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MOOT COURT FINALS JUDGE WEINFELD RECEIVES 1984 FORDHAM-STEIN PRIZE

By Mark S. Kosak



From Left to Right: Kerry O'Connel, Mathew Arkin, Mary Dunn, Maureen Crush, Daniel Healy

By Michael Gibbs

The Advocate congratulates the editors and staff of the Moot Court Board for successfully holding this fall's I. Maurice Wormser Moot Court Competition. The Wormser Competition, along with the Mulligan Competition during the summer, is an intramural Moot Court Competition sponsored annually by the Moot Court Board in which all upperclass students are encouraged to participate.

This year's Competition culminated on October 31st when Robin Shanus, Robert Farrell, Margaret O'Brien and Deborah Sheehan argued the final round. The panel for this final round at oral argument included Judge Lawrence Cooke of the New York State Court of Appeals, who wrote the dissenting opinion in the seminal case on which the problem was based. Robert Farrell and Deborah Sheehan captured the awards for Best Speakers for the Wormser Competition in the final round. Robert Farrell also took one of the two awards for Best Brief submitted in the Wormser Competition. Michael Graham is the other Best Brief winner.

The issue selected by Mary Dunn, the Moot Court Board Editor for the Wormser Competition, centered on the business judgment rule. The business judgment rule is a long stan-

ding judicially created doctrine that protects corporate directors for their decisions in managing the corporation's internal affairs. The two issues presented in the Wormser competition concern the scope of the business judgment rule's insulation from liability when shareholders, who are at least in theory the owners of the corporation, challenge a board of directors' decision. The scope of the business judgment rule's protection of corporate directors against liability is a hotly contested issue that currently causes corporate litigation in the context of a shareholder derivative suit. The corporate law issues argued in the Mulligan competition which deal with more emotional constitutional law issues headlined in the Baby Jane Doe case.

Students deciding whether to participate in future Moot Court competitions should be encouraged by the tremendous support of this year's Wormser Competition from Fordham alumni. These alumni eager to serve as judges for the preliminary rounds of oral argument turned up in such great numbers that on some nights extra chairs had to be brought in to accommodate them on the bench.

Edward Weinfeld, United States Judge for the Southern District of New York, was the recipient of the 1984 Fordham-Stein Prize. The award was presented at a dinner in Judge Weinfeld's honor on Thursday, November 1, 1984 at the Hotel Pierre.

Judge Weinfeld is not a stranger to New York. He was born on the Lower East Side in 1901 and attended the City's public schools and New York University Law School at night. Upon his admission to the Bar in 1923, he practiced law as a sole practitioner. Later in 1938, he was elected a delegate to the New York State Constitutional Convention. Subsequently, he became a pioneer in the field of public housing, serving as New York State Commissioner of Housing; Vice-President and Director of the Citizens' Housing and Planning Council; Director of War Housing and the War Housing Council; President, National Association of Hous-

was presented with a Tiffany sculpture and an honorarium, named for its donor Louis Stein, the former chairman and chief executive officer of Food Fair Stores Inc., and a 1926 graduate of the Law School.

In the words of Dean Feerick "Judge Weinfeld is without question one of the great judges of our time. His twelve-hour days and six-day work-weeks are the stuff of legend at Foley Square. His passion for work stems from his deeply held and often stated conviction that 'there are no important cases and no case is more important than another.' His well-considered opinions and his courteous, even-handed courtroom demeanor have won him the admiration of his colleagues on the bench and the respect of all who ever argued before him. He has gained the special devotion of his former clerks, many of whom extol the time spent in his chambers as the finest of legal educations."




Judge Edward Weinfeld

ing Officials; and President, National Housing Conference. Finally, in August of 1950, he was appointed to his present position on the bench of the United States Court for the Southern District of New York.

The Fordham-Stein Prize, established by Fordham Law School in 1975, is given each year to "a member of the legal profession whose work exemplifies outstanding standards of professional conduct, promotes the advancement of justice and brings credit to the profession by emphasizing in the public mind the contribution of lawyers to our society and to our democratic system" A committee of distinguished members of the bench and bar made the final selection from nominations submitted by attorneys, judges, legal aid societies, bar associations and law school faculties from across the nation. At the Pierre, Judge Weinfeld

For your undeniable professionalism and fairness on the bench and for your completely unselfish dedication and support to the legal profession, *THE ADVOCATE* salute you, Judge Weinfeld, for being the 1984 recipient of the Fordham-Stein Prize.

It should also be noted, that the following were past recipients of the Prize; Chief Justice Warren Burger, Edward H. Levi, former U.S. Attorney General; Archibald Cox, former U.S. Solicitor General; William H. Webster, Director of the Federal Bureau of Investigation, Warren M. Christopher, the negotiator of the release of the American hostages in Iran; Potter Stewart, former Associate Justice of the United States Supreme Court; and Judge Henry Friendly, a member of the Court of Appeals for the Second Circuit and a former Chief Judge of that Court.



Justice Sandra Day O'Connor
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EDITOR'S MESSAGE

These last two months have been especially eventful for the Law School and the University as a whole. At the outset, Fordham University was the proud recipient of a 3.5 million grant from the Federal government, to be applied to the Lincoln Center and Rose Hill student housing project. Later in the month, Fordham Law School was fortunate to have Chief Judge Wilfred Feinberg as the principal speaker at the prestigious Sonnet Lecture Series. On October 24, 1984, the formal ceremonies commemorating the dedication of the new wing of the law school were held. On this memorable occasion, we had the distinct honor of having Supreme Court Justice Sandra Day O'Connor deliver the Keynote Address, in addition to hearing thought provoking remarks from Governor Mario Cuomo, Senator Alphonse D'Amato, Dean John D. Feerick, Mayor Edward I. Koch, Judge Joseph McLaughlin and Judge William Hughes Mulligan. Finally, Judge Edward Weinfeld was presented with the coveted Stein Prize at a reception held at the Hotel Pierre. To say the very least, Fordham had a star-studded array of events, seconded only by the participants themselves.

In retrospect, what does each of these events have in common; what do they signify in terms of the future of the law school? I would suggest to you that the events represent the product of unfettered dedication and cooperation to an institution worth investing one's time and energy in. An institution, founded and guided by its Jesuit heritage, with a purpose aimed at the achievement of scholarly learning and the betterment of the legal profession as a whole. It is because of this underlying good, that the law school fosters, forms and more importantly maintains fraternal ties with its student body, faculty and alumni.

In terms of the future significance of these events, (particularly in terms of the Dedication Ceremonies), I would suggest that based on remarks made by Justice Sandra Day O'Connor and Senator Alphonse D'Amato that Fordham Law School will in the near term transcend its regional reputation and henceforth be referred to as a National Law School. This will not only have a positive impact, based on increased notoriety, on those who are presently attending the school, but will also have a similar effect on alumni as well.

As for the present, be patient with your school, since it is still in a period of growth. Utilize the new facilities which are available, but remember the toil and sacrifice involved in bringing the \$8.0 million Capital Development Program to its fruition.

The underlying message, therefore, is to appreciate what is currently available, but be willing to make your own individual contribution of time to activities and organizations, now as a student and later as an alumnus. Join the *Advocate*, help the SBA, argue on a Moot Court team, write for a Journal, or become apart of the Alumni Association upon graduation. Your investment of time will make a difference, it will serve to maintain the quality of life at the law school now and improve its reputation in the future.

At this point, I would like to personally thank the following individuals for their valuable contribution to Volume 16 of the *ADVOCATE*. The *Faculty Headnotes* column was made possible by Dr. Ernest Van den Haag, Associate Dean Joseph Crowley and Prof. Peter O'Connor. Reverend Edward G. Zogby was responsible for writing the inspiring series *In The Jesuit Tradition*, while Eileen Rose Pollock FLS '84 authored the column entitled *State of the Arts*. Special thanks should also go to Prof. Mary Daly, Dean John D. Feerick, Assistant Dean Robert Hanlon, Prof. Catherine Harris, Assistant Dean William Moore, Assistant Dean Robert Reilly, Prof. Georgene Vairo and Assistant Dean Linda Young for their individual articles and/or assistance in assembling the paper. I would also like to thank the entire staff for devoting their time and effort in making the *ADVOCATE* a success.



The ADVOCATE

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FACULTY HEADNOTES

DEVELOPMENTS IN NEW YORK PRACTICE

By Professor Peter J. O'Connor

In New York, civil actions must be commenced within certain periods of time after their accrual. The applicable time period depends upon the particular type of claim involved. For example, an action for assault or defamation must be commenced within one year of accrual; one for property damage within three years, one for breach of contract for the sale of goods within four years, and one for breach of other types of contracts within six years. CPLR 213(2), 214(4), 215(3), U.C.C., Sec.2-725(1).

Dismissal of a claim as time barred means that the claim will not be given a hearing on its merits. Several theories have been advanced to support the statute of limitations. 1 Weinstein, Korn & Miller, New York Civil Practice, par. 201.01 (1984). One theory is that, after the passage of a reasonable time, a debtor or tortfeasor should be able to go about his or her affairs without fear of a lawsuit on an aged claim. A second theory is that, with the passage of time, it becomes more difficult for a prospective defendant to defend because witnesses' memories fade and evidence is lost. Another theory rests upon the assumption that persons with meritorious claims are reasonably quick to seek judicial redress and, consequently, a long delayed claim admits of no merit.

The statute of limitations may occasionally defeat a meritorious claim. The legal profession generally believes that such injustice is overridden by the concomitant advantage of preventing stale claims from clogging the judicial system thereby enabling the system to more fully adjudicate timely claims on the merits. 1 Weinstein, Korn & Miller, New York Civil Practice, par. 201.01 (1984).

The occasional defeat of a meritorious claim in the interest of judicial economy is usually justified in the personal injury negligence action which has traditionally served as the daily diet of the New York judicial system. In a typical case of the genre, for example, when a plaintiff is struck by an automobile, the cause of action accrues and the three year statute of limitations starts running when the plaintiff is injured in the collision. *Schmidt v. Merchants Dispatch Transportation Co.*, 270 N.Y. 287 (1936). Such a plaintiff is aware of the wrong and has ample time to sue. If he or she fails to sue within three years of the wrong, it is not unduly harsh to dismiss plaintiff's claim for untimeliness thereby freeing the court to devote more time to consideration of timely claims on the merits.

An increasing number of cases in the New York courts involve toxic torts. A toxic case typically involves a plaintiff who has been exposed to asbestos dust or radiation while working in a defendant's work place. In many of these cases, a plaintiff, exposed to a toxic substance, does not become aware of his or her injury until more than three years after exposure - the statute of limitations for personal injury negligence claims. Unfortunately, under New York law, such a plaintiff's claim is untimely and will not be tried before a jury on the merits.

The decision responsible for such a result is that of New York Court of Appeals in *Schmidt v. Merchants Dispatch Co.*, 270 N.Y. 287 (1936). In that case, plaintiff inhaled dust while in defendant's employment, and, as a consequence, contracted pneumoconiosis, a disease of the lungs. More than three years after termination of his employment, plaintiff discovered the lung injury and sued defendant for damages. Plaintiff claimed that his injuries resulted from defendant's negligent failure to properly ventilate the work place. The Court of Appeals unanimously dismissed plaintiff's

negligence claim because it had not been brought with three years of accrual. The Court held that:

"... in actions of negligence damage is the very gist and essence of plaintiff's cause'.... The injury occurs when there is a wrongful invasion of personal or property rights and then the cause of action accrues.... The injury to plaintiff was complete when the alleged negligence of the defendant caused the plaintiff to inhale the deleterious dust. For that injury, including all resulting damage the defendant was liable.... No successful challenge could have been interposed on the ground that the action was prematurely brought because at the time it was commenced no serious damage to the plaintiff had yet developed. In that action the plaintiff could recover all damages which he could show had resulted or would result from past injury."

