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## Law Student Rebellion In The Eighties

By Duncan Kennedy

The odds favor a law student rebellion in the 1980's, a spontaneous outbreak of anger in law schools as all levels of the prestige ladder. Here are some of the signs it's going to happen:

While the vaguely left-liberal student masses of the late 60's seem to be gone forever, the number of law students who call themselves radicals have been growing slowly but steadily since about 1977; the majority of students are apolitical rather than conservative.

There is a vital, expanding left legal community, including not just law students, teachers and lawyers in alternative kinds of practice, but also people in undergraduate legal studies programs, social scientists interested in law, and left legal workers and community activists with no formal legal education.

The left legal community has a more focused, intensive critique of law schools, life as a lawyer, and the role of law in our form of capitalism than we've ever had before—we have the intellectual and programmatic resources to challenge the law school status quo in a way we just couldn't manage in the late 60's and early 70's.

The inequities and dehumanizing daily routines of legal education are as bad today as they were ten years ago, but the mood of hopeless acceptance is dissipating (slowly) as people who are pissed off realize that they don't have that much to lose by taking a kick at the system before it allocates them to one slot or another (or fails to allocate them, if they're unlucky in the job lottery).

Of course, none of this means that anything has to happen. It just defines an opportunity for the generation currently entering law school.

There was a law student rebellion in the late 1960's, though it was sort of the tail on the dog, which was the rebellion of the undergraduates. In the 60's, General Hershey was drafting law students right out of school and The Law waged illegal war on black activists in urban neighborhoods. There was Kent State and Cambodia. Law students were almost shamefaced when they tried to apply what they were learning from real world struggles to institutional resistance. But we did develop a fragmentary program which has some bearing on the next wave.

The most basic slogan was against competitiveness, which meant attacking the moral ethos of law school as we understood it. The idea was to share knowledge, rather than following the (mythical?) practice of cutting the crucial case out of the book, etc. The pass-fail movement got a lot of its intensity from rejection of the competitive struggle.

A second slogan was "relevancy," which meant a demand for courses and clinical activities that would let us study law and lawyering in their bearing on the issues of war, poverty and civil rights. There was also the demand that law firms expand and diversify their pro bono activities (it was a student-sellers' market and it seemed the more you mouthed off the more the firms would grovel—not like today).

Students demanded a voice in law school governance. And there was the critique of the Socratic classroom. A book like *The Paper Chase* (which was full of ambivalence—Kingsfield is cold and brutal but also admirable) seemed at the time a strong attack on the whole

pedagogy of law schools.

It was a problem throughout that most politically intense people saw law school as hopeless. The people there were too privileged to be progressive; they'd already sold out; real politics always happened somewhere else—away from school or after graduation. This attitude was wrong. If you don't have a workplace struggle—a law school struggle while you're a law student—how will you manage a whole career of struggle later on, when it's harder and not easier?

A law student rebellion in the 80's should go far beyond what was done in the 60's—taking from the earlier experience commitment to the causes of third world people, women and the working class, and the spirit of flippant gaiety which was often there even when the shit hit the fan.

First, an attack on the whole hierarchical system of the legal profession:

Free legal services for everyone, with the quality of legal services unrelated to wealth.

Lawyers should be assigned to big law firms at random, flattening their hierarchical ordering, which is a way we reinforce the American class/caste system.

Scramble the law schools by random assignment of teachers and students (with a regional preference, maybe).

Select students and teachers by minimum qualifying exams followed by a lottery from among the dozens who would qualify for each available position.

There should be affirmative action for everyone who has suffered discrimination, so that teachers, students and lawyers

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## HOW TO BECOME A JUDICIALLY NATURALIZED U.S. CITIZEN

Miguel Fittipaldi

This article is not intended to be the depositive or definitive statement of the law. Its purpose is merely to orientate and facilitate the further investigation and inquiry entailed in the process of judicial naturalization.

Naturalization is a privilege granted by Congress to aliens who satisfy the prescribed prerequisites.<sup>1</sup> There are numerous objectives as well as subjective qualifications which must be adhered to before United States citizenship is conferred. The granting of U.S. citizenship has always been considered a judicial function, vis-a-vis, Congressional discretion. The judiciary exercises its authority through the Naturalization Courts.<sup>2</sup> Interestingly enough, out of approximately 550 courts now actively performing naturalization functions 350 are state courts and 200 are federal courts. Naturalization thus, is not strictly limited to

the federal court system.<sup>3</sup>

The first step toward naturalization generally is the accomplishment of a lawful admission to the United States for permanent residence.<sup>4</sup> Once the alien is lawfully admitted for permanent residence, a five year designated period of probation must be satisfied before the petition for naturalization can be adjudicated.<sup>5</sup> The residence requirement however, is shortened to three years for the spouse of an American citizen<sup>6</sup> and is eliminated for a child<sup>7</sup> born outside the U.S. who is under the age of eighteen, a lawful U.S. permanent resident, and whose parents or parents<sup>8</sup> are citizens of the United States at the time of petitioning for naturalization of the child.<sup>9</sup> The petitioner has the burden of proof of establishing his eligibility with respect to the residence requirement.<sup>10</sup>

Age is another objective require-

ment for naturalization. The petitioner must have attained the age of eighteen to file for naturalization and be otherwise qualified.<sup>11</sup> However, for children of U.S. citizens, the beneficiary must be a child under the age of eighteen at the time the petition for naturalization is filed in his behalf by his parents(s), and under the age of eighteen at the time of his naturalization.<sup>12</sup> Thus obtaining derivative citizenship.

There is no express requirement as to the mental capacity that must be possessed by the petitioner for naturalization. However, a person who is legally declared insane lacks the capacity to understand the necessary requirement of renouncing his former allegiance under oath and the nature of the obligations of citizenship.<sup>13</sup> Therefore, if the petitioner is not legally competent he can not com-

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## Dean Shapiro Resigns

As reported in the New York Law Journal, Dean E. Donald Shapiro will resign effective June 30, 1983. He will remain at NYLS as a full-time faculty member as the Joseph Solomon Distinguished Professor of Law, the schools' first endowed chair.

Dean Shapiro's resignation will end ten years of service to the law school, the longest term in that office since George Chase, the school's first dean. Dean Shapiro is credited with encouraging new growth in this legal institution.



John T. Thorton, Chairman of the Board of NYLS, has stated in a letter to the law school community that for the next year there will be a national search for a successor "of Dean Shapiro's caliber." Any suggestions on the search process of able candidates should be referred to Mr. Thorton.

## Hypnosis and the Law

Wendy R. Berman

Anne Warren (fictitious names are used) turned down the oven, annoyed that her husband could be so late coming home, and he didn't even have the consideration to call. Suddenly, anger was replaced by fear as Anne heard his car come up the driveway. He took that curve much too fast.

Anne rushed to get her husband's dinner on the table. Without a word Bert Warren entered the kitchen, sat down, took a bite of the overcooked casserole, and with a swing of his arm sent dishes and food crashing to the floor.

