom* which is the fence to it; so that he who makes an *attempt to enslave me*, thereby puts himself into a state of war with me."

—John Locke *Second Treatise*

of Government

"He that is slow to believe anything and everything is of great understanding, for belief in one false principle is the beginning of all unwisdom"

—Anton Szandor LaVey



It seemed a typical autumn day in the state of Washington. Robbie Matthews spent the morning enjoying the sounds of fall. He sat watching the remaining leaves sway back and forth as they fell from the trees and gently came to rest on the half frozen ground. Unbeknownst to Matthews, this would be his last fall. He was unaware that his life was out of season.

Later that day Robbie Matthews would be murdered by the Federal Bureau of Interrogation. Though you may not know who he was, you know his story. You recently heard it. It played out again several years later in Waco, Texas. Only in Waco, the government's prey was David Koresh.

Don't kid yourself; those people in Waco were murdered. They were exterminated by men and women who clothed themselves with "ATF" and "FBI" logos. They were killed the *same way* that Robbie Matthews was.

Matthews, though his house was surrounded by the FBI, refused to surrender. He did not recognize the legitimacy or the power of the Federal Government. So the FBI decided to hurl these special little canisters into his house. Canisters designed specifically to cause fire. The theory being that the victim would try and escape the flames and run to safety. Matthews refused to cooperate and opened fire on the serpents. He was burned alive.

The press of course, as will history I suppose, candy coated the whole episode. Reports that the fire was accidentally started by tear gas were shoved down the public's throats; the same blanket of lies the pig Federals would cowardly hide under after the Waco murders. The reality is, tear gas doesn't start fires. But incendiary devices launched by Federal agents do. This same tactic was used again several years later during the siege at Waco. The results were identical—down to the press force feeding us propaganda about tear gas accidentally started the fire. However in Waco, child molestation was thrown in for good measure to insure public support.

Matthews was the head of a militia group known as *The Silent Brotherhood*. The group was well organized and well funded. The Brotherhood usually got its money by counterfeiting or robbing armored cars. One such robbery netted the group over six million dollars. Most of the

money was used to buy powerful, high tech weapons from the US Army. Highly illegal, yes, but the army is where most of the militias get their weapons. Contrary to what you are told by the press, the military is flooded with revolutionaries. They are trained by the *Enemy* and will one day turn on their master. They are well organized, well funded, and ruthless.

The most notorious event involving the Brotherhood was the murder/assassination of *Alan Berg*, a radio "shock jock" that was extremely popular out west in the mid 80s. Berg had a tendency to infuriate listeners and humiliate them on the air when they called to complain. One day he picked on the wrong caller. A few nights later, some of the Brotherhood were waiting for Berg outside his Denver home. When he arrived, they let loose on him with a converted MAC-10 modified assault rifle. The bullets tore the flesh from his bones and killed him instantly.

The Feds pursued the Brotherhood for years but they couldn't catch them. It wasn't until a couple of FBI agents, acting on a hunch, trespassed on property rented by Matthews. They had no warrant. No probable cause. Just years of frustration.

Matthews discovered them on his land and welcomed the bastards by opening fire on them. They fled like scared children. However, they came back with reinforcements. They came back to murder Matthews, as they would David Koresh years later.

Now it is Tim McVeigh's time to be slaughtered. And I'm not going *anywhere* near a big city the day McVeigh's life is taken. Their will be repercussions. Count on it.

The public sees McVeigh as nothing more than a racist whose hatred drove him to commit a horrible crime. That is absolutely true in part. However, the story doesn't end there. There is more. Scrape the bong resin off your brain and I'll learn you something.

The average man doesn't have a thought in his head that wasn't put there by his television set or his newspaper. You are told what to think, what to believe, what to eat, what to wear, and who to trust this week. Many of you are sitting there thinking, "not me, I think for myself". You're deceiving yourself. How can you think or decide on anything when you only know *part* of the facts?

In *every* sense, you only know what *they* tell you. All the information that your opinions and thoughts are based on is provided by the media. It all comes from *one source*. And they are not telling you *everything*. Just enough info is divulged to make you form the opinion they want you to have. They want to mold you into a 'Mass Man;' "a member of the great, brainwashed proletariat; a herd animal; a true democrat." The argument that there is no ONE media is garbage. No matter what faucet you drink from, if the well is contaminated, so is the water.

For example, you were told in thousands of sound bytes that McVeigh murdered one hundred and sixty some odd people. You were told that he was a racist. You were told he liked guns and that he was ex military. You were told he was inspired by *The Turner Diaries*, a novel by Andrew Macdonald that was "the blueprint" to the Oklahoma City bombing. You

Contrary to what you are told by the press, the military is flooded with revolutionaries. They are trained by the *Enemy* and will one day turn on their master. They are well organized, well funded, and ruthless.

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DEVIL, continued from page 25

were told that he smoked pot and was paranoid. Just enough to make you condemn him before trial. Just enough to make you turn deaf ears upon reason.

But why weren't you told everything? Why weren't you told *why* McVeigh did what he did? Sure, the media glossed over it. They dismissed him as a paranoid lunatic obsessed with overthrowing the government. But did McVeigh really want to overthrow the government? That's what you were told. But did you ever stop and think about that allegation? How ridiculous it is?

Most militia people don't want to overthrow the government. That would allow the Chinese and the Russians to walk in here and take everything. But the media portrays these militia men as lunatics. The truth is, they aren't insane at all. They are smart, educated, and determined. They are doctors, lawyers, politicians, soldiers, factory workers, mailmen, teachers, professors.

What McVeigh wanted, what most militia men want, is not to overthrow, but to *punish*. Punish those that have breached the social contract. Those that have defiled the Constitution and continue to do so with such tyrannical arrogance. They simply want the government to act as it is supposed to act. The way "We the People" empowered it to act.

What were the issues lying beneath the dramatic headlines? What would motivate a distinguished servicemen to ruthlessly murder over a hundred and sixty people?

Frustration. Helplessness. Anger. The prostitutes in Washington are destroying this country. McVeigh's country. *My* country. *Your* country. The dog Federals have stretched their powers way beyond the constitutional limits and now trample upon our freedom. They have taken from us what is ours. And like whores, we let them.

McVeigh decided he wouldn't sit idly by and let his country be run into the ground by the filth of the earth. He, like *many*, are tired of seeing the Supreme Court continuously erode the constitution. I once thought the Constitution could be saved. But I hear its' dying cries before me. Whimpering. And I am sad. Sad because *our* constitution has been raped and mutilated so many times that its womb is now barren and only aborted justice slithers out with the afterbirth. The afterbirth of liberalism.

You see, I understand why McVeigh did what he did. To a point. I don't subscribe to his racist philosophy. But I can't fault him for that. He simply hasn't lived long enough to understand that racism does not grow from *ignorance or hatred*. Those are simply side effects. It stems from the Federal Government.

For over two hundred years the Feds have promoted and supported racism. Then one day, when it was no longer politically correct to degrade, exploit, and humiliate black people, the Federal scum jumped on the civil rights bandwagon, which had been rolling since the early 1800s. The wheels of the racist machine came to a grinding halt and two hundred years of evil were to be whitewashed in a couple of decades? It's impossible, and the Feds know it. McVeigh is guilty of *their* sins.

What's worse is that the Federal Government speaks out of both sides of its mouth. Publicly, they demand equal rights and equal protection. Fine. But then they create *Affirmative Action*, which denies white people the guarantees provided to all citizens of this country under the Bill of Rights. What is the result? Racial tension. But that's what Uncle Sam wants. The races to be divided. Because united *they* stand, divided

they fall. The government loves racial tension. It allows them to pass all kinds of laws and keeps our eyes off the ball. McVeigh, like many of the militia groups, haven't figured this out yet. And it's a shame because many of the ideas of these groups are so productive and would make this country strong again. But because of the racism, the media and the government are able to convince all of you that these men are fanatical lunatics. But discounting everything they say is unwise.

Timothy is but a product of this hypocritical society. He was a poor boy and did a terrible thing. Pity should be taken upon that poor boys soul.

Do I sound like a liberal? It's intentional. Because, where *are* the liberals now? Why don't we hear their cries of mercy for McVeigh. Why don't we hear how cruel the death penalty is. Since Tim is a product of *his* environment,

why isn't there any sympathy for him? The truth is, the liberals don't want McVeigh to live. There is no money to be made from his kind. They are scared of him and those like him. They read *The Turner Diaries*. And they are scared.

Some say McVeigh committed murder. Others say he was a patriot fighting for the survival of his country. Either way he's a dead man. And maybe that's justice for the families of the victims who fell prey to this world. But let me ask you this question. Why isn't anyone in the federal government ever held accountable for *anything*. McVeigh took the lives of all those people, and his sentence has been given. But what about the FBI agents that entered Robbie Matthews property without a warrant.

What about the agents that murdered him and those that murdered Koresh and all those poor children? Reno, that poison tongued minister of Satan, acknowledged that "it could have been handled better". That's not enough. I want *everyone* responsible for that massacre put to death, just like McVeigh is going to be. Justice is justice. One side can't break the rules and get punished while the other side, the side that *makes* the rules, goes about breaking them at will. Think about it.