Since its 1936 decision in *Schmidt*, the New York Court of Appeals, despite vigorous dissents, has several times refused to overrule that decision. See, for example, *Schwartz v. Heyden*, 12 N.Y.2d 212 (1963); *Thornton v. Roosevelt Hospital*; 47 N.Y.2d 780 (1979); *Steinhardt v. Johns-Manville Corporation*, 54 N.Y.2d 1008 (1981); *Fleischman v. Eli Lilly*, 62 N.Y.2d 888 (1984). In each of these cases, a majority of the Court has rested its adherence to *Schmidt* on *stare decisis* grounds and stated that any change in the rule must be made by the legislature. The dissenters have argued that, since the *Schmidt* rule a judicial one, the Court can change it in the interests of justice, and that, in toxic tort cases, the statute of limitations should start running from the time a plaintiff discovered or should have discovered the injury.

Stare decisis is essential to the Anglo-American system of justice. The principle serves to guarantee stability in the development of the Common Law. Nevertheless, a virtue of the Common Law has been its flexibility in meeting the needs of different times. Where a rule of law has outlived its efficacy in achieving justice, *stare decisis* has not stood as an obstacle to a Common Law Court's discarding or modifying the outmoded rule. For example, a claim for malpractice accrues and the statute of limitations starts running when the malpractice is committed. *Gilbert v. Millstein*, 40 A.D.2d 100 (4th Dept. 1979), *aff'd* 33 N.Y.2d 857 (1973). The Court of Appeals has created exceptions to this judicially created accrual rule; for example, the so-called foreign objects exception in medical malpractice cases. In *Flanagan v. Mount Eden General Hospital*, 24 N.Y.2d 427 (1969), plaintiff underwent abdominal surgery. During the procedure, the surgeon placed surgical clamps in the plaintiff's abdomen but failed to remove them. Eight years after the surgery, upon plaintiff's complaining of abdominal pains, the clamps were discovered in her abdomen. Plaintiff filed a medical malpractice suit. Despite the fact that plaintiff had sued long after the statute of limitations had run on her claim, the Court of Appeals held the action was timely because she had sued within a reasonable time after discovery of the foreign object in her body. The Court held that the foreign objects-discovery rule is consistent with the policy of the statute of limitations. In a foreign objects case, the Court observed, there is no danger of the claim being frivolous because the foreign object-a clamp could only have remained in a patient's body through medical malpractice. The foreign objects-

discovery rule has been now codified to the effect that a plaintiff, in such a case, has the longer of the following two periods to sue: two years and six months from the date the malpractice was committed or one year from its discovery. GPLR 214-a.

The refusal by the Court of Appeals to adopt a discovery rule for toxic tort cases is, perhaps, explainable. The adoption of such a rule would expose many more defendants and their insurers to liability for money damages than is presently the case. The Court of Appeals, however, has neither the means nor the time, which the Legislature has, to assess the full economic impact which adoption of a discovery rule would entail. The Court's inability to assess the economic consequences of a discovery rule, perhaps, explains its position that adoption of such a rule is a matter for the Legislature.

A discovery rule should be adopted. Such rule would not do violence to the purposes of the statute of limitation. A claim by a cancer victim of a toxic tort can hardly be characterized as frivolous. Such a victim, or his or her estate, usually sues quickly upon discovery of the in-

jury. Of course, with a discovery rule, a toxic torts defendant might never be certain when he or she would be free-timewise-from suit. Such uncertainty on the part of the toxic torts defendant is of minimal consequence when compared to the injuries inflicted by such a defendant on the victim. It is true that a discovery rule might mean that a toxic torts defendant could be required to defend a claim many years after the commission of the tort with consequent difficulties in obtaining evidence for purposes of defense. By the same token, however, the plaintiff would have similar difficulties in obtaining evidence for the prosecution of the claim. The problem of evidence gathering would be more significant for a plaintiff because the burden of proof rests upon the plaintiff.

The Legislature has enacted a discovery rule with respect to claims of members of the armed forces, who were exposed to "agent orange" while serving in Indo-China. CPLR 214-b. The statute provides that such plaintiffs may bring suit within two years of their discovery of their injury. This beneficial statute should apply to the claims of all toxic torts plaintiffs.

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SECURITIES INDUSTRY CHANGES: A MIXED BAG OF BENEFITS AND BURDENS

By Mark S. Kosak

Biographical Note

Nicholas E.E. DeStefano is presently the Managing Director of the Gabelli Group, Inc., and also serves as the Director and Chairman of their Audit Committee. The Gabelli Group of companies is engaged in investment banking, securities, brokerage and portfolio management. In this position, Mr. DeStefano is responsible for strategic planning, financial consulting with respect to investment venture capital, capital management and corporate structuring. In addition, he is involved in the creation, development and structuring of domestic and offshore investment vehicles.

Before entering the Gabelli Group in 1984, Mr. DeStefano was the Managing Director of Tax Practice at Arthur Andersen for both the United States and Canada during 1979-1984. In this capacity, he reported directly to the Managing Partner, who was in overall charge of the firm's worldwide tax practice. His primary responsibility was to ensure quality control and assure quality client service throughout the firm's tax practice. He was also the tax engagement and advisory partner for several major corporate clients. From 1976-1979, he was the Partner in Charge of the Metropolitan New York Tax Practice and was particularly involved in the transnational area. From 1971-1976, as a Tax Partner, he

served as engagement partner on a number of significant accounts, in addition to being Partner in Charge of the Industrial, Natural Resources and Small Business Division in the New York office. During his eleven year affiliation with the firm, he served on various strategic planning, internal firm policy, and management committees, as well as, specialized task forces.

Mr. DeStefano began his education at Bernard Baruch School of Public Administration, where he obtained his BBA in Public Accounting in 1958, later received his JD at Brooklyn Law School in 1961 and finally in 1963 received an LLM in Taxation at New York University Graduate Law School, at which time he was a Kenyon Fellow.

Mr. DeStefano has also had extensive involvement with professional and fraternal organizations throughout his career. He is a Certified Public Accountant in New York, a member of the New York Bar and a United States member of the International Fiscal Association. In addition, he is a member of the American Institute of Certified Public Accountants, New York State Society of Public Accountants, American Bar Association and the Advisory Board of New York University Institute on Federal Taxation.

The purpose of the interview was to explore the implications which the Tax Reform Act of 1984 (P.L. No. 98-369; "the Act") had on the securities industry as a whole. Mr. DeStefano agreed to relate his own experience at the Gabelli Group, Inc. to provide illustrations where provisions of the Act specifically effected his firm.

Overview of the Act

Mr. DeStefano believed that the Act represented "A mixed bag of benefits and burdens to the securities industry." He also felt that the piece of legislation was "a revenue enhancer rather than a revenue generator." The underlying objective of the Act he stated "was to ensure that transactions are accounted for in such a way as to reflect their economic reality." On this subject, he believed that the IRS would place greater emphasis on the economics of a transaction by auditing returns to see if there is symmetry of accountability in terms of proper matching of income with expenses. Furthermore, as a result of the act, he predicted a reduction in the number of abusive tax shelters. Finally, he felt that the objectives of the Act would be carried out through greater attention to taxpayer compliance, and more stringent penalties for those who do not comply.

The following sections focus on specific changes which the Act had on individual and corporate taxpayers involved in the securities industry. As an overall caution, Mr. DeStefano suggested that a taxpayer should consult the specific grandfathering clauses, transitional rules and effective dates in the Act before approaching any specific problem.

Individual Benefits: Reduced Long Term Capital Gain Holding Period

The reduction of the holding period from more than twelve months to more than six months, by far, represents the biggest benefit that the Act has given to the industry. Specifically, if long term capital gain treatment is allowed, the taxpayer will only have to include 40% of taxable gains, as opposed to 100% of short term capital gains in his/her taxable income. In after tax dollars the benefit represents 30% tax savings (assuming a 50% marginal tax rate).

However, Mr. DeStefano cautioned that the benefit was not totally unconditional. For certain taxpayers who are on the borderline of being in a Code Sec. 55 Alternative Minimum Tax situation, the reduced holding period could place them in this add-on tax posi-

tion. Whether or not this will actually occur, will depend on the other elements which make up the Alternative Minimum Tax formula.

Individual Burdens: Overview

Mr. DeStefano stated that individuals lost a great deal more than they gained. The emphasis of the Act was to eliminate those transactions, or those methods of treatment, which did not make economic sense.

For example, the Act attempted to determine whether there was a proper matching of income and expense, to prevent distortion of a taxpayers reportable income. This meant streamlining certain existing Code sections, and adding others to clarify the underlying intent of existing statutory provisions.

Net Interest Exclusion

The proposed net interest exclusion of \$450 (\$900 for joint taxpayers) has been eliminated. This means that individual taxpayers have lost \$450 in benefit (\$800 on a joint basis) since there is no existing code section available permitting the exclusion.

Gift Loans/Below Market Loans

The ability to make gift term or below market loans to other individuals has been limited. Previously, these planning devices were used to shift income to individuals who were in lower income tax brackets, so that the income generated on the principal of the loan would be taxed at a lower rate.

However, as Mr. DeStefano points out, in the case of gift term loans, the Act now treats the lender as making a gift on the date the loan is made to the borrower, of the excess of the amount of the loan over the present value of the principal and interest payments required under the loan. The borrower is then treated as retransferring to the lender the amount of interest that would be accrued on an annual basis. In the case of below market loans which are not gifts, the borrower will be treated as receiving a dividend for the below market interest component. In addition, the lender will be responsible for picking up original issue discount (OID) on the obligation, while the borrower will be granted an interest deduction for this same amount."

Market Discount Bonds

Mr. DeStefano notes that the attractability

of bonds issued after July 18, 1984 which are selling at a market discount has been substantially reduced because of their susceptibility to the OID rules and costly reporting requirements connected with their issue. The individual holder of the bond will now have to treat the accrued market discount as interest and recognize the same amount upon disposition of the bond. This treatment will result in an overall increase in the rate of taxation from the 20% to 50% level. Issuers, will on the other hand, be burdened by the increased costs associated with the information reporting requirements of the IRS.

Trading in Options

The practice of using virtually risk free offsetting positions in traded options to generate a loss in one year and a gain in the next year was effectively prohibited by the Act, Mr. DeStefano stated. Specifically, the Act requires that where an investor has certain offsetting positions, any loss realized from closing one position must be deferred for tax purposes to the extent of any unrealized gain on an offsetting position. The new rule applies to covered options positions involving deep-in-the-money options, offsetting positions involving two traded options, offsetting positions in stock and related securities and positions in stock index products. He believed the change was designed to prevent distortions in taxable income resulting from artificially produced timing differences in gain and loss recognition.

Mark-to Market Rule Extensions

Finally, Mr. DeStefano mentioned that the Act extends the commodity straddle rule 60/40 mark-to-market treatment to all holders of nonequity options, whether or not they have offsetting positions. Nonequity options include options on debt instruments, commodity futures contracts and broad based stock indices which could be designated, as such, by the Commodity Future Trading Commission.

Corporate Area: Benefit Overview

The only true benefit that corporate taxpayers received was the reduced holding period for long term capital gains which was discussed in the individual area. Weighing this modest benefit against the many that the group lost, Mr. DeStefano concluded that the Act had an adverse impact on the corporate sector.

Burdens: Dividends Received Deduction (DRD)

To begin with, Mr. DeStefano remarked, if a corporation borrows money to acquire or carry a stock interest in another corporation and receives dividends from the other corporation subject to the 85% dividend received deduction, (effective tax rate of 6.9% based a 15%-dividend inclusion at a 46% corporate tax rate), the dividends received deduction will be reduced. The amount of the reduction is based on a formula that emphasized the relationship of the amount of the debt to the stock's basis and is limited by the amount of the interest deduction allocable to the dividend.

In addition, the Act increases the period in which a share of stock must be held to receive the DRD from 16 to 46 days. The holding period for preferred stock remains at 91 days. The change was designed to put economic risk into the transaction, Mr. DeStefano believed.

If an extraordinary dividend is paid on stock ultimately held for less than one year, a corporate shareholder will be required to reduce its basis in the stock of the distributing corporation by the cash or fair market value of other property received, less the amount included in the recipient's gross income net of the OID. For purposes of this section, an extraordinary dividend would be those received in any 85-day period equal to 10%, (5% in the case of preferred stock), of the corporate shareholder's basis in the stock, or more than 20% of basis in any one year period.

