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# The New York Law School Reporter, vol 7, no. 7, December 1989

New York Law School

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# The New York Law School REPORTER

Vol. VII Issue VII

It's News To Us

• December 1989

## DNA: Medical Mischief in the Making

By Michael Bressler

On Wednesday, November 15, Phi Alpha Delta fraternity presented a panel discussion on DNA "fingerprinting" and testing.

Professor Eugene Cerruti of NYLS served as moderator. He introduced all the speakers and gave background information on the legal issues of DNA testing and the facts of the landmark case, *People v. Castro*.

The Hon. Gerald Sheindlin of Bronx Criminal Court gave exhaustive details of the *Castro* case, which he presided over. The case involved the use of DNA fingerprints to match a blood sample on defendant, Joseph Castro's watch with his al-

leged victim, an eight-month pregnant woman, who was raped and stabbed over eighty times (her two-year old daughter was also killed). Using standards of the 1929 *Fry* case, he proposed a "three prong test" for DNA evidence: 1. Is there a DNA test? 2. What is the theory upon which the test is based? 3. What techniques are to be used to interpret the results of the tests? The test involve comparing two samples of DNA to see their respective migratory behavior. The blood sample had been contaminated so the DNA evidence was inconclusive. Castro subsequently pleaded guilty to the charges.

Prof. E. Donald Shapiro of NYLS was uncharacteristically brief and self-effacing during his segment. He spoke in general

terms about the danger of reliance on DNA evidence. Prof. Shapiro warned that scientists might replace judge or jury as truth finders, given the overwhelming persuasiveness of a positive DNA identification. Public authorities, like the FBI, would want to set up a data bank of DNA profiles which might contain information such as propensity for disease, obesity, etc. The professor closed by issuing three warnings: 1. DNA testing is being rushed, without adequate understanding and methodology. 2. DNA is for identification not guilt, eg. a person may be on the scene but not the perpetrator. 3. A data bank containing a populations genetic characteristics is a distinct possibility and a grave threat to our right to privacy.

The next speaker was Peter Coddington, Deputy Chief of the Appeals Bureau of the Bronx DA office and co-counsel for the prosecution in *Castro*. Mr. Coddington had the unenviable position of defending DNA testing by authorities such as police and prosecutors. He favored testing not just to identify criminals, but more importantly to rule out innocent suspects. This was particularly helpful in an area as crime infested as Bronx County. Mr. Coddington agreed that DNA use should not be rushed, but felt strongly that it was the wave of the future. He did not share Prof. Shapiro's concern about a potential threat to privacy, saying safeguards can be put in place.

*con't on page 5*

## EEC Ambassador Visits NYLS

by Anthony S. DiNota

Ambassador Jean-Pierre Derisbourg, Head of the Delegation of the Commission of the European Communities (EC) to the United Nations, was the recipient of the 1989 Otto L. Walter Distinguished International Fellow and presented his lecture "Beyond 1992" to the New York Law School community Monday, November 13, at the Froessel Reading Room.

The European Communities is the collective designation of three organizations with common membership: the European Economic Community (frequently referred to as the "Common Market"), the European Coal and Steel Community, and the European Atomic Energy Community. The twelve full members are Belgium, Denmark, France, West Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, and the United Kingdom. In 1987, these democracies enacted the Single Europe Act, through which member states have sought to eliminate all internal commercial, financial, and customs barriers, giving themselves a deadline of 1992.

Ambassador Derisbourg stated that this one single market would allow for the free movement of goods by eliminating taxes, allowing persons to move freely from one country to another in search of work, and creating one level of qualification for workers and one standard for products. 1992 will also bring about an integration of services, such as banking, insurance, and data processing. This demands that

capital also move freely.

The Ambassador said that the switch to a single economic unit would allow Europe to improve its trade with the United States and Japan, providing for greater reciprocity. He also said that the economic integration of 1992 was not an end, "but a necessary condition" toward a political union. He compared Europe in 1992 to the United States after the Civil War (one of several comparisons to the U.S.), and recalled the goal of the States to establish a commanding federation.

As for "Beyond 1992," Ambassador Derisbourg envisions a single common currency; the creation of a European equivalent to the Federal Reserve Bank; and a common line of defense, which he believed would not substitute for NATO, but would be a force with the United States and the Soviet Union, and thereby an essential part of any negotiations between the superpowers. He also spoke of a common language and a common constitution.

Currently, Austria and Turkey have applied for membership into the EC, and the Ambassador stated that they, as well as any other European democracies, would probably not be accepted until after integration in 1992. The rapidly changing political climate in Europe opens up the possibilities for new future members, and the Ambassador said that the EC would not deny entrance to countries converting to democracy, pointing out that East Germany is already a trading partner with West Germany.



Dean Simon admiring Ambassador Derisbourg's diplomatic acumen and savoir faire.

## Black Leter Law For Whites Only

By Lawrence Siry

New York Law School has long been recognized as an "Urban Law School." NYLS is a school in a major urban center, that has made a commitment to paying special attention to the issues and problems that effect city dwellers. Here member of the community participate in the ever-growing dialogue that is "the Law" or "Legal Thought."

As of late, this reputation and commitment has been tarnished due to the drop in African-American enrollment at NYLS. IN the entering class of 1992, African-Americans make up a mere 1% of the enrollment. New York Law School does not reflect the population of a city with an incredible ethnic diversity, but rather, a city of upper middle class whites.

As one NYLS alumni noted, the School resembles an Urban Law School not in New York, but rather, in Johannesburg.

NYLS is not alone in this respect. Last Spring, the students at UCLA's Law school (Bolt Hall) held student strikes to address

concerns over the lack of minority representation, in the student body, the faculty, and at the Board of Directors. This Winter, the National Lawyer's Guild, the Black Law Student Association, The Asian Law Students Association, gay and lesbian groups, women's organizations, and other concerned student groups from Law schools around the country, will be meeting in New York to discuss strategies that will improve minority representation.

Here at NYLS, Kevin Downey, (director of Admission) explained the drop in minority representation and NYLS's minority admissions policies. While NYLS does not use minority quotas (something prohibited in *Bakke*), the school does have goals for minority representation. Usually Admission "shoots for" roughly 15% minority representation, split between Latinos, Asians and Blacks. According to Downey, the students who enroll, usually reflect these goals. This year, while Latino and Asian representation reflected

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## The Gripes of Worth

To the Editor:

We are 2nd year full-time day students and on behalf of our fellow classmates and ourselves, we would like to express our disappointment with the administration regarding the Spring 1990 Scheduled of classes.

First, why are there 58 evening electives and only 38 day electives? A restriction in the number of day electives causes substantial problems in scheduling. Taking into account the limitations put on day students to register for evening classes (day students may only register for one evening class), the possible danger in walking to and riding the subways late at night, and the inconvenience of waiting around for a 6:00 p.m. or 8:00 p.m. class, when many of us have been in school since 9:00 a.m., how is a student to take classes he or she needs or prefers? Day students chose the day division for a variety of reasons. At the minimum, a more extensive day elective selection is needed.

Second, strongly recommended ("required") courses, such as Evidence, and Wills, Trusts and Future Interests should not be offered only once. This results in overcrowding and an overwhelming number of dissatisfied students being closed out of courses. The simple addition of another class of the same course would be helpful.

More day electives and additional offerings of "required" courses are needed to alleviate the inequity and inflexibility inherent in the current schedule. Thank you.

Karen Emma  
Anthony Juliano  
Amy Kriegsmann

### Editor's Response: Your Prayers Have Been Answered

The SBA Senate has formed a subcommittee to compile students' complaints about class and exam scheduling and forward them to the school's administration. Although this group does not expect to be able to clear up the bottlenecks created by next semester's class and exam schedules, it has been organized with a view to providing better-balanced schedules in semesters to follow. Representatives of the subcommittee will meet on an ongoing basis with the Office of Academic Affairs, to present students' concerns and consider solutions.

If you have any specific complaints, comments or suggestions about next semester's schedules, or about class and exam scheduling in general, please submit them in writing to the subcommittee, via the box provided outside the SBA office, or speak to a subcommittee member in person.

*Note to 1st Years:  
Don't Worry,  
Be Happy.  
This too shall pass.*

## Christmas Comes Early to NYLS

Early to bed; early to rise; can make a man wealthy if that man happened to know of the financial aid give away that took place. Tuesday, November 14, 1989 beginning at 9:30 am.

It has been reported that about 25-30 students started lining up at 8:30 that morning in hopes of receiving some of the \$15,000.00 of excess funds that the magnanimous financial aid department found itself in possession of this far into the semester. The policy in force that day: first come first served as long as you had a complete file and unmet need. Certainly, there are more than 25-30 students with unmet need. There was no consideration given to the neediest and the scheduling eliminated the participation of evening students.

Many of you, we are sure, are wondering what the hell we are talking about. According to Gerald Collins, Director of Financial Aid, you should all know. Mr. Collins claims that fair notice was given to students. That on Saturday, November 11, 1989 an official flier was posted or distributed. The actual manner in which the flier was handled remains quite vague. After performing a little survey work, we have yet to find a student that saw the flier. Those who were fortunate enough to benefit from the giving spirit of the holiday season (which we guess began on Veterans Day for the financial aid office) seem to have heard the news from a friend which no one wishes to identify.



## Boycott the Sham Constitution

by Leon Greenberg

All New York Law School students will soon be asked to approve a new student bar association (SBA) Constitution. You should boycott the referendum (which has the same force as voting no because the constitution must be approved by two-thirds of the entire student body, not just the students voting). The referendum proposes:

1) That there is no limit on freevoting proxies at SBA Senate meetings. This means certain individuals can attend SBA meetings and vote three, five, eight or more votes by proxy. This destroys any shred of democracy. The people who give these proxies have no idea what is being done with their votes. In fact, the current SBA constitution can be interpreted to allow an SBA senator to never come to a single meeting and continually give his vote to someone else!

2) That only those persons who have served in the SBA in some capacity for one year are eligible to run for SBA president! That's right, not just any student can qualify to be SBA president. The point of this rule is to look out for all the current SBA members, so they will be the only ones able to qualify! The SBA Senate, excluding this writer and the Evening Division Vice President, Glen Miller, supported this rule on the ground that the

Student Body needs to be protected from "inexperienced leadership"! How terribly altruistic of the SBA Senate!

3) That the proposed SBA constitution forbids the closing of SBA meetings to members of the Administration. That's right, even if the SBA wants to hold a meeting and allow only students, not administration members, to attend it *can not* under the proposed constitution! (You might also like to know that your tuition dollars help pay the salary of an Administration member who attends all SBA Senate meetings, but that is another story . . .)

The foregoing issues were brought before the SBA Senate by this writer. I requested that the merits of the various issues not be debated, rather that the three above issues be put forth in separate amendments to be voted on individually by the student body. True to its self-serving nature, the SBA Senate refused to allow these amendments to be voted on by you, the very people most affected!

Show the SBA you care about democratic principles and effective student government by boycotting the referendum. Once this sham constitution is rejected by the students, the SBA will have no choice but to propose a fair and democratic constitution to the students. It is up to you!!!

## Personals:

"Met" you on 11/15/89 at NJ-Path Harrison. You held civil procedure book, I had briefcase. Call me. (201) 731-3220  
Duquesne Lawyer.

THE NEW YORK LAW SCHOOL

REPORTER

TOP DOG  
EVAN AUGUSTINIATOS

PURSE STRINGS  
DIANE WOLFSON

MANAGEMENT  
DILIP MASSAND, BRADLEY SHAW, SHIRLEY WONG,  
DAREN DOMINA, DAN MUALLEM

HUMAN RESOURCES  
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MARY LEE JENKINS, FRANCIS CHAN, BILL BISCHOFF, BARRY BLOCK  
and JACQUES MILHOMME-resident homeboy—in full effect.

TED ZAFIRIS—Good luck, we'll miss you.—C102

THE REPORTER invites interested parties to submit columns, letters, articles, criticisms or suggestions to: The Managing Board, THE REPORTER, 57 Worth Street, Room C-102, New York, N.Y. 10003. Telephone: (212) 431-2117.

THE REPORTER, which is published periodically during the academic year, has an opinion column entitled "VIEWPOINT." Persons interested in submitting a written opinion for this column should label it "VIEWPOINT" and submit it to THE REPORTER. THE REPORTER reserves the right to edit all material accepted for publication.  
College Press Service Subscriber.

# Student Bar Association Responds to Scheduling Controversy

By Daren R. Domina

In response to the dissatisfaction expressed by students over the Spring 1990 class schedule, the NYLS Student Bar Association formed the Registration and Scheduling Advisory Committee on November 16. This five member committee is composed of SBA senators representing first-, second- and third-year day students, midyear students and evening students.

Citing specific problems in the schedule, the committee has drafted a formal grievance which was sent to administration the week of registration. The grievance expresses various policy considerations which should be addressed during the scheduling process. The committee will also meet with Stephen Goot, Assistant Director of Academic Affairs, who is primarily in charge of the scheduling, to discuss student concerns and to offer student input into the drafting of the Fall 1990 schedule. Although recognizing the many factors that must be considered in drawing up the class schedule, the committee feels hopeful that improvements can eventually be implemented.

According to Associate Dean Donald Ziegler, it is highly unlikely that any changes will be made to the Spring 1990 schedule primarily due to time constraints. Dean Ziegler, however, is supportive of any formal mechanism to allow student input into the scheduling process.

Stephen Goot is also very supportive and feels that student input early enough in the process can go a long way towards minimizing scheduling problems and conflicts.