How many cases have you read in your law school endeavor where a defendant has had his constitutional rights violated? What ever happens to the sons of bitches that violate the defendant's rights? Nothing. They *should* be dragged into the gutters and hacked into pieces. They *should* be skinned to the bone as should every politician and many

Federal Judges. The social contract has been breached. McVeigh may be guilty of murder. But their crimes are far worse, yet where is justice?

When those entrusted to lead us, to maintain our government and protect our freedom, turn their backs on justice and usurp the power of the people, their actions must be met with the violent force of rebellion. Their encroachment must be thwarted and those guised in the mask of Judas must sacrifice their blood to keep the new nation afloat. A new nation without fear. A nation where people are responsible for their actions. A nation of men and women who know what they want, and the possess the strength to take it. A nation cleansed of the stench of liberalism. "Let liberty ring from the shotgun blast." And pray to god almighty I never come to power.

For over two hundred years the Feds have promoted and supported racism. Then one day, when it was no longer politically correct to degrade, exploit, and humiliate black people, the Federal scum jumped on the civil rights bandwagon, which had been rolling since the early 1800's.



Some say McVeigh committed murder. Others say he was a patriot fighting for the survival of his country. Either way he's a dead man.

RELIGION, continued from page 10

Exercise of Religion clause, post Smith, is government policy that intentionally, deliberately, singles out religion for unfavorable treatment, and that's a particularly onerous strict scrutiny burden," Strossen said.

"There aren't going to be many government officials that are going to be so stupid, or whose lawyers are so negligent, that they don't cover their legislative tracks," Strossen said. "You know, it's so easy to come up with a trumped up rational basis, non-discriminatory rationale for what you're doing, and to smoke out the actual discrimination is going to be virtually impossible." When asked in the interview whether Smith was "the Dred Scott of the Free Exercise Clause," referring to the notorious 1857 case that held that former slaves did not have the rights of a U.S. citizen, Strossen said without hesitation, "Yes, absolutely."

"What Smith essentially did," Strossen said, "was read the Free Exercise of Religion Clause out of the Constitution except in very narrow circumstances. I think it's so ironic that the Supreme Court Justices who voted for that decision were Conservative Republican appointees, appointed by Presidents who were so supported by the Religious Right. And yet have done more damage to religious freedom than any Supreme Court decision in modern history."

The Free Exercise Clause is the second part of the guarantee of religious freedom under the First Amendment. The First Amendment begins: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Professor Strossen's response to Smith, and its author, Scalia, was delivered in an address to the Jewish Theological Seminary (JTS) in New York on June 18, 1996 and published in the Fordham Urban Law Journal, volume 24, beginning at page 427. Attacking Scalia's burden shifting, Strossen wrote, "In Smith, the Court departed from this long line of precedent and issued a general holding that strict scrutiny is an inappropriately rigorous standard for reviewing government measures that substantially burden religious freedom."

"The Court's abandonment of meaningful judicial scrutiny was particularly startling in Smith because the government had never challenged the strict standard that, consistent with longstanding Supreme Court precedent, the courts below had applied. Therefore, this subject was not addressed in the parties' briefs or in oral argument," she said.

"Justice Scalia's majority opinion in Smith candidly acknowledges that its reasoning would eliminate the Free Exercise Clause's role as the guarantor of religious liberty for adher-

ents of minority religions, relegating their freedom to the good will of legislative majorities," she said

"Moreover," Strossen said, "Justice Scalia acknowledges that legislative majorities may well be unsympathetic to the religious liberty concerns of members of minority religions... Justice Scalia's conclusory response was that discriminatory truncation of the constitutional rights of minority groups is the 'unavoidable consequence of democratic government.' This cavalier conclusion, though, shirks the Court's historic responsibility to avoid such consequences," she said.

"Completely contrary to Justice Scalia's view about the power of majorities to deprive minorities of their fundamental rights, the very purpose of the Bill of Rights, and of the Supreme Court in enforcing it, is to protect the rights of minority groups and individuals from what James Madison called 'the tyranny of the majority,'" she said.

"You know, it's so easy to come up with a trumped up rational basis, non-discriminatory rationale for what you're doing, and to smoke out the actual discrimination is going to be virtually impossible."

Strossen brought her unhappiness with Smith to a very personal level with her Jewish Theological Seminary audience when she said, "As members of a minority religion, Jews also suffered inroads on their religious liberty in the period after the Court rendered Smith... In one case... a Jewish accident victim was subject to an unnecessary autopsy in violation of his mother's religious beliefs. In other situations, Orthodox Jewish prisoners were forced to choose between eating pork or no meat at all."

Notwithstanding the Reverend Jerry Fallwell's recent overtures to Israel, it is no secret that many on the Religious Right view the ACLU unfavorably as a Jewish organization. Strossen tackled the issue head on in her JTS address on Smith when she quoted a director of the Christian Coalition as saying, "The Jewish element in the ACLU... is trying to drive Christianity out of the public place... because the ACLU is made up of a tremendous amount of Jewish attorneys."

In 1993, Congress responded directly to Smith by passing the Religious Freedom Restoration Act. The Act, written carefully in the kind of scrutiny language that the Court could not misunderstand, prohibited government from substantially burdening a person's exercise of religion, even if the burden results from a rule of general applicability, unless the government can demonstrate the burden furthered a compelling state

interest and was the least restrictive means available.

Strossen said that the Religious Freedom Restoration Act was supported by a coalition "of literally every religion under the sun." She added that it included the Mormon Church and that it was the only time that the Mormon Church has ever weighed in on a piece of congressional legislation in its entire history.

The Act had a short shelf life, however, as the Supreme Court struck it down in 1997, in Boerne v. Flores, 117 S. Ct. 2157, holding that the Act exceeded Congress' powers under the Fifth and Fourteenth Amendment, and upheld a Historic Landmark Commission's denial of a building permit to the Archbishop of San Antonio to enlarge a parish church in Boerne, Texas.

Strossen, whose Congressional testimony supporting the Religious Restoration Freedom Act, was cited extensively in Boerne by both the majority and dissent, said Boerne "compounded the damage that had been done to free exercise rights in Smith."

Justice O'Connor, who had concurred in Smith, now dissented vigorously in Boerne, writing, "Before Smith, our free exercise cases were generally in keeping with this idea: where a law substantially burdened religiously motivated conduct—regardless whether it was specifically targeted at religion or applied generally—we required government to justify that law with a compelling state interest and to use means narrowly tailored to achieve this interest."

"The Court's rejection of this principle in Smith, O'Connor wrote, "is supported neither by precedent nor... by history. The decision has harmed religious liberty."

Scalia's condescending concurrence termed O'Connor's dissent "an extravagant claim" and stated, "I see no sensible interpretation that could cause them to support what I understand to be the position of Justice O'Connor, or any of Smith's other critics."

Strossen said in amazement, "I can't understand that Scalia is not protective of religious freedom as he is such a staunch Catholic."

"It is doubly ironic," said Strossen, "that Justice Scalia has played such a significant role in decimating the Court's and Constitution's support for religious freedom, because that constitutional revisionism flies in the face of two concerns that Justice Scalia has stressed in other contexts." The two concerns Strossen referred



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POET, continued from page 21

R Flaubert, Balzac, Matisse, Cezanne, Stravinsky, and Tolstoy all had some legal training. What might you imagine legal training could bring to the arts?

PL The law is a mystical-metaphysical flux engine – at least it is to me. I don't know if I speak for others outside of the legal world, but I see it as an ongoing work of art. People have tried to make it more analytical and quantitative, but in the end it is a very human endeavor — as is art. Unlike art, we think of law as having a utilitarian function – i.e. maintaining the social framework of humanity. But it appears to me to have a much more robust life dynamic – hence the reason for its popularity both in fictive works as well as real life dramas such as the O.J. trial.

R You went to Stan's for a couple of beers with *The Reporter* staff. You seemed to be in a good mood and were diligently writing something. What was it?

PL I was writing the opening notes (I don't believe I actually used any lines from those notes) for the *Footnote to a Postmodern Law Journal*. [see page 20]. I was sitting there and just noticing how different this all must be from the law students of old and how we really had entered the postmodern era in all aspects of our lives – not just literature or other forms of art but the Law too. What it means to me is that we have come to a point in history where we are both the subjective visceral participants as well as the objective visual observers. We are the couple making love *as well as* the voyeur peering in the window. This is the result of attaining a certain level of cultural maturity – of evolutionary hindsight. We have all of history to draw upon. Poets and artists arrived at the postmodern first because it is their job to be both subject and object. For me the seminal postmodern writer was William Burroughs (much on my mind as I write this as he has just gone from an *is* to a *was*). There is no separation between his life and his work. He was THE subject and THE object. Language was for him a virus as well as the cure. And the current high priest of postmodern – William Vollman has taken this one step further – for example, engaging in unsafe sex with Thai prostitutes in order to write about the life experience.

R What would be your thesis, so to speak, of “Footnote to a Postmodern Law Journal?”