Ann Warren closed her eyes as waves of fear overtook her. "I won't let him hit me," she thought. "I can't let him hit me ever again."

When she opened her eyes and turned to face him, Bert was almost upon her, his arm raised in the familiar threatening gesture. The smell of liquor on his breath made her feel nauseous. She leaned back against the sink. Her hand touched a small kitchen knife. "No! You won't hit me!", she screamed as she plunged the knife again and again into his body.

Bert stumbled away from his wife and collapsed onto the floor. Anne, a nurse, saw that her husband was unconscious, helpless, and began slowly to calm down. She knelt down on the floor beside him, began to try to stop the blood that was flowing from his wound.

As she was working, her husband's eyes suddenly opened and his arm reached out feebly toward her. Anne felt terror overwhelming her again. "I won't let you hurt me!" She picked up the knife and began stabbing her husband again, until his eyes closed, his body went limp. He was still breathing. As her mind cleared, Anne again frantically began to minister to his wounds. The eyes opened one more time. "You won't hurt me!" The knife plunged one more time, and Bert Warren was dead.

All she felt was exhaustion. She got up from the floor, walked to the bedroom, crawled into her bed, and fell into a deep sleep from which she was awakened by her daughter, who telephoned late the next afternoon.

This is a dramatization of events that occurred one night, several years ago, in Syracuse, New York. Mrs. Warren's daughter immediately called Eric Alderman, a Syracuse attorney, who accompanied Mrs. Warren to police headquarters where she turned

herself in. As soon as bail was set, and posted, by her family, Mr. Alderman took her to see Dr. Milton Kline, Director of The Institute For Research in Hypnosis, at his Mt. Kisco office.

The Institute is an organization of clinical psychologists who have been researching and expanding the uses of hypnosis within the criminal justice system. It is now being used, more and more frequently, in every phase of criminal investigation, prosecution, and defense.

In Mrs. Warren's case, the Institute was retained by her attorney to evaluate her psychological condition generally, and her specific states of mind before, during, and after she stabbed her husband. Mrs. Warren had been charged with murder, the intentional killing of another without justification. The basis for this charge was the fact that she had continued to stab him after it was obvious that he was incapable of doing her any harm and enough time had passed that the average person would have been expected to have calmed down enough to realize that he was no longer a threat.

The defense had to prove that Mrs. Warren's acts were done under such a high degree of emotional disturbance that she could not rationally evaluate the situation or control her reactions, and that she continued in this irrational state throughout the night.

If the jury could be convinced that Mrs. Warren was incapable of making a rational decision to kill her husband and that she actually believed she was defending herself, then they would be free to convict her of the lesser crime of manslaughter.

The psychologists at the Institute For Research in Hypnosis work as a team when evaluating the state of mind of a client, for the purpose of establishing whether or not she should be held criminally responsible for her acts. First, Mrs. Warren was given a battery of standard psychological tests, including the Rorschach, or ink blot, test in order to evaluate her general psychological profile and hypnotizability. These tests, and conversations with a psychologist, revealed, among other things, that she was a 'narcissistic' personality. This meant, among other things, that she needed constant at-

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## HYPNOSIS

(Continued from Page 1)

tention and demonstrations of love from those close to her. She also exhibited an extreme hypersensitivity to threatening situations, well above the normal range for such sensitivity. It would not be surprising, considering that her husband had physically abused her and that a previous husband had also abused her, that a person with Mrs. Warren's psychological profile might finally lose rational control of her emotions, under the terror induced by one too many physical threats.

To determine whether this loss of control actually occurred, Mrs. Warren was asked to re-experience the events of that night while under hypnosis. In this deeply relaxed state, a person is often able to remember events and re-experience emotions that may be blocked out by the defensive systems of the conscious mind.

In New York State, the use of hypnosis in developing psychological evidence is strictly regulated, to minimize the possibilities of abuse inherent in the technique. An examination may only be performed by a psychiatrist or psychologist who has had special training in its use. The examiner is supplied with a written memorandum, containing only the basic facts of the case, so that any personal bias will be evident in his handling of the examination questions.

All contact between the hypnotist and the individual to be hypnotized is videotaped, including their hypnotic examination itself. The tapes will be screened by a judge who will make sure that the examiner did not attempt to influence the patient's responses in any way. These tapes are also helpful to the psychologists, who can use them to study the patient's facial expressions during the examination, and which may provide further evidence of emotions which have been repressed.

Before hypnosis, the psychologist must elicit, from the patient, her version of the events which are the subject of the examination. With this information, the examiner can avoid making leading suggestions that may alter the patient's memories, leading her to fantasize while hypnosis. It is the Institute's policy to have more than one psychologist perform separate hypnotic examinations, on the subject, so that they can compare and corroborate each other's findings.

The State guidelines also require that there be no one in the room during a hypnotic examination aside from the patient and the examiner, as an observer might inadvertently cue the patient, who is in a highly suggestive state, and that all contact with the examiner outside of the hypnotic examination be tape recorded.

The testimony of the psychologists who tested Mrs. Warren, concluded from both the hypnotic and the more traditional examinations, convinced the trial jury that she was indeed acting under an emotional disturbance, on the night she killed her husband, that was so severe she could not be fully responsible for her actions and they convicted her of manslaughter in the second degree.

The judge took several factors into consideration when deciding what her sentence should be. These included the jury's conviction that Mrs. Warren was not morally at fault and the psychologists' evaluations, which tended to show that it had been a particular set of circumstances occurring throughout her life and culminating in her husband's physical threat to her safety, on that night, which had driven Mrs. Warren to extreme overreaction. She would certainly pose no threat to society at large if not imprisoned. Her daughter's family was willing and able to care for Anne and provide a secure environment for her in the future. In view of these considerations the judge awarded the lowest sentence available on a conviction for manslaughter; probation for five

years.

Other phases of the criminal justice system, where hypnosis is often useful, include police investigations. Under hypnosis, a witness may remember details of past events which he has blocked from his conscious mind, such as a license plate number.

These facts cannot be used as evidence at trial since a person, while hypnotized, is capable of fantasizing events and the hypnotist cannot testify as to the truth of factual information obtained by this method. However, the information can aid the police by guiding them in the direction of more concrete evidence, such as the owner of the car carrying that license plate number.

Hypnosis can also be used to discover the exact interrogation methods employed in eliciting a confession from a defendant. This is important because, if it is found that confession has been in any way coerced, that confession will not be permitted to be used as evidence at trial.

This coercion may be extremely subtle and even unintentional on the part of the interrogators, who may not know that the suspect has peculiar psychological vulnerabilities that could cause him, under certain circumstances, to confess to a crime he did not commit. An examination of a defendant, under hypnosis, during which he is asked to re-experience the circumstances surrounding his confession, and the emotions he experienced, can help to uncover evidence that the confession either was not truthful or was not voluntarily given.