The SBA urges student input. For the sake of expediency and efficiency, however, student complaints or proposals should be addressed to the Registration and Scheduling Advisory Committee and not to Stephen Goot.

Members of the subcommittee are:

- Brenna Mahoney — 1st year
- Daren Domina — 2nd year
- Bill Kasten — mid-year
- Glenn Miller — evening
- Brian Berk — 3rd year

# Placement Office Gears for 1990's

by Daren R. Domina

Change seems to be the "buzz-word" at New York Law School this semester. Recent activities of the Placement Office are illustrative of this schoolwide administrative movement towards reorganization and improvement. The Placement Office, under the direction of Suzanne Baer and Hillary Mantis, has instituted a variety of programs this semester to improve what are felt the most pressing deficiencies in the present services offered by the office.

The aim of this ten member committee, composed of concerned second- and third-year students and chaired by Hillary Mantis, is to focus student complaints into concrete solutions. The committee has drawn up several proposals that are hoped to be implemented by next year.

The office is also "cleaning house." All of its present resources are being examined and updated. Old information, now considered useless, is being discarded and new resources are being added. The Placement

*"Students need to realize that Placement is not here to get them a job; it's a resource service and facilitative tool to help students find jobs for themselves."*

Since many of Suzanne Baer's activities take her out of the office, former attorney Hillary Mantis, who started with the office this August, has provided the major impetus for many of the proposed improvement programs. For example, a new program for first-years is presently being implemented whereby every first-year is given an opportunity to meet with a counselor and a chance to acquaint himself/herself with the office's available resources. Because of time constraints, day students have appointments this semester and evening students have them next semester. If needed, however, evening students can make an appointment to see a counselor this semester.

In an effort to respond to student grievances, Placement has recently organized the Placement Office Advisory Commit-

tee. The Placement Office has also hired former "head-hunter" Danielle Aptekar as a full time counselor to replace the recently resigned Al Bassetti. A newsletter, the *Placement Office News Briefs*, is printed periodically to inform students of upcoming programs, new office resources, and job hunting strategies. Recent developments are also posted on the Placement Office bulletin board, located next to the student organization mailboxes in the student lounge.

The Placement Office believes that students need to realize that Placement is not here to get them a job; it's a resource service and facilitative tool to help students find jobs for themselves. Although hampered by budget and other administrative constraints, the Placement Office recognizes its problems and is making serious efforts to reorganize and improve.



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# Faculty Advisory Committee Proposes Curriculum Changes

by Daren R. Domina

The Faculty Advisory Committee, chaired by Prof. Donald Rothschild, is finalizing its recommendation about a new NYLS legal skills program for presentation to the faculty at the Faculty Retreat in mid-February, 1990. If approved, the proposals could institute changes in the NYLS curriculum as early as Spring, 1991.

For the past several months, this five member committee, including Profs. Ceruti, Perlin, Sherwin and Strossen, has been studying the NYLS course curriculum, including the various clinics, internships and externships, in an effort to reorganize and improve the present quality of skills acquisition at the school.

This program comes in response to an American Bar Association request to upgrade the legal skills program at NYLS. Similar programs have been implemented successfully at other law schools across the country, such as New York University and Stanford.

The purpose of the reforms, according to Prof. Rothschild, is to teach students practical lawyering skills — to inform students about the realities of actual practice.

The committee proposes an extensive, unified program which would supplement all three years of law school. Possible new

courses include a first-year fact finding course, a mediation course, and an interviewing and counseling course. Reorganization of existing courses such as ethics and legal writing are also proposed.

These two and three credit courses would be mainly elective. They would integrate lecture with simulation and situational teaching methods. Classes would be divided into discussion groups and audio-visual aids would not be uncommon. A strict objective standard would be employed in grading, and final grades could be derived from any combination of exams, presentations, and/or papers.

Approval by the faculty would present some problems in implementation. Although the program would not be as expensive as NYU's, for example, funding would be an issue: new faculty would need to be hired. One possible alleviation of this problem involves student Teaching Assistants compensated by stipend or wages. This program must also be phased into the curriculum smoothly, involving a school-wide administrative effort to properly insure a coordinated transition. Prof. Rothschild, seems confident, however, that if the proposals are approved, these problems could be resolved and a successful program could be implemented.

*YOU TOO CAN HAVE RONALD REAGAN SPEAK FOR YOU*



JUST INSERT 8 MILLION QUARTERS

**New York Law School honors its own . . .**

**Student of the Month**

The Office of Student Affairs would like to recognize James (Yi Wei) Jiang, a first year student, as "Student of the Month." James has achieved a lifetime of study and scholarship despite the obstacles placed in front of him by the turmoil of twentieth century China. Like many Chinese, his life was disrupted by the Great Proletarian Cultural Revolution, a political movement on mainland China which lasted from 1966 to 1976. In 1969 he was exiled to the countryside, along with his brother and many of his junior high school classmates, because his "family background" was determined to be "counter-revolutionary" (His father had been a member of the Guo Min Dang, or Nationalist Party, until 1945, and his mother's brother was a soldier in the Guo Min Dang army before emigrating to the United States in 1948). For the next six years, years of unusual hardship in China, he worked the fields in Manchuria, a Northeastern province of China with a climate similar to that of North Dakota. There Jiang shared many of the traditional hardships of the Chinese peasant during a time when these conditions were further exacerbated by the economic disasters of the Maoist regime.

When in 1974 he was allowed to move back to Shanghai, James attended East China Normal University where he studied politics and pedagogy. In 1977 he was assigned to Xiang Ming High School in Shanghai as a teacher of politics, history of the Chinese Communist Party and



Yi-Wei Jiang Day

Marxist economics. Because James did not believe in the subjects he taught, he chose to return to school to study logic at the Shanghai Academy of Social Sciences, where he remained as an Assistant Professor until 1987. During that time he published articles and translated works of Western philosophy, including Roger Ames' *Thinking Through Confucius* and works by British philosopher Karl Popper. Finally, in 1987 James was allowed to join his mother in emigrating to the United States to live with her brother. After studying philosophy at the University of Hawaii and economics at Baruch College, James entered New York Law School this fall.

Notice: Students may submit suggestions for future "Student of the Month"

**Focus on Park McGinty**

By David Wind

The New York Law School Reporter thought it would be a good idea to focus in on new faculty members in a series of articles. The student body can then become better acquainted with the schools ever expanding and improving faculty. Professor Park McGinty, currently teaching Corporate law, is one of the new faculty members at the New York Law School. Teaching law is new to him but teaching is not. After completing his M.A., Ph.D. in Religion at the University of Chicago, Professor McGinty accepted a faculty position with Moravian College where he taught for five years. At Moravian, Professor McGinty received the Lindback Found-

Senior Scholarship Award as Co-Captain of the Varsity Soccer team at University of North Carolina, his Undergraduate Alma Mater.

On a more personal level, Professor Park McGinty is not particularly formal. His attire is Corporate, yet he has rarely been sighted with his jacket on. He has the hint of a southern drawl. A cursory glance around his office offers a glimpse of what appears to be a diverse individual. On one bookshelf lie volumes of books on the Humanities, and on the other, Corporate tombstones and how-to books on hostile take-overs. Pictures of places as exotic as Taiwan, Indonesia, Sri Lanka, and Nepal hang above his desk, souvenirs of a sabbat-



ation Award for Distinction in Teaching and had the honor of addressing the graduating class as the commencement speaker. Directly from Moravian College, Professor McGinty went on to Lehigh University where he achieved tenure as a Professor. He concentrated in the study of religion, published various works and was named the Acting Chairman of the Department of Religion.

After deciding to pursue a legal education, Professor McGinty was transformed from a tenured professor to first year law student. He attended Yale Law School in Connecticut. After graduating from Yale, Professor McGinty practiced law as an associate. One year at Richards O'Neil & Allegaert, a relatively small firm, and the remainder at Davis Polk & Wardell. Both firms are located in New York. Professor McGinty expressed unequivocally that New York is where he wants to be.

Having spent six years doing predominantly corporate work, Professor McGinty acquired a substantial amount of knowledge. He worked primarily in general corporate law, securities offerings, banking, and mergers and acquisitions including some work on hostile transactions. He speaks highly of corporate practice, careful to be objective. Although reconciling a transformation from a lucrative legal practice to a position more personally rewarding is a task not easily undertaken, it is clear to this writer that the pursuit of scholarship is more rewarding for him. Professor McGinty's academic distinctions along the way seem to prove this: National Merit Scholar, Order of the Grail (Highest Undergraduate Honorary Society), Morehead Scholar, Phi Beta Kappa, Honors in English and just to top it off Atlantic Coast Conference

ical spent travelling. Casually drying on the radiator are sweats and sneakers, whose origins mystified me until I spied the partially hidden squash racquet behind the file cabinet. On his desk, amid documents, textbooks and notes sits a mini-stereo system.

In class, he is famous for his "What's on my mind?" line of questioning. Although there is a period of adjustment in every new class, he seems to have found the right track a bit later than usual, undoubtedly a product of his six year sabbatical in practice. In order to hasten his understanding of teaching the course he has been sitting in on other Corporation classes. Professor McGinty is so recently out of corporate practice that Martindale-Hubbell for 1989, which lists law firms and their members, still lists him as an associate at Davis Polk & Wardell.

The general consensus among students is that even during the first few classes they felt that Professor McGinty had a genuine concern for them. He is considered very accessible and receptive to questions and comments. Additionally, he has been known to interject brief comments on general law school concerns. On one instance he shared his experience of choosing between large and small firms. He suggested the larger ones because the system of support and the pool of knowledge at these firms outweighs the benefit of the small firm environment.

Dionysus, the Greek God of fertility and wine and also the focus of one of Professor McGinty's books, was considered to be a patron of the arts. He would be proud of Park McGinty. The New York Law School Reporter welcomes Professor Park McGinty to our community.

**The Weekly Crossword Puzzle**

**ACROSS**

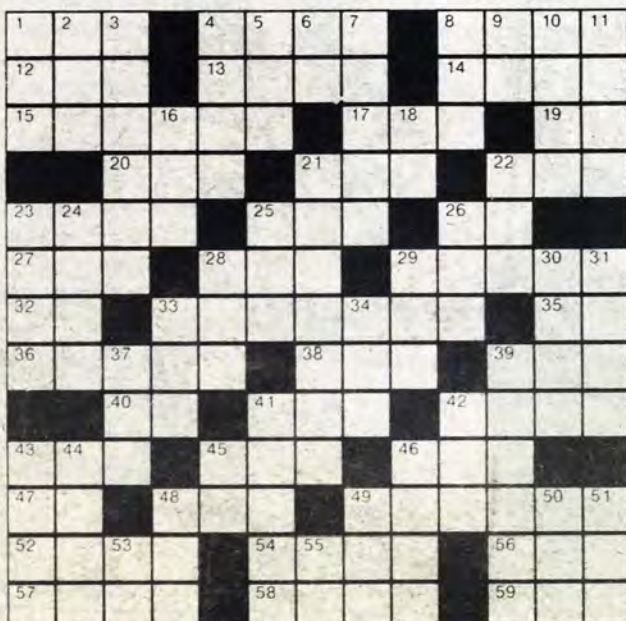
- 1 Cushion
- 4 Footwear
- 8 Fuel
- 12 Sin
- 13 Stalemates
- 14 Eye amorously
- 15 Frightens
- 17 Turf
- 19 Symbol for tantalum
- 20 Opening
- 21 Container
- 22 Deity
- 23 Cry of owl
- 25 Rattle
- 26 Greek letter
- 27 Sea eagle
- 28 Be ill
- 29 Melodies
- 32 Sun god
- 33 Permitted
- 35 Fulfill
- 36 Martini ingredient
- 38 Inlet

**DOWN**

- 39 Cry of crow
- 40 Concerning
- 41 Males
- 42 Limbs
- 43 Asian ox
- 45 Conducted
- 46 Anger
- 47 Symbol for silver
- 48 Write
- 49 Aquatic mammals
- 52 Capital of Latvia
- 54 Extremely terrible
- 56 New Zealand parrot
- 57 Entrance
- 58 Stalk
- 59 Pigpen

- 5 Towel inscription
- 6 Faeroe Islands whirlwind
- 7 Composition

- 8 Food fish
- 9 King of Bashan
- 10 Choir voice
- 11 Conduct
- 16 Rodent
- 18 Ancient city
- 21 Dyed
- 22 Weapon
- 23 Courageous person
- 24 Spoken
- 25 Sesame
- 26 Mire
- 28 Sudsy brew
- 29 Oolong
- 30 Kind of cheese
- 31 Seeds
- 33 Hail!
- 34 Emerge victorious
- 37 Irritate
- 39 Brooks
- 41 Repairs
- 42 Skill
- 43 Distance measure
- 44 Exchange premium
- 45 French article
- 46 Newspaper paragraph
- 48 Equality
- 49 Native metal
- 50 Soak flax
- 51 Declare
- 53 Proceed
- 55 Italy: abbr.



# Exam Info

## Extended Library Hours/Late Night Study Hall

Starting Saturday, December 2nd, the New York Law School Library hours will be extended. In addition, the Student Lounge and the first and second floors of the 55 Worth Street Library will be available every night as a Study Hall for several hours after the Library closes. This space is for study purposes only; no library personnel will be available to assist you.

There will be a New York Law School guard on duty who may ask you to present your New York Law School I.D. when you enter the Study Hall. Students will not be allowed to enter the Study Hall after 10:00 p.m. Students who leave will not be allowed to re-enter. These policies are for security reasons; the guard on duty cannot make exceptions to these policies.