PL There is a fair amount going on in this poem. The opening line for example, takes off on the Eliot line: “April is the cruelest month.” Since postmodern is in the title of this poem and Eliot is the acknowledged epitome of modernity, I am signaling my own break with modernity. Without going through this line by line, certainly another theme is that justice is not necessarily arrived at by Aristotelian logic but often is an exercise in passion – as I have alluded to above. I think I can criticize the law and economics paradigm because I am an economist and I used to be a card carrying member of the Cato Institute (Libertarian think tank). I don't mean to say that there isn't a lot to what Posner et al, have to say, but I feel that it is sometimes a narrow perspective that neglects a lot of the human condition in its motivations. I guess law is always looking for a conceptual basis other than – that's the way we always have done it (or some sort of incrementalism based on that general model). I am also interested in moving poetry into other modes of society from where it is normally found. Law journals are a good place to do this. And the poem served as a mini diary of that NYC trip for me – as well as a way of coming to grips with Ginsberg's death which took a while to sink in – you by the way were the person to tell me about his death.

R Yes, it felt devastating... a lot like when John Lennon was killed... but... when you walked in the halls of NYLS, what was your feeling, if you felt anything identifiable?

PL A feeling of inclusiveness. A very nice feeling actually. Then again, I wasn't studying for exams.

R You and I saw Ginsberg at the “Beat Retrospective” at the Smithsonian in Washington several years ago. When asked about the “Beat Scene,” Ginsberg replied that the scene was merely his apartment or Kerouac's apartment. What about that concept that people are always looking for the “scene” rather than creating it?

PL Anyone who is spending time worrying about the “scene” or where the scene is, isn't going to have time to be a writer. I think it was William Gaddis who said people don't want to be writers they just want to live like writers. Writing is a bitch of an occupation or obsession – it is frequently a *bad* scene or a *no* scene.

R Will you briefly discuss your breakthrough “Elephant's poem” and how students can read it.

PL The poem you mention *Elephant Carcasses Stained with Vulture Droppings Lie in a Field in Uganda* was published by *Paper Radio* in Seattle and was going to be considered for a science fiction writers award (something lead up to a Nebula award I think) – I guess because in a lot of my poetry there are scientific references. However, the deadline for submission was missed by me. The title is a caption to a picture that haunted me for weeks. It would be difficult to talk about the poem without it in front of us so I won't try. People who want copies of this or any poem just need to send a self-addressed stamped envelope to: Perry the Poet/Poetic Pleasure Dome Project/4201 Wilson Blvd. #110-305, Arlington VA 22203.



Hansen Alexander (L) and Perry Lindstrom (R)

R How much should a good poet drink?

PL I'll quote Li Po on this: “If heaven had no love for wine,/There would be no Wine Star in Heaven;/If Earth had no love for wine,/There would be no city called Wine Springs[outside of Denver I believe]/Since Heaven and Earth love wine/I can love wine without shaming Heaven./They say that clear wine is a saint;/Thick wine follows the way of the sage./I have drunk deep of saint and sage:/

What need then to study the spirits and fairies?/With three cups I penetrate the Great Tao./Take a whole jugful –I and the world are one./Such things as I have dreamed in wine/ Shall never be told to the sober.

R Since poetry is the language of love, do you have any advice for law students looking for love?”

PL First, never forget how important it is to be romantic – this is especially true for the guys out there. We have allowed romance to slip out of our lives and replaced it with a kind of buddy/buddy system. I am rather old fashioned in this arena and feel that men should romance women – or vice versa – or vice vice — depending upon your preference, but that there should be romance involved. If you don't write poetry yourself (a distinct advantage in the romance department, I must confess) you can always find suitable quotes by others for use at the right moment. Second, don't be afraid to get hurt – hurt is beautiful. After all, no one really lives happily ever after. That's why *Casablanca* is the most romantic movie of all time. Can you imagine what would have happened if she *hadn't* gotten on that plane!

R What do you think of the Supreme Court these days?

PL I would like to see them in a highly ritualized kabuki performance in their robes and all. It would make their decisions so much more dramatic.



Marches into Madness



by Jessica O'Kane
Staff Editor

In March of this year a committee was established in New York with the specific mandate of organizing delegations of international observers to visit the north of Ireland during the height of the Orange Order's marching season (July and August). In the past, delegations of international observers have documented the widespread violations of human rights of the nationalist (Catholic) population. I was honored to be nominated to become a part of this committee, and in July to travel to Ireland and be an observer.

Each year, the Orange Order holds numerous marches all over the six counties (the North of Ireland) to celebrate the victory of William of Orange over King James II at the Battle of the Boyne. Increasingly, over the last several years, the marching season has created an environment of violence and destruction in the six counties. The issue of the Orange parades and the routes they take go to the very heart of the Northern state and its constitutional link to Britain. The Orange Order takes an oath that includes that Catholics are inferior and if a member marries a Catholic, they should not be a part of the community.

Stand-offs between the Orange Order and the Royal Ulster Constabulary (RUC), the police force of the six counties as the Orange Order attempts to force its marches through Nationalist (Catholic) communities without their consent, have become commonplace. Often these stand-offs have ended with the RUC blockading the nationalist people into their homes in order for the Orange Order to march through.

The nationalist community of Portadown had their hopes and expectations raised when the new Secretary of State for Northern Ireland Mo Mowlam, appeared to be making genuine efforts to convince the Orange Order to reroute their march away from Garvaghy Road. Garvaghy Road cuts through the heart of Portadown's nationalist community. Unfortunately, the community was seized militarily. People were disallowed from peacefully protesting on the Garvaghy road, housing estates were blocked by the military and the RUC, and people were beaten off the road so that the Orange Order could have their parade.

I went to Portadown in the North of Ire-

land to interview members of the community about their experiences on the night that the RUC and Army forced the Orange Order down the Garvaghy Road. Over and over I documented stories about people wanting to peacefully protest the Orange Order marching through their neighborhood but denied this. They were beaten, kicked, fired at with plastic bullets, sectarianly insulted, cursed at, and not allowed to go to Mass on Sunday morning. The residents group continually attempted to meet with the Orange Order in the year leading up to this summer to com-

ists" rioting and provoking the brutal invasion into the Garvaghy Road Community early July 6th morning. Numerous eyewitnesses testified otherwise. South African MP Gora Ebrahim, who was an observer at the request of Nelson Mandela, said, "It was like Sharpsville without the dead bodies." New Hampshire State Rep. Renny Cushing said, "I was shocked to see a military assault by storm troopers on unarmed women and children, who were beaten down the road and blockaded into their homes, and then prohibited from going to mass at the point of a gun."

Sean Cahill, a member of Peace Watch Ireland, said "at 3:15 am, thousands of RUC in Darth Vader-esque body armor and riot shields started marching down the road, accompanied by hundreds of RUC land rovers, army Saxons and armored vehicles, and hundreds of British troops. More closed in from two other directions. Again, residents flooded onto the road, sitting down in peaceful protest as media and international observers scrambled behind them. Without warning or provocation, police and soldiers beat and kicked men, women and children off the road. Troops moved so fast

that many standing on the side of the road could not retreat in time."

"Hundreds of plastic bullets were fired, often at head or chest level and from very close range. I saw observer Donncha O Fuarthain shot in the neck from less than 10 yards away. A girl who stopped to help him was shot, as were two men and a nurse who did the same. Two ambulances refused to come get him, and he waited at least a half hour before an ambulance finally arrived.... About one hundred residents, including some local politicians, were surrounded by troops at the intersection of Garvaghy Rd. and Ashgrove Rd. near the Community Centre."

"For an hour there was a tense and surreal standoff, as those sitting on the road said the rosary and members of a Welsh nationalist choir sang "We Shall Overcome" and other songs in solidarity. Then RUC beat and dragged the last sit-down protestors off the road, kicking them and throwing them onto Ashgrove Road like so much garbage. Local Councillor Joe Duffy was beaten so badly he required hospitalization."

To learn more about these occurrences and the ongoing human rights violations in Ireland please contact the Irish Law Students Association.

Hundreds of plastic bullets were fired, often at head or chest level and from very close range. I saw observer Donncha O Fuarthain shot in the neck from less than 10 yards away. A girl who stopped to help him was shot, as were two men and a nurse who did the same.



Jessica O'Kane, Class of '98

promise about the march, but the Orange Order would not meet with them.

The British-controlled media in the north and England lied about the events that took place. They depicted the picture of "militant national-

Career Services Update

by **Deborah Howard, Esq.**
Director of Career Services

The Office of Career Services is interested in utilizing technology to make our communication with students more efficient and effective. We are interested in creating email distribution lists for various groups of students (i.e., students interested in immigration law, students interested in public interest law, students of color, etc.). Once we create these lists, we can send information of interest to the members of these lists in a quick

and efficient manner. This will enable us to provide you with information as soon as we receive it - whether it is information about a fellowship opportunity or a special job listing of interest. We are also interested in distributing our newsletters via email rather than via mail folder. We would appreciate your taking the time to let us know if this is of interest to you. If so, send an email to us at career@nyls.edu stating your name, your email address, your class year, and the type(s) of information (information about a specific topic and/or newsletters) you would like to receive. We look forward to hearing from you.