Regulated Investment Companies (RICS) Real Estate Investment Trusts (Reits)

With respect to stock ownership, Mr. DeStefano stated that the Act modified the definition of a RIC to permit a Personal Holding Company (PHC) to qualify as a RIC. If a RIC is also a PHC, any undistributed investment company taxable income of the RIC would be taxed at the highest corporate tax rate (46% marginal rate).

Another provision that effects RIC's, (and REIT's), involves capital gain dividend distributions. Specifically, if a shareholder of a RIC or REIT holds stock for less than six months, any loss recognized on the sale of such stock will be treated as long term capital loss to the extent of any distribution on the stock which was treated as long term capital gain. The imposition of the additional thirty day holding period, (on the preexisting 31 day requirement), was in Mr. DeStefano's opinion, designed to add economic risk to the hedging transaction.

Other provisions which specifically apply to REIT's include prohibitions on pre-paid expenses and premature accruals until economic performance has occurred, and an increase in the ACRS write-off period on real estate (but for low income housing) from 15 to 18 years.

Industrial Development Bonds (IDB's)

Mr. DeStefano, commenting on the supply of IDB's, stated that the Act imposes ceilings on the amount of IDB's and student loan bonds that can be issued by government units within any state during any year. The actual ceiling is the lesser of \$150 for each resident of the state or \$200 million per state until 1987, when it will be reduced to \$100 per capita.

Tax Exempt Bonds

In terms of these obligations, Mr. DeStefano mentioned that any OID will now have to be accrued under an economic accrual formula based on yield to maturity and compound interest (based on the new applicable Federal rates which vary with the term of the bond). He stated that the effect of this provision will be to increase the adjusted basis of the bond only by this accrued discount (instead of the large amount obtainable under the straight line method) in connection with the holder's determination of taxable gain or loss upon disposition of the bond. Ultimately, he believed that this treatment would preclude the generation of short term loss on the disposition of a tax exempt bond prior to its maturity.

Stock Warrants

Stock warrants are now to receive capital stock treatment upon their expiration. In addition, there shall be no gain or loss consequences to issuers of warrants. This latter procedural guidance remove the uncertainty associated with how to treat these instruments.

Tax Surplus

The definition of Tax Surplus for corporations has been redefined and broadened to increase the same and make dividends and other distributions taxable events, rather than returns of capital under the narrower definition of pre-84 Act law.

Compliance

Mr. DeStefano stated that the objectives of the Act were to be achieved through a combination of greater information reporting requirements and more stringent penalties. In the area of reporting requirements, Mr. DeStefano cited as his principle example the case where promoters must now obtain a registration number for any tax shelter they sell interests in and in turn pass this number to all investors.

(Continued on page 5)

SECURITIES INDUSTRY CHANGES

(Continued from page 4)

The investor must use this number on his/her return. To ensure compliance, penalties for non-compliance were placed both at the promoter and investor level.

He also mentioned reporting requirements and corresponding penalties in the following areas: disposition of partnership interests, mortgage interest reporting, original issue discount reporting and broker reporting on in lieu of dividend payments. He believed that the more comprehensive information that the IRS would receive from information reporting at all levels would motivate compliance since taxpayers would now be more vulnerable in terms of the audit lottery.

Industry Reaction to the Act

Mr. DeStefano, responding to the question of how the industry reacted to the Act stated "Because of the myriad of effective dates, grandfather clauses, transitional rules and the complexity of the Act itself, the initial reaction has been to attempt to digest the provisions and make planning decisions accordingly." He believed "The financial burden associated with complying with the increased reporting requirements will have a negative impact on the industry and could cause additional layoffs." From a planning perspective, he felt "The industry will have to structure its transactions in 1984 to take advantage of any existing opportunities before prospective effective dates are

in force." In terms of new products, "Since tax advantaged programs have been curtailed, investor advisors will have to search for products that make economic sense and provide greater certainty of results." He suggested that real property would be a likely substitute, especially those programs which utilize investment credits, rehabilitation credits and low income housing options to fuel their deals and produce legitimately high returns on one's investment.

Gabelli Group Strategy

When asked how the Gabelli Group has reacted to the Act, Mr. DeStefano commented "The firm has not modified its fundamental approach to market analysis which involves targeting a pool of companies which have certain special features. First, before a company is recommended there must be at least a 50% discrepancy between the company's private market value, (based on an asset valuation test), and its current public market price when reviewed. Second, either a management change has taken place (or is impending), or a buy back of the company's shares is likely. Third, the 50% discrepancy in value must be realizable within a period of between 18 to 24 months."

Mr. DeStefano stated the "Metco" situation was a classic example of such a strategy.

The catalyst was the death of the Chief Executive Officer, in conjunction with the discrepancy in the stock's public market value and its inherent value based on an asset valuation test. This was precisely the reason that Mr. DeStefano gave for Mario J. Gabelli's decision (President of GAMCO Investors, Inc., and Chairman of Gabelli & Company, Inc.) to assign a buy recommendation to the stock and to slowly acquire interests for the firm's clients. Ultimately, he commented that Kolbert, Kravis & Robert (KKR) recognized the discrepancy in value and acquired the company (on the behalf of the management of the company and drove the price up, so that the private and public value were approximately equal.

A similar situation was MGM Grand, Mr. DeStefano noted, "Except in MGM, a massive fire was responsible for the value discrepancy, and the principle player in this scenario was Chairman of the Board Mr. Kirk Kerkorian. He was ultimately behind the buy back of the shares and the subsequent rise in the company's stock price."

Mr. DeStefano, in summary, stated "The Act has had very little impact on the firm, since the Gabelli Group has always searched for equity situations which are founded on sound economic principles. Although tax considerations play an important role in an investment decision, one must be atune to the entire picture, including regulatory considerations, interest rates and the political climate, just to name a few." He went on to say "The firm

in an effort to maximize the returns of its clients is putting together a Leveraged Buyout Fund to seek out companies in the 25 to 100 million dollar range which meet our asset valuation criteria in type two arbitrage situations (ie., all filing with regulatory authorities made, but final shareholder approval has not been given. In this venture, the firm will act as agent, broker, special investor on behalf of the Arbitrage fund and Gabelli & Co. as investment banker for each prospective company selected. Each individual investor in the fund could expect to receive a 25% return in an unleveraged position, or a 35% return in a fully leveraged position (net of interest expenses). The rate of return is based on the risk of disapproval by the shareholders, time value of money principles and well as other risk factors."

Future Direction of Tax Legislation

Mr. DeStefano was very guarded when asked his opinion concerning the future direction of tax legislation, but felt "The direction of legislation will depend, in part, on which political party is successful in the November Presidential election. If a Democrat is elected, we are almost certain of some degree of tax increase. If a Republican is victorious on the other hand, increased taxes will depend upon whether a balanced budget can be achieved and what the current status of the Federal deficit is. Therefore, only time will tell in this regard."

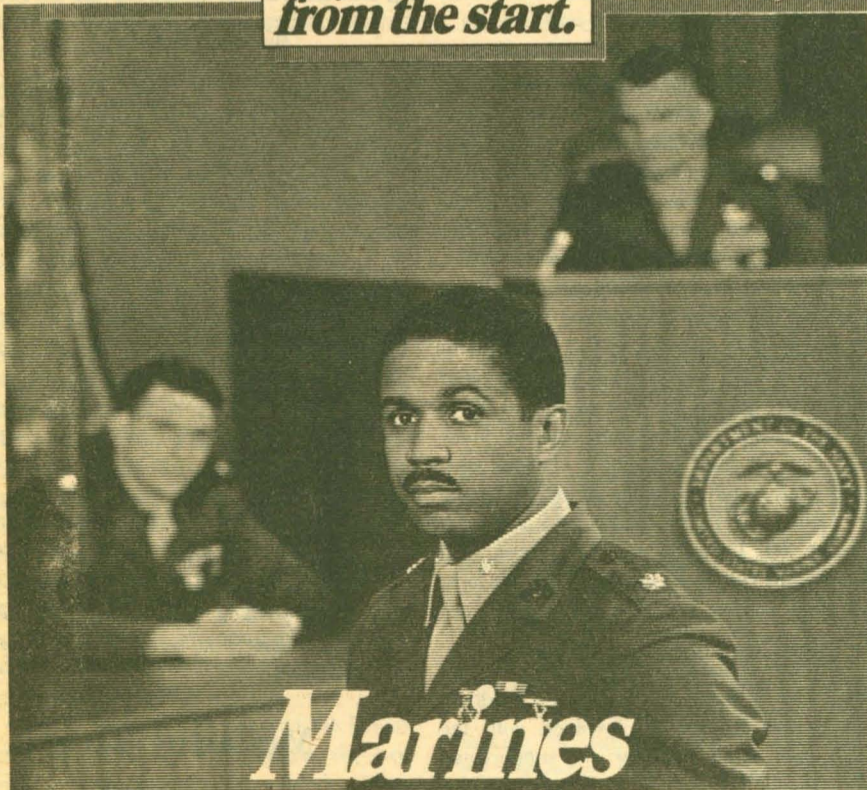
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If you would like more information regarding our programs for law students contact Lieutenant Cooperider at (212) 620-6778.

FLS NEWS IN REVIEW

Plans Being Considered for Lincoln Center Housing



Dr. Edward Elmendorf, Mrs. D'Amato, Rev. Joseph A. O'Hare

By David Heires

During a news briefing held on Thursday, October 11 to announce the grant of a \$3.5 million housing loan to Fordham University by the federal government, the Reverend Joseph A. O'Hare, S.J., the President of Fordham, revealed that the University has adopted plans to provide student housing at the Lincoln Center campus.

The briefing, which took place on the 12th floor of the Lowenstein Building, was called by Father O'Hare and Assistant Secretary of Education Dr. Edward Elmendorf. The \$3.5 million grant will be the largest given to any institution of higher learning under the Department of Education's College Housing Program for 1984.

Father O'Hare indicated that the funds will be part of an \$80 million project designed to expand housing facilities at the Lincoln Center and Rose Hill campuses. He cited a number of factors "which have made us more and more acutely aware of the need for student housing at Lincoln Center." Among them were the desire for housing spelled out in applications, a decline in enrollment, and the University's goal of recruiting students from a more national base, particularly with regard to communication and the arts, he added: "Without student housing, the relationship of the Lincoln Center

campus to New York City cannot be fully exploited."

The University hopes to provide housing for 1,000-1,500 Lincoln Center students within a reasonable period of time. Presently, there are plans to develop two residences, one or both of which could be constructed on the undeveloped grounds here. In addition, University administrators are engaged in conversations with the Power Memorial site developers on the possible construction of a residential tower on their land. Finally, consideration is being given to the purchase and renovation of an existing facility in the immediate area.

The federal grant is a significant step along the way for the University's housing plans. As Assistant Secretary Elmendorf noted, the grants are based on a demonstrated need for housing facilities, and Fordham earned its way. Only 10 of the 140 institutions applying were given a loan, and as previously indicated, Fordham received the largest one. Construction must start not later than 18 months after the date of the loan.

Senator D'Amato, who had planned to attend the briefing but was forced to cancel, was instead represented by his mother. He had been of considerable assistance to the University in bringing about the grant.

Phi Alpha Delta Meets in Atlantic City

By Elizabeth Hermida

Phi Alpha Delta Law Fraternity International held its 1984 District XV Conference at the Sands Hotel and Casino in Atlantic City on Friday and Saturday, November 1st and 2nd. Besides Fordham, several schools in the New York/New Jersey area sent representatives, including Seton Hall, St. John's, Rutgers/Newark, New York University, Cardozo, New York, Hofstra, Pace, and Touro Law Schools. The annual conference permits members of the various chapters to meet and report on their service and social activities.