Dr. Kline was once asked to evaluate the circumstances of a "confession" the police had elicited from a young man, Alan, who had been pointed out, by a witness, as possibly having been the person who had pushed a young girl off a subway platform. During initial testing, Dr. Kline discovered that Alan was extraordinarily susceptible to hypnotic suggestion. He was so suggestible that when Dr. Kline, not telling him that it was part of the testing, suggested that the roll of candy which Alan was holding in his hand was very heavy, he im-

mediately dropped it.

Dr. Kline placed Alan in a hypnotic trance and asked him to re-experience the events before and during his interrogation by the police. It was discovered that although Alan had voluntarily agreed to be questioned, the environment and circumstances surrounding the interrogation suggested that he was in police custody. The room was bare, he was offered no food or drink although he was questioned for several hours by police officers. When he went to the bathroom, he was accompanied by an officer.

After several hours of steady questioning, during which he repeatedly denied having pushed the girl, Alan agreed to take a lie detector test. A friendly woman, in civilian clothes, came in to administer the test. She was a police officer, but did not identify herself as one. She attached Alan to the machine and the steady stream of questions began again. The woman's manner of asking questions; quiet, steady, reassuring, effectively put the suspect into a hypnotic trance.

It was while he was in this state that the officer asked Alan to, "Imagine you are on that subway platform, ... It is around one o'clock in the afternoon ... You see a girl standing awfully close to the edge ..." Alan said he was imagining it. "O.K., what happened next?" asked the officer. The police accepted the resulting story, which Alan told, and which registered as true on the polygraph, as a confession of guilt.

Afterwards, Alan claimed that he made the whole story up, as the officer had asked him to. Dr. Kline was able to persuade the judge that, considering the methods of the interrogation and Alan's extreme suggestibility, there was no way to be sure whether the young man's confession was his true memory, or the result of a hypnotic fantasy. The confession was not permitted to be used at trial, the State's case was not strong enough without it, and Alan was acquitted of the murder charge.

The establishing of the effect of interrogation on individual suspects, to be sure that confessions have been voluntarily and truthfully given, is according to Dr. Kline, one of the most potentially important uses for hypnosis in the justice system. But, full exploitation of this tool has been slow in developing. Hypnosis is a phenomenon which can not yet be scientifically explained. No one is sure exactly how it works or why it does. So organizations such as The Institute For Research in Hypnosis must prove the validity of the technique by the results obtained in the cases of Anne Warren and Alan.

## Puzzle Answer

A	B	A	F	T	D	O	U	B	T		
C	R	A	T	E	R	R	U	L	E	R	S
A	B	L	E	A	B	A	S	E	E	L	
S	O	L	A	D	A	P	T	E	P	I	
T	R	A	B	U	S	E	P	R	A	M	
E	S	S	E	N	C	E	P	A	I	N	S
T	R	E	E	S	A	I	C				
T	H	E	I	R	A	T	T	R	A	C	T
H	E	R	E	S	I	R	E	S	A	U	
H	E	R	E	E	L	L	E	N	A	N	
M	A	A	R	O	S	E	A	N	T	E	
E	L	I	C	I	T	T	A	S	T	E	S
D	O	T	E	S	S	M	E	A	R		

## Summer Law Abroad

The University of San Diego Law School's 11th Institute on International and Comparative Law will be held in the summer of 1983. The summer programs will be held in Guadalajara Mexico, Oxford and London England, Paris France, Moscow and Leningrad Russia, and Warsaw Poland. Several other locations are in the planning stages for summer 1983.

Each summer location has a different focus. The focus of London is on International Business Law. In addition to courses in the area, students are offered a unique opportunity for clinical training in an international business clinic or an advocacy clinic. A student may be placed with either the London office of an American Law firm, a barrister, a solicitor with an international practice, the legal counsel's office of a multi-national corporation, or a government agency or international organization dealing with international business. While each student's experience will vary with the placement, most will have the opportunity to participate in client interviews, strategy sessions, negotiating meetings, and may gather facts, draft and review contracts, opinion letters, and trial or arbitration documents.

Each program permits the student to take courses with some of the world's foremost experts in a multi-national student body. Paris is devoted to international and com-

parative law generally; Guadalajara to law of the Americas; Russia-Poland to socialist law and east-west trade law; and Oxford to Anglo-American comparisons.

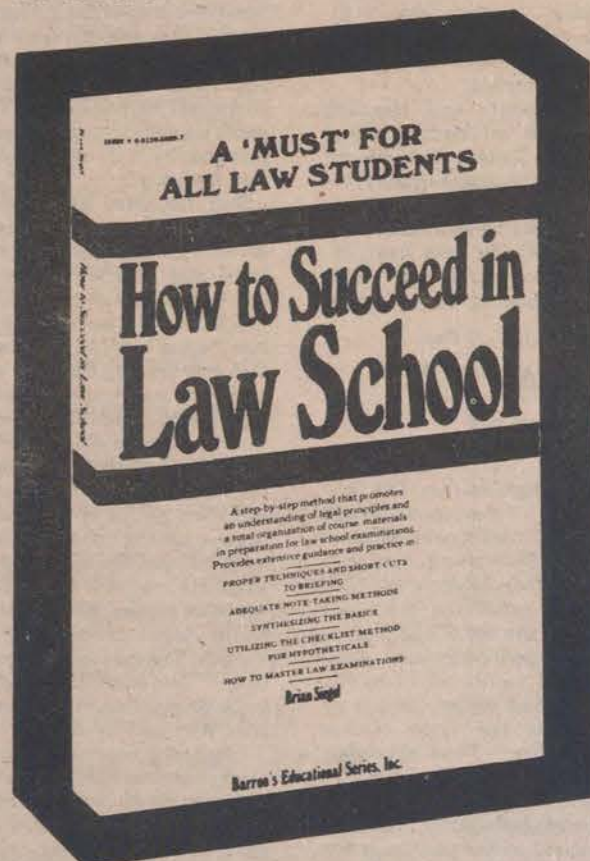
For further information, please write: Ms. S. Coursey, Foreign Law Programs, University of San Diego Law School, Alcalá Park, San Diego CA 92110 U.S.A.

## In Memoriam

This year's entering class was not welcomed by a familiar and beloved figure at NYLS, the Honorable Charles W. Froessel. Judge Froessel died at the age of 89 in May of this year. He was an alumnus of NYLS, graduating in 1913, and then serving as the schools librarian from 1913 to 1914. His first judicial service came in 1937 when he went to the Old City Court bench, today the civil court. From 1938 to 1949 he served as Supreme Court Justice; and from 1949 to 1962 he was Associate Judge of the New York State Court of Appeals. During that time, from 1957 to 1956, he was a trustee of NYLS. In 1951 he became Chairman of the Board of NYLS, which he held until his retirement in 1972. While acting as Chairman Judge, Froessel also served as professor and acting dean in 1968 and 1969.