CAREER SERVICES ANNOTATED CALENDAR OF EVENTS MARCH AND APRIL 1998

Networking Lunch Series Program

This is a lunch program that gives students the opportunity to meet with members of the legal community and law school faculty in a round table setting over lunch. Lunches take place on **Wednesdays from 1:00 p.m. to 2:00 p.m. in the Faculty Dining Room on the Fifth Floor of the C building.** The remaining lunches are: Media and Telecommunications Law Lunch **March 4, 1998** Corporate Transactional Law Lunch **March 25, 1998**

"Kick Starting Your Job Search" Session for Graduating Students

This session, presented by Deborah Howard, Director of Career Services, geared to graduating students, will help you "Kick-Start" your job search for a permanent position. Lunch will be served to the first twenty students who arrive. Please sign the RSVP list on the Career Services Fifth Floor Bulletin Board. **Thursday, March 5, 1998 at 1:00 p.m. Room A500.**

Alumni Mentor Reception

Take this opportunity to meet with the alumni participants of the Career Services Alumni Network Program. These alumni work in various practice areas and work environments. The Alumni Mentor Reception will be held on **Tuesday, March 10, 1998 at 5:00 p.m. in the Faculty Dining Room on the Fifth Floor of the C building.** Hors d'oeuvre and wine will be served. This event is co-sponsored with the Office of Development and Public Affairs. Please sign the RSVP list on the Career Services Fifth Floor Bulletin Board.

Career Information Fair

Meet practitioners and faculty representing a wide variety of practice areas. This program is designed to provide information about practice areas of interest and give you a chance to meet with practitioners. In addition, students who are registering for classes for next year will have the opportunity to obtain advice about courses they should consider taking to prepare them for working in specific practice areas. Snacks will be served. **Wednesday, March 11, 1998 at 1:00 p.m. in the Stiefel Room.**

Judicial Reception

Meet judges at an informal wine and cheese reception. This is an excellent opportunity for students interested in internships and clerkships to network with judges. This reception is co-sponsored with the Legal Association for Women. Please sign the RSVP list on the Career Services Fifth Floor Bulletin Board. **Tuesday, March 24, 1998 at 5:00 p.m. in the Faculty Dining Room on the Fifth Floor of the C building.**

Public Interest Alumni Reception

Take this opportunity to meet with alumni who work in nonprofit organizations and government agencies at the Public Interest Alumni Reception on **March 26, 1998 at 6:00 p.m. in the Faculty Dining Room on the Fifth Floor of the C building.** This event is co-sponsored with the Office of Development and Public Affairs. Please sign the RSVP list on the Career Services Fifth Floor Bulletin Board.

Spotlight on the Evening Division Brunch

This Brunch, co-sponsored with the Office of Alumni Affairs, spotlights some of our successful Evening Division graduates and provides Evening Division students an opportunity to meet informally with alumni of the Evening Division over Sunday brunch. Do not miss this valuable networking opportunity, as well as the chance to learn about the career paths of many of our Evening Division alumni. You will

receive an invitation sometime in early March. Please sign the RSVP list on the Career Services fifth floor bulletin board. **Sunday, March 29, 1998 at 12:00 p.m. in Faculty Dining Room on the Fifth Floor of the C building.**

Fall Recruitment Program Information Meeting

Find out all you need to know about how to apply to large firms and some other employers, such as The NYC Office of Corporation Counsel and District Attorney Offices that participate in the Fall Recruitment Program. Lunch will be served to the first twenty students who arrive. Please RSVP. **Wednesday, April 15, 1998 at 1:00 p.m. in Room B400.**



LIONESSE, continued from page 1

have asserted their First Amendment right to be free from government-sponsored religion have suffered tangibly, as well as psychologically, for doing so. Many have suffered physical assaults upon themselves and their property."

Fighting for constitutional rights has also become a more difficult business as the generation of jurists who came of age on the Warren Court have left and been replaced by judges less sympathetic to individual liberties. This was driven home to Strossen last year when she visited a dying William Brennan in a nursing home.

By sleeping only four hours a night, in the manner of President Clinton, former Secretary of State Henry Kissinger, and former Israeli Premier Golda Meir, she makes time to teach, serve as an advisor to the NYLS Law Review, help out with Moot Court, write articles and speeches, participate in her own radio show, author the highly acclaimed book, Defending Pornography: Free Speech, Sex and the Fight for Women's Rights, and maintain a marriage with a Columbia University economics and finance professor.

The formula for Strossen's success is probably leading a balanced life. She makes time for play as well as work.

She loves music and loves to perform. She has sung in cabarets in New York. She likes live theater and prefers going out on the town instead of going to movies. She is a subscriber to the Metropolitan Opera but also enjoys musicals and drama. Not long ago, she saw the musical "Ragtime" and liked it. A recent drama she enjoyed was the Arthur Miller play, "A View From The Bridge."

She took piano lessons as a kid and has a piano in her apartment. She confessed, however, that she has no time to play it these days. Classical music fills the air when you visit her in her ninth floor office. Beethoven, Brahms, and Verdi are her favorites.

Strossen may be one of the best looking female activists since Gloria Steinem founded Ms. Magazine. Indeed, Professor Strossen is not afraid to be a woman. Because she wears gold jewelry around her neck on this afternoon, she looks a little like Elizabeth Taylor in the movie "Cleopatra." Her rich hair and wide forehead do resemble a lioness. She has brilliant blue eyes, a dazzling string of pearly white teeth, a wide smile that creates a large crease across her cheeks, and fabulous legs.

Oh yes, those fabulous legs. Students remark about them every time they see her with Bill Maher or Pat Buchanan or any of those other celebrities she hangs out with on television. She said students used to rate her legs on their end of semester evaluations, but no longer do. "Maybe

students have become more circumspect," she mused.

Professor Strossen is nonetheless acutely aware of the fine line between being complimented and being hit on. She told an interviewer in 1995 that male students at New York Law School have propositioned her. Nonetheless, Strossen said that she had voted against the school's sexual harassment policy because it was a vague standard that ironically prevented real discussion of the legal issues surrounding sexual harassment.

Like Gloria Steinem, Strossen is patient, warm and gracious when you talk to her. She is quick to lavish credit on those who work with her, particularly her assistants Lara Meinke and Amy L. Tenney. Her recent article on religion

"We knew then when we hired her she was a star. She had already written several excellent articles and she had been active in Human Rights Watch. She was a true citizen academic who was going to make her mark. Not only is she a very clear writer, but her writing is thoroughly documented."

and politics published in the Fordham Urban Law Journal generously thanked NYLS students who helped in the research: Raafat S. Toss, Tenney, Theodore Davis, Rubeena S. Lal, Jaci Pickens, Andrew G. Sfougatakis, and Laura Haldeman. In addition, she usually throws a party for her students each semester in her Morningside Heights apartment.

And also like Steinem, her sensitivity is heightened by her Jewish roots and the ancient antagonism against Jews. In fact, Nadine Strossen is the daughter of a Holocaust survivor.

Her father, like the late German Chancellor Willy Brandt, grew up in Berlin and participated in anti-Hitler group organizations. Unlike Brandt, however, Strossen's father was arrested and ended up in Buchenwald. Fortunately, he was liberated by U.S. troops and came to the United States. While Brandt would become one of the most liberal leaders of the 20th century (initiating "Ostpolitik" and engagement with the Russians, going to Jerusalem to apologize for the Holocaust, becoming the first western leader to visit communist China), and Nadine would become one of the great American liberal spokespersons of the 20th century, Strossen's father became an arch conservative supporter of President Reagan.

Her mother, however, exhibited more progressiveness, joining the National Organization For Women upon its creation in 1965.

Because she had civil libertarian instincts early on, and because her father did not discuss his concentration camp experience until much later in life, Strossen plays down her family's background as an influence in her development as a civil libertarian. "What influences certain individuals are certain individual values," she said.

"I was constantly arguing with parents and teachers when I felt they were intruding on my rights or the rights of others," she said in a 1994 magazine interview.

Professor Strossen grew up in suburban Minneapolis where she was a state champion debater. Graduating first in her high school class, she denounced the Vietnam conflict in her valedictory speech.

Strossen spent the next seven years in Cambridge, Massachusetts, studying at Radcliffe and Harvard Law School. At Harvard Law School she was a member the Law Review and also met her husband.

She remembers vividly the cold January afternoon in 1973 when the holding in Roe v. Wade, invalidating abortion restrictions, was announced. "I was in this huge auditorium in the law school and a student came running in with the decision. The enthusiastic reaction from professors and students was overwhelming."

After graduation from Harvard Law School, Strossen returned home to clerk on the Minnesota Supreme Court.

Next, she practiced commercial litigation for eight years in Minneapolis and New York.

In 1984, Strossen began a teaching career at NYU Law School's Civil Rights Clinic. She came to NYLS in 1988 where she has taught Con Law I & II, Con Law and Appellate Advocacy, International Human Rights, and an Individual Rights Seminar & Workshop. She also helped to found an ACLU chapter at NYLS.

Strossen obviously likes teaching and being around students. "I put teaching my classes first," she said.

Professor James F. Simon, NYLS Dean when Strossen arrived in 1988 and a prominent biographer of Justice Douglas, said, "We knew then when we hired her she was a star. She had already written several excellent articles and she had been active in Human Rights Watch. She was a true citizen academic who was going to make her mark. Not only is she a very clear writer, but her writing is thoroughly documented."

Professor Strossen has received numerous honorary degrees and free speech awards. She has twice been listed by the National Law Journal as among the "100 Most Influential Law-

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yers in America." Understandably, Professor Strossen serves on the Boards of Directors of many human rights organizations. Among them are Human Rights Watch and the National Coalition Against Censorship. She is also a member of the prestigious Council on Foreign Relations.