This year, District Justice Clifford Schechter, a Fordham alumnus, did a fine job of arranging two days of work and fun. On Friday evening, the International Board hosted a cocktail party in the Monterrey Room, where the visiting students and alumni were able to meet some of the Board members. Later that evening many members attended the Joel Grey Show in the Copa Room, where Larry Miller, a comedian, was amusing on the subject of lawyers. In between these events, members were able to take advantage of the many fine restaurants in the area, as well as the Sands' pool and health club and the casino itself.

After a continental breakfast on Saturday morning, the workshops began and continued all day except for breaks for coffee and lunch. There were talks by Stanley Kohn, the Inter-

national Justice, Jack Miller, the International Vice Justice, Fredric Pearson, the International Treasurer, and Sandi Brooks, the International Tribune. Although Sandi and Rick are from the metropolitan area, Stan traveled up from South Carolina and Jack Missouri to report on some of the activities of Phi Alpha Delta chapters nationwide.

Phi Alpha Delta is both a service and a fraternal organization. The range of activities is broad. While it was reported that the students of the G. L. Ruffin Chapter at Harvard escape from academic pressures by going to the track, members of the Kennedy Chapter at Hofstra started and maintain a juvenile justice program on Long Island that has won widespread respect.

Phi Alpha Delta gives its members the opportunity to seek out and establish programs that are relevant to their particular schools and student bodies. Here at Fordham, Wormser Chapter has had both speakers on subjects of interest to the students and parties to give the students a chance to relax. This year there are plans to have speakers on practice. All students are welcome to join the Chapter and have a say in the direction it will take this year. Those interested may call Art Neissy through Dean Young's office.

Teclaff Authors New Volume

By Guiliana Musilli

Governments characterized by internal oppression and external violence have been a part of the history of the Western world since the days of the Mesopotamian empires. The modern day existence of oppressive regimes is evident in many third-world nations and in Europe's experimentation with Fascist and Nazi ideologies. In his book, **Economic Roots of Oppression** (Buffalo, New York, William S. Hein & Co., Inc., 1984), Dr. Ludwik A. Teclaff explores the question of why such governments come into being and offers a possible answer to the question.

Dr. Teclaff describes his book as "a survey of how Western society has struggled against economic limitations and how that struggle has shaped political institutions." A basic premise of the study is that in general an expanding population and rising expectations on the part of a society are forces that propel that society to seek ways to get out of a no-growth situation. A state of no-growth is defined as the situation where a society cannot "augment the satisfaction of its needs and aspirations by existing methods of production of material goods." In the book, Dr. Teclaff examines a possible correlation between the occurrence of no-growth situations and the appearance of oppressive regimes. If such a correlation exists, then it is possible that oppressive regimes will come into existence whenever no-growth occurs unless societies are able to discover alternative ways of distributing economic wealth.

As an example of where an oppressive regime was the solution to a no-growth situation, Dr. Teclaff pointed to the history of the Mesopotamian city-states. After local sources of economic growth were being utilized to capacity, the city-states turned to violent aggression other city-states in order to expand their territories to violent aggression against other city-states in order to expand their territories and to the regimentation and exploitation of certain classes of their population so as to increase productivity.

The study takes the analysis through the various periods of Western European History. For example, Dr. Teclaff notes that after the fall of the Roman empire and for a brief period

of time under the Carolingians, during the Renaissance and the Enlightenment, Europe resisted tendencies toward oppressive governments because it was able to expand territorially by the conquest of the New World, Africa and Asia. Later, the Industrial Revolution provided the opportunity for unprecedented economic growth which diverted the path toward oppression. The study continues through to the twentieth century with an exploration of the effects of the various depressions, wars, gas crises, etc.

In the closing chapters of the book, Dr. Teclaff addresses the prospect for the avoidance of oppressive regimes. He optimistically states that Western society can continue in its democratic tradition as long as it is able to provide for the avoidance of oppressive regimes. He optimistically states that Western society can continue in its democratic tradition as long as it is able to provide for economic growth and for an equitable distribution of the growth. However, he points out that the earth's resources are finite and that society will face the risk of oppression whenever no-growth occurs and must meet the challenge by devising new means of using the earth's resources. The only other way of increasing growth indefinitely would be to escape the confines of the Earth and to find new sources of wealth and natural resources. The study as a whole posits a fascinating question and proffers an interesting theory of explanation. It is bound to challenge the reader's thoughts and to channel his ideas into thinking about how governments and the nature of the earth itself interact.

For those of you who are unacquainted with Dr. Teclaff, be it known that he is a Professor at the Fordham University School of Law where he teaches International Law. He is also a director of the Law Library. His book is the result of five years of study and thought which was inspired by the research he did for another book he wrote, *The River Basin in History and Law*. His knowledge of the use and management of the earth's resources is extensive. *The Advocate* congratulates Dr. Teclaff on the publication of *Economic Roots of Oppression* and wishes him luck on all his future endeavors.

NOTES FROM THE F.D.L.S.A.

To the Alumni:

The Fordham Democratic Law Student Association would like to thank all the alumni and friends of Fordham who helped make Dedication Day a wonderful success. Dedication Day was special to all of us at the F.D.L.S.A. and we hope all alumni who were able helped celebrate the occasion.

The F.D.L.S.A. is taking this opportunity to address the alumni because our organization cannot afford to mail out to you individually. The F.D.L.S.A. was formed to add another political perspective to the Law School (there already was a Republican organization). In the past year, we have brought to campus such notables as Congresswoman Geraldine Ferraro '60, Head of the Legal Aid Society, Archibald Murray '60, Congressman Ted Weiss, and Comptroller Harrison Golden. While we have had great success we have also experienced growing pains.

Because of our success and our needs, we would like to invite the Alumni of Fordham Law School to become involved with the F.D.L.S.A. Your guidance and support can help make the F.D.L.S.A. a permanent fixture at Fordham Law School. If you are interested or have any thoughts please contact Robert Altman by mail or phone. His address and phone number follow. Thank you.

Robert Altman
163-68 15th Drive
Whitestone, N.Y. 11357
(718) 746-5148

JUDGE FEINBERG SPEAKS

By Mark S. Kosak

On October 23, 1984, Judge Wilfred Feinberg delivered the Keynote Address at the prestigious Sonnett Lecture Series. Judge Feinberg began his speech with the unexpected statement that his current position as Chief Judge of the New York Court of Appeals is not "glamorous". He attributed this fact to public unawareness as to what he actually does. To alleviate this problem, he advocated to a receptive audience the grueling demands which are placed on him as a result of his numerous and varied responsibilities. At the conclusion of his discussion, the audience looked exhausted just listening to what Judge Feinberg actually has to do as Chief Judge on New York's highest court. The majority opinion delivered orally at a reception following the lecture held unanimously that Judge Feinberg has a very demanding position, and secondly, that he has executed his tasks with a great deal of vigor and professionalism.

McCarthy Saves Womans Life

A woman was pushed on to the subway tracks by an assailant. David McCarthy pinned the assailant to the ground, suffering a broken nose in the process, and held the assailant until the police arrived. David's action allowed the woman time to climb back up to the platform.

DEDICATION SUPPLEMENT: PAGES 7-14

Justice Sandra Day O'Connor's Address Highlights Dedication Ceremonies



Governor Mario Cuomo, Justice Sandra Day O'Connor, Rev. Joseph A. O'Hare

By David Heires

On the morning of Wednesday, October 24 the long awaited Dedication Ceremonies for Fordham Law School's new building wing took place at the Vivian Beaumont Theatre in Lincoln Center. The Honorable William Hughes Mulligan, Dean of the Law School from 1956-71, served as Master of Ceremonies.

The Dedication was highlighted by the principal address delivered by U.S. Supreme Court Justice Sandra Day O'Connor, who spoke on the importance of having a sense of social and ethical responsibility within the legal profession. After her remarks, she was awarded the degree of Doctor of Laws, *honoris causa* by the Reverend Joseph A. O'Hare, S.J., the President of Fordham University.

It was an event graced also by the presence of many other dignitaries, including the Reverend Laurence J. McGinley, S.J., President of Fordham from 1949-63, Governor Cuomo, Mayor Koch, Senator D'Amato, the Honorable Joseph M. McLaughlin, Dean of the Law School from 1972-81, and Archbishop Iakovos, the Greek Orthodox Primate for North and South America. Each shared his feelings about the significance of the occasion with those in attendance.

Not to be outdone by anyone was the ever ebullient James "Ned Doyle '30, one of Fordham Law School's biggest benefactors and the founder of the Doyle, Dane & Bernbach Advertising Agency. The new building has been designated "The Ned Doyle Wing" in honor of his loyalty and generous support.

Students, faculty, alumni and guests gathered in the theatre at 10:00 A.M., as the ceremonies commenced with an academic procession. They were set for a day that will remain imprinted in their minds, and in the annals of Fordham University, for a long time to come.

Above all, it was a day for Dean John Feerick, without whom the Dedication would not have been possible. As Father O'Hare declared, Dean Feerick is genuinely "A Man for All Seasons," a wish of the entire Fordham Law School community, those of whom in the audience responded to his introduction with the day's most resounding ovation.

Credit must also be given to the Dedication Committee, which engineered the day's events over a period of many months. Daniel J. McNamara served as the Committee Chairman, and Professor Constantine Katsoris was the Vice Chairman. Other faculty members on the Committee included Associate Dean Joseph R. Crowley, Assistant Dean Robert J. Reilly, and Professor Joseph M. Perillo.

In her address, Justice O'Connor told the audience, "We as lawyers and judges hold in our

possession the keys to justice under the rule of law, and we hold those keys in trust for those seeking to obtain justice within our legal system. Lawyers who are sensitive to their role in society will surely view their responsibility to the public as transcending the purely technical skills of the profession."

Justice O'Connor believes Chief Justice Arthur Vanderbilt of New Jersey expressed well the five functions of a good lawyer: "Being a wise counselor, a skilled advocate, a contributor to the improvement of the legal system, an unselfish and courageous leader of public opinion, and a professional willing to answer the call for public service."

Citing generally the areas of pro bono work and the representation of paying clients, Justice O'Connor urged those in the law school community to be aware of the growing gap between the costs of legal services and the means of many people to pay for them, and statistics showing an increase in the public discipline of lawyers. Law schools, she said, can respond to these specific problems.

"Classes in clinical practice, coupled with opportunities to provide supervised services to people who are unable to pay for them, can be enjoyable and interesting, and indeed a kind of inspiration for the students who participate." With regard to the substandard representation of clients by some lawyers, she added: "Law schools must respond to this problem by strengthening their emphasis on the lawyer's moral and ethical obligations. The golden opportunity to teach those concepts is in law school."

In the concluding portion of her remarks, the first woman to serve on our nation's highest court reiterated her belief that Fordham Law School "stands very high in the ranks of law schools trying to instill and encourage high personal and professional standards." She told the audience, "You have a magnificent new house, within which to continue to improve the law as well as the lawyers, and I wish you every success. Thank you."

After she had finished speaking, Judge Mulligan indicated to the onlookers that an unannounced part of the ceremonies was in the making. He then introduced Dr. Paul J. Reiss, the Executive Vice President of Fordham University, who read a citation acknowledging her as the recipient of an honorary degree.

"I didn't have the slightest idea this was afoot," she said. "I am very honored indeed to be awarded the honorary degree from Fordham."

Normally, the degree of Doctor of Laws, *honoris causa* is awarded only at the Universi-

ty's Commencement. At the recent inauguration of Father O'Hare, Archbishop O'Connor became the first person in twenty three years to receive it on another occasion. Previous to that time the last individual to be awarded the honorary degree outside commencement was the late U.S. Senator Robert F. Kennedy. It was conferred on him at the Dedication of the original law school building here in 1961.

For those fortunate to be present, it was an upbeat day from the start. The speakers alternated between expressing feelings of pride for the law school and delivering humorous anecdotes. Judge Mulligan set the tone for the day when he noted that in sizing up the law school's Lincoln Center campus, his "vision and planning" in assuming the 1960 building would suffice to house the law school community "as responsible for the ceremonies to day."