Periods	Library	Study Hall
Dec. 2-Dec. 20:		
Mon. - Thur.	8:00 am-11:00 pm	11:00 pm - 1:00 am
Friday	8:00 am - 10:00 pm	10:00 pm - 1:00 am
Sat. & Sun.	9:00 am - 10:00 pm	10:00 pm - 1:00 am
Dec. 21: Thursday	8:00 am - 10:00 pm	

## Exam Taking Workshops

A workshop on Exam Taking Techniques will be presented at the following times: Tuesday, November 28th from 1:30 p.m. - 2:30 p.m. in Room B507 with Professors David Chang and Aleta Estreicher. Wednesday, November 29th from 4:45 p.m. - 5:45 p.m. in Room A301 with Professors Carlin Meyer and William Nat-

bony. **\*\*First-year students are encouraged to attend\*\***  
Attention Evening Students: These workshops will be videotaped. You may sign out the tapes for a night from the Office of Student Affairs, 2nd floor, 57 Worth Street.

## Student Parking in New York Law School's Parking Lot

On Weekdays starting Thursday, December 7th, the parking lot will be open to all students on a first come, first serve basis starting at 5:30 p.m. From 5:30 p.m.

- 7:30 p.m., the gate will remain open; after 7:30 p.m. the gate will be opened at the following times:

9:30 a.m.	11:30 a.m.	1:30 p.m.	3:30 p.m.	5:30 p.m.
7:30 p.m.	9:30 p.m.	10:30 p.m.	11:30 p.m.	12:30 a.m.

This schedule is designed for staffing and security reasons and your cooperation in adhering to these times is appreciated. You

must have a valid New York Law School I.D. card to enter the parking lot.

## Student Cafeteria

During the examination period, the Student Cafeteria will be open during the following times:

Monday - Thursday 8:00 a.m. - 8:00 p.m.  
Friday 8:00 a.m. - 3:00 p.m.

**Please Note:** The Student Cafeteria will not be open on weekends  
**Validated Student I.D. Cards**  
For many of the services, a validated New York Law School I.D. Card will be required.

If you do not have an I.D. card, you can pick up a new card at the Registrar's Office, pay the replacement fee of \$10.00 at the Accounting Office and then have your photograph taken at the Copy Center in the basement of 57 Worth Street.

The Copy Center will be taking photos at the following times:

Tuesday, December 5th: 2 pm - 4pm and from 5:30 pm - 6:30 pm

Wednesday, December 6th: 2 pm - 4 pm and from 5:30 pm - 6:30 pm

Thursday, December 7th: 2 pm - 4 pm and from 5:30 pm - 6:30 pm

Wednesday, December 13th: 2 pm - 4 pm and from 5:00 pm - 6:00 pm

Wednesday, December 20th: 2 pm - 4 pm and from 5:00 pm - 6:00 pm

If you have an I.D. card but have not had it validated for the Spring 1989 semester, you can do so at the Registrar's Office at the following times:

Monday, Wednesday & Thursday 9:00 a.m. - 6:00 p.m.

Tuesday 9:00 a.m. - 7:30 p.m.

Friday 9:00 a.m. - 1:00 p.m.

Our Student Service Offices are open throughout the exam period. Please let us know if we can assist you in any way. Good luck on your exams.

## Counseling Services

Dr. Judith Rosenberger, a psychologist who has worked with law students for many years, is available to New York Law School students for a confidential 45 minute consultation without charge. Appointments can be arranged directly with Dr. Rosenberger and will take place in her private office. She can be reached at (212) 737-0296. If you would like additional information about this service, please contact Helena Prigal in the Office of Student Affairs. The Office of Student Affairs also has information about other counseling services.

## Travel Home Partners

Starting Thursday, December 7th, there will be a bulletin board on the easel in 47 Worth Street where people can post notes if they want travel partners. If you want to find people to walk to the subways with or to travel with to similar destinations (especially late in the evenings), check this board regularly.

## Coffee

The Office of Student Affairs will provide complimentary coffee and tea in the Student Lounge an hour before each examination from Monday, December 11th through Thursday, December 21st.

## Classroom Study Space

The following classrooms will be available for study group use on a first come, first serve basis when classes are not in session: Rooms A401, A702, A703  
Rooms B305, B404, B405  
Room C203

No reservations are necessary. Please note that more than one group may use a classroom at the same time.



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# DNA

Prof Randolph Jonakit of NYLS offered some haunting insights into the world of forensic science. In his research in this area he found: 1. Conclusions given are incorrect as much as they are correct. 2. There is no regulation of crime labs: no certification of offices, no qualification for employees. 3. Conclusions are made before research is done. The professor noted that were the same standards of testing applied by the Food and Drug Administration to forensic science, there would be no DNA tests in any court. Prof. Janakit felt judges, juries, and lawyers are too

whereas Scheck believed Fry called for a standard methodology and quality control.

The last speaker was Peter Newfield, co-counsel in *Castro* and adjunct professor at Fordham Law School. Prof. Newfield continued the general attack on forensic science. He noted that there was no critical scrutiny of forensic information, i.e. there are no professional journals that test results before publication and no counter-tests by peers. In short, the adversary system of scientific progress is non-existent, yet forensic testimony is held in the highest esteem by court officials. The professor

*“... there would be a strong public outcry if we were wary about how many guilty people were let go due to the incompetence of forensic science.”*

often awed by scientists, who are trained to be “tinkerers” and not taught to think. He wondered why no defense attorney even asked for a forensic expert, “Is there a proficient program at your laboratory? If so, what were the results?” He believed there would be a strong public outcry if we were wary about how many guilty people were let go due to the incompetence of forensic science.

Next on the agenda was Prof. Barry Schedk of Cardozo Law School and co-counsel for Joseph Castro. He outlined in detail the deficiencies of DNA testing at present and as administered in *Castro*. He stated that Judge Scheindlin's three prong test was failed on all points: There were no standards as to what constituted a match (three or six standard deviations, within a size of .6 or 1.8 percent, etc.) What about the environmental insults to the sample. Some data from *Castro* could apply to no living thing. Prof. Scheck disagreed with the judge's application of the Fry standard, the judge proffered that standards be obtained on a case-by-case basis,

noted that DNA tests, like most novel scientific techniques are extremely costly in time and money, and thus, unaffordable by most criminal defendants. He was able to get experts to testify in *Castro* for no money, due to its potential for being a landmark decision and the attention of a New York venue. Prof. Newfield pointed out that all DNA testing at present is flawed, since scientists assume random matings within a given population (whites, blacks, Hispanics), which is not the social reality. There are sub-populations within each, for example Puerto Ricans, Mexicans, Dominicans, Cubans, etc are all within the Hispanic group but have several population genotypes (genetic characteristics).

There was no time left for audience questions or panelists debate due to the length of most of the panelist's speeches. About fifty people attended, unfortunately many left after the judge's long-winded talk, and missed some important insight in an extremely important topic in law today.



# Clerking for Dollars

by B. Shaw

The Minority Law Student Intern Program, an initiative sponsored by the New York County Lawyers Association (NYCLA), is designed to increase minority participation in the legal profession by offering paid summer clerkships to NYLS students.

The program, begun last summer, is unique in many ways as an alternative clerkship opportunity. First, since many students are deterred from seeking clerkships during the summer because they are typically not paid positions, this program offers a modest weekly salary comparable with other public service summer intern programs in New York City. The salary of \$250 per week is intended to provide added incentive to students enable them to consider a clerkship among their summer employment opportunities during their first and second year at law school. In addition, students are required to divide their time between the chambers of two New York State Supreme Court Justices; they work approximately four weeks with a Civil term judge and four

weeks with a Criminal term judge.

However, providing law students with a wider range of employment opportunities is just one facet of a larger goal behind the program. The clerkship's most unique feature is its philosophy, characterized as an effort to bring ethnic and racial groups that are significantly under-represented in the legal profession into the mainstream. The program attempts to accomplish this goal by motivating the participation of the organized bar, the judiciary and law schools, to increase recruitment of racial and ethnic groups whose advancement in the legal profession has been slow.

The idea for the clerkship program was conceived by Suzanne Baer, Director of Career Planning and Placement at NYLS. Ms. Baer, who is also the National Association for Law Placement's liaison to the ABA Commission on Minorities in the Profession and the chair of Law Placement's Fair Employment Practice Committee, noted that few qualified minority students seek graduate federal clerkships or posi-

tions in academia. Ms. Baer believes that this program can be a stepping stone toward cultivating advancement by law students into these and other areas of the legal profession. The positions provide invaluable legal experience, and often establish the potential for a "mentor" relationship between student and judge which will endure beyond the intern's summer tenure.

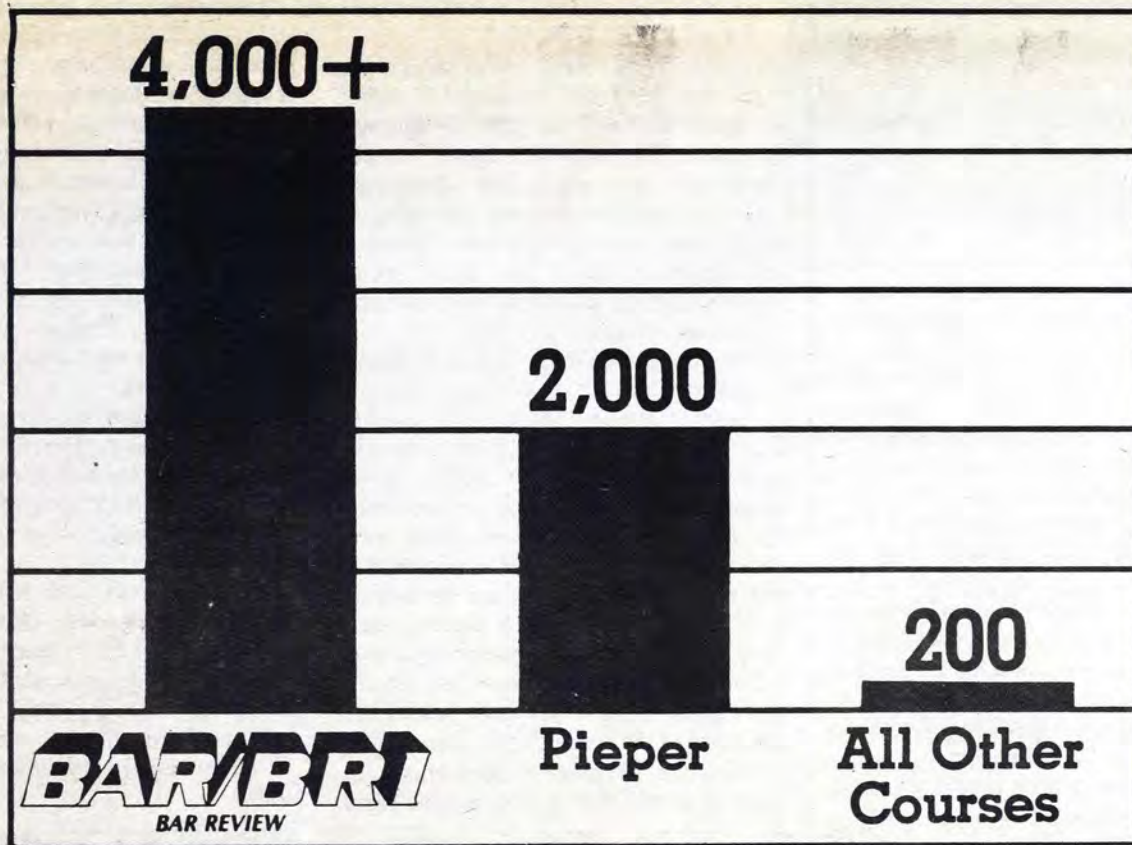
The participation of various elements of the organized bar and judiciary has been crucial to piloting this new clerkship opportunity. Ms. Baer enlisted the help of her husband, Hon. Harold Baer Jr., a New York State Supreme Court Justice and former president of NYCLA. Justice Baer helped enroll judges to participate in the clerkship program and assisted with the solicitation of funds needed to finance the project. The Baers worked closely with Eugene P. Souther, President of NYCLA and the Hon. Milton T. Williams, Deputy Chief Administrator for New York City Courts and a NYLS alumnus, to recruit Justices to participate in the program.

A \$10,000 donation by the Honorable

Louis L. Friedman, a NYLS alumnus, executor of the Sonia Alden Estate and a \$5000 donation by the late Hon. Nanette Berman and her husband Alfred Berman of the Dembar Foundation provided the initial funding for the program. Next year, federal funding and work study subsidization is expected as the program expands to other law schools throughout the city.

Last semester, the 25 NYLS students who applied for the clerkship were initially interviewed by NYLS's Faculty Judicial Clerkship Committee. The Committee then forwarded the names of nine finalists to a panel of judges and lawyers in the NYCLA. The first three participants selected were: Myrna Cuevas, a second year student who is a registered nurse and a graduate of City College of the City University of New York; Carlos Verdecia, a second year student from the University of Miami who now attends Notre Dame School of Law; and Bernard Lee, a third year student and graduate of Baruch College, who is enrolled in the joint JD/MBA program.