In 1991, Strossen was elected president of the 275,000 member American Civil Liberties Union on the second ballot. She beat out three other candidates, also women.

The ACLU presidency is an unpaid position. It demands an enormous amount of time on the road. Strossen seems to find this invigorating. "I love to travel," she said. "I never get jetlag."

Republican court-packing in the last quarter century has changed the ideological leanings of the Supreme Court, and it is much harder to get the Court to hear civil liberties cases. The ACLU has reacted by shifting much of the focus from litigation to lobbying. Originally, the ACLU had only two lobbyists walking the Washington corridors of power. At last count there were 14.

Shortly after her election, Professor Strossen told *The Washington Post*, "Selling the Bill of Rights is not always easy, even on its 200th Anniversary."

Yet the ACLU seems to prosper when Americans feel their liberties are in danger. The election of President Ronald Reagan in 1980, whose political career had been largely shaped by a vigorous anti-civil rights position and who once suggested University of California protesters should be shot, prompted the ACLU membership to skyrocket from 150,000 to 200,000 members. The ACLU's membership made another dramatic increase during President Bush's 1988 bashing of Governor Michael Dukakis as "a card carrying member of the ACLU," adding 50,000 new members.

ACLU membership also rose dramatically during former White House Counselor and Attorney General Edmund Meese's attacks on the judiciary, during the nomination of Robert Bork to the Supreme Court, and during the 1991-1992 period when many feared *Roe* would be overturned, according to Strossen.

Strossen noted ironically in 1991 that, "People who brag about the fact that they'd never join the ACLU have no hesitation in contacting us when they're facing indictment."

"We are a nonpartisan organization," Strossen has said many times about the ACLU. "We defend people regardless of their politics."

Strossen remains friendly with her ideo-

logical adversaries. During a November interview in her office she spoke fondly of discussing the arts with actor Charlton Heston, known for his conservative political views, after they appeared together on "Politically Incorrect."

Professor Strossen met Justice Scalia in 1991 in Williamsburg, Virginia, when they appeared together on several PBS programs that

Strossen noted ironically in 1991 that, "People who brag about the fact that they'd never join the ACLU have no hesitation in contacting us when they're facing indictment."

focused on the 200th Anniversary of the Bill of Rights. They have remained friends throughout their debates. Scalia signs his letters and faxes to Strossen "Nino."

"We talk a lot about the opera and wine," she said. "Justice Scalia is an expert on wine."

Dining with Scalia has its advantages, Strossen confessed. "At a dinner once we were being served only coffee and tea. Scalia wanted wine. The waiters refused. Scalia insisted on wine. We got wine," laughed Strossen.

Scalia is probably more contented with the state of civil liberties in America these days than Professor Strossen. She lamented, "These are not the best of times for civil libertarians."

President Clinton, who posited himself as the guardian of middle class morality during the 1996 campaign by opposing gay marriages, introducing the V-chip to censor sex on television, and pushed through legislation regulating erotica on the Internet, "has been terrible on civil liberties in general," Strossen declared.

She recounted a recent conversation with *New York Times* columnist Anthony Lewis, who covered the worst witchhunt days of the 50s when Senator McCarthy's investigations chilled free speech in the United States. Lewis told her, "These last five years have been the worst in my lifetime for civil liberties."

Strossen said Lewis listed the Anti-terrorism bill with its denial of due process, the attacks on the independence of the judiciary by Republicans and Democrats alike, increased wiretaps, and video surveillance in parks by mayors at a time when crime rates have dropped significantly everywhere.

She is concerned but optimistic about the survival of race-based affirmative action. The next battleground in affirmative action cases is

universities, said Strossen, and the ACLU is presently engaged in defending several affirmative action programs on college campuses, including one at the University of Michigan that is likely to be litigated in the near future.

"Those who attack affirmative action start with a premise that the whole admissions process is completely objective, a scientific process where you can evaluate the merits by looking at their test scores and grades. And this is a mathematical formula. And the only deviation is affirmative action, and therefore it's reverse discrimination and impermissible. And we have to attack every one of those premises because every one of them is flawed," Professor Strossen declared.

Professor Strossen's unhappiness with the Supreme Court's direction on religious freedom, and her differences with Scalia's opinions in particular, are expressed in a separate article in this issue. She is, however, especially contented with Justice David Souter's jurisprudence and said last month with a big smile as she prepared to have lunch with him, "He's been very good, you know, for religious freedom."

The scapegoats of the politicians are always the same when it comes to civil liberties: The poor, the immigrants, the prisoners on death row, she said.

President Clinton, who posited himself as the guardian of middle class morality during the 1996 campaign by opposing gay marriages, introducing the V-chip to censor sex on television, and pushed through legislation regulating erotica on the Internet, "has been terrible on civil liberties in general," Strossen declared.

Clinton's "Don't ask, don't tell" policy on gays in the military "is based on the complete suppression of free-speech rights," Strossen told an interviewer several years ago.

She has criticized Clinton's support of the death penalty but gives him credit for supporting abortion. "To be fair to Bill Clinton, he's been very good on reproductive freedom."

Strossen is particularly distressed by Attorney General Janet Reno's record on individual rights. For example, in 1994 Strossen told *The Progressive*, a political magazine: "As a leader, I don't admire her [Reno]. I have to say that quite candidly...In her testimony before Congress on TV violence, she said that the various measures being proposed to restrict violent imagery on TV are constitutional. But they are not. To have our

Continued on page 33

Dear Dr. Joel...

Dear Dr. Joel,

I have a problem with an employee at work, lets call her Monique, first, I am married, she said that she wants to perform filatio on me, that is not the problem, as I do not consider that to be having sex. My problem is, now that I am through with her, how do I get rid of her?

- Slick Richie, Not my real name, Washington, D.C.

Dear Slick Dick,

First you light a Marlboro, then you should call Ted Kennedy and have him drive her home.



Dear Dr. Joel,

I have a problem staying awake in class. Whenever I go out, I have such a good time, I loose track of time and get home very late. What can I do?

- Dirty Rotten Stay Out, NYC

Dear DRSO,

First, you light a Marlboro. Then, always remember this, **IF YOU ARE NOT IN BED BY TEN... GO HOME!!**

Dear Dr. Joel,

For all of your responses, they start, First, you light a Marlboro. With all of the media attention saying that smoking is harmful to your health, aren't you worried that you might get cancer?

- Curious Jackie, Tennessee

Dear CJ,

I have been smoking since I was 6, and my lung feels great.

Dear Dr. Joel,

My girlfriend told me that I was inadequate in bed, and that I do not satisfy her. What should I do?

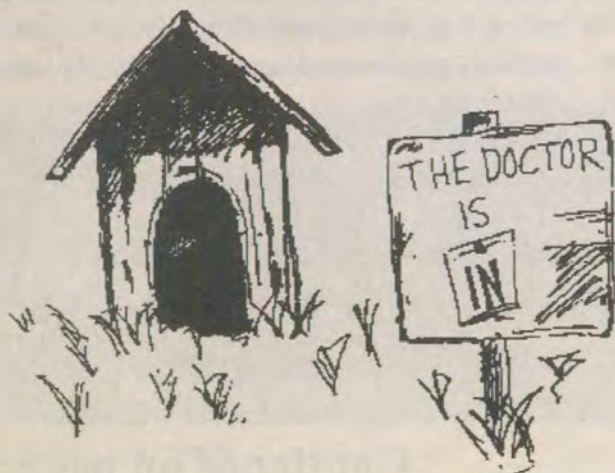
- Stubby, NJ

Dear Stubby,

First, you light a Marlboro. Then, you should go the World Trade Center, go to the 107th floor, and jump off, you loser.

Confused? Curious? Need Advice?, or just plain stupid? For a insight-

ful and sympathetic reply, send your questions to: Ask Dr. Joel, c/o The Reporter, 57 Worth Street, New York, NY 10013.



LIONESS, continued from page 32

are constitutional. But they are not. To have our top law-enforcement officer making that kind of pronouncement, I find deeply distressing."

Despite political attacks on the free speech right to see erotica by both liberal and conservative politicians, Strossen is confident that most Americans support the right to read or see whatever they want in their own homes.

Strossen calls the Supreme Court's rule on obscenity, "community standards" of the "average person," set down in *Miller v. California*, "in a word, absurd."

In her testimony before Congress on TV violence, she said that the various measures being proposed to restrict violent imagery on TV are constitutional. But they are not. To have our top law-enforcement officer making that kind of pronouncement, I find deeply distressing."

"That concept is so flawed," Strossen said firmly. "You have radically different standards in any household about who will watch TV and what they will watch. And how do you decide what the standards are in an apartment building much less a whole community?"

"And take cyberspace now that we have the Internet. Adult bulletin boards in cyber space have no context to local community standards."

Defending Pornography has thrown her into a full-fledged feminist war with Andrea Dworkin and Catherine MacKinnon over whether erotica necessarily exploits women.

Because Strossen is still young, she should be in the middle of many battles, on many civil liberties fronts, for a long time to come.