Dean Feerick thanked individually the many people in the Fordham Administration who had personally helped out with the building project, plus the hundreds of alumni and friends who had keyed the fundraising efforts. In particular, he singled out Leo T. Kissam '23, James B.M. McNally '30, the first President of the Fordham Law Alumni Association, and Mr. Doyle. The library will henceforth be known as The Leo T. Kissam Law Library, the new amphitheater The James B.M. McNally Hall, and the new atrium The Edith Guldi Platt Atrium, in honor of the mother of three Fordham Law graduates.

Mr. Doyle told the audience he didn't have that much to say, and that "they told me, we're not very much interested in what you think, what we need is your money." On a more serious note, however, he said he wanted to emphasize the value of a law school education in developing skills in logical analysis and communication.

Mayor Koch urged Fordham Law graduates to send their resumes to the New York City Corporation Counsel's Office. "Public service is the noblest of professions," he said, "if it's done honestly, and if it's done well. I know that those who come from Fordham University will do it honestly, and will do it well."

Governor Cuomo's appearance was marked by his characteristic aplomb, and the day's most scintillating one liner. Speaking of the uniformity of Fordham's excellence, he emphasized the "uniformity": "Just think of the names of Father O'Hare's great predecessors as President - Father Finlay, Walsh, McLaughlin, O'Keefe, McGinley, Gannon, and the Deans, Dean Feerick, Dean McLaughlin, Dean Mulligan. What a Galaxy of Gaelic

Giants!" The Governor praised the Jesuit tradition of Fordham, the tradition of using faith and reason in harmony to seek greater worlds of knowledge and bring about the betterment of society.

The law school also evoked praise from Senator D'Amato, who expressed his belief that it is making a valuable contribution by maintaining the evening school while other institutions have closed theirs.

After Father O'Hare presented Justice O'Connor with her honorary degree, Archbishop Iakovos delivered the benediction. Shortly after 11:30 the recessional began, following which a champagne reception was held in the new wing. Twenty students trained on the history and architecture of the building served as tour guides for all the friends of the law school.

As Mr. John Feerick Sr., Dean Feerick's father, pointed out afterwards, "it was a wonderful ceremony, a wonderful day for all of us."

During a visit after the ceremonies, Justice O'Connor told Mark Kosak and me that the new building will provide a significant boost for the law school, and noted the advantages offered by its location in Lincoln Center.

"The school is situated in a community where the students can participate more easily in the kinds of programs that I talked about than can those from schools in an outlying campus. I think it is wonderful for the school to be situated in a city like this."

Justice O'Connor considers Fordham to be a "national" law school - "well known and well respected" - and says that the new building will help it continue to improve its status. She added that having residences on or near the campus is a good idea, and would provide the school an opportunity to obtain a more diverse student body.

As she had during the ceremonies, Justice O'Connor maintained that the honorary degree was a "complete surprise" to her. "If it had occurred in Washington, I would have known all about it," she joked, "but I guess, in New York, it's still possible to keep a secret."

The law school owes its thanks to all those who played a part in enabling Justice O'Connor to honor us with her presence at the Dedication, particularly the Honorable Robert Corcoran. Judge Corcoran succeeded Justice O'Connor on the Arizona Court of Appeals after her appointment to the Supreme Court, and helped persuade her to participate in the ceremonies.

IN THE BEGINNING. . .



The War Memorial: A Fordham Time Capsule

By David Heires

Many memories concerning the history of the Lincoln Center campus are being evoked as the law school's building construction reaches its final stages. One of particular interest is offered by the War Memorial, a familiar site to students who crossed the hall between the Reading Room and the cafeteria in years previous.

Recently, an interesting discovery was made in the area covered by the memorial. Unearthed were two items which had been implanted when the memorial was dedicated in 1966. The first was a picture of the armory

which used to occupy the grounds of the Lincoln Center campus before its construction. In addition, there was a document listing the New York State National Guardsmen who made donations for the purpose of building the memorial (see the pictures below.)

The armory had housed the 12th Infantry National Guard from 1887 to 1958, at which time it was removed in favor of the Lowenstein Building and the law school. The picture above reflects a view of the armory from 61st Street looking northwest, presently the vista of Sims Delicatessen.

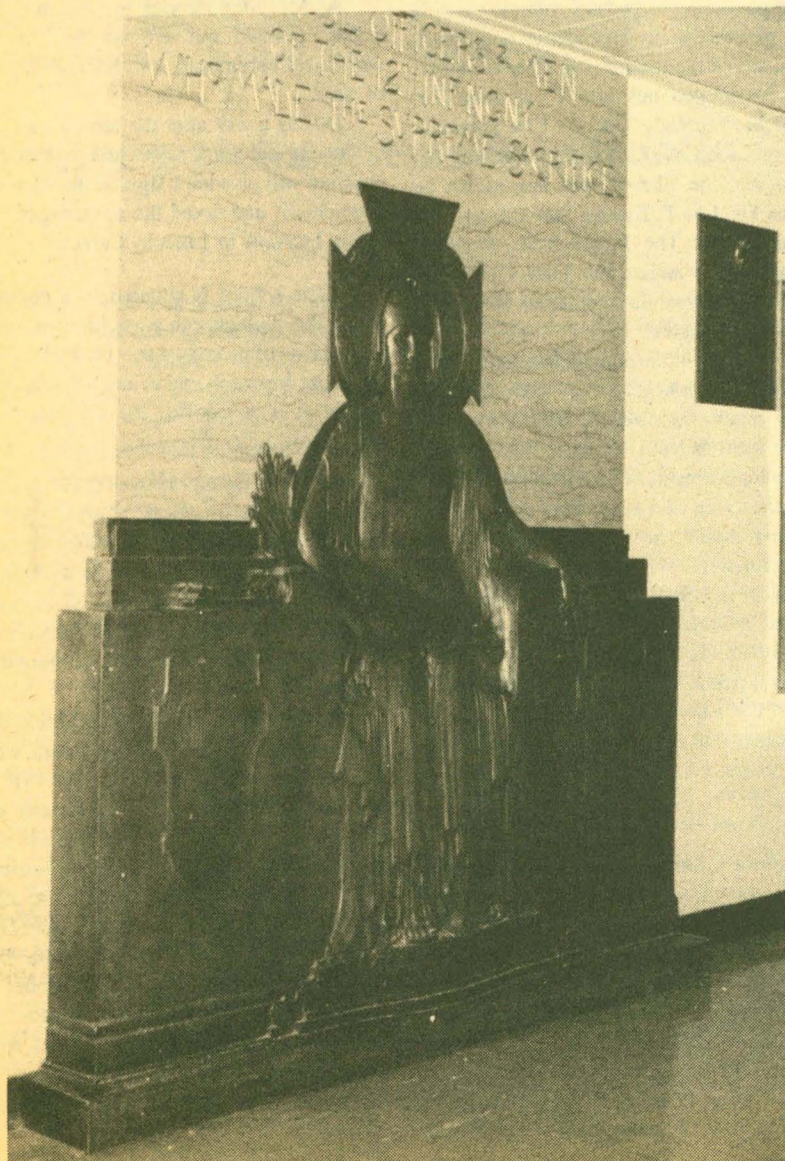
The commemorative document is dated April 18, 1966, and signed by Lt. Col. William E. Daly and Captain Joseph V. Falke. It contains this language:


"The following are the names of those who through their donations assured the erection of our War Memorial in the study hall of Fordham University Law School, 120 West 62nd St. New York City, on the site which stood the 12th Infantry National Guard Site of New York. Erected 1887 to 1958."

The wall section in which the memorial was previously implanted is now part of the

room set to be the Advocate's new office. The memorial has been removed, and is now located in the hall for the new building wing on the 1st floor. As Dean Reilly commented, "Fordham has its own time capsule."

For history buffs, Dean Reilly added that there are plans to have an updated history of the law school to be distributed to the students and others on Dedication Day. Biblio Juris is providing the funding.





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12TH INFANTRY, V.A.
 c/o WILLIAM E. DALY
 141 EAST 42ND ST.
 N.Y. 17, N.Y.

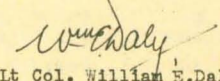
SERVICE RECORD

1812
1847
1861 - 63
1898 - 99
1916 - 17
1917 - 19
1941 - 45
1952 - 53

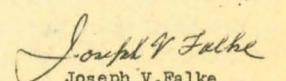
MEETINGS ON 4th FRIDAY OF EACH MONTH April 18, 1966

The following are the names of those who thru their donations assured the erection of our War Memorial in the study hall of Fordham University Law School - 120 West 62nd St. New York City, on the site which stood the 12th Infantry National Guard Site of New York. Erected 1887 to 1958.

Lt Col. Mario Antenucci	Brig Gen. Arthur Linn	William Shea 69th Regt
Sgt. Robert Antenucci	Lt Col. Mario Mercandino	PFC. Herman Schlussel
Capt. Leo Brown	Brig Gen. Joseph Moore	Lt Col. Donald Sherman
Major. Charles Brown	Lt Col. Edward Murray	Lt Col. Nathan Sommers
1st Sgt. Jack Bond	Capt. John McGill	Sgt. Jack Soloway
Lt Col. William Daly	Lt. Lewis Meyers	Col. George Slavin
Col. Samuel Durschnitt	Sgt. Joseph Nicoletti	Capt. Arthur Tully
Lt. Harry Elias	Major. Lambert Oeder	Capt. David Taub
Capt. Joseph V. Falke	Col. John B. Otero	Col. William Weston
Sgt. William Frank	Sgt. Richard Palmer	Lt Col. John Yenser
Col. Albert Goodrich	Research Consultants	13-245th Regiment VA
Clarence Hartell	Major. J.P. Ruppe	Sgt. Joseph Gaime
Capt. John Hedgecock	Major. John Powers	
Capt. Sidney Koenigsberg	Sgt. John Palumbo	
Sgt. Thomas Kieley	Sgt. William Rinkel	
Lt Col. Otto Kraus	Lt Col. Michael Reilly	
Capt. G. Kenna	Lt Col. Nathaniel Rose	
Capt. Walter Loeb	Col. Leo Schisgall	
S/Sgt. Napoleon Landry	Sgt. Adam Such	



Lt Col. William E. Daly
Historian

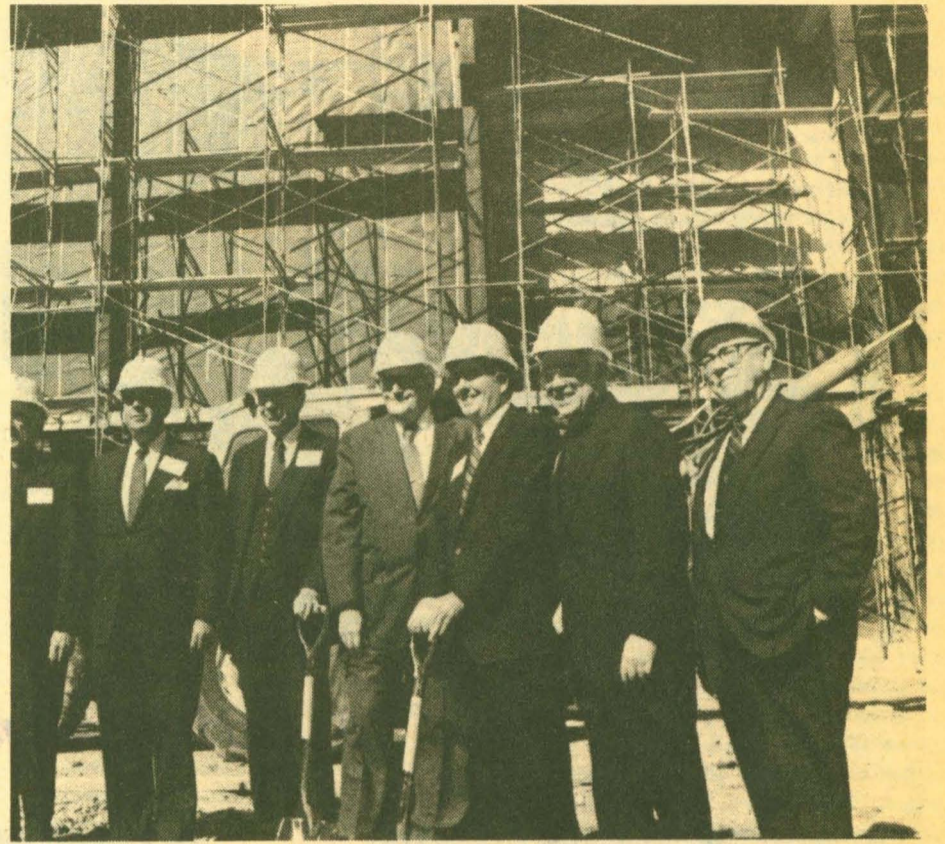


Joseph V. Falke
Capt. AUS (ret)
President

... GROUNDBREAKING



Richard J. Bennett, Rev. James C. Finlay



From left to right: Rev. Lawrence J. McGinley, S.J., Hon. Paul J. Curran, Rex E. Lee, Hon. William Hughes Mulligan, Dean John D. Feerick, Rev. James C. Finlay, S.J., Richard J. Bennett