## SIEGEL'S WRITING CLINIC

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Attendees will also receive 10-15 page issue-oriented syntheses for the above areas which have been prepared by Professor Siegel. This material is not otherwise available anywhere in published form.

### LOCATION, PRICE AND DATE

Sunday, November 7, 1982 - \$60.00

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The program will commence at 9:00 a.m. and conclude at 5:00 p.m.

### QUESTIONS

If you have any questions about the course or registration procedures, please contact us at:

2062 Linnington Avenue  
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## NEW YORK CROSSOVERS

If a corporation enters into a contract to purchase real property and then brings an action for specific performance, must you discuss the law of corporations, contracts, real property, civil procedure and equity? How do you determine the real thrust of the question? What are the examiners really looking for?

This is a critical issue spotting problem which is endemic to the New York Bar Examination which treats the law as one integrated body of principles or rules.

New York essay questions often integrate several independent areas of law into one complex problem. This method allows the Bar Examiners to test an applicant on a great many of the 30 testable subject areas in only six essay questions.

Very few law students develop these practical issue recognition and analysis techniques during their academic training.

That is why almost 20 hours are devoted to problem integration and analysis during the Marino-Josephson/BRC course. No other course offers enrollees such extensive preparation in handling the New York exam's multisubject essay questions.

## CONCERNED ABOUT NEW YORK CPLR?

For those students who want to learn New York CPLR before the summer bar review, the Marino-Josephson/BRC course will present this spring, *free* to BRC enrollees, a **Forge Ahead** lecture series on New York practice by Professor Arthur R. Miller of Harvard Law School.

Recognized as one of the finest teachers in the nation, Professor Miller combines wit and clarity of expression with total intellectual command of his topics. Co-author of the prestigious treatise Wright and Miller, **Federal Rules**, a widely adopted civil procedure casebook and the **Sum and Substance of Civil Procedure**, he is also a former editor of the Harvard Law Review and a present member of the American Law Institute. In addition, Professor Miller is regularly asked by the Federal Judicial Center to address Judicial Conferences across the nation.



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## Law Student Rebellion

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would represent a cross-section of the real American society.

It is a form of organized societal fraud to get a student to spend thousands of dollars and three or four years of hard work on a legal education and then tell him or her that "economy just hasn't generated enough jobs for all law school graduates, so you'll have to go into something else." If it takes state planning to prevent that from happening, then there should be state planning. But so long as legal services are under-supplied and over-priced, why not just require the profession to absorb all graduates who can pass a (non-discriminatory) bar exam?

Legal education operates as indoctrination and training for participation in the hierarchical structure of the bar.

The internal organization of law schools, with kingpin professors, subordinate administrative, secretarial and custodial staff, and law students in the middle, prepares students for law firms and courtrooms where senior partners and judges behave in piggish ways the pros have trained everyone to accept and even admire. Students should demand the democratization of their schools/workplaces and equal salaries for everyone from professors to janitors.

The rituals of the socratic classroom degrade everyone involved, but they are also training for appropriately deferential or arrogant behavior toward people lawyers deal with after school. Organize disruptive opposition to the whole style and tone of the classroom, not to the occasional overtly sexist or racist remark.

Legal education is also intellectual indoctrination: law schools

try to persuade students that the legal rules in force are neutral, fair and efficient (with a few minor exceptions and anomalies), and this amounts to teaching them that the capitalist system is neutral, fair and efficient. Organize intellectual resistance, using materials like the NLG/Conference on Critical Legal Studies book on *The Politics of Law*, D. Kairys, ed. (Pantheon, forthcoming October 1982).

There are lots of ways to get started. One is to work through the Guild chapter on campus, hook up with progressive lawyers in the area, and identify the faculty members who are likely to be sympathetic, trying to draw everyone into a joint effort to critique your law school and then act. Another way is through smaller units—students or student/faculty study groups of, say, ten people that begin with the intellectual critique of legal education and move step by step toward acting as a political force within the school, say by organizing a disruption of a particularly offensive class.

Every generation should have a shot at student rebellion, and not just for the substantive results. A generation that hasn't taken at least a little power, that has only inherited it by outliving its elders, isn't likely to make things very different when it gets the chance. Student rebellion is also a lot of fun.

Duncan Kennedy is a professor at Harvard Law School and a contributor to *The Politics of Law*, scheduled for publication in October.

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## The Myths and Facts About Bankruptcy Law

by Lori Udelsman

Bankruptcy law provides relief for the honest debtor from oppressive indebtedness by releasing him from his debts and thereby providing him with a "fresh start."

One popular myth is the belief that a debtor must be insolvent before he can be released from his debts by a bankruptcy court. On the contrary, an individual, a partnership, or a corporation can seek relief from a bankruptcy court regardless of whether he or it is insolvent as long as he or it has debts.

Another myth is the belief that the solvent debtor must be trying to cheat his creditors when he seeks relief from a bankruptcy court. The debtor rehabilitation provisions of the bankruptcy law can provide for a favorable situation for creditors. The debtor looks to rehabilitation and reorganization, and the creditors look to future earnings of the bankrupt debtor for satisfaction of their claims.

The advantages and disadvantages of bankruptcy law can be analyzed with respect to the cast of characters. Creditors expecting payment from the debtor's meager

elect to partake in the rehabilitation provisions may not get much money, if at all, from the debtor's estate since the estate is distributed to all of the debtor's creditors. On the other hand, an honest employee whose spouse recently suffered a serious permanent injury and suddenly has to rely on one income may not be in a position to pay his bills. A "fresh start" would provide the debtor with an opportunity to support his family since he would be released from oppressive indebtedness.

Bankruptcy law is an exciting field and deals with a great deal more than finance. The bankruptcy attorney might engage in the research of contracts law, property law, and maritime law in the same afternoon since anyone can go bankrupt.

Anyone interested in supporting a proposal for an independent research course in bankruptcy law, please contact Lori Udelsman at the Student Communications Center in the Student Lounge at 47 Worth Street across from the Faculty Secretary's Office.

# HAPPY HALLOWEEN!



# EQUITAS

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## Editorial

EQUITAS has never been subject to censorship or control by either the faculty or the administration of our school. And, we refuse to be controlled by any single student faction. Our responsibility is to the entire student body. This includes all students and every student group, both and day and evening division.

The EQUITAS editorial board and staff are well aware of our responsibilities, and carry them out to the best of our abilities. We produce a newspaper, not an appellant's brief. Therefore, it is our first and foremost duty to seek out and report the news to the students with all possible speed.

EQUITAS has opinions, and the editorial board expresses these on our editorial pages. Also, signed columns are welcome; students who so wish, may express their own opinions.

### All Opinions Welcome

What must be remembered by individuals, and by student groups is that their's is not the only point of view; quite often it is only the opinion of a small but vocal membership. EQUITAS actively solicits the opinions of any student, or group. Every student at our school has the right to write for this paper. All that we require is that they write responsibly and allow us to edit for grammar and lay-out.