It is not hard to imagine Professor Strossen addressing your grandchildren, wearing a short skirt still, and repeating the words she addressed to *Playboy* several years ago: "As a professor, I have an obligation to be offensive... If I am to fulfill my responsibility to expose my students to all points of view, everybody should be offended by something that's being said. I'm talking about ideas, not personal insults. The notion that an idea or work of art should not offend anybody who happens to hear or look at it is absolutely appalling."



ing on as well. Some are benign and the landlord just doesn't bother to get a certificate, and sometimes they're not benign in that the landlord is harassing tenants to get them to leave. Generally, the landlord has several bad choices when trying to convert rooms: working around tenants, harassing them to leave, or paying them a lot of money to get out. It's not uncommon to pay \$10,000 to get a tenant to leave.

R **SRO units are subject** to rent stabilization guidelines which provide a level of protection above and beyond what everyone has under a normal landlord/tenant contract. The most important of these protections being that you can only be evicted for good cause, your lease is automatically renewed, and the rent that a landlord can charge for any SRO unit is regulated by the Rent Guidelines Board. Typically, rent in a rent stabilized apartment can only increase from 0% - 3% *per year*. To take a simple example: A rent stabilized apartment that rented for \$100 a week back in 1984 would now rent for \$120 a week. The actual amount of rent a landlord can charge for *any* rent stabilized room is on file with the Division of Housing and Community Renewal.

F Rent stabilization covers the property... it's nothing personal. So when you move into an SRO in a rent stabilized building, you become a statutory tenant. Your rights are covered by statute, particularly the Rent Stabilization Law. However, a *non-profit* housing organization is exempt from the rent stabilization laws. Non-profit organizations are typically something like St. Luke's Hospital nursing quarters or a church renting space to house church employees... or even a school like Columbia renting rooms for dormitory space. Non-profit organizations can sublet rent stabilized SRO housing and they're not obligated to follow the Rent Stabilization Laws. That means they can charge whatever they want for the rooms and they don't have to automatically renew tenants' leases. This is where Educational Housing Service and its claim to be a non-profit organization comes in.

R **Educational Housing Service**, in its capacity as a non-profit housing organization, "net leases" space in SRO hotels around the city, including the Henry Hudson in Manhattan (NYLS Dorms 1995-97). EHS typically net leases between 100 to 200 rooms in a hotel and then re-rents them to students from various city schools (NYLS being one.) In fact, *anyone* can net lease rooms and re-let them; the main difference being that a non-profit organization is not bound by the rent stabilization guidelines.

F What EHS does is approach a school and say if you need dormitory space, we have 200 units at such and such a place or, we can make a deal: EHS will go and rent 200 Rooms

RENT, continued from page 5

at the Henry Hudson, the Broadway American, the Stratford Arms and re-rent them to the school.

This is practical because the school can deal with uncertainties around enrollment, they can deal with high land costs, and they can deal with the long amount of time it takes to build dormitory space. An alternate solution for a school to using a non-profit housing service like EHS would be to just give students a list of hotels in the area and say "good bye, good luck." But realistically, that's a burden and not a selling point for the school.

Of course, there's no reason why the housing department itself couldn't do the renting and just assign students to those rooms. That way, the students would just pay the school for their rooms or pay the hotels directly. Now remember, if you or I were moving into one of those SRO rooms on our own, our rent would be governed by the Rent Stabilization Board, and our rent would be rent controlled or rent stabilized. But when a non-profit net leases fifty rooms and then has students live in them, because they are subletting the rooms for non-profit purposes, it's

You start with the option that is the easiest and least expensive and work your way up to try and control the vacant units. For example, At the Commander Hotel on 73rd street, new management has just come in and sent around a notice saying, essentially, "we don't think you live here."

a pretty good argument that they can charge whatever they want. A non-profit can charge the rent stabilized rate of \$600 or \$700 across the board, and recover the room on 30 days notice by bringing a holdover action against a student simply on the basis that their lease has expired... good bye, good luck, it's nothing personal. The hotel, if it had been in a direct relationship with a student, would not be able to do that. The hotel would have to charge the rent stabilized rate and presumably the student could live there forever as long as the lease wasn't broken. So net leasing is kind of a problem...

R So let me get this straight. "Net leasing" is kind of like "bulk leasing?"

F That's right. You would rent 100 rooms and re-rent them. Buy wholesale and sell retail. One of the difficult parts of this whole situation is that net leasing removes rent stabilized units from the low income housing market. We don't know the exact relationship between a hotel like the Henry Hudson and a non-profit like EHS, but they could be paying a higher rate to the owners or, for some bizarre reason, they could be paying a lower rate. The owners wouldn't really care because they're getting a higher rate of occupancy and EHS wouldn't care as long as they were making an adequate profit because the school, or the students placed there by the school, would be paying a *still higher* rate.

R So a non-profit company *could* be paying \$120 per week to the hotel for each room but charging the school or the student \$200 dollars a week and taking the profit.

F The numbers are not certain, but we think that there is a surplus. Of course, students do need to live somewhere, but this sort of bulk leasing removes from them unjustly the protections that any resident of those rooms should have... *and* they end up paying more rent.

So what has happened is that the West Side SRO Law Project has been skirmishing with EHS. It's certainly the biggest example of third party net leasing. EHS also plays an important role in another trend. There is a gigantic pressure in Manhattan to convert from permanent hotels to tourist hotels. There is so much money to be made from renting to tourists, that if you were the owner of a Manhattan residential hotel you would be a little crazy not to consider this seriously.

B The housing market in New York is certainly in the boom phase.

F Yes. Historically, there are a couple of different kinds of owners of residential hotels. There are owners who have two or three hotels who generally make profits by not providing much in the way of services and repairs, and there are owners with hotels where the rooms are pretty nice and the rents are higher than the legal rate...

sometimes they get caught, sometimes not.

Now, in making the conversion from a residential hotel to one aimed at tourists, there are a number of construction projects that you have to go through. Of course, doing major construction work around permanent residents is tough, so you have some options: You can concentrate the permanent residents in one place in the building or try to diminish the number of permanent residents. Essentially, you try to find ways, good or bad, to evict people, or if you want to work on floors 1 - 4 you would cluster the residents on the 5th floor and above.

You start with the option that is the easiest and least expensive and work your way up to try and control the vacant units. For example, At the Commander Hotel on 73rd street, new management has just come in and sent around a notice saying, essentially, "we don't think you live here." And this is like fishing. Some people truly are guilty and will move out. A more expensive option would be to move people around, clustering them away from the construction. Then there are buildings that are emptied simply on the basis of the construction work alone. The whole point of the construction work would be to harass the tenants.

R Jackhammers at six o'clock in the morning...

F Yes. And you wouldn't knock off

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JUDGE, continued from page 3

was *only* 10 cases." However, Samuels was quick to point out that most cheaters don't get caught, and that we may only be seeing the tip of the iceberg. Additionally, only cases that involve sanctions are reported; there are "others," but Samuels wouldn't say exactly how many.

This jump in number is attributable to the number of cases that arise at the end of the semester with final exams and papers. Samuels expected the increase, but had hoped it would be less than previous years. "The pattern seems to be the same numbers of the three past years. We have nine or ten cases." He was reluctant to discuss cases in any detail or to give opinions on issues relating to the ARC, as he did not want to give the impression that he was speaking for the ARC.

Professor Samuels then expressed his disappointment in the writing ability of NYLS students. When I asked him if students just don't know how to write a paper, he simply said "apparently that's true." "We have a large number of students who have not done much writing prior to law school... I think I learned in kindergarden that you don't copy. But the fact is students are not writing papers as much as they used to—they just don't have the sense, they don't know where to begin." He described his frustration with students who break the rules, "I'm not a psychologist, I'm not a sociologist, I don't know what's going on out there—and that's not my role." Samuels has a 'law & order' mentality, and he takes his position seriously.

Responsibilities of the ARC chair include contacting students and setting dates for meetings. Professor Carol Buckler is the factfinder and Ellen Ryerson is the secretary. These three hear most cases and reach settlements with the students before the entire committee hears the cases. Samuels said that the ARC works together well; after discussing the individual cases, they almost always vote unanimously (although only a majority vote is needed).

"I find that true of all committees at New York Law School," said Samuels. Any decision by the ARC requires the Dean's approval before it is made official, which "by no means is a rubber stamp." If the student wishes to have a hearing held before the entire committee, that is his or her right. However, cases rarely go this far

because the abbreviated committee usually proposes settlements based on past decisions by the full committee. In addition to Samuels, Buckler and Ryerson, the full committee includes Professors Robert Blecker, Mariana Hogan and Ann Thomas; students Ann Stallman '99 and Elizabeth Davis '98, and student alternates Ron Kloor '99 and Stanley Paylago '00.

Samuels said that most cases that come before the ARC are "wholesale plagiarism" cases; the lifting of language or ideas without attribution. All cases are damaging to the school, however, the cases most damaging the NYLS's reputation are when students attend the school under false pretenses.

Samuels said that the rules have been distributed several

times, but "the surprise is that students do not get the message or don't know the standard."

Samuels gave a stern warning to students. "To the extent that anybody at this law school thinks that cheating is tolerated and that it won't be reported and that nothing will happen, that is not true." Samuels does not hold the students who were caught cheating in a high regard. "In almost every case it [cheating] was

incredibly stupid. The defense is 'obviously I didn't intend to do it, I wouldn't be that stupid.'"

Lack of intent is a "major factor" in considering each case, but that determination is often extremely difficult. "Sometimes we have someone who is very convincing and we have to decide—is this person a really good liar or is this someone who genuinely didn't understand? And that's the hardest thing to figure out."