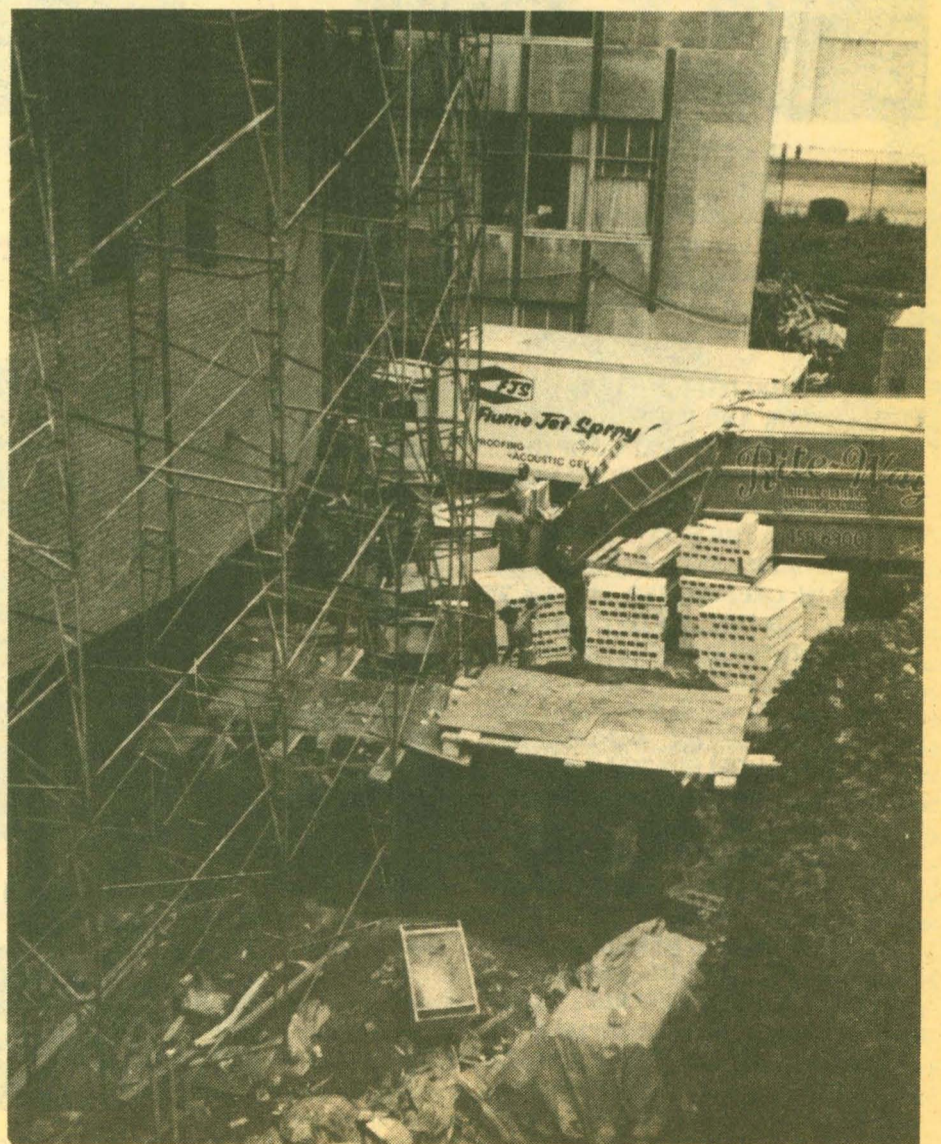
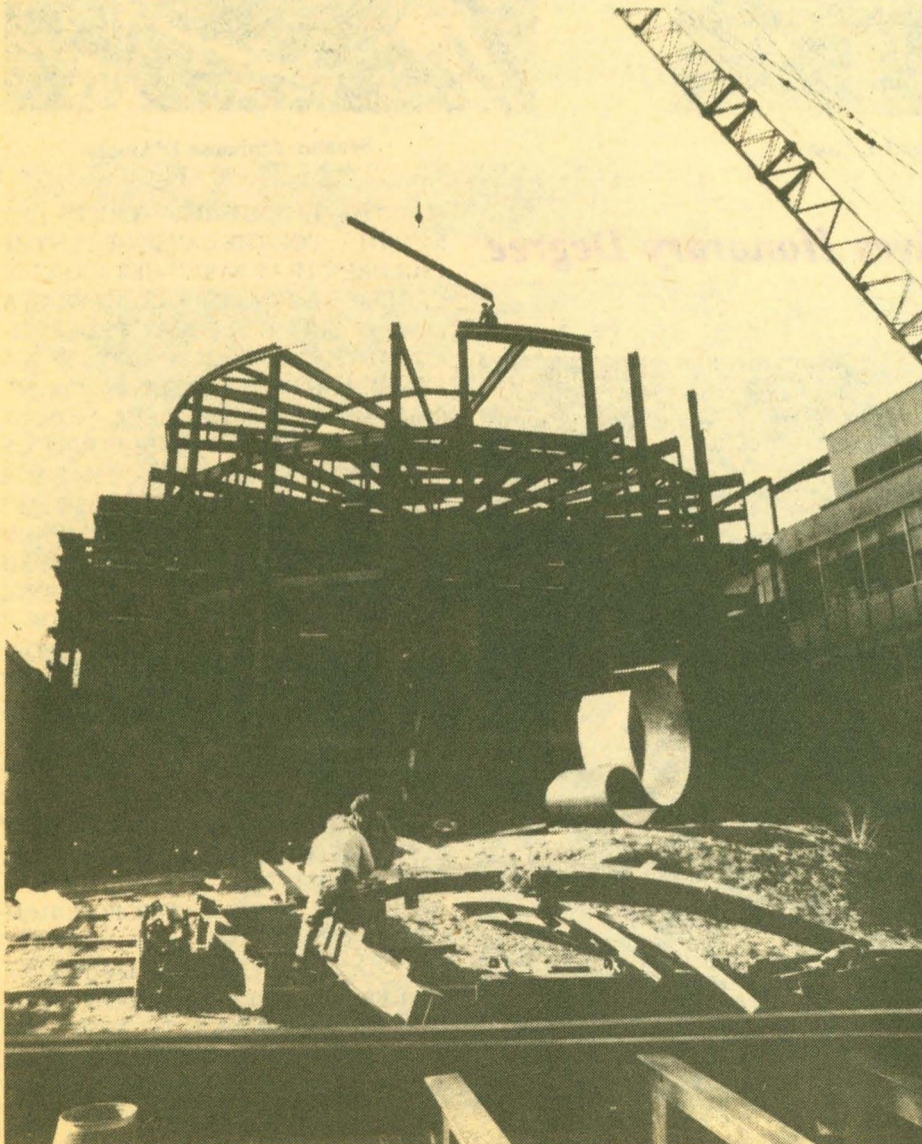
Official groundbreaking ceremonies for the new wing being added to Fordham Law School's existing structure were held on Wednesday, September 28 at the construction site adjacent to the Law School at Columbus Avenue and 62nd Street. Rex E. Lee, United Solicitor General, was the principal speaker.

Lee emphasized a need to foster the present format of legal education by a transgression back to a purely theoretical method of teaching.

In conclusion, Lee emphasized the importance of the expansion.

Also attending the groundbreaking, among others were University President Rev. James Finlay, S.J., Rev. Lawrence McGinley, S.J., President-Emeritus, under whose tenure the law school was built, William Hughes Mulligan, former Dean of the law school, and Paul Curran, President of the Fordham Law Alumni Association.

CONSTRUCTION... A PAINFUL PHASE



Procession to Vivian Beaumont Theatre



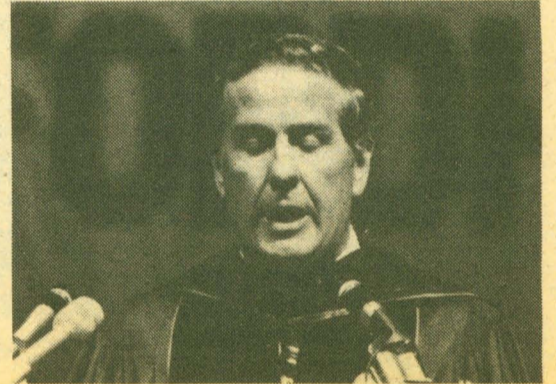
A Jurisprudential Crowd. . .



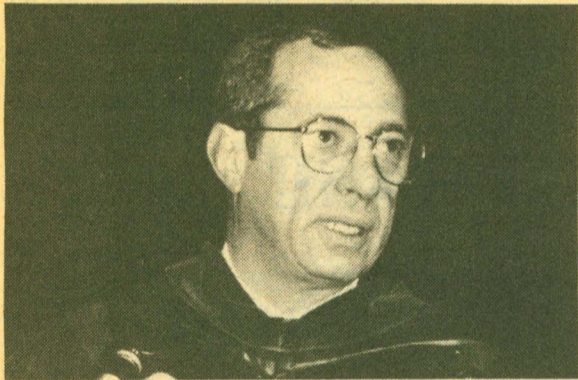
Judge William Hughes Mulligan



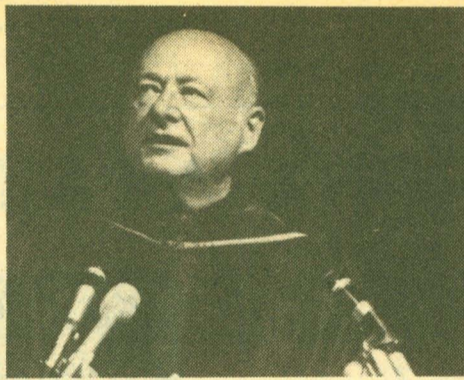
Judge Joseph McGloughlan



Dean John D. Feerick



Governor Mario Cuomo



Mayor Edward I. Koch



Senator Alphonse D'Amato

Text of the Citation Read by Dr. Paul J. Reiss, Executive Vice President of Fordham University, Acknowledging the Presentation to Justice O'Connor of the Degree of Doctor of Laws, Honoris Causa

"WHO SHALL FIND A VALIANT WOMAN? FAR AND FROM THE UTTERMOST COASTS IS THE VALUE OF HER... SHE HATH PUT OUT HER HAND TO STRONG THINGS... SHE HATH OPENED HER HAND TO THE NEEDY AND STRETCHED OUT HER HANDS TO THE POOR... SHE HATH OPENED HER MOUTH TO WISDOM AND THE LAW OF CLEMENCY IS ON HER TONGUE." WELL MIGHT THE AUTHOR OF THE BOOK OF PROVERBS HAVE HAD IN MIND THE LIFE AND CAREER OF JUSTICE SANDRA DAY O'CONNOR WHOM FORDHAM HONORS THIS DAY. TEXAS BORN, CALIFORNIA, EDUCATED AND TRAINED, PRACTITIONER IN GERMANY, AND JUDGE IN ARIZONA, SHE HAS COME FROM THE "UTTERMOST COASTS." STANFORD UNIVERSITY HONED HER MIND, AND A CAREER IN PUBLIC SERVICE — JUVENILE COURT REFEREE, CHAIRMAN OF THE VISITING BOARD OF THE MARICOPA COUNTY JUVENILE DETENTION HOME, ASSISTANT ATTORNEY GENERAL OF ARIZONA, MAJORITY LEADER OF THE ARIZONA STATE

Justice O'Connor Receives Honorary Degree



Rev. O'Hare Presents Justice O'Connor with Fordham Law School Robes

SENATE — TAUGHT HER "TO OPEN HER MOUTH. . . FOR THE CAUSE OF ALL THE CHILDREN THAT PASS." HER JUDICIAL CAREER BEGAN ON THE MARICOPA COUNTY SUPERIOR COURT, PROGRESSED TO THE ARIZONA COURT OF APPEALS, AND CULMINATED IN HER APPOINTMENT AS THE FIRST WOMAN JUSTICE OF THE SUPREME COURT OF THE UNITED STATES. TRULY HAS SHE "OPENED HER MOUTH TO WISDOM" AND KEPT "THE LAW OF CLEMENCY ON HER TONGUE." SHE HAS DECREED "THAT WHICH IS JUST" AND DONE "JUSTICE TO THE NEEDY AND POOR." ON THIS DAY OF JUBILATION, FORDHAM UNIVERSITY WELCOME HER HUSBAND, JOHN, AND HER CHILDREN, SCOTT, BRIAN, AND JAY, AND REJOICES THAT SHE HAD COME FROM "THE UTTERMOST COASTS" TO GRACE THE MAJESTY OF OUR HIGHEST COURT WITH HER LEARNING, WISDOM AND CLEMENCY.