We are all law students and should be well aware of the grave responsibilities that accompany our actions; all articles must be signed.

No student or group more actively or strongly supports the First Amendment right of freedom of expression than EQUITAS. It is our opinion that everyone has the right to express himself or herself in print as they see fit. Therefore, although we may not agree with the way certain publications twist the truth or print opinions based on fallacious "facts," we wholely support their right to print and publish what they will at New York Law School. However, as a newspaper, EQUITAS seriously strives to attain high standards of professional journalism. These standards do not include news stories colored or slanted by a writer's obviously biased point of view.

### On Objectivity

In our news stories, we try to write an objective account of what has happened. It is our privilege to have a very intelligent and well educated readership; a readership which is as well equipped as any on the EQUITAS staff to form their own opinions. Therefore, our attempt is to gather as many verified facts as is possible and to report these facts to the students so they will have an independent source of information. EQUITAS absolutely refuses to insult our readership, the students of New York Law School, by telling them what to think in our news stories.

If student reaction to the news is adverse, we hope that they can seek relief through their student government. They are certainly welcome to write letters to the editor for publication in EQUITAS. However, we do hope that the Student Bar Association will become effective enough to help all students.

Although this editorial was first printed in EQUITAS on October, 1976, the issues it raised have not changed. EQUITAS continues, under attack, to espouse the same high journalistic principles it always has.

### AND IF YOUR COMPLAINING ABOUT STILL GOING TO SCHOOL LISTEN TO THIS:

He may not be ready to hang out his chingle yet, but William Rothaus of Sacramento, Calif., just might be in about 10 years - when he turns 100.

The 90-year-old retired tailor is currently a full-time undergraduate at Sacramento State University. This semester, he's taking a five-day program of music, Spanish, German and shorthand.

And once a week, he audits a legal course at Lincoln School of Law.

"Every week he comes back and tells me, 'I've known that for years,'" says his wife, Mary 77.

Mrs. Rothaus says her husband has been studying law all his life, and has "young friends who help him and encourage him."

### Some election NEWS

The office of mayor of Cumberland, Md., could have gone to the dogs.

Incumbent Frank Nepkin lost his re-election bid among those running against him was a 15-year-old mixed-breed toy collie called Scott.

The dog's campaign started with a humorous article by Jim Galsworthy in the Cumberland Evening Times that suggested that the mutt - the pet of his attorney friend Armand Pannone - should run for office as a write-in candidate.

"He's loyal, trustworthy and doesn't spend money," says the Cumberland lawyer. "He's a perfect candidate."

The campaign soon "blossomed," says Mr. Pannone. Headquarters were set up in a local tavern, he adds, and volunteers made up posters and banners.

Mr. Pannone, whose pet ran on a platform of more jobs and no additional taxes, says he just wanted "to get the people out to vote," but he won't take all the credit for the results.

A "phenomenal" 70 percent of the registered voters in the city turned out on election day, and

George Wyckoff Jr. was declared the winner. But Scott received four votes, more than three other write-in candidates.

Apparently no one took the dog's campaign seriously - except for Sara Rank, administrator of the Allegany County Election Board.

"We didn't find it very humorous. It could have backfired," she says.

Well, Scott did, and his owner says, "We might run him for governor."

No one is saying who voted for the dog, but Mr. Pannone admits, "I didn't vote for him, but if I tell him, he'll be mad at me."

### SYMPOSIUM

The International Law Society conducted a symposium on nuclear arms and world public order on Friday, October 22. The event was sponsored by the ABA/LSJ of NYLS. The purpose of the symposium was to provide a forum for debate on the effects of the long-term consequences of current and alternative nuclear weapons policies. The participants included past & present delegates to strategic arms talks, international lawyers and representatives from the scientific and medical communities.

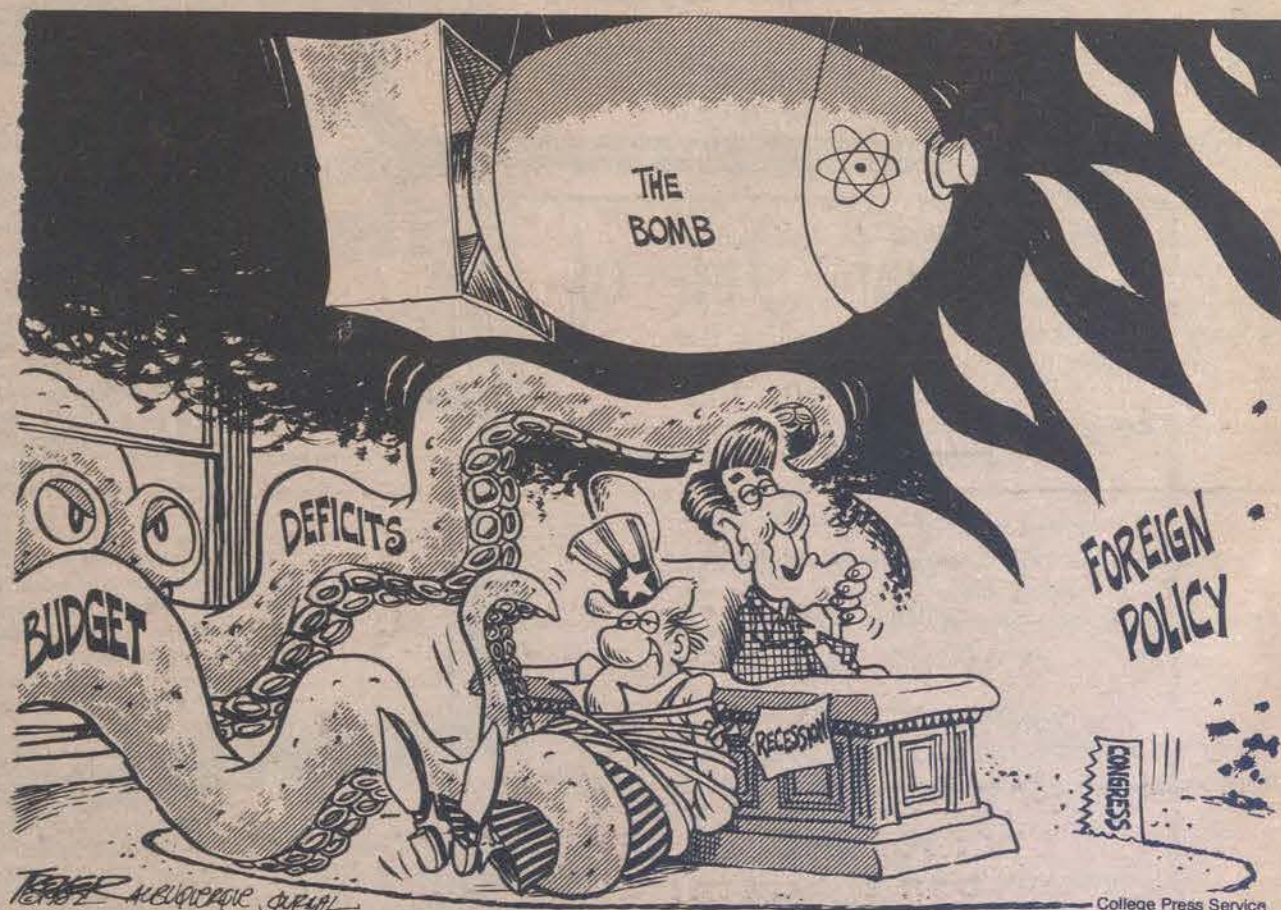
### AND MORE REAGONOMICS NEWS

In the hard times tradition of "Brother, Can You Spare a Dime?" Cincinnati attorney Leslie Isaiah Gaines Jr. is singing the "Reaganomic Blues."