Possibilities discussed as the explanation for the rise in the number of cases in recent years included past underreporting of cases and a more competitive job market. He also suggested that when students see judges incorporate briefs into their opinions, they say that 'if judges can do it (copy), why can't I?' However, Samuels was skeptical of these suggestions. "My suspicion is that there is nothing new." He refused to speculate on possible reasons for the increased number of cases, claiming that he was not qualified to make a guess. However, after three years of involvement in these types of cases, I can't think of anyone **more** qualified to point a finger.

In fact, it would seem that the number of cases would actually drop with the lazziez-faire attitude of professors. "I guarantee you that we professors have enough work to do that we do not go around trying to find plagiarism. I don't think that we're find-

ing it [more plagiarism] because we're looking harder... we are genuinely perplexed by the amount [of cases] that we see."

Samuels said that he can't guarantee that the papers he grades are not plagiarized, but he can "sort of tell by looking at it if the student wrote it." He said that red flags are almost perfect papers, when "part of it looks too good to be true." He also expressed displeasure at the

"I guarantee you that we professors have enough work to do that we do not go around trying to find plagiarism. I don't think that we're finding it [more plagiarism] because we're looking harder... we are genuinely perplexed by the amount [of cases] that we see."

institutions that sell and exchange papers by subject. "I have been tempted to go online and pretend I'm a student writ-

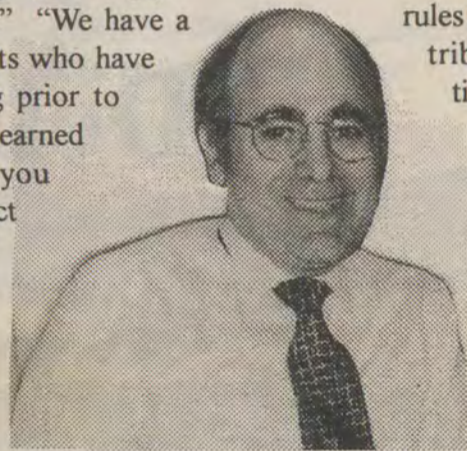
ing a paper and see what's available and find out if that's what I'm getting."

When asked if he thought law students cheat more now than when he went to law school, Samuels was unsure. "When I went to school I had no idea what other students did—the reputation was cut-throat; that half the time you went in the library the books wouldn't be there, or pages would be missing, or the people would reshelve, or get attorneys to write for them... But I never saw it as a student. My suspicion is that most of it was paranoia."

Most law schools deal with the problem similarly. "In each case the report released becomes part of that student's permanent file." These files are sent to state bar review committees when students apply to a state bar. Samuels doesn't know how the reports are reviewed by the bar review committees, but he feels that, "if we graduate them, I think the message is ultimately that there's no reason the student shouldn't become a member of the bar."

The ARC always fills out a report unless there is doubt about facts. The procedure might be different at other law schools, but NYLS does not contact other law schools to compare procedures or share successful strategies. This creates a closed and unchecked environment at NYLS. "If we find something we will report it. There might be some schools that would not report everything; as far as we are concerned, any school that doesn't report it is not doing what they are supposed to do."

Each violation can bring a broad range of remedies, which is within the discretion of the ARC. This seemingly overbroad discretionary range is one possible change at which the ARC is currently looking, and apparently it has made a group of students angry enough to resort to litigation.



Professor Edward Samuels

"In almost every case it [cheating] was incredibly stupid. The defense is 'obviously I didn't intend to do it, I wouldn't be that stupid.'"

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ACTION, continued from page 9

believe the government should tell Harvard what they can or cannot do.”

In defending Affirmative Action, Professor David Gregory termed the chipping away of Affirmative Action “a slippery slope” that would erode the legacies of not only the fight against racial discrimination but other government programs that have assisted one group or another, such as Veterans preferences and athletic scholarships.

Michael Myers, in contesting the assumption that a level playing field no longer requires Affirmative Action or any other race-based remedy, said “the truth is uncontested” that racial discrimination against blacks still requires “an effective remedy.” And Myers disagreed firmly with Greve’s prediction on the future of Affirmative Action. “Affirmative Action is not dead,” Myers declared.

Deborah Small said she did not even know why there was a debate about Affirmative Action because less than one percent of partners in a law firm were minorities and therefore its need was self-evident.

Criticizing the political and legal trend away from Affirmative Action, Small said, “The advances that facilitated me to go from where I was to where I am are closing to my son. As those doors are closing, the prison doors are opening.”

Panelists on both sides of the debate were sympathetic to the idea of Affirmative Action based on income instead of race.



RENT, continued from page 34

on weekends. You would not only work 9 to 5. The purpose of the work would be to get people to leave. There are other ways as well. It would be normal to move in the craziest people onto a floor where you’re trying to get people out. In one of the hotels I’m working with, that’s the case. Who wants to share a bathroom with someone who, in this particular case, pisses in the tub on a normal basis because he’s mentally infirm?

R How does this relate to EHS as a non-profit housing organization?

F Well, one of the things that’s going on in clearing out a building is that you’re losing revenue. You have a lot of vacant units. So an organization that can net lease 40, 50, 150 rooms for a short period of time is very valuable because of the great flexibility. You can plan that as of May or June everyone is going to be off a particular floor and you have income right up until that time. You can get right up to your construction date with money.

R And immediately after the construction date you’ve got vacancies.

F Right. So the dangers that are facing the long term residential SRO housing market, which are rightly or wrongly added to by schools using SRO hotels as temporary fluctuating dormitories, is sort of compounded on another level by the existence of something like EHS, which net leases as if it were a school, but which we believe is not really a non-profit; that it enriches the owner of the organization and should not be exempt from rent stabilization. Rent through them should be covered by rent stabilization and the tenants should have the same sorts of protections and stability that other SRO tenants enjoy.

GENERATION, continued from page 11

In May 1997, in an unprecedented move, the Swiss published a list of dormant accounts. The list was formulated from five Swiss bank’s records. It included names of high ranking Nazi officials but failed to include any account where there were any previous inquiries, i.e., accounts belonging to the survivors who suspected and knew they owned accounts in Switzerland were omitted. Upon reviewing the lists it was apparent that there were no Eastern European Jews listed in it.

On October 29, 1997, a second list was made semi-public, but was not available for review. Only those who inquired about the first list may ask the Contact Office of the Swiss banks if their name is on the second. Scrutiny of the records by the public was severely curtailed because the Swiss received complaints of invasion of privacy. As a result, it is becoming more difficult for heirs of the accounts to obtain pivotal information.

It has been suggested that if the heirs can not be located then the unclaimed assets should go to charitable Jewish organizations. This is another brand of theft upon a culture that is desperately trying to maintain an identity. The Holocaust created a civilization that has been banished permanently from the rest of the world. Not only have they survived a man-made hell but they are constantly experiencing the psychological and emotional repercussions. Their experience should not be disgraced any further by making donations.

Together, my grandparents survived the war, but left behind my ancestry. The search for the accounts has opened my family to sharing

and remembering my grandparents’ remarkable lives before the war. Astonishingly, they have been ignited with a fierce sense of hope and a spirited continuation of life. After half-a-century of mourning, my grandparents are now accepting happiness, feeling honor in the name of the family they created, and pride in their legacy. Overall, the survivors in their waning years are finally emoting a desire to live and to share and pass on their memories.

As for me, I have gained a natural affinity and connection with my ancestors. While I am developing a greater understanding of the depths of the Holocaust, my family’s dream of one day claiming our account is transcending into a reality. However, history wears a guise and therefore, I would not be surprised if the truth that is so close will continue to elude us.

As a lawyer, how do you sift through the gruesome facts, fly the Swiss the Bird, and simultaneously serve the ends

of justice?

My Grandmother finds it remarkable that throughout the war death chased her and somehow she found life. To her reclaiming the actual possessions in the name of her family is not nearly important as vindicating the fact she did exist in a life long past.

Special Thanks To: My Grandparents, Larry, Gail & Valerie Litman, Trisha Cartelli, Courtney Ginsberg, Alon Israely, Jennifer Lukoff, Luis Rosas

The Holocaust created a civilization that has been banished permanently from the rest of the world. Not only have they survived a man-made hell but they are constantly experiencing the psychological and emotional repercussions.

LAW, continued from page 13

The brief then goes on to offer the words of some of the physicians themselves: "Woman is badly constructed for the purposes of standing eight or ten hours upon her feet. I do not intend to bring into evidence the peculiar position and nature of the organs contained in the pelvis, but to call attention to the peculiar construction of the knee and the shallowness of the pelvis, and the delicate nature of the foot as part of a sustaining column."

"The knee joint of woman," Dr. Ely Vander Warker goes on to say, "is a sexual characteristic."

Here are the words of Havelock Ellis, who supported equal rights for women: "In strength as well as in rapidity and precision of movement women are inferior to men. This is not a conclusion that has ever been contested. It is in harmony with all the practical experience of life... as well as with those investigators... who have found that, as in the blood of women, so also in their muscles, there is more water than in those of men... the motor superiority of men... is, it can scarcely be doubted, a deep-lying fact. It is related to what is most fundamental in men and in women, and to their whole psychic organization."