TODAY, ALMA MATER FORDHAM SALUTES THIS "VALIANT WOMAN" AND GATHERS THIS NEW DAUGHTER TO HERSELF TO PRAISE THE FRUIT OF HER LEARNING AND TO "LET HER WORKS PRAISE HER IN THE GATES" AS SHE IS AWARDED THE DEGREE OF DOCTOR OF LAWS HONORIS CAUSA.

Relevant Sections of Justice O'Connor's Speech

It is traditional at the dedication of a new law school building for the speaker to say something to the effect that bricks and mortar do not a great law school make. The usual observation is that a great law school evolves from the interaction between a gifted faculty and a talented student body. This interaction teaches students how to think and act like lawyers and also provides an understanding of the legal process and substantive law.

Certainly, all of that is true. But today I want to make a different observation. Just as bricks and mortar do not a great law school make so, too, the traditional teaching of only substantive and procedural courses do not a good lawyer make. This is because such instruction does not insure that a lawyer will have an awareness of the social and moral responsibilities of the profession. These responsibilities transcend the purely legal and procedural aspects of any particular subject of legal study or practice.

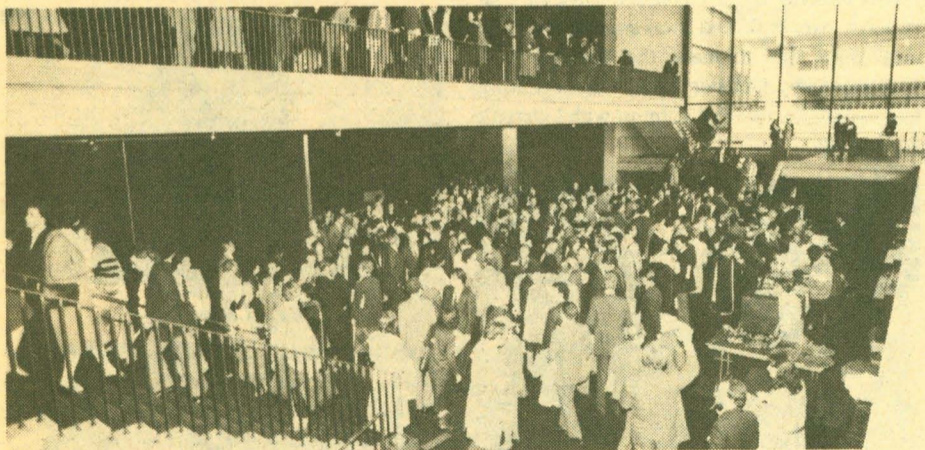
To be sure, the first obligation of a law school is to teach students the substantive law and how to analyze and resolve legal problems. The course of study should also incorporate sufficient practical training to equip the graduate with the essential skills required for the practice of law.

But law schools must do even more than that. They need to instill a consciousness of the moral and social responsibilities to the lawyer's clients, to the courts in which the lawyer appears, to the attorneys and clients on the other side of an issue, and to others who are affected by the lawyer's conduct.

On the occasion of Fordham Law School's 50th Anniversary, Father McGinley made the following statement.

"Five decades of great teachers and great deans have inculcated in generations of students that to be a good lawyer a man must be more than [an expert technician]. That he must learn to observe keenly, think logically, and express himself articulately. That law is a social profession, a way of living and not just a livelihood. That truth and goodness are absolute. That a man lives ethically when he lives by a reasoned code of values which includes himself, his neighbor and his destiny in the God who made them all."

Receptions After The Dedication Ceremony



I agree with Father McGinley's comments, and I want to expand on his suggestion that one of the functions of a law school is to teach lawyers to be always mindful of the moral and social aspects of their powers and their position as officers of the court.

It is my belief that the dialogue appropriate to teaching ethics, morality and the law would far transcend a discussion limited to the code of professional responsibility. To a large extent, the code merely focuses on what a lawyer should not do as a practitioner. Such guidelines are no doubt necessary, but they do not address the broader aspects of what a good lawyer should do to live up to the ideals of the legal profession.

Traditional legal education often suggests that law and morality are separated by a wall similar to the one between church and state. Certainly, the reluctance of law schools to enter the field of moral debate is understandable. Even determining whether a particular legal problem implicates moral or ethical issues is often difficult. For example, understanding the tax code is itself a painful exercise in statutory interpretation. But that difficulty should not blind one to the fact that the statutory details rest on particular moral and ethical views. Not only are the moral implications of legal issues often obscure, but lawyers, legal scholars, and even judges cannot presume to always have right answers to recognized moral and ethical problems. Not surprisingly, legal education often tends to rest on the comparatively solid ground of logical analysis of statutes and cases, and thus avoids what to many seems the quagmire of moral inquiry.

My purpose is not to advocate the teaching of any supposedly right answers to moral questions, but rather to encourage attention to the moral responsibilities of a lawyer. Too many lawyers are insensitive to their greater ethical and social responsibilities, not because such responsibilities do not exist or have not been long recognized, but because their neglect in legal education has nurtured inattention to them in subsequent practice. I like to think that if there were a consistent and diligent focus in the law schools generally on the lawyer's high moral and social responsibilities, then there would be more concern with such concepts by emerging practitioners.

Let me provide some practical examples of the moral role of the lawyer. For most of this country's history, it has been accepted that lawyers will devote a portion of their time to representing people who need legal assistance even though they can not afford to pay for it. The gap between the need for legal assistance and the ability to pay for it seems to be widening. Various factors explain this development. As our society has become more regulated and more transient, we have become more litigious. Costs of legal services have escalated beyond the means of many people to afford them. Legal services offices and high volume, low cost clinics fill some of the demand for legal assistance. But my impression is that the gap should be narrowed further by lawyers volunteering to help where help is needed without regard to the lawyer's compensation. The American Bar Association is sponsoring various programs to assist in developing *pro bono* work. Some are calling for mandatory *pro bono* services. Implicit in all such activities is the concept that lawyers have moral and social responsibilities in such instances and that those responsibilities need to be discharged by the Bar, willingly, and some would say, even unwillingly.

Law schools can help to develop a sense of civic and professional responsibility that recognizes lawyers must assure the availability of legal assistance. Classes in clinical practice, coupled with opportunities to provide supervised services to people who are unable to provide supervised services to people who are unable to pay for them, can be enjoyable and interesting, indeed, at times, inspirational for students. Such a program can lead new lawyers to develop a habit of *pro bono* service.

The lawyer's responsibility to his paying clients is another example and a separate area of great concern. From 1977 to 1981, there was a 72% increase in instances of public discipline of lawyers by state courts. In the same period, there was a 66% increase in public discipline by federal courts. These figures suggest a troubling increase in the substandard representation of clients, and the conduct of those disciplined often reflects a lack of moral or ethical judgment rather than a lack of legal skills. Law schools must respond to this problem by strengthening their emphasis on the

lawyer's moral and ethical obligations. The golden opportunity to teach such concepts is in law school.

Certainly, we can agree that not all problems faced by lawyers raise merely legal issues requiring solutions arrived at by applying purely legal theory. As James Pike observed, "the fact is . . . that virtually every lawyer wants to feel that he is not only a good lawyer (in the sense of technical proficiency), but that he is a lawyer of impeccable integrity." Although we must continue to train law students to "think like lawyers" by teaching legal theory and methods, we must not forget that questions of professional responsibility cannot be resolved with the same framework of analysis. After all, we as lawyers and judges hold in our possession the keys to justice under a rule of law. We hold those keys in trust for those seeking to obtain justice within our legal system. Lawyers who are sensitive to their role in society will surely view their responsibility to the public as transcending the purely technical skills of their profession.

The vision of the proper role of the lawyer was aptly described by Chief Justice Arthur Vanderbilt of New Jersey. Chief Justice Vanderbilt believed that a good lawyer has five functions that include being a wise counselor, a skilled advocate, a contributor to the improvement of the legal system, an unselfish and courageous leader of public opinion, and a professional willing to answer the call for public service.

Fordham is a law school which has long been involved in trying to achieve with its programs precisely the kind of personal values and integrity that Chief Justice Vanderbilt advocated. This is not an institution whose curricula and programs require revamping to meet the challenge. But, like all individuals and institutions who strive to achieve high standards, it helps to be encouraged. It helps to be told you are on the right track. Fordham Law School has produced many fine lawyers and many fine judges. It stands high in the ranks of law schools trying to instill and encourage high personal and professional standards.

You have a magnificent new house within which to continue to improve the law as well as the lawyers. I wish you every success.

Leonard F. Manning Remembered



Dean John D. Feerick, Mrs. Leonard Manning, Prof. John Calamari

By Assist. Dean Robert Hanlon

A highlight of the Dedication Ceremony was the presentation of the framed Faculty Resolution commemorating Leonard F. Manning's life and career to his wife, Mrs. Leonard F. Manning.

Professor Manning was a member of the Law School Faculty from the 1940's to his death on January 5, 1983. For thirty of those years he was Moderator of the Fordham Law Review.

A brilliant and gifted teacher, Professor Manning was the Alpin J. Cameron Professor of Law. He was an expert on the Constitution and was the author of numerous articles and books on the subject, particularly in the area of Church and State.

Professor Manning was born in Jersey City, N.J., and attended St. Peter's Prep and St. Peter's College. He attended Fordham Law School for two years. World War II interrupted his legal education. During the war he served as an Officer in the United States Coast Guard.

Upon his discharge, he entered Harvard Law School graduating with highest honors in 1946.

After a brief career in the practice of the Law, he answered Dean Ignatius M. Wilkinson's summons to join the Fordham Faculty. His great love was teaching and he molded generations of Fordham Law Students with the incisiveness of his intellect and the brilliance of his probing mind. He was a devoted husband to his beloved wife, Ceil, and father to his sons - Leo, a graduate of the Law School, John, a Dentist, Stephen, a businessman in Texas, and Robert, a member of the New York City Police Department. At the time of his death he was also the proud grandfather of two - Erin and Brian Manning.

In the words of the Resolution "Leo Manning was one of the finest human beings ever to walk this earth." We shall not see his like again.

PERSPECTIVES ON THE NEW FLS

UNIVERSITY PRESIDENT'S VIEWPOINT

By Joseph A. O'Hare, S.J.

There were many impressive moments in the splendid ceremony that marked the dedication of the new wing of the Fordham's School of Law on October 24. Each of them captured in a certain way something of the distinctive character of the School. I am thinking, for example, of Mayor Koch's affirmation of public service as a worthy commitment for young lawyers, Senator D'Amato's praise of Fordham's tradition of offering access to the legal profession to students who must work by day, and Governor Cuomo's evocation of the Jesuit tradition at the School of Law, which encouraged its students to think through the "complexities and contradictions" that surround questions of church and state today.