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*"To call women the weaker sex is a libel."*

Mohondas K. Ghandi  
Barrister-Johannesburg  
South Africa

con't from page 1

NYLS's goals, the goals for African Americans was not. The School does have a recruitment that include Universities like Howard, where African-American enrollment is high, the recruitment was not successful. Downey explained that Dean Simon is greatly concerned with the lack of minority representation, and has appointed a special liaison for minority affairs. Michael Hardy will be available one night a week for addressing concerns of all students, and in particular, minority affairs.

Part of the problem, may be the environment that the administration has fostered towards minorities. Last year tenure was denied for NYLS's only Black tenure track professor, despite student uproar, excellent credentials and reputation. Possibly, the School suffered from bad press from this incident, and it may have affected students' decisions to attend NYLS.

Part of the problem may also be the admissions process itself. Why, in a city that has such a vast minority population, is the total goal for minority representation only 15%? If a "goal" of 5% African-Americans only reeps 1%, then it might make sense to shoot for 10%, or 20% African American. It must also be remembered that these "goals" are for qualified students, the school would still keep its high standards. Other question to be addressed, is why are there not more Black tenure track professors? There are Black lawyers and legal Scholars out there, why not hire some more quality minority professors. Why, also, does our Board of Trustees look like a commercial for Wonderbread? There are Black community leaders out there that would well represent the whole community.

Everyone benefits from having a diverse and integrated Educational community. We are a law school that is both national and local in scope: we would be stronger, and more legitimate, if we better represent the urban setting that we are a part of. None of these problems are fatal, or irreversible. With work, and cooperation we, here at New York Law School can live up to the challenge of becoming a premeire urban law school.

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# Panel Raises Awareness of Battered Women's Syndrome

by Susan McCarty

A woman who has been mentally and physically abused by her husband for years kills him but is acquitted through use of the "battered woman syndrome" in her defense. Some say that this represents an advance in the law while others believe that women are literally getting away with murder.

This pressing issue was dealt with at a panel discussion entitled "Battered Women" sponsored by the Legal Association of Women on November 13 in the Faculty Dining Room. Ellen Yaroshefsky, a private attorney experienced with battered women cases, was the primary speaker and New York Law School professor Carlin Meyer moderated the discussion. The other scheduled panelist, Ellen Blackman, a psychologist and expert witness in this field, was unable to attend due to illness.

Why do women stay with abusive husbands? That, according to Ms. Yaroshefsky, is the primary question to be dealt with concerning the defense of battered women. Because of its counter intuitive nature, it is difficult for juries, judges, and the general public to comprehend what makes a woman stay in an abusive situation.

She then discussed the two main theories used to explain this phenomenon. The first is the "cycle of violence" theory recognized in the mid-1970's. There are three phases in the cycle: first, there is an escalation of tension leading up to abusive behavior by the husband; then an acting out of the violence by the husband; and finally *contrition by the husband*. For a while he refrains from abuse but eventually the cycle begins again. A woman in this situation remains with her husband in hopes that "this time" the abusive behavior will not recur.

The second theory is termed "learned helplessness." Basically, this theory claims that by being in a system of domination for so long women cannot leave due to this learned or forced "helplessness." However, Ms. Yaroshefsky pointed out that this theory has been criticized because the reality is that women in these



situations have not "learned helplessness" per se but have learned how to survive.

It is important, said Ms. Yaroshefsky, to view these women as "survivors" because to juries, they often do not appear "helpless," and makes explaining their actions more difficult.

Making juries understand why a battered woman behaved as she did requires that the stereotypes and myths about these

to juries why women do not leave.

In the past ten years advances in the law have allowed the use of experts to explain to juries the "battered woman's syndrome." According to Ms. Yaroshefsky, in virtually all jurisdictions battered woman syndrome testimony may now be used.

Experts are also needed to refute the myth relating to the "type" of woman who

*"Some say that this represents an advance in the law while others say that women are getting away with murder."*

women be dispelled. Many jurors, as well as the general public, tend to believe that if a woman had really been abused then she would have left her husband. Expert testimony is therefore needed to explain

is battered. The "non-meek" woman is not perceived as the "classic" battered woman. It is necessary for experts to explain to the jury that not all battered women are weak or meek.

Related to this is the prevailing problem of ethnic or racial bias. Tough, poor women are less likely to be perceived as battered women than are white, suburban, middle class women. Experts are needed to explain how "tough" women can also be abused by their husbands.

However, Ms. Yaroshefsky pointed out that this use of expert testimony sometimes leads to a "battle of the experts." "Experts" are called for the prosecution who give testimony that reinforces the stereotypes and promotes misconceptions.

Acquittals are more frequent than they used to be, said Ms. Yaroshefsky, however, but for these biases in the system there are still not as many as there should be. Juries are still more likely to find battered women who have killed their husbands guilty of a lesser charge, like manslaughter, than acquit.

Ms. Yaroshefsky also tried to make clear that the "battered women's syndrome" is not a "defense." Testimony that explains battered women's syndrome is admitted only to determine if the woman's fear was real, by a subjective standard. The reasonableness of her actions should be looked at in a contextual way.

This may seem like gender bias in the law, but Ms. Yaroshefsky refuted that notion. She stated that women only want "equal treatment" under the law. Given who you are in the culture you have the right to fight back. Women are *not* asking for special treatment. They are asking that their position in society be understood and taken into account when determining the nature and punishability of their actions.

Frances, Chan, a member of L.A.W., said that the purpose of the event was to "raise awareness in general." She commented that L.A.W. wants law students "to be concerned with the societal problem of violence against women and society's perception of the problem."

This discussion has hopefully made clearer for the forty people who attended, only six of whom were men, the nature of the debates and whether the battered women's defense has gone too far or not nearly far enough.

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Dr. Joseph H. McGivney, a mid-year student at NYLS is the co-author (with his son, Shawn, an M.D.) of the newly released book *ETERNALLY YOUNG: A Guide to Aging Well*. The book has been endorsed by noted authorities on aging such as B.F. Skinner, Dr. Robert Butler (Director of the prestigious Mount Sinai Geriatric Program), and other prominent leaders in the care of and research about the aging. For example, Skinner, now 85, said of the book:

An invaluable help for those who never give up on growing older, but do as much as possible to enjoy it.

The book outlines a practical, easy-to-follow guide for all people to improve their quality of life and to put off institutionalization—perhaps forever. The book shows how more mature folks can do that by implementing a few focused solutions to the most common problems they face. For example, *ETERNALLY YOUNG* shows how to deal with the common problem of hearing loss, a single problem that usually escalates so that a downward cycle of social interaction begins for the older person and a rising tide of guilt and frustration plagues the family.

Profits from sales of the book will be given to the Ageless Foundation established to continue the development and distribution of materials and products helpful to more mature adults. Copies of the book are available at the NYLS bookstore, 47 Worth Street.

## At A Bookstore Near You: Eternally Young

by

Dr. Joseph H. McGivney

Dr. McGivney plans to focus his law career toward the study and development of improved legal services for the aged. McGivney, a Ph. D., and professor at Syracuse University has had an extensive personal involvement with his own and his wife's parents in providing for their care. He combines this involvement with a long term professional and scholarly interest in education policy in general and in its health related aspects in particular. He sees *Eternally Young* as an important first step in helping more mature folks and their families deal with the physical, emotional and environmental processes and conditions associated with aging. He has looked long for a similar resource and has been unable to find any. Future books and materials will focus on the provision of legal services to mature folks, a rapidly growing segment of our population.

When asked who would be other likely readers, he stated that the book would also

be an important resource for teachers of more mature adults (whether in formal school settings or in the home) because it provides them with useful insights and practical suggestions for advancing their effectiveness in improving the lives of their clients. It will also be useful to policy-makers who are searching for new approaches for dealing with the provision and cost of care of mature folks. Thus, it should have a constructive impact both on the personal level (it can be put to use at once) and on public policy toward the elderly in our society. McGivney says: "I wish this information were available fifteen years ago when we began looking for ways of helping our parents remain independent."

Speaking about the team approach McGivney states, "without Shawn's insight and knowledge this book would not yet be written. It took us years to learn of the relative absence of similar materials,

and then a couple more years to learn to complete the medical research."

The book is based on what they call a fledgling theory of mobility. The theory serves as a basic guide for focusing attention of activities and treatments that are mutually reinforcing in promoting mobility (greater physical activity, better mental health, and properly adapted environments) in the more mature segment of our society.

The son, Shawn A. McGivney, M.D. and resident physician at Montefiore Medical Center in New York, became interested in helping mature folks by his involvement with the later life stages of his maternal and paternal grandparents. In college, and later in medical school, he learned of the lack of information available to help keep loved ones in a home care status. Most of the written medical attention was focussed on the study of diseases in older folks, not on the resulting disabilities limiting their ability to function in various aspects of daily living. Ever since medical school he has been, in cooperation with his father and others, developing practical suggestions to help older folks and care givers keep their loved ones out of nursing homes. In the future, Shawn plans more work in geriatrics.

The book is available in the NYLS bookstore and by calling 1-800-ALL-BOOK. Profits go the Ageless Foundation.

## Garbage, Garbage! Everywhere . . .

by Marylee Jenkins

After gulping down those last drops of coffee and tossing your styrofoam cup into the nearest garbage can, think about this: the average American discards approximately 3.6 pounds of solid waste or garbage per day into the municipal waste stream. Americans on the whole generate over 440,000 tons of solid waste daily. This is equivalent to 63,000 fully loaded garbage trucks lined up end to end for 373 miles! Because of the magnitude of this growing problem, we must effectively deal with solid waste by safely using presently available alternatives and by developing new technology—not by banning or boycotting plastics.

Historically, we have disposed of our solid waste by creating landfills. In fact, about 85% of the United State's solid waste is currently located in landfills while the rest is recycled or incinerated. As a result, landfills have become a scarce commodity. In more than 40 states, municipal landfills have been forced to close because either they have reached maximum capacity or have failed to meet Environmental Protection Agency (EPA) standards. For example in the State of New York, 500 landfills were closed between 1983 and 1987 and New York City has only one remaining active landfill. Locations for new sites are difficult to find and are often met with opposition from communities. This scarcity of available sites has resulted in many states having to ship their garbage to other municipalities, states or countries with recent examples being the Islip barge and the Baltimore sludge.

Landfills are not the answer to our problem. Dr. William E. Rathje, a scientist at the University of Arizona, has been digging up landfills and finding some startling facts: carrots still recognizable after 10 years, newspapers undegraded and read-

able and other items of human consumption that have not decomposed at the expected rate. Scientists are learning that landfills fail to provide the needed moisture and air to decompose solid waste. In fact, biodegradation may not ever be desirable for landfills. By-products of biodegradation, such as harmful leachates and highly explosive methane gas, if not properly handled and controlled in landfills can endanger our groundwater and air.

Misconceptions about the amount of plastic in the solid waste stream, unrealistic expectations of degradability in landfills and the mistaken belief that plastic cannot be recycled or safely incinerated have led politicians and others to single out plastic as the major villain in landfills. In actuality, plastic only comprises 7.3% of the total weight and only 10-12% of the total volume of our municipal solid waste. Paper and paperboard account for 35.6% of the total weight and 47.8% of the total volume of municipal solid waste. The real issue that legislators and others must address, is not whether to ban or boycott plastic, but to understand what can be done now to cut down on the sheer volume of solid waste we produce daily.

Recycling is an intelligent answer to the solid waste problem of plastics. In 1988, more than 220 million pounds of plastic containers were recycled. Polyethylene terephthalate (PET) used for soft drink bottles and other containers, high density polyethylene (HDPE) used for milk and juice jugs and polystyrene foam, used for coffee cups, egg cartons and other products are being recycled. For example, last year in Portland, Oregon, 9000 lbs. of plastic lumber were made from polystyrene foam used in coffee cups, food containers and other plastics to produce park benches, wildlife signs, kiosks and light-

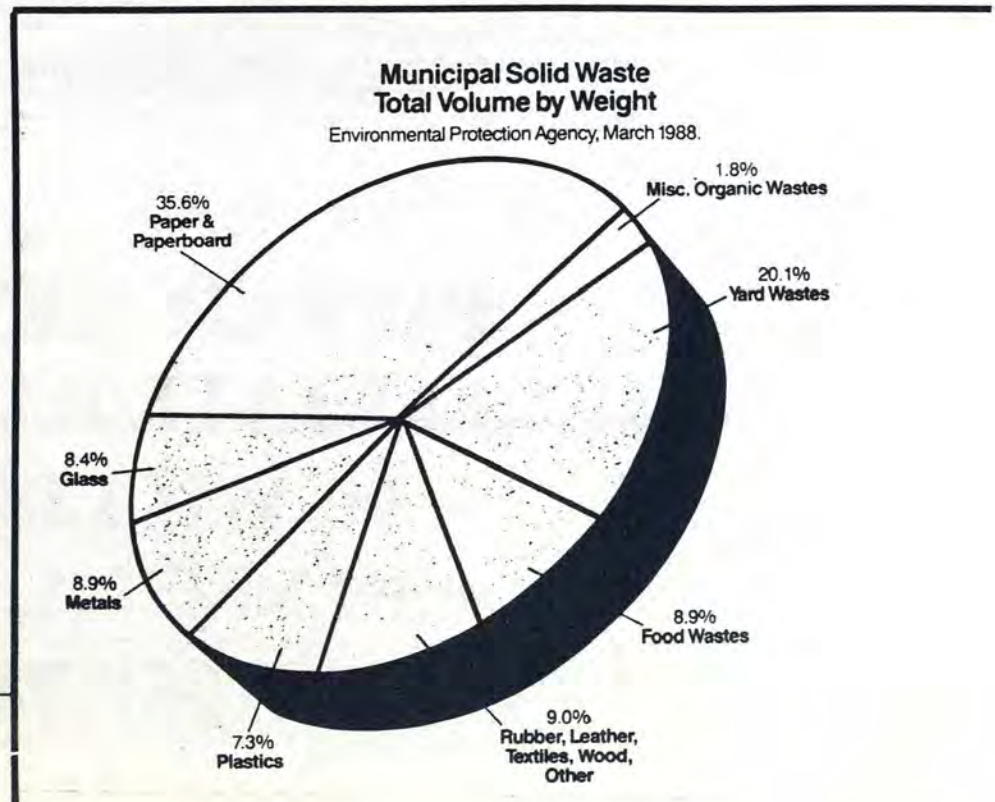
ing supports. This plastic wood can be drilled, sawed and nailed in a similar fashion as real wood and unlike real wood can resist weathering, decay and termites. Recycling projects are being developed nationally to convert various types of plastics into everything from traffic signs and automotive parts to office accessories and appliances. Indeed, recycling has become a part of daily life in some communities in the United States. States such as Washington, New Jersey, Connecticut, Florida, Oregon and Pennsylvania have enacted state or local laws to promote some form of recycling to ameliorate the solid waste problem.