Finally, although he admits that women "can do light work equally well," and "are steadier in some respects," he concludes, "There appears to be a general agreement that women are more docile and amenable to discipline... [and] are often absent on account of slight indisposition, and they break down sooner under strain."

Based on such testimony, the Supreme Court held that protective legislation was justified because: "...woman's physical structure and the performance of maternal functions place her at a disadvantage in the struggle for subsistence... this is especially true when the burdens of motherhood are upon her. even when they are not...continuance for a long time on her feet at work, repeating this from day to day, tends to injurious effects upon the body, and as healthy mothers are essential to vigorous offspring, the physical well-being of woman becomes an object of public interest and care..."

During the new deal period and thereafter, many women in the labor movement fought "for women;" Fighting especially for equal wages, but also for greater equality in the private sphere of home and family. Throughout the 1940s these women fought for and, especially after the war work of "Rosie-the-Riveters," won state legislation mandating equal pay. Eventually, Congress in 1963 created a national equal pay requirement in the equal pay act.

And then there was the glorious inclusion of women in Title VII of the Civil Rights Act. As you may recall, the word "sex" was a last minute addition to the act by representative

Howard W. Smith of Virginia, who sought to defeat the act by its addition. Introduced with mock seriousness, he read into the record a letter claimed to be a constituent letter, complaining about the lack of available men and asking Congress to stop sending men to war so that spinsters could find nice husbands. Smith was quiet about his and his allies' opposition to the equal pay act only months earlier.

His ploy backfired. After his Amendment passed 168 to 133, based on an unlikely coalition of southern bigots and women's rights advocates, the Civil Rights Act became law, and women gained protection against discrimination and harassment.

The social activism of the 60's, especially the civil rights movement, launched the late twentieth century feminist movement, with its successive "waves". Its foremothers and forefathers were black women and men of the south, who taught us how to fight for equality, and what true citizenship means. That generation of 1970s

The women we need to be "for" are mothers: Castigated as lazy if on welfare; earning below the poverty level when lucky enough to have a paying job; and villified in that case for leaving her children in substandard childcare, if she's lucky enough to have that.

feminists not only made room for you in the legal profession, but revolutionized your lives. They gained for you more equal status within families; enabled you to avoid lives of unwanted pregnancy, and enabled you choose the kinds of lives you want to live.

They - including our current Supreme Court Justice Ruth Ginsberg - fought for and won not only Supreme Court victories like Reed v. Reed, Hoyt v. Florida, Roe v. Wade, Meritor v. Vinson, and numerous others (along with some amazing losses like Gilbert, which led to passage of the Pregnancy Discrimination Act), but also won practical victories like greater equality in women's sports (there are as many girls in my daughter's soccer league as boys, quite a change from my youth), greater recognition of women's sexual nature (a euphemism for recognition of the clitoral orgasm), and greater valuation of women within families and society generally.

1970s feminism was also a lot of fun. At Rutgers Law School, where I spent 1970-74, we kidnapped the yearbooks when they featured our LAW opposite a full-page photo of a topless dancer from a local bar; we plastered the walls one day with stickers featuring meat cleavers that said "emasculate the law"; we had women's self-

help medical groups blockade the law school lounge while they taught us how to do vaginal self-examinations. We founded a women's litigation clinic that now celebrates its 25th year, as well as the first women's law journal - called the Women's Rights Law Reporter.

So why do we still need a Legal Association "for Women?" - aren't the battles largely won? What does it mean for you to be "for women" today?

Few of you will become congresswomen. Few will become general counsels of agencies; still fewer, of corporations. And few will become judges on appellate benches.

But I think that to be "for women" today, means something much more than fighting the glass ceiling for greater professional equality. To be "for women" today means fighting not merely the glass ceiling, but the class ceiling.

Because if we are for women, we need to be for all women. And in today's world, and for the likely future unless you get involved, a lot of women are hurting badly. The vast majority of women worldwide are poor, most are extremely poor. When I was planning to speak on globalization as a feminist issue, I wanted to talk about the global feminization of poverty, and how it will likely increase as a result of treaties that have been and are currently being negotiated and renewed.

To be true to the heritage of women who paved the way for us means, I think, being for the women left behind as some of us have moved slightly out in front. To be "for women" entails thinking about the devastation being wrought by so-called welfare "reform." It means thinking harder about national health care - and making room for serious debates about single-payor plans, rather than merely ways to expand choice for the well off.

It means looking hard at the nature and practices of the corporations you may represent; and thinking hard about whether you want to be lobbying for more corporate welfare when so many women lead bare subsistence lives. Indeed, it means giving some thought to what it means for democracy and women's equality that corporations, which are by nature undemocratic, control more wealth and wield more power by far than many nation states.

Women surely have come a long way since the days of Myra Bradwell. but some women have come a lot further than others. And for a movement launched in the name of equality, that is unacceptable. Our task for the 21st century should be to be "for women" by sharing our gains with all of our sisters.

RELIGION, continued from page 27

to were his "textualist" theory of jurisprudence, with an emphasis on tradition and history, which he did not invoke in either Smith or Boerne, and Scalia's belief that Christians in the U.S. are "embattled."

Strossen addressed the issue of whether Christians in the U.S. are "embattled" in a section of her Jewish Theological Seminary address entitled "The Myth That Christians in the U.S. Today Suffer Systematic Discrimination." She wrote, "In the United States, Christians in general, and evangelical Christians in particular, hardly face the systematic persecution that members of other religious denominations have suffered at various periods in U.S. history and in particular parts of the country."



ACLU PRESIDENT: NADINE STROSSEN

"So you can't stand up and pray to Jesus at the top of your lungs in the middle of math class any more than you can stand up and denounce Jesus at the top of your lungs in the middle of math class. But you're certainly free to pray to Jesus silently before the math test begins."

Professor Strossen also addressed the myth that students may not pray in public schools or that religion has "been purged from the public schools altogether," both in her article and in a recent interview.

"Prayer is completely permissible in public schools in many contexts and circumstances," Strossen said in the interview.

"One can start with this proposition: that students are free to engage in religious expression, including prayer, to the same extent that they may engage in other expression. The basic framework was set out by the Supreme Court in Tinker v. Des Moines Indep. Community Sch. Dist. [393 U.S. 503] in 1969, when they said students may engage in expression except if it constitutes a material and substantial disruption of the educational process or it interferes with the rights of others.

"So you can't stand up and pray to Jesus at the top of your lungs in the middle of math class any more than you can stand up and denounce Jesus at the top of your lungs in the middle of math class. But you're certainly free to pray to Jesus silently before the math test begins.

"And the Supreme Court has also recognized that to the extent that schools allow students to congregate for the purpose of forming clubs or having discussions about any topic then they may not discriminate on the basis of the religious nature of the topic. Therefore, prayer clubs

have been permitted at public schools, either before school, after school or during extracurricular periods during the school day.

"Teachers would be allowed to engage in prayer to the same extent that they would be allowed to engage in other expression, ie. in the teachers, lounge, during their offtime," Strossen said.

Under the Constitution's framework, prayer in public school comes under the umbrella of the First Amendment's Establish Clause, whose central purpose is to ensure governmental neutrality in matters of religion.

"There has been so much misunderstanding about the extent to which one can engage in religious expression in the public schools," Strossen said, "misunderstandings as to supposed pronouncements by the Supreme Court banishing prayer from public schools, that a very broad coalition of civil liberties organizations and religious organizations got together about two and a half years ago now to put together an agreed upon statement of what the current law is on the relationship between religion and the public schools.

"Many of us disagreed with each other as to what the law should be, we were on opposite sides of many of the cases that we were describing, but we all agreed on what the law currently provides and we also all agreed that there is a woeful amount of ignorance out there on the part of public school officials, teachers, on both sides of the neutrality that is mandated by constitutional principles, that is that religious expression may be neither be favored nor disfavored by the government, including public schools.

"So you have instances of public school officials not knowing that you can't have teacher led prayer in the public schools. But we also have instances of teachers not knowing that students may pray silently in the lunchroom," she said.

BREAKFAST, continued from page 15

Greenburg's demise, when some of those doing the looking are also those that provide Legal Aid with the funding it needs. Greenburg is trying to stay off a situation where his attorneys are representing, as he puts it, "poor clients during mean times."

Greenburg concluded by stating the obvious. Mean times come and go, and always have and will. From the time of slavery in this coun-

Greenburg holds society to blame when the ugliest forms of humanity seep from our culture and he believes it is noble to do so.

try, through the depression, cold war politics, civil rights violations, down to the prejudices that exist amongst all of us today, great legislation has always followed, replacing our inconsistencies within the realm of fair play with substantial policy and law.



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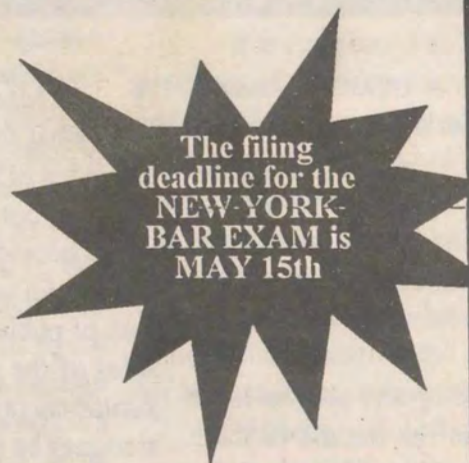
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