But I found the most impressive moment of all to be, fittingly enough, the address of Associate Justice Sandra Day O'Connor, who spoke with unusual honesty of the need for lawyers and law school to be concerned with the moral and social responsibilities of the profession. Lawyers, Justice O'Connor reminded us, must be more than simply "experienced technicians."

What was unusual about Justice O'Connor's reflections on what is, after all, a conventional theme was her candor in recognizing that there was disturbing evidence, reflected in a growing number of cases where lawyers faced public discipline, that too many lawyers manifested "a lack of moral and ethical judgment rather than a lack of legal skill." Perhaps even more striking was her direct admission that legal education tended to emphasize merely "logical analyses" because of an understandable reluctance to engage in what many lawyers would see as the "quagmire of moral inquiry."

Law is not morality, we are often told. The proposition is certainly true, and it is often useful to recall its implications in debates over public policy. Not every thing sinful is necessarily fattening, nor should everything sinful be necessarily declared criminal. But there is an inescapable link between law and morality, and it is ignored only at the risk of dismissing entirely the notion of a public morality that must bind a society together. Defining such a public morality in a pluralistic society is not easy. It involves a public debate, which often engages conflicting values that are deeply held by their adherents. But it is not an impossible task, as long as we respect the condition of its possibility: a respect for rationality and civility.

Unfortunately, there are strong currents at work in contemporary American society that

would sweep past any concern for rationality and civility on the grounds that these qualities are too often invoked as excuses for the faint-hearted, who are willing to accept moral compromises that crusaders, whether of the right or the left, righteously reject. As I noted in my Inaugural Address on September 30 at Rose Hill, ours is "a time when religion is too easily identified with fundamentalism and critical inquiry with moral skepticism." One consequence of this temper of the times is that the social and ethical responsibilities, of which Justice O'Connor spoke, are often distorted by the simplifications of cynics on the one hand and moralizers on the other. The cynic reduces moral concerns to the calculus of power; the moralizer thinks such concerns can be reduced to snappy slogans and single-issue politics.

I believe Justice O'Connor was sensitive to these polarizations, which can paralyze public debate, when she pointed out that her purpose was "not to advocate the teaching of any supposedly right answers to moral questions, but to encourage attention to the moral responsibilities of a lawyer." Justice O'Connor then chose to identify certain very concrete instances of what those responsibilities could entail: legal assistance for those unable to pay and an improvement in the often substandard quality of the representation given to paying clients.

But the larger question that Justice O'Connor raised demands further attention: How do we think, in a disciplined and searching fashion, about the profound moral values that underlie our system of laws and that are the content of public debate about what our laws should be?

At the Louis Stein Award Dinner on November 1, I had occasion to express again my confidence that a concern for the moral and social responsibilities of lawyers continues to be at the heart of Fordham's School of Law. Dean John Feerick, Louis Stein and Judge Edward Weinfeld, this year's honoree, all gave witness, I suggested, to a deep sense of public responsibility that found its expression in the patient mediation of the law. I also suggested that whether we were Democrats or Republicans, we could not be very happy with the quality of the debate over public issues that took place during the recently concluded Presidential campaign. A respect for rationality and civility were not overly conspicuous in that debate. But I hope that, as we continue to ponder the implications of Justice O'Connor address, we will recognize ever more clearly why such respect is a necessary condition of possibility of what must be a continuing debate about the law and public morality in these united States.

A STUDENT'S IMPRESSION

For a young man I feel I've attended a fair amount of Dedication Days. Invariably, these celebrations do not meet the great expectations that I have for them. That is why Fordham Law School's Dedication Day was special. It was the only one of these celebrations which I have attended that surpassed my expectations. However, Dedication Day was special to me for many other reasons and I'd like to share some of those reasons.

When I was younger my sister prepared to go to a relatively expensive camp while I planned to go back to a less expensive one. My mother tried to convince me to switch. I told her no - people make a camp, not just facilities. Of course my sister had a lousy time, while I had a great time. People make Fordham Law School special, and it is nice to know that our new facility approaches the quality of Fordham people. Dedication Day allowed us to reaffirm loudly what we all know - that Fordham is great because its people are great. Now, we can also be proud of our great new wing.

Dedication Day also gives us a chance to marvel at the changes in our law school. One thing of which I pride Fordham on is that it is constantly changing and these changes are for the better. Yet, despite Fordham's changes the

best part of it remains the same - the exceptional quality and warmth of its people.

Dedication Day was a wonderful celebration for the students of the Law School. My class especially has shown enthusiasm for Fordham by starting three new student organizations (Fordham Follies, The Entertainment and Sports Law Committee, and the Fordham Democratic Law Student Association). Dedication Day made all the student organizations continue to feel that they have contributed in a unique way to Fordham's growth. By their sharing the school's growth, the school grows even more.

On a more personal note, Dedication Day was important to me because it reminded me of the debt of gratitude I owe to Fordham for three wonderful years. I have really enjoyed the past three years and for that I would like to thank our Administration, led by a great man, Dean Feerick; the Alumni, your excellence is an inspiration to us, your generosity an example; the Faculty, who realize that knowledge is a wonderful thing to share; and most of all the student body, of which I am proud to say I am one.

By Robert Altman
(The writer is a founder and leader of the Fordham Democratic Law Student Association.)

INQUIRING PHOTOGRAPHER

Question: What is your impression of Fordham's new facilities?

By Steve Kalebic

Sam Watkins '86: Without a doubt, the improvements to the Law School's physical plant are impressive. Dean Feerick should be commended for the significant role that he assumed in soliciting gifts from our generous Alumni and friends. These facilities will certainly solidify Fordham's position as one of the Nation's Finest Schools of Law.



Joanne Guinan

Mark Seiden '85: I am highly impressed with both our new structure and the dedication ceremonies honoring it. As a spring of '85 graduate I should certainly be able to reap long term benefits from our new facility without having to incur any of the inconveniences associated with any construction project.



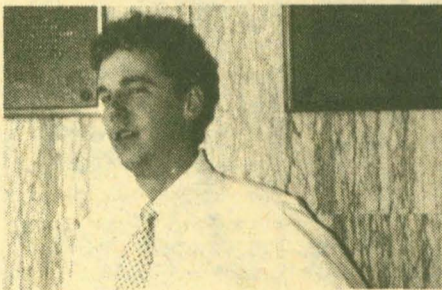
Don Fraser

Joe Bossolina '87: I am glad that the inconvenience of the construction is over but it was handled very well considering that there was a deadline due to the dedication. To be honest, I was surprised at Justice Sandra Day O'Connor's reluctance to promise me a clerkship when I asked her at the dedication.



Danny Etna

Isabel Barcelo '85: It's a relief to have the construction over with, and I was amazed with how they were able to make the building look presentable by October 24th. The new wing looks so impressive that I almost wish I weren't graduating.



Christopher Dowicz

Mladen Kresic '85: If the building were done real quickly the delay wouldn't be so prickly the cost of that over-time would be worth every single dime because we know that dragging out cost more money without doubt.



Doug Pollock



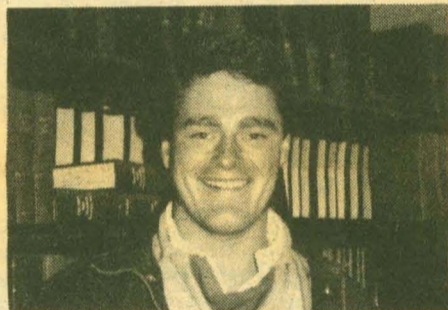
Sam Watkins

Joanne Guinan '85: Of course the whole school has been improved by the new addition and I'm especially glad it was done in time for our class to enjoy them. Furthermore, I'm really impressed by the atrium area - a stunning combination of Macy's cesser and a Hyatt lobby. I think a nice touch might be to get a snow machine and have carolers out there for the upcoming holiday season!



Mark Seiden

Don Fraser '86: The structure itself is very impressive, but no amount of architectural diversion can alleviate the boredom produced by the lectures held therein.



Joe Bossolina

Danny Etna '86: I think the new structure is something our school sorely needed. Dean Feerick cannot be commended enough for this remarkable accomplishment. My only regret is that I shudder to think of next year's tuition bill due to all the overtime. As to the ceremony, I was disappointed by not being allowed to be Prof. Hollister's Escort - Prof. O'Connor beat me to it.



Isabel Barcelo

Christopher Dowicz '85: I think both the new facilities and Sandra Day O'Connor are very nice I especially like the shiny new stalls in the men's bathroom on the third floor.

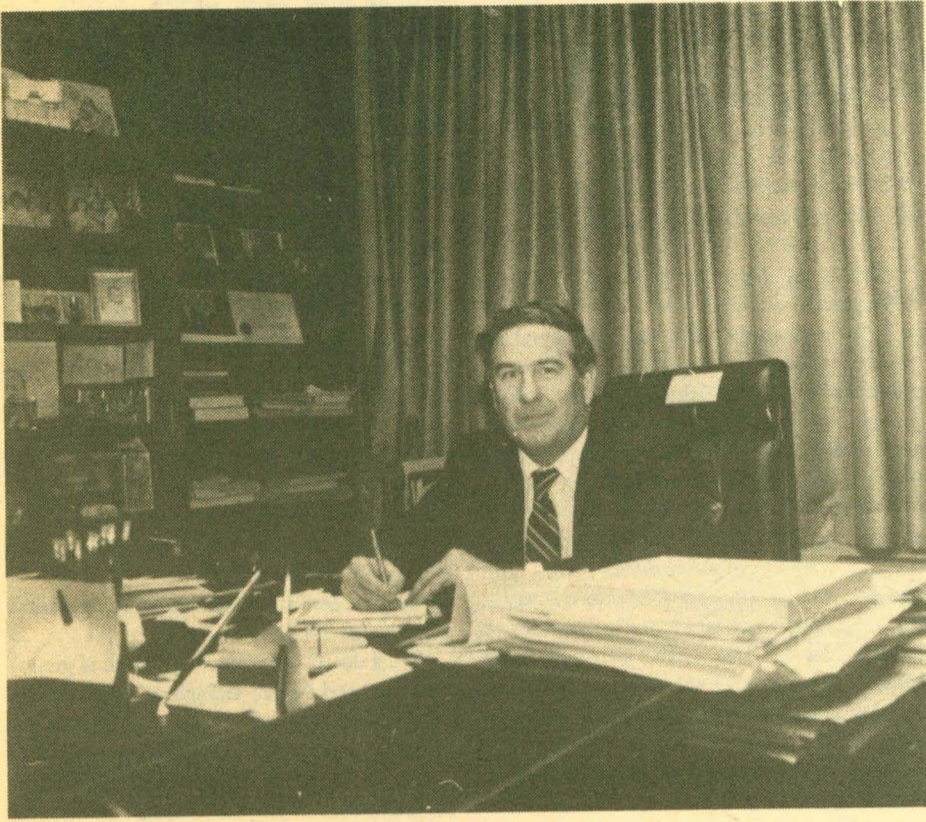


Mladen Kresic

Doug Pollock-Labor Foreman: I really felt bad for students during the construction but they seemed to handle it very well. It seemed we all worked together to make this project a success. I wish you all well in your new facilities and I hope you all eventually find your way around the new classrooms.

A DEAN FOR ALL SEASONS

By Paul G. Calamari and Robert V. Fonte



Dean John D. Feerick

On September 28, 1905, Fordham Law School opened its doors to students. After more than fifty years on lower Broadway, the School was moved to its present location at Lincoln Center. Fordham Law School was the first unit of what is now known as the Fordham Campus at Lincoln Center (the Leon Lowenstein Building was opened in 1969).

Since it moved to Lincoln Center, the Law School continued to grow in every aspect, making it necessary for the major renovation and expansion it has recently undergone. The culmination of this project, costing in excess of 8 million dollars, marked a monumental achievement because Fordham Law School is sorely lacking in the endowment area and otherwise under-capitalized as compared to other metropolitan