Mr. Gaines, a criminal defense attorney known locally for his dramatic courtroom style, composed and sings the musical blast at the Reagan budget cut-

backs on a 45rpm single he recorded recently. The song asks: "Why can't somebody see, that the Reaganomic blues is killing me? Don't they even care, that the American dream is becoming a nightmare?"

Mr. Gaines plans to release the record on his own Justice Unlimited label, and vows to send one of the first copies to President Reagan.



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College Press Service



# NATURALIZED

(Continued from Page 1)

ply with the prerequisite.

The petitioner must satisfy an educational requirement, which prescribed: (1) An understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language,<sup>14</sup> (2) A knowledge and understanding of the fundamentals of the history and of the principles and form of government of the United States,<sup>15</sup> and (3) The signature of the petitioner for naturalization must be in the applicant's own handwriting, if physically able to write.<sup>16</sup>

Objective requirements which have been eliminated are race, sex, and marital status. These requirements served as a discriminatory device barring naturalization unjustly to otherwise qualified applicants. It was not until the passage of the Immigration and Nationality Act of 1952 (INA) which specifies that the right to naturalization can not be denied or abridged on the basis of race, sex, or marital status,<sup>17</sup> a change long overdue.

Alienage and alien enemies are objective criterias which need not be examined in detail. Alien enemies is a category which only is applicable during war time, and with respect to alienage no harm results from a petition for naturalization where the applicant may already be deemed an American citizen; the naturalization court will review the petition.<sup>18</sup>

The most important and most elusive of subjective criteria is the requirement of good moral character.<sup>19</sup> The applicant must demonstrate good moral character during the designated five year period of residence previously discussed. Good moral character is not a fixed standard, and its assessment depends on the changing mores of society.<sup>20</sup> There are however certain prescribed activities such as criminal convictions, non-support of family, and irregular sexual behavior that are acts of misconduct which precludes a finding of good moral character.<sup>21</sup> These acts could be examined, and it should be noted that although the applicant may not fall under one of these classifications, it does not preclude a finding that for other reasons such person is or was not of good moral character.<sup>22</sup> It is necessary that the applicant has been "attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States."<sup>23</sup> This means the applicant believes in the fundamental principles of our society and is willing to obey its laws.<sup>24</sup>

Other subjective criteria, which should be reviewed before a petition for naturalization is submitted, relates to the applicant's possible behavior as a subversive,<sup>25</sup> or status as a deserter or draft evader.<sup>26</sup> It is important to note, that a permanent bar for naturalization exists for those prospective applicants who obtained relief from U.S. military service on the ground that he is an alien.<sup>27</sup>

The initial procedural step in obtaining U.S. citizenship is the submission of the Form N-400, a four

page application, with detailed instructions, which requests specific background information concerning the applicant. The form includes the applicants allegations which will be adopted by the Clerk of the Court in the preparation of the petition for naturalization, absences from the U.S. and detailed information concerning the applicant's children. The latter is required in order to determine if they may derive American citizenship through the naturalization of their parents. Additional documents to be included are Form G-325 which contains biographical data utilized for investigative purposes. The applicant must also be fingerprinted, and submit a fingerprint chart, Form FD-258, used for an F.B.I. check. Three photographs, unglazed, 2 x 2 inches in size, showing a true likeness of the front view of the applicant's face are also required. These forms, N-400, G-325, FD-258, and photographs are submitted in person or by mail to the nearest office of the Immigration and Naturalization Service, where the applicant resides. The Service determines if the application is accepted or rejected for naturalization. However, if rejected, an applicant may insist on filing a petition for naturalization and have the court pass on his qualifications.<sup>28</sup> The Immigration and Naturalization Service in New York City has a three month delay between the submission of the application and when the applicant receives notice to appear to be examined and to file the petition for naturalization.

If the applicant can not be present at the time and place designated, he must return the letter indicating to kindly reschedule another examination.

The appointment notice to the applicant instructs him to bring the letter; his alien registration receipt card and any draft card, \$25.00 in cash or postal money order to pay the clerk's fee to file the naturalization petition; the personal description form on the reverse of the notice, completely filled in; passport(s) and any supporting documents specified on the reverse of the notice. Witnesses are no longer required to attest to the applicant's good moral character.

The examination is known as the preliminary investigation, at this time the examiner reviews the Forms N-400, G-325, and FD-258, and corrects any errors. The examiner then proceeds to conduct his questioning<sup>29</sup> regarding objective and subjective criteria previously discussed. Once the designated examiner is satisfied that no further testimony will be needed in arriving at his recommendation to the court, the preliminary investigation is completed. An oath is then administered and the petitioner swears to the truth of all the allegations and data contained in the signed petition.<sup>30</sup>

The examiner will then inform the petitioner that he will be notified when to appear before the court for the final hearing.

The final hearing takes place before the court and the naturalization is deemed effective from the moment the oath of alliance is taken,<sup>31</sup> although the official grant of citizenship is the court's order. The examiners recommendation is not binding on the court.<sup>32</sup> Insofar as the petitioner is concerned, once the examiner gives a favorable recommendation, the court ordinarily makes no further inquiry and by order of the court U.S. citizenship is conferred at the final hearing.<sup>33</sup>

After the court has ordered the petitioner's admission to citizenship and the petitioner has taken the oath of allegiance, the judicially naturalized citizen is entitled to receive a certificate of naturalization.<sup>34</sup> This is usually mailed to the naturalized citizen shortly after the date of his naturalization.<sup>35</sup>

As should be obvious, the law in this area is detailed and complex. It is impossible to cover all issues in an introductory article such as this one. This article is meant to provide a basic guide to preparing an application for naturalization. The author suggests not to rely solely on this article in the preparation of pertinent forms, but should consult authoritative sources as *Gorden and Rosenfield, Immigration Law and Procedure*, the Code of Federal Regulations, volume 8 (8 CFR), the United States Code, volume 8, (8 U.S.C.), the Immigration and Nationality Act of 1952 as amended. Direct inquiries should be made to the Immigration and

Naturalization Service, at 26 Federal Plaza, 7th floor, New York, New York 10278, or by calling 212-246-5882.