Another answer to the solid waste problem is to safely incinerate plastic. Plastic when properly incinerated, converts to carbon dioxide and water vapor, making it as safe to burn as leaves or paper. Further, being a derivative of petroleum and natural gas, plastic when burned produced a higher energy output which allows for a more efficient combustion of materials in the solid waste stream. (Polyethylene produced 19,900 Btu/lb compared to wood which produces 6,700 Btu/lbs, Wyoming coal 9,600 Btu/lbs, and fuel oil 20,900 Btu/lbs). Incinerators could reduce the volume of solid waste destined for disposal in landfills by as much as 90%. These incinerators are fitted with pollution abate-

ment systems and other environmental safeguards to control effectively the release of pollutants into the environment.

Many companies have developed plastics that are photodegradable but degrading matter by sunlight will not solve our solid waste problem. Six pack loop connectors, garbage bags and similar items will not photodegrade when buried under piles of garbage in open landfills. Further, photodegradation of products may cause people to be more likely to litter. People may believe that they have a "license" to litter because they will wrongly assume that the 2 liter coke bottle tossed onto the side of the road will photodegrade. Therefore, photodegradation of products may unexpectedly increase our problems of disposing of solid waste instead of being beneficial.

The United States faces a growing problem as our population continues to increase and produces more and more solid waste. Instead of banning or boycotting plastics, the emphasis should be placed on reducing the consumption of resources, promoting the idea of recycling, safely incinerating materials with attention to maintaining safe levels of emissions and using landfills as a last resort. By following these guidelines, we can help make our environment a clean and healthy place for the future.



The wages of sin are death. The wages of mediocrity are \$7.50/hr.

# Minority Job Fair: Recruitment Service or Lip Service?

By Maria Del Pilar Ocasio

On Friday, October 6, 1989, more than 700 minority students from 28 different Law Schools in the Northeastern United States gathered at Fordham University School of Law for the 5th Annual Northeast Minority Law Student Recruiting Conference sponsored by the NALP/BLSA (Job Fair). The students invited were of different minority backgrounds: African American, American Indian, Latin American, Indian and Oriental.

More than 236 employers were represented from private firms, public interest organizations, government agencies and corporations.

The goal set out by the Conference Planning Committee for this day was to "increase minority representation within the legal community until such a time that this conference is no longer deemed necessary."

BING!!! Sounds familiar, huh?

To any law student who has taken Constitutional Law, a bell should be ringing in your head. Affirmative Action, in the private sector? Is this legal? What does this entail?

The Supreme Court has held that classifications which disadvantage a racial minority will be strictly scrutinized and may be justified only where they are necessary to fulfill a "compelling" government objective.

Today, governments, as well as private institutions, universities, and major corporations are trying to reverse the effects of past discrimination. A standard more lenient than strict scrutiny is sometimes used. In many instances, governmental attempts to use race as a basis for redressing past discrimination will pass constitutional muster.

In cases like *Califano v Webster*, *Califano v Goldfarb*, *Fullilove v Klutznick* and *University of Southern California v Bakke*, the Supreme Court has established that Governments may use racially conscious measures to counter the effects of past discrimination.

Fine! But what about non-governmental entities?

In three recent cases, *Local 28 v EEOC*, *U.S. v Paradise*, and *Wygant v Jackson Board of Ed.*, the Court ordered remedies for past discrimination by these public and private organizations. All of these cases involved race conscious employment policies to remedy societal discrimination, prior discrimination, and provide role models for minorities. The Court further held that voluntary plans adopted by a private employer who has not discriminated are constitutional and does not violate Title VII of the 1964 Civil Rights Act.

O.K., now we know that this Job Fair is constitutional. These employers all volunteered to come and spend the day interviewing students. A few weeks prior, students were asked to hand in resumes for each of the firms with which they wished to interview. After the firms viewed the resumes, they determined which students they felt were qualified for the position, and thereby granted them interviews.

It seems to me that the general idea is great, but does it work?

Students at New York Law School, who spent the day being interviewed, seemed to be of the opinion that this wasn't Affirmative Action! This was Lip Action!!!!

All the employers seemed delighted and enthusiastic about participating and told the students so during the interviews. Few were the students who got a bad impression after the interview. You know what

I'm talking about, the feeling that "Whoops! I shouldn't have said that!" Or "Damn! I forgot to discuss X!" In fact, the mood seemed to be full of mutual respect and understanding. Employers seemed to really be taking the information and statistics passed out by the Planning committee seriously.

Then why didn't any of the students at New York Law School that participated at the Job Fair get a job?

Few were the callbacks. (approx. 5) Furthermore, those that did, all questioned why they had been. They felt that their interviews were rushed and fake. Those that didn't get called back, received lovely letters from the interviewers stating how delighted they were to have been part of such a beautiful day. In fact, one student complained that she received a very touching letter from an employer who too had been happy to share in the day and had enjoyed spending time with her . . . This would've been an even more touching letter had she interviewed with this employer!!!! What do you think?

Londell McMillan, Northeast Regional Director of NBLA, in his welcoming letter called on all employers to improve the current situation that works to the disadvantage of the entire legal community. That situation is the tremendous disparity between minority and non-minority attorneys in the United States' law firms.

Statistics haven't yet come out as to how many of the 700 minority students actually attained employment from the Job Fair. They're due in February. Yet, judging from those students from NYLS who attended, it seems to me that if employers want to remedy prior discrimination, provide role models for minorities, and remedy societal discrimination, it will take more than

smiles

Based on data from the 1988 National Law Journal survey of New York City's largest law firms, there were only 8 Black Partners out of 2,032 total, constituting a percentage of .4. Furthermore, there are only 108 Black Associates out of 5,132 total, constituting a percentage of 2.1. This is, of course, up from the 1979 figures of .2 percent and 2.2 percent, respectively.

Minority law students are receiving the same grades as non-minority law students and are graduating just the same.

So why do we still have these statistics? Maybe, Affirmative Action does work, maybe it doesn't. But, let's not kid ourselves and be hypocritical. Either we do something to change these statistics or we don't. But we mustn't attack the symptom and not the disease!!!

This article is not trying to take away from those who worked so hard in taking the first steps towards striking a balance, such as Beatrice Nivens, Conference Administrator, Londell McMillan, NALB/BLSA Northeast Regional Director, Fordham University School of Law, site host for the Conference, and New York Law School's own Suzanne Baer, who was on the Advisory Board and Planning Committee. Those special people, and many others not listed, had the guts to stand up and try to make a difference.

But is it possible? Is the legal community ready and willing to take the first step and abide by the decisions which its own courts have held? Does Affirmative Action work?

*Maria Ocasio is a second year student from the Bronx.*

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# PROJECT OUTREACH



**OCTOBER 20, 1989  
SOWING SEEDS FOR  
THE FUTURE**

## Racism: Alive and Well at NYLS

By Oscar McDonald

Is New York Law School a racist institution? Yes. This language may seem a bit strong, but it does not seem necessary to soften it. Some people may phrase it as prejudice, insensitivity to minorities, or just plain ignorance. I think that the word racism encompasses all of the softened euphemisms. I have been thinking about this article ever since I was asked to write it. I have decided to use incidents that my fellow minority classmates have experienced while attending New York Law School.

1) "The only way to get a black man to work in New York is to pay him more than he could make selling drugs or more than he could get on welfare." This statement was made by a well known Professor at New York Law School in front of a class of about one hundred students.

2) "If you want to understand Black English speak to 'Mary.'" She hangs out with the black law students, they understand that language." This statement was also made by a well known Professor during a class.

3) a) "You can pass for white, you should."

b) "Don't hang around with that black student, you got better grades than her and she can only drag you down." These statements were made by a former acting Dean for Students at NYLS to a Hispanic Student who graduated last year and is still very active in BLSA and ULS.

4) "You are going to have to get rid of that accent if you want to be a successful lawyer." This statement was made by one of our esteemed revolving door legal professors to a Hispanic student from the Dominican Republic who is still in attendance at NYLS.

5) "You are a minority student therefore you have to work harder than the rest of the students." This statement was made by a Professor who is currently on staff and is in the last year of his "three years and out" contract.

6) "It is inherent that you don't know how to express yourself as well as others." This statement was made by a Professor currently on staff at NYLS.

Shall I go on? I think I will.

7) "Can I have a picture of Dinkins? I want to make our dart game more interesting." This statement was made by an obnoxious white female student whose name I don't care to mention because it leaves a bad taste in my mouth.

8) "David Dinkins—first person to be elected on the strength of the Cosby show." This is just another crude and insensitive statement made by some dumb white student.

I think that these examples of insensitivity and ignorance reflect the attitude of NYLS in general. Not only are they numerous but they come from a cross section of the Law School's community, from Profes-

sors on down to the students. Minority Law Students are sick and tired of this shit. We did not come to an institution of higher learning to be tortured and tormented with unbridled ignorance and insensitivity. The atmosphere and attitude of the faculty, staff, and students at NYLS is inexcusable. We are tired of being persecuted and persecuted for petty, frivolous reasons, and often for no reason at all. Minorities and NYLS are no longer going to tolerate these types of comments and this type of behavior from our white counterparts. Why should I have to sit through a lecture and listen to some asshole degrade and belittle my race? As a black man and a human being, I will not stand for it. Minorities are not well respected at NYLS—THIS MUST AND WILL CHANGE!!! The minds of our white counterparts at NYLS are basically closed to enlightenment and education where minorities are concerned, THIS MUST AND WILL CHANGE!!! Whites at NYLS, from Professors to students, are basically intolerant to our efforts to fight racism and end the strife and struggle that is a constant part of a minority law student's life, THIS MUST AND WILL CHANGE.

NYLS should stop the pattern of dumping one black professor and hiring another so that they can always say that they have at least one black faculty member.

NYLS should have a minority recruiting program for students and faculty.

NYLS should stop acting so goddamned pompous, proud, and self-righteous about their "little Black Community"—For we are few in number, dissatisfied, unhappy, and pissed off.

NYLS should wake up and stop giving minority students the shaft.

I implore NYLS to stop the bullshit.

Politically blacks have just taken a huge step into the mainstream. New York Law School should jump on the bandwagon, if not for our sake, for your own, because just as a change is inevitable in South Africa, a change is also inevitable at New York Law School. WAKE UP.



Oscar McDonald is a third-year student, president of the Urban law society, and not a bad dart player.



## Kindle the Flame



by Dilip Massand

I have a few apologies to make. First to those people who had the courage to trust me with their work product in our last issue. What can I say? I asked you to share with me your first-hand experiences regarding the racial situation in our city. I was going to weave them together, we were going to create a rainbow that would shed enlightenment and sensitivity to a vital issue, in an atmosphere of cold intellectualism. And what happened, I think we achieved something and touched some part of those who actually took the time to read it. But I know this, had it not been for the ineptitude of yours truly, your efforts would not have been plagued by "typos," or drowned in a tone of immaturity and impatience . . .

Secondly, in the last issue I made a statement that has troubled me since. Along the lines of "immaturity and impatience," I said, "Let's fight the disease of apathy that permeates our school" . . . This was a dumb thing to say. As I sit here writing this, the Ambassador from the European Community is speaking at the school, and the Legal Association for Women is hosting a panel on the subject of battered women. I look around the lounge on any given day and the offices are actually filled with legitimate organizations that between throwing darts, listening to music, and socializing, are having a definite impact on our "microcosmic" community. These are clearly not the symptoms of "permeating apathy." Instead, they are the manifestations of an environment that is beginning to feel good about itself . . .

One event that I stumbled onto that had a definite impact was the Outreach program sponsored by the Black and Latino Law Students Association and the Urban Law Society. It was Friday, I had nothing to do, I saw a few of my friends and classmates dressed up and hanging out in the lounge with people who had fresh, excited faces—not the looks of burned out cynicism that most of us sport on Friday mornings . . .

I asked a few questions, ate a few croissants, and found out that those fresh faces belonged to city high school students who had been invited to the school to gain a first-hand taste of "the Law School Experience." They were going to have actual classroom experience with some of our professors, followed by a lunch break, and then a "rap session" with the Black and Latino students who organized the program. Driven by a strange sense of curiosity and pity for these fledglings who I was sure would leave absolutely discouraged, disillusioned, and disgusted, I wormed my way into the program by offering a bit of media coverage . . .