## FOOTNOTES


1. See: *Schneicher v. U.S.*, 320 U.S. 118 (1943), *U.S. v. Ginsberg*, 243 U.S. 472 (1917) and *Tatun v. U.S.*, 270 U.S. 568 (1926). These cases illustrate Congress' plenary authority in this area.
2. 8 U.S.C. 1101 (a) (24)
3. *Mulcrevy v. San Francisco*, 325 U.S. 669 (1944), for the state's power to adjudicate naturalization petitions.
4. 8 U.S.C. 1101 (a) (20)
5. 8 U.S.C. 1427 (a). The alien should have been admitted as a lawful permanent resident and have resided continuously for five years in the United States before petitioning for U.S. citizenship. The petitioner must have been physically present in the U.S. for at least one half of the five year requirement, and resided within the state in which the petition was filed for at least six months.
6. 8 U.S.C. 1430 (a)
7. 8 U.S.C. 1101 (b) (1)
8. 8 U.S.C. 1101 (b) (2)
9. 8 U.S.C. 1433 (a)
10. 8 U.S.C. 1429
11. 8 U.S.C. 1445 (b)
12. 8 U.S.C. 1433 (a)
13. *MacCampbell v MacCampbell*, 13 F. Supp. 847 (W.D. Ky 1936)
14. 8 U.S.C. 1423 (1)
15. 8 U.S.C. 1423 (2) See: 8 CFR 212.2
16. 8 U.S.C. 1445 (a)
17. 8 U.S.C. 1422
18. 8 U.S.C. 1421-1430
19. 8 U.S.C. 1427 (a)
20. *Johnson v. U.S.*, 186 F. 2d 588 (1951) cf: *Petition of Wee*, 143 F. Supp. 736 (SD. Cal. 1956), rejecting a challenge to the constitutionality of this requirement.
21. 8 U.S.C. 1101 (f), defines acts which are a violation during the required period of good behavior.
22. Id.
23. 34 Stat. 598 (1906), cf: *Woo vs. U.S.*, 288 F. 2d 434 (2nd Cir. 1961) and *Tauchen v. Barber*, 183 F. 2d 266 (9 Cir. 1950).
24. *Baumgarther v. U.S.*, 322 U.S. 665 (1944).
25. *Schneiderman v. U.S.*, 320 U.S. 118 (1943), *U.S. v. Richmond*, 184 F. Supp. 75 (N. D. Cal 1959), cf: *U.S. v. Hauck*, 155 F. 2d 141 (2 Cir. 1946), *Krausse v. U.S.*, 194 F. 2d 440 (2 Cir. 1952) and *In re Torchia*, 113 F. Supp. 192 (M.D. Pa. 1953).
26. 8 U.S.C. 1425.
27. 8 U.S.C. 1426 (a)
28. 8 CFR 334.1
29. 8 CFR 335.11 (b)
30. Id.
31. 8 CFR 337.2
32. *Tierri v. INS*, 457 F. 2d 391 (2 Cir. 1972).
33. See: INS Annual Report 18.
34. 8 CFR 338.11
35. 8 CFR 338.11

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## Tidbits of Legal News

### Michael Marinangeli EXCLUSIVE CLUB NEWS

Getting a D in law school doesn't mean you'll fail as a lawyer. Just ask Mark V. Meierhenry.

The 1970 graduate of the University of South Dakota Law School is one of the newest members of the school's D Club. The only requirement for membership, he says, is to have gotten a D in law school, which in his case was in commercial law.

Mr. Meierhenry took the occasion to praise the club in a letter to fellow members:

"The D student knows that upon graduation no intelligent lawyer would ever read a law review article as authority for any proposition ...

"Only the knowledge that comes from the debauchery, wasted days and nights and general irresponsibility (of the D student) ... is a good background for a lawyer. Obviously lawyers never deal with people who get everything right, do everything on time and never make mistakes...

"However, we D students have a background and an understanding, and yes, a deep appreciation for all the traits that give rise to grand and great legal problems. We will be able to communicate effectively with our clients."

The club, says Mr. Meierhenry, is the brainchild of "some guys and gals at the school to spoof those who wave their Phi Beta Kappa keys."

Oddly enough, he says, the biggest jury award he's ever won — \$100,000 — was in a commercial law case.

And today, Mr. Meierhenry is attorney general of South Dakota. (Special thanks to the New York post and the National Law Journal).

### ATLA TO SPONSOR ESSAY CONTEST ON PRIVATE REMEDIES FOR ACID RAIN DAMAGE

WASHINGTON, D.C., September 28, 1982 — "ACID RAIN DAMAGE: WHAT ARE THE PRIVATE REMEDIES?" is the topic of the Thirteenth Annual Environmental Law Essay Contest of the Association of Trial Lawyers of America (ATLA).

Any currently enrolled student in an accredited law school in the

### Equitable Sentences Across The U.S.

#### KANSAS

Linda Jackson, of Ottawa, Kansas, will have to thank both her husband and a judge for the box of candy she'll receive for the next Valentine's Day. Steve Jackson, her husband, was found guilty of battery for hitting his wife. He was ordered to pay court costs — and the judge further told him to buy "at least a \$20 box of candy" for his wife rather than pay a fine.

#### NEW HAMPSHIRE

A man convicted of abandoning four puppies in subzero cold at a dump, last winter in Berlin, New Hampshire, has been sentenced to the very same treatment: two nights with the frozen garbage. District Judge Wallace Ancil gave Roland Duchesnaye, 31, the choice of paying a \$200 fine or spending two consecutive nights at the dump, from 5 p.m. to 5 a.m. Duchesnaye chose the dump.

#### FLORIDA

Drivers in Dade County who run red lights or commit other infractions may see red when they get caught if Traffic Court Judge Harvey Baxter has anything to say about it. Judge Baxter has offered offenders some innovative alternative sentences. Specifically, some 70 people have donated blood at the local blood bank after the judge offered to cut their fines \$80 per pint.

U.S. or Canada is eligible to compete. Each law school will judge the essays from its own participating students and select a \$100 winner to represent the school in the national contest.

All entries in the national competition will be judged by a panel of distinguished environmental law professors. The first, second, and third place national winners will receive \$1,000, \$750, and \$500, respectively, in addition to plaques certifying their writing accomplishments.

For more information on the ATLA Environmental Law Essay Contest, contact your law school dean or write: ATLA Environmental Law Essay Contest, 1050 31st Street, NW, Washington, D.C. 20007. (202) 965-3500, ext. 213.

The Association of Trial Lawyers of America (ATLA) is the world's largest trial bar organization with more than 50,000 members throughout the United States, Canada, Puerto Rico, and other countries.

### PHI DELTA PHI NEWS

Dwight Inn was successful in this year's survival seminar for the first year class and the fall rush. The survival seminar held on August 19, was valuable to the entering class in presenting to them life at N.Y.L.S. and alaying some of the apprehension they may have been feeling. It was followed by an informal reception held in the student lounge of 47 Worth where beer, pizza and wine were served.