I went up to the Moot Court room where they were to have their first exposure to Constitutional Law. Making an extremely conspicuous entrance, I took a seat in the jury box with my comrade from the Reporter who was hard at work snapping pictures. They were discussing who makes the Laws, and if the Laws are really fair to all members of society. The young girls in the room were quite enthusiastic in stating that Laws are made by men and for men. The professor then told them about a case in Florida where a woman who had been wearing a very provocative outfit had been sexually assaulted, and her assailant had been cleared of charges because the court found that due to her mode of dress she was more or less inviting such situations. They exploded with responses—some saying that maybe she was partially to blame, and others claiming how ridiculous the court's holding was . . . In either case, the Moot Court room had come to life like no class that I've ever experienced in Law School. I sat back and admired their courage for just voicing their gut reactions, and the conviction with which they expressed their feelings.

The professor then asked them about teenage sexuality. Did they feel that young girls needed more protection from such activity due to the risk of getting pregnant? Again the room was filled with electricity—Most of the males took the position that girls consented to sex, and that they

shouldn't have to bear the burden. But the young women, you could see that this was an issue that was part of their daily lives, that they themselves experience and struggle with . . . Some of them said that it was debatable whether they really consent to sex, or if they give in to pressure . . . Others said that the risk of pregnancy itself was a burden to them, and that the males should have some balancing consideration.

Finally, they were asked if they were aware of the diminishing right for women to have abortions. Not only were they aware of it, but the overwhelming majority thought this was stupid, and couldn't understand how such a thing was happening. At that time the class ended to their disappointment, and one girl who was sitting in the front of the room elbowed her neighbor and said—"Look at all these pictures in this room, they're all old, white men. What do they know about our lives? We need more women judges."

After a lunch that fill our "hospital-waiting room" lounge with good food (cheese was conspicuously absent), laughter, and music, the group headed for the rap session. Well immersed in my role as media hound by now, I made my way to the next leg of the assignment. I assumed I would just snap a few quick pictures and call it a day. Instead I found myself sitting through the entire session mesmerized by the communication between my fellow students, and the young people that they had invited to the school. People that I have sat with in class from the day that I began Law School, and whom I remember speaking only a handful of times, said things about their experiences and their emotions that I could never have imagined they felt. Once again my arrogant ignorance proved me a fool.

A woman who has been in my class since day one said how happy she felt to see so many of her "brothers and sisters" in the school. She talked about what it's like to be in a class of seventy or eighty students when the professor talks about racism, or poverty, or slavery and to only

see two or three of "your people" in that classroom with you . . .

Another young man talked about why he chose to come to Law School. Essentially he said "Law is Power." If minorities want to make change in this country, they must have power, they must know the Laws . . . To paraphrase—"To play the man's game, you have to speak his language" . . .

Someone else talked about how his parents had never received any formal education. How he worked to the bone in college to finance his education, about all the loans he took out during college and now during Law School. But now that he was graduating and he had skills that demanded money, he could see the light at the end of the tunnel . . . And he knew that his efforts were worth it.

And then there was Celestina. A woman with her own young children at home, who had worked with young people before, and who came to Law School to make a better life and effectuate some change. She said she knew how hard it is at their age and in their neighborhoods, to concentrate on school, with so many distractions at hand. But she hoped that they could see with hard work and effort, there is a bright horizon . . . She made them promise to believe in themselves, and their futures. In short she stood in front of that room, opened her heart to everyone there, and made us all feel a bit better about ourselves . . .

And that's how I'd like to end this decade and this bit of prose . . . I would like to think that there's a breath of fresh air at New York Law School. Whether those kids who were here left a bit of their magic behind, or maybe it has something to do with us and the way that we feel about ourselves . . . The shadows of Columbia and NYU are growing shorter everyday. Obviously we have our problems, and the road ahead will require a good deal of hard work and sacrifice . . . But—wouldn't it be nice if students at NYU Law School had to say "No, not New York Law School" . . . Think about it, stranger things have happened . . .

**Club Update**

**Latino Law**

The Latino Law Students Society and other co-sponsoring student organizations would like to thank the NYLS community for their generous contribution to the Hurricane Hugo fund raiser. A total of \$535.00 was sent to the Hurricane Relief Agency in the schools name.

**New York Law School Media Law Project update:**

The Media Law Project is now in full swing. The members are enthusiastic and we are planning three events for next semester.

- An Arts, Media, and Entertainment Law Symposium.
- A panel discussion on censorship
- A panel discussion on the legal implications of digital sampling in the music business.

Also, the Communications Media Center of New York Law School is sponsoring a seminar on High definition Television on November 30 and the First Amendment Rights of telephone companies on December 19. Contact the Communications Media center for more information on their events.

Continue reading the Reporter for more information on the New York Law School Media Law Project and stop by our office at C-102 to get involved.



**ABA/Law Student Division Fall Roundtable:**

**Governor Dukakis Guest Speaker**

by Frances Chan

The ABA/Law Student Division's Fall Roundtable (Meeting) for Circuits 1, 2, 3, and 11 was held on October 27-29 in Boston. I went in my capacity as a member of the Commission on Minorities and Women in the Profession (COMWP). SBA President Cynthia Hanrahan and ABA/LSD Rep. Mark Rothberg also attended. I heard presentation on the Law Student Division's (LSD) structure and now I know how it works so if anyone is interested in getting involved with the LSD, I can fill you in. I also went to the Board of Governors meeting for a COMWP meeting, which was held in San Antonio. We passed a couple of resolutions, one which re-structures the Commission and the other to amend the By-Laws to include the Commission. I will be chairing the Commission next year. (That make me Chair-Elect.)

Governor Michael Dukakis was the guest speaker at the Saturday session. He spoke about the difference between law school graduates in the 1960's and today—with respect to public service. He encourages all law school students to seriously consider working in public services and expressed extreme dismay at the 1988 statis-

tics provided by Harvard, where he went: out of 575 graduates, 29 or 6% had jobs in public service.

Dukakis spoke on the legal and social developments in the 60's and 70's: the civil rights movement, helping efforts and increased legal services for the poor, and the recognition of the constitutional right for indigents to be represented, which grew out of this public service effort. The Vietnam war and Watergate, however, sapped the country's resources and created conflicts which further radicalized the nation and led to destructive situations in cities. Nonetheless, the Governor stresses that the U.S.'s role in the world is to provide leadership, to be a beacon of inspiration in terms of democratic values, and that we should all strive to contribute to furthering these ideals.

During the Question and Answer period, the audience naturally asked questions about his experiences during the Presidential campaign and the (then) current local campaigns. When asked what it takes to "make it" in politics, he said, "Well, I'm not the right guy to ask, but he said that the qualities required are 1) steadiness, 2) you have to like politics and 3) you have to be good at coalition-building."

**NYLS Real Estate Association**

By David A. Wind

The New York Law School Real Estate Association had its first event on Monday the 20th of November in the faculty dining room.

Two guest speakers addressed an audience of approximately 40 students, faculty and visitors about the current Real Estate Law climate and offered advice on how best to *weather* the downturn in the industry.

The first speaker, Mr. Stephen Einstein, from the law firm of Schlusel and Einstein, suggested that new graduates interested in real estate law should consider other related fields such as bankruptcy and foreclosure work, and General Corporate work.

Fredric Gould, a partner at Gould Investors, L.P., and chairman of other publicly traded Real Estate Organizations had a slightly dimmer view. He suggests that those considering real estate practice reconsider or leave New York. While Mr. Gould stressed the cyclical nature of real estate, he cited various regions, like the south west, that have been in extended real estate recessions. He indicated that New York could very well follow suit.

On the brighter side, Mr. Gould sees tremendous opportunities in Europe's Unification and in the western United States where Real Estate continues to enjoy tremendous appreciation.



**Discover the Office of Student Affairs**

(and Get to Know the Well-Connected Monica Coen)

By Anthony S. DiNota

Like the undiscovered restaurant in the East Village that is tucked away from glitter and noise on some quiet, tree-lined sidestreet, so too sits the Office of Student Affairs (OSA) up on the mezzanine of 57 Worth Street, far removed from elevator lines and day students complaining to the registrar and dean about the lack of electives.

OSA is responsible for student perks and services that take you away from the everyday grind, kind of like the "antidote to civilization" for NYLS students, (kind of). The person to get to know is the Assistant Director, Monica Coen, who at times, it seems, functions like the Assistant Director of the Ministry of Tourism and Information. Ms. Coen can get you student discounts to Broadway shows (including Cats, Rumors, and Steel Magnolias), free passes to the television show "Prime Time Live" with Dianne Sawyer and Sam Donaldson, as well as to various pub-

licized concerts at Lincoln Center. Ms. Coen can also inform you of legal writing competitions (which offer prizes of \$1,000 or more and an invitation to a national convention), awards and fellowships.

Ms. Coen coordinates the Student Advisory Program (SAP), which seeks upper-class students to volunteer their perspectives and hints to incoming first years. She is an active liaison between student organizations and administration. She also writes the OSA Newsletter, published every other week, available at the lobbies of A and C Building, which informs students of events and happenings at NYLS.

Ms. Coen wonders whether students are aware of the services provided by OSA, or that they're just not interested. She politely disclaims that her office has anything to do with internships or clerkships. The person who handles those things, Joyce Reinecke, also happens to share an office with Ms. Coen.



A Short Story . . .

# Waiting for Death In Panama City

by Phillip Spyropoulos

She found him dressed in uniform, hunched over his beloved writing table. She smiled as she remembered how proud he was when he graduated from the academy so many years ago. How his father had hugged him with tears streaming down his cheeks, and how he had saved two months' earnings from the store to buy him the beautiful brown oak table "so you can write on it as often as you want and it will never wear down."

"And so you can bang your head on it when you make mistakes as many times as you want!" giggled his dirty-faced little brother as he ran behind mother, adding, "Except the table will break before your head does!" as he was chased around the yard, caught, and tickled by his older brother until he could take no more.

She hated to wake him up but she somehow knew today was an important day for her husband. For weeks he had been away from the house. There had been long stretches of time when he would not even stop in for dinner and she would stay up all night waiting for him in vain. 'He is a major now', she thought, 'maybe I am not pretty or sophisticated enough for him' and she cried until sleep finally took her. Then when he finally did come, his wary face cracked with lines of exhaustion and worry, he ran to her and embraced her like he had not done in years and her heart moaned with relief and joy. The little time

he had spent at home was full of love and closeness. But it was an unsettling closeness, as if he was trying to tell her something, as if it was coming to an end. Yet she knew she would have to be silent, she knew the man she loved too well. That's why she was terrified.

"Moisés" she whispered as she lightly placed her hand on his shoulder. "Moisés, I think you must wake up now" she whis-

she said as she greeted him with a hot coffee she had kept warm in the fire.

He looked at his watch, "Is it five thirty already?" She looked at him and her smile faded, today was the day. "You look like you haven't had enough sleep again Moisés. You should take care of yourself better" she looked down at the floor, trying to avoid his tired eyes. "I am still as strong as a bull!" he shouted as he put one arm

his fears, all his feelings would pour fourth, and would undo all that he had hoped for. He somehow regained his strength, as he had done so many times before, and gently embraced his sobbing wife.

The strength entered her, and she stopped as suddenly as she had started. She kissed his forehead again and walked over to the chair, moving it back, inviting her husband to sit down with the gesture. He followed her and after hesitating a moment to look at her wet, dark eyes, sat down in front of his father's oak table. His pistol's cartridge was still out and half filled, with the remaining bullets scattered across the table. He had fallen asleep during this effort, trying to occupy himself during a long and anxious night. He resumed filling the cartridge, and with every bullet's click, his fears and apprehensions ebbed out of his body, yet with every click, his wife's heart grew weaker and empty. She had seen him load his pistol almost every morning since the last coup attempt, a habit that at time frightened her, at times amused her as one of men's childish games. Yet the sound this morning's bullets made as they snapped into their metallic womb was sinister.

"Won't you drink your coffee? It's getting cold."

"No Muñeca I am not thirsty."

"It's your favorite, Moisés, café con leche."

"No Muñeca I am not thirsty."

*"He resumed filling the cartridge and with every bullet's click, his fears and apprehensions ebbed out of his body, yet with every click his wife's heart grew weaker and empty."*

pered again, and kissed his cold forehead. He stirred and, after a few moments delay, jumped up out of his chair and stood up straight, with a frightened and confused look in his eyes. He stood there, looked around, looked at his wife, and finally relaxed his tense body soon after he saw the warm smile on her face. He let out a sigh of relief. "Good morning Moisésito,"

below her knees, and another behind her back and swooped her up, twirling her around, encouraged her childish screams of delight. She suddenly started to cry, and he slowly put her down again. "What's wrong Muñeca?" he asked, holding back a flood of tears. He was happy for her silence, for if she responded he would not be able to hold back. All his affection, all

## The Opulent 80's: A Look Back

by Barry Block

As we prepare for the 90's, we nostalgically look to characterize the past decade. Although each of us will inevitably maintain our own special memories of the 80's,

some collective experiences affected us all. The following list is not intended to be exhaustive, but rather to reflect some of the flavor of these past 10 years.

- Broadway- Cats, 42nd Street, Phantom of the Opera
- TV- Cable TV (HBO, MTV, ESPN, CNN, Etc.) Thirty Something, L.A.LAW, Cosby, Roseanne, VCR, Remote Control
- Music- The Big M's (Madonna & Michael Jackson) Rock Concerts: comebacks and Social causes. Elvis dies? (Becomes bigger than in life) Spike Lee, Steven Spielberg, Francis Ford Copola
- Business- Oct. 19, 1987 (the Crash that couldn't happen) Americans buy Hondas (Japan buys America) The Rich get Richer (the poor get homeless) Leveraged Buyouts (takeover fever) Reaganomics (tax relief for Bonzo)
- Comedy- David Letterman, Joan Rivers Robin Williams, Whoopie Goldberg Eddie Murphy, Goodbye to Lucy
- Science- The Challenger Explosion, A.I.D.S. Home Computers (Lotus anyone?) Pollution (syringes on the beach) fusion

- Movies- E.T., The Big Chill, Hollywood Hype Wins (Batman) Hollywood hype loses (Howard the Duck) Kathleen Turner & Meryl Streep, Dustin Hoffman/Jack Nicholson/Tom Cruise/Harrison Ford Serials Rambo I, II, III, etc.
- Personalities- Legal Robert Bork, Barry Slotnick Art Andy Warhol Crime Willie Horton, Leona Helmsley, Ollie North Money Donald Trump, Ivan Boesky Sex Jessica Rabbit, Mel Gibson
- Politics- The Abortion Controversy (Pro life v. Pro choice) The Middle East (Iran/Iraq/Israel) Negative Campaigning (Dukakis in a tank) Jesse Jackson (0 for 2 but gaining) Drugs (crack) & Crime (Wilding)
- Sports- The Great Ones—(Gretzy, Bird, Jordan, LT) The Mets of '86 (ball goes thru Buckner's legs) US boycotts '80 Olympics (USSR boycotts '84 games)



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## Where America Begins

by Bill Bischoff

A Pacific Island woman asked me why there are wars.

She had been hurriedly married during World War II. At the time, the Japanese were evacuating the Catholic priest from the island of Yap, to which her Guamanian parents had migrated in the 1930s. If she were not married, she would soon have been taken as the concubine of an occupying Japanese. She had no misgivings about her marriage, but she had had no real choice in the matter. War, American war, still preoccupied her.

*"This woman reminisced that her husband had been a patient man, before the repeated beatings by the Japanese."*

We talked often; she called me her Americano friend. The youngest of her thirteen children was my honor student at the local parish school. I had stopped by the house one day after school, learned she had several eligible daughters helping with the housework, and thereafter become a regular visitor.

The island of Guam, her home, is a Trust Territory of the United States, having been captured in 1899 in the Spanish-American War. The Guamanians never had any say in the matter. In any event, they preferred American to Spanish rule. Who wouldn't have? Most of our ancestors migrated to America in order to be ruled under American law.

I was always referred to as an Americano, despite the fact that Guamanians are full American citizens. They had the highest per capita casualty rate of any American community in the Vietnam War. Although Guamanians cannot vote for President, and have only a nonvoting representative in Congress, they are eligible for the draft. With many of those who were drafted, and even with those who volunteered, I've been reticent when, over six packs, the Vietnam War has come up. It's unnerving to hear that they feel they fought for me, the white man, but still cannot vote.

This woman's son who was drafted to Vietnam returned. For that she counted herself blessed; two of her nephews, who volunteered, did not return. Guamanian men did not have the highest per capita casualty rate in Vietnam because they were unwilling to fight for America.

Although indignant about being unable to vote, Guamanians cherish their American citizenship. After dark centuries of Spanish rule, Guamanians are now living close to history; they value American ideals. Until very recently, most had been unhesitatingly patriotic. Liberation Day, the anniversary of America's recapturing Guam from the Japanese in 1944, is still the biggest holiday of the year.

This woman once reminisced that her husband had been a patient man, before the repeated beatings by the Japanese. He rebuilt her and her mother's hut each time after the Americano planes bombed the Japanese on Yap. But he came to see that islanders were like bits of seaweed in everybody else's nets.

Their relatives back on Guam were even more badly entangled during the war. The Guamanians felt a fervent tie to America and the Japanese knew it, and so they were beaten and starved in concentration camps. Many were beheaded. After their liberation, Guamanian men chased the Japanese invaders from the jungles for years. The last straggler was found in 1972.

Guam was the only Western Pacific island the Japanese actually had to fight for in World War II. They had wrested the other Micronesian islands from Germany, in World War I. Germany had bought the islands from Spain in the 1880s. Guam was the one island the Spanish refused to sell in the 1880s, so it was still ours for the taking from the Spanish in 1899.

Shortly before Pearl Harbor, Guam and the Philippines were attacked. Congress had decided not to appropriate funds for the defense of Guam. It was too far away; from a practical standpoint, it was not de-

fensible. A Congressman is said to have quipped "Well, here today, Guam tomorrow." I have never seen any official statistics on it, but Guamanians must have had the highest per capita casualty rate of any American community in World War II, just as they did in Vietnam, since in World War II Guamanian citizens were attacked. Only, Guamanians were not full American citizens at the time of World War II. Whether Guamanians were technically our colonial subjects is an idea probably distasteful to American debate; but Congress did confer full citizenship upon them in 1950.

When my Pacific hostess asked me why there were wars, she was not looking for a simplistic response. She chose words carefully. Her first language was Guamanian, but her five years of formal schooling had been in Japanese, on Yap before the war. She spoke a little Yapese, too. After she had moved back to Guam, after the war (the Yapese demanded that all other-racials be relocated), she had learned English from her children. I would speak in pidgin Guamanian and she in measured, self-conscious English.

At one time I had spoken to her only with respectful deference. It was my personal strategic objective, so to speak, to promote friendly relations with the guardian of the senioritas. Now I came to her kitchen as much for our running conversation as for a few words with her daughters.

I told her impulsively, if haltingly, in Guamanian, that wars are caused by those who already have life's necessities, who, instead of sharing, decide they need something others have, too. I don't know how incisive an answer that was. In fact, I felt a little awkward having said it. But, she had asked me. I don't know what she was thinking; neither of us spoke for a little while. She washed dishes, and I took a look through the newspaper.

She asked me if there would be a war against Russia, and if Guam would be caught in the middle. The Russians, I answered, want to remake the world in their own image. But I wondered about America's image. How are we remaking Guam? This was about a year before Gorbachev. I explained that the Russians feel it is their destiny to remake the world, that they feel they have earned the right. In the War, it was Russians who gave their all to stop the Nazis. Otherwise, America would not have been free to fight the Japanese here in the Pacific. In the last century the Russians outlasted Napoleon. Otherwise, he would have turned on America. I wondered whether, if the Russians made incursions to Guam, they would really be attacking America. After all, these people are of a different race. They have their own language. They can't

vote for President.

Her back was to me. As a statesider guest in a Guamanian household, I was constrained to sit at the head of the table. She was still at the sink. It seemed she spent a lot of time there. In a sense, it wouldn't matter to her whether Guam was ruled by Americans or Russians; she was sentenced to perpetual kitchen duties no matter what.

I could see from her profile that she was blushing. She was recounting how the Americano soldiers had wanted just to forget all about the War when they landed on Yap and saw all the topless Yapese girls. As a transplanted Guamanian she, of course, was always clothed; the Westernizing of Guam had begun with Magellan. (Magellan killed people as indiscriminately as other world conquerors. It is anybody's guess whom the Polynesians may long ago have displaced from Guam.) We surmised that Russian soldiers, too, would have reacted like the Americans did to the Yapese girls.

But then, I thought aloud, Americans generally do need an immediately compelling reason to drop their private pursuits and fight anywhere beyond what is necessary to secure this day's peace. They are unburdened with the Russians' sense of history. The Americans need a well defined objective, but then they can act with ingenuity.

She wanted to know why Guamanians cannot vote. I continued that if we Americans will fight for democracy on foreign soil, we will eventually use our ingenuity to secure democracy for our citizens here. Upon recognizing some particular group's peculiar interests, like the Guamanians', are not being virtually, much less actually, represented in Washington, D.C., much as the American colonists' interests were not represented in Parliament in the 1700s, it will be acknowledged the lawful thing to extend to them the right to vote. It is just that nobody has heard of Guam.

(Had I known it at the time I would

too oppressively hot to do much more than think slowly and pick at the pungent, spicy, local fare.

I told her how the founding Americans fought their Revolutionary War mostly as "summer soldiers." Each militia intuitively adopted warfare's first guerrilla, or jungle tactics, to chase the King's soldiers from their own locale. It is usually difficult to convince an American (or an islander) of the urgency of a cause that does not impinge tangibly and directly on his life. General Washington was afforded the barest of armies, and actually fought a Russian-defense style of war. He relied on time and the security of our vast spaces, and avoided large scale, direct confrontations with the British until the French backed our Cause.

The American Cause is festering on Guam. A federal court in 1988 noted that Guam "is subject to the plenary power of Congress and has no inherent right to govern itself." Guam in 1989 and 1990 is, like Puerto Rico, negotiating a Commonwealth Agreement with Congress. Commonwealth status for Guam is the aspiration of many of its politicians and businessmen. They want greater control of their island. They want to be able to eliminate the minimum wage and import green-card Philipinos for servants. Once Guam is free from Congress' sometimes arbitrary dictates regarding local economic issues, those local leaders will have a virtual fiefdom. That is, until the next military emergency, when all Guamanians will peremptorily be subject to U.S. martial law as second class, nonvoting citizens. Perhaps it is consciousness of that second class status that endears so many local businessmen to the idea of having Philipinos for servants.

The draft of the Commonwealth agreement that is now being negotiated in Congress was democratically voted upon on Guam, but by a turnout far smaller than there usually is for the election of the governor. About 85% of the people vote in gubernatorial elections; about 45% voted

*"Americans generally do need an immediately compelling reason to drop their private pursuits and fight anywhere beyond what is necessary to secure this day's peace."*

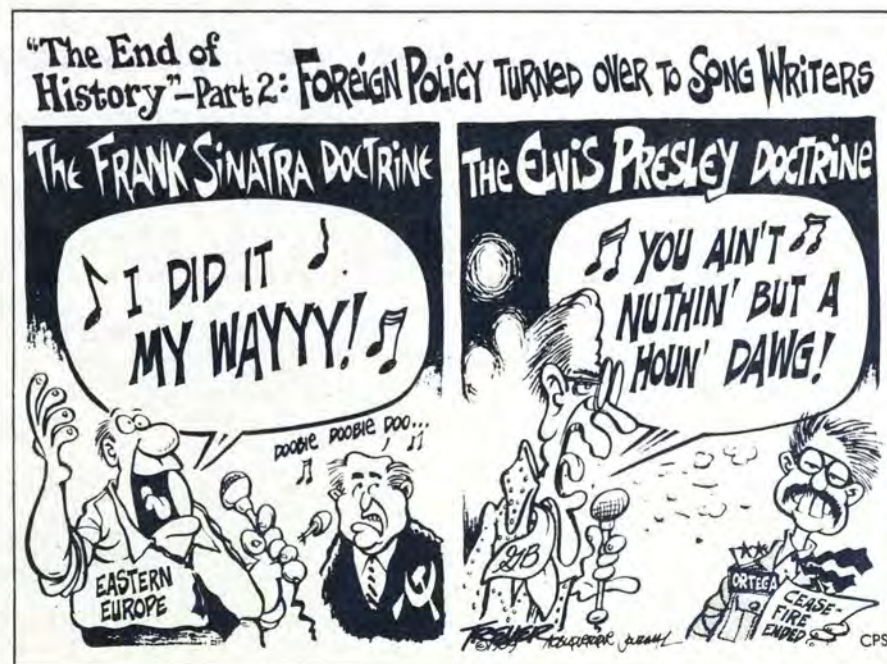
have added that, in what is renowned for being the most "famous footnote" in all United States Supreme Court opinions, "discrete and insular minorities" are singled out, albeit metaphorically, for special protection from the potential voting caprices of the majority. That is, the Guamanians are entitled to voting rights-plus.)

She encouraged conversation with offerings of fried mackerel, the heads especially urged upon me, and with lemon cured beef strips. I persevered. At one-thirty in the afternoon on Guam, it gets

on the Commonwealth Act. And the Commonwealth Act will fundamentally alter Guam's political status.

The Commonwealth Act was finally passed, by a bare majority of the minority who voted on it, in 1987, on the second time that it was foisted upon the people that year. It is now being negotiated with Congress. Most Guamanians do not completely understand what the Commonwealth Act will mean. Most statesiders do not completely understand their state con-

con't next page



stitution. But at least statesiders know they have the right to vote for President.

That is enough. The federal government is the most significant political force in our lives. Guamanians are facing the possibility that they will never have the right to vote for President, only the right to be drafted. Many feel, perhaps justly, that they should make themselves superior to white interlopers like me on Guam, if they are to remain second class American citizens otherwise.

This woman did not want to see Guam become a Commonwealth because that would effectively preclude her gaining the right to vote. It might seem unlikely that a Polynesian kitchen-bound housewife would care about something like that but Guamanians, with a population of only one hundred thousand, elect a governor, a twenty-one seat legislature, and a mayor in each village. Democracy is real—to the extent we allow it to be. Almost everyone has a relative in some public office. Commonwealth status would attain for local politicians powers undreamed of by similarly small-time stateside politicians, and it would grant purportedly unconditioned economic benefits to people like her. But she said she would instead like for her and her children to someday be able to vote for President.

Why? Because of war. Guam is considered strategically important. The U.S. has large Naval and Air Force bases on Guam. The President is the Chief of the

Armed Forces. He decides where Guamanian draftees will fight and whether the nuclear warheads stored on Guam will be used. If you cannot vote for President, how can you have any say in these matters?