The rush party also attracted a record crowd to the student lounge. Everyone enjoyed socializing and many received information about the fraternity. The Inn hopes to initiate as many new members as possible. The deadline for the fall application is Friday, October 29. The Phi Delta Phi office is located in the common area of the second floor of 79 Worth.

## YEARBOOK NEWS

For the first time since 1971 a yearbook is being contemplated and is in the intermediate stages of negotiations.

In late Spring 1982 the Yearbook Committee was formed by the SBA to investigate the practicality of publishing N.Y.L.S.'s first yearbook in over a decade. The recommendation of the committee was to secure proper authority, solicit advertisements and to procure a reputable publisher, who would produce a quality product for a reasonable expenditure.

Preliminary negotiations have been concluded with Mr. George Geer, Regional Manager for the Delmar Company and a tentative schedule has been arranged for a professional photographer affiliated with the publishing company, to take portraits of all graduating students.

Once N.Y.L.S.' Administration authorizes the final go ahead and they are convinced of the value of such a publication, the machinery can be placed into motion and the Class of 1983 will have a yearbook which will retain a place of prestige in their libraries and which they will hold fond in future years. The yearbook will also serve as a directory listing graduating students permanent addresses, thus affording a means of keeping in touch with your colleagues in the future.

## Interested in Criminal Justice?

Get involved in the activities of the Criminal Law Society. We're currently working on three fall programs: "Cameras in the Criminal Courtroom"; "The Life of a Criminal Defense Lawyer"; and a talk by Alan Dershowitz, author of the controversial book, *The Best*

Defense. Come to our general membership meetings or/and drop by our desk at 79 and leave us your name and phone number. For more information, call Carol Novack at 675-8448, or Don Schul at 201-433-1793. (Office number: 966-3500 ext. 839).



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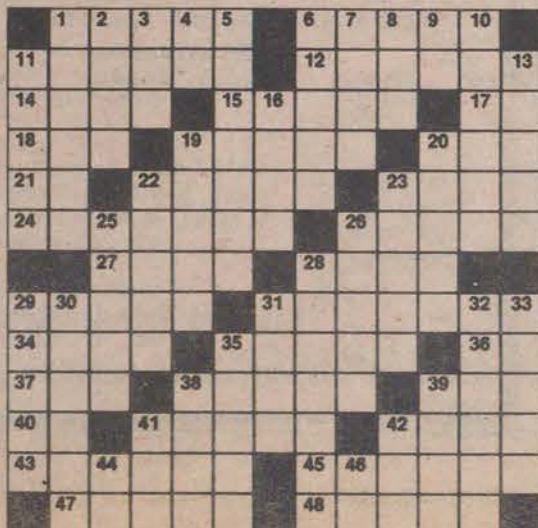
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## For a Rousin' Good Time...

It's the only theatre on Broadway where you can drink cold beer and wine and eat home-made pie from the diner. It's **Pump Boys and Dinettes**, and it promises you an evening of endless entertainment.

As the title suggest the entire play takes place in the interiors of a gas station and diner (the Double Cup), located on a Southern highway. The tunes are country-rock bluegrass, written and performed by the entertainers themselves. Included in the twenty numbers are songs like "Be Good or Be Gone", and "Farmer Tan." The performers play conventional instruments, but in several of the numbers they add spoons, pots, and flour sifters to their renditions.

There is little plot in this creative musical, however, the performers give the audience a flavor of their lives, their lovers, and the joys and tears of the road. **Pump Boys and Dinettes** is playing at the Princess Theatre on West 48th Street. The regular ticket is a modest \$22.50 (by Broadway standards), but they can also be purchased at Tkts. for a mere \$12.75. See y'all there!



Photo Credit: Gerry Goodstein

### Tribeca Eateries

The Acute Cafe is just that, a cute, refined cafe. Nearly NYLS at 110 W. Broadway, on the corner of Reade Street, this Hollywood French nouvelle style restaurant is one of the latest additions to the growing Tribeca area. It is a beautifully lighted setting of palm trees, gray columns, white-tiled floor and windows on three sides that look out onto the street. The spacious sunken dining area, surrounded by mirrored panels adds a warmth with a sense of elegance to your dining pleasure. And the dining is a pleasure.

Service is attentive; the food is fresh and dessert with an array of delicious pastries, is a delight. Some of the dishes are excellent — such as the rack of lamb which is marinated with herbs and roasted, hot duck pate in a dome of light puff pastry with a truffle sauce, tender veal in a watercress sauce and the sherberts and pastries. The desserts are made fresh daily and include homemade sherberts (kiwi, melon and passion fruit) along with such tantalizers as "Opera Cake," layers of white cake and coffee and chocolate mousse, covered with chocolate, "Charlotte aux Poines," a creamy pear mousse cake with raspberry sauce and cold and hot souffles (order before dinner).

Prices range from \$15-\$18 for main courses and from \$4-\$5 for their special pastries. Reservations are necessary (349-5566). The Acute Cafe is open for lunch between 11:30 a.m.-3:00 p.m.; dinner 6:00 p.m.-12:00 p.m.; supper 12:00-3:00 a.m. and has recently opened for brunch on Sundays from 11:30 to 3:00 p.m. In addition, it has a quaint patisserie next door selling fresh pasteries, croissants and the same excellent homemade ice cream and sherberts served in the cafe. The patisserie is open between 8:00 a.m. and 10:00 p.m. seven days a week.

Not only is the Acute Cafe a great place for eating, but it is a wonderful late night spot with a friendly atmosphere as well. It attracts a wide variety of people due to its being open until 3:00 a.m. every night. So if you don't make it for dinner, be sure to stop there for coffee & pastry during the afternoon or late in the evening. You will thoroughly enjoy the experience. (A.E., Visa, M.C.)

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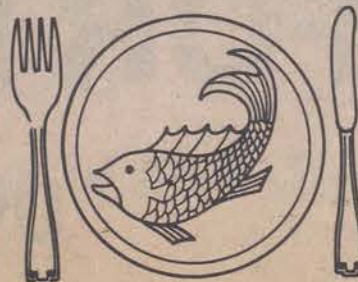


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**Bar/Bri Reps at NYLS:**

**Head Reps:**

Gary Smoke  
Tyrone L. Logan

Carol Dancy  
Tom Bryant  
Regine Dely  
Hope Douglas  
Leonard Fasano  
Lori Udelson  
Jonathan Symer  
Miguel Fittipaldi  
Frank Scagluso  
Charles T. Richard  
Betty Konopko  
Barbara Rowbow  
Sandrs Harris

Maria Paoli  
Joan Bocina  
David Newfeld  
Mitchell Krause  
Hayes Young  
Lisa Murphy  
Allen Parker  
John Petition  
Stephanie Stricker  
Nitza Bravo  
Kenneth C. Suria  
Betty A. Llantin



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