*"I am the one who feels undignified whenever I must apologize for America's revolutionary ideal ingloriously retreating on American soil."*

It was American policy in the years following World War II, as expressed in the Solomon Report, to make Guamanians and other islanders economically dependent on American welfare. That way, the strategically located islands could be used in case we fought a future war for human dignity, against Russia. Why are there wars?

Wringing her hands, she turned from the sink. It was the First Friday of the month; she was going to rest before five o'clock mass. She declaimed that to live under the Americanos is still the best thing. At least under the Americanos she can practice her religion freely, and that is more important than being able to vote. She said that you probably cannot stop wars by voting anyway, but that maybe you can by praying.

I did not disagree with her, at least not openly. She might be right. Still, I cringe to know that voting actually can make a difference. It is what making the world safer for democracy is supposed to be all about. The right to vote is the essence of our American Revolution. In Communist countries, like China, people are castigated and killed for being "counter-revolutionaries." Anyone who would balk at extending to all Americans the right to vote is surely a counter-revolutionary American.

The people in Washington, D.C. attained the dignity of the right to vote in 1961, even though Washington, D.C. is not a state. Some people, like this woman, do not lack dignity either way. As a white American, I often feel a little like an ambassador for my country when I sit at a Guamanian kitchen table, even though Guam is on American soil. I am the one who feels undignified whenever I must apologize for America's revolutionary ideal ingloriously retreating on American soil.

We know  
who's naughty  
and nice . . .

Peace on Earth  
and Goodwill  
to all . . .

—The Reporter  
wishes everyone  
a happy holiday.



# 6 Out of 6!

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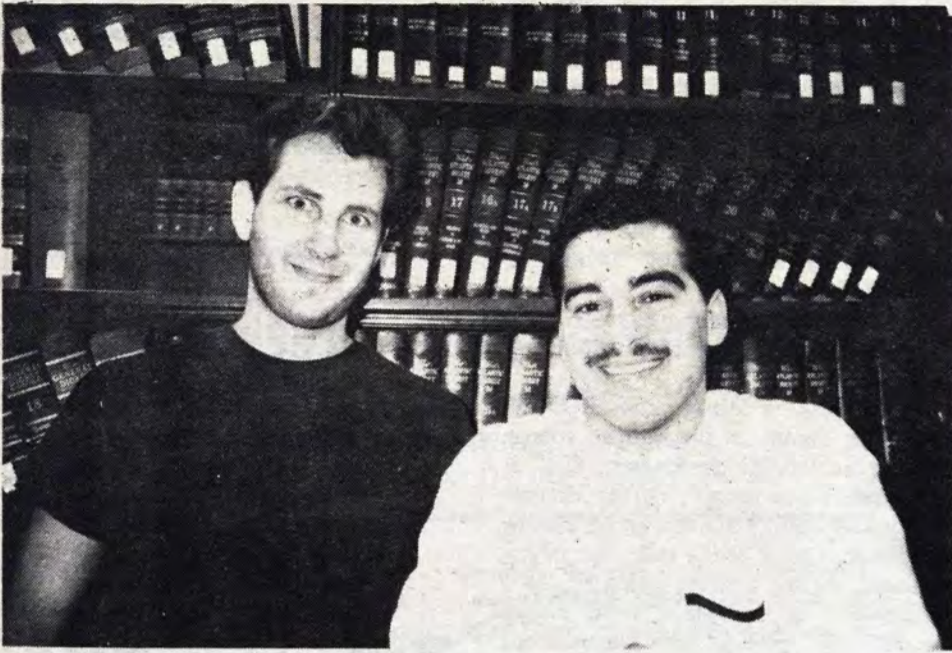
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# Roving Reporter

## What do you think of the 80's? What do you predict for the 90's?



A. Ron Rudolph  
Class of 1991  
B. Bob Nourian  
Section B  
Class of 1992  
1980's: Corruption.  
Too much emphasis on making more money.  
Death of disco & a lot of loans  
1990's: Employment.  
Financial rewards from law school



Anne Aycock  
Class of 1991  
1980's: Was supposed to be the "We" decade. Unfortunately it was not.  
1990's: Hopefully we will replace it as such. That instead of being Americans, Africans or Israelis . . . that in the 90's we'll become "Humans".



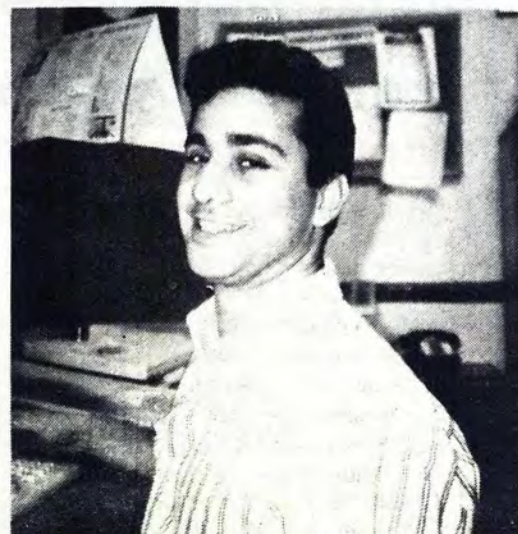
Maria Colonna  
Section B  
Class of 1992  
1980's: Everyone is too influenced by media. Everyone tries to be individualized but in reality they're not individual. For example, people in the village try to be different so they ALL dress in black.  
1990's: Same thing but worse.



Laura Large  
Section B  
Class of 1992  
1980's: Decade of independence. Yet we went back to traditional values of past decades.  
1990's: Continuing to return to traditional way of living. But in terms of race, sex, and economy are becoming more like people and less class categorical.



Glenn Bruno  
Section A  
Class of 1992  
1980's: Just trying to live through the semester.  
1990's: Finish school.



Todd Rothenberg  
Class of 1990  
1980's: "Greed Decade"  
Decade that made money too great a value in society.  
1990's: I predict more of the same thing, or the total opposite. But if I had to choose one I would say that the greed will get worse.

# We Are Not All Created Equal

by Noam de Pleume

In the last article it was established that the founding Fathers' idea of equality was not anywhere near the modern liberal vision of equality. The Founding Fathers' idea translated into nothing more than political equality. A belief in this idea was neither inconsistent with a belief that people are born with unequal abilities, nor with the acceptance of conventional inequalities (i.e. those based on class or wealth). It did not form the basis for any reformist social agenda. If one considers that the Constitution was framed by an Early American elite of property owners in an effort to secure and perpetuate their station, one would be ill advised to look to either the Constitution or the Framers' intent as a source authorizing liberal measures such as those typified by modern Civil Rights and Great Society legislation.

Where can and does modern liberal law making get its authorization from? For the most part, it is from a moral notion of fairness which liberals feel is embraced by any concept of equality. Incidentally, some notion of fairness was entailed by the Founding Fathers' idea of equality; but this notion never went so far as to impose a duty on the government as extensive as the one liberals feel it has. Liberals believe the government has a duty in many respects to intervene into traditionally private realms and to govern relationships between employers and employees, landlords and tenants, buyers and sellers, and the like.

The first question that arises from the above discussion is whether it is proper to conceive of government as having any moral duty? Government is essentially an artificial creation representing the interests of those who created it. If the mass of people responsible for government's creation meant for government to have some obligation, when such an obligation is justified. People in general would all agree that government does have a duty to be fair. However, there would be no general consensus as to what exactly this duty entails and how extensive it should be. There can, nevertheless, be some agreement as to some points about what fairness involves.

Fair treatment and identical treatment are two different concepts. Sometimes, being fair means treating people the same, other times it means treating them differently according to their situation. In order to treat people differently and remain consistent with the notion of fairness, it is first necessary to purge this silly idea of natural equality. No two people, no two races, no two groups of any sort can possibly be potentially equal. The extent of natural inequality existing between races and sexes is scientifically unknown and the subject of great debate. But it is unfortunate that liberal propaganda has so warped our vision that we cannot even imagine that such inequalities may exist and that they can be a legitimate basis—albeit in few instances—for differential treatment.

The acknowledgement of race or gender based inequalities simply commits one to the position that two given groups *as a whole are different*. One cannot draw the inference that any one member of the group will positively exhibit traits typical of the group as a whole. Nor can one say, without making an arbitrary value judgement, that mere differences form the basis of superiority or inferiority. However, when race or gender based differences (more often the latter) are used as a basis for discriminatory laws or policies, it is not necessarily unfair. There is only unfairness to a number of members of a group that do not have traits typical of the whole

(i.e. those who do not conform to the stereotype). If this group of "atypical" members is large, then the effect of the discriminatory law or policy is on the whole unfair. If the group of "atypical" members is on the other hand very small, discriminatory law or policy is on the whole unfair. If the group of "atypical" members is on the other hand very small, there is still unfairness to this small number of "atypical" members, but the discrimination as a whole is not unfair. After all, every law is cast in terms which create large classifications, and every law necessarily burdens some people unfairly. If that is the case, why should there be a different standard for race or gender based law than for law in general? That would clearly be unfair.

[It should be stated as a warning that natural inequalities cannot be presumed to be a substantial component of actual inequalities existing between races and sexes. As a result, they can form a justifiable basis for differential treatment in only a small number of instances.]

The overwhelming bulk of inequalities are conventional, i.e. based on wealth or class. Is it fair to have such inequalities? This question is not as innocent as it seems. Before we proceed to answer it, we should answer more basic questions:

*"No two people, no two races  
no two groups of any sort can  
possibly be potentially equal."*

Is it fair that a social structure whereby different people are given different awards and privileges should even exist? To answer no to this question would mean that you are, in theory at least, a communist. If you are, then you are free to disregard everything in this article. Nevertheless, most of us would agree that some social hierarchy is justified as long as it is based on merit or contribution. Thereafter, more difficult questions arise: What type of merit or contribution is to be awarded and to what degree? Is it fair, for instance, that a shrewd investment analyst driven by greed should through his "merit" become a millionaire overnight, while a brilliant musician who wants to "enrich" humanity goes to his grave penniless and unrecognized?

Debate over what the "just" or fair social order is, would be endless and largely futile. Our society has made a decision to award certain forms of merit or contribution to a greater extent than others. Although we may not agree with the specifics of this decision, we defer it to nonetheless. All the more so because the decision cannot be predicated on any notion of fairness. It can only be a value judgement (e.g. This loaf of bread is worth more than this song, therefore the baker should be making more money than the singer.) As mere members of a society we are hardly in any position to challenge society's decision to award more money to the provider of food than to the provider of music without seriously questioning many of the underlying values of society. And since most of us are not radicals, we are content to live peacefully in society and advance ourselves through available channels. But when the available channels are obstructed to

certain groups arbitrarily (such as on the basis of color), then equality/fairness concerns legitimately arise. For example, we do not generally find unfairness when a doctor gets paid more than a butcher. But we are indignant when whites are able to become doctors more easily than blacks [or vice versa as in the case of affirmative action].

If it were the case that certain groups occupied higher social positions than other groups because they were more meritorious, concerns of fairness would not be as great as otherwise. Laws designed to prevent the government from discriminating on the basis of race or gender would be a step in the direction of ensuring that positions are available strictly on the basis of merit. These kind of laws are typified by the 14th Amendment (strictly construed). 19th century Civil Rights legislation, and other attempts towards the abolition of "de jure" discrimination. Nevertheless, experience has shown that even after such measures, social strata are still formed along racial and gender lines. An explanation that this phenomenon is the result of natural inequalities is hardly credible. The weightier explanation is the following: The social structure is set up in such a way that it promotes advancement of white males either (1) by rewarding the

ness loses its utility at this point because many important countervailing considerations come into play: for instance, burdens placed on the government, burdens on the private person, interests in maintaining peace and order—just to name a few.

[I will not be able to address all these issues in this article. Nevertheless I will commence a discussion of whether government action—as advocated by liberals—has any significant effect in even mitigating unfair social inequality.]

Can government do anything towards the abolishment of unfair social inequalities? In the first place, the interests of minorities and other disadvantaged classes do not have adequate political representation. The liberals who claim to be their champions are either "feel goods" who bath in a vat of lofty intentions while lacking a true understanding of the causes of inequality, or they are plain hypocrites. As an example of the latter, consider that during the 50's and 60's all three branches of the federal government acted in unison to impose a liberal desegregation agenda in the South; yet when the same issue hit closer to home up in the North in the form of bussing during the '70s, there was heated discord all of a sudden. (There are countless other examples which I don't have time to give; but I strongly urge a reading of a biography of Lyndon B. Johnson to show my point.)

The futility of attempts to cure unfair conventional inequalities is a more important point to be made. Consider that every society that has ever existed has had some hierarchy that was not strictly based on merit or contribution. Consider also that communist societies committed to a vision of perfect equality, even with totalitarian means at their disposal, nevertheless maintain unfair social hierarchies. The expectation that government intervention results in substantial progress towards achieving fair social practices is not a realistic one. One should consider the nature of class structures and how hierarchies are perpetuated: Certain conventions practiced on an intimate scale are the most important source of social inequality. It is natural for those in favored positions to mete out favors and opportunities to their own kind—namely their friends and relatives who usually comprise a racially homogenous lot.

Although liberals may have some understanding of these conventions, they underestimate their importance. They also have too much faith in their solutions and in human nature generally, a faith which believes that prejudice and racism can effectively be abolished from people's minds. The next article will involve a particular discussion of liberal laws and policies and their short-comings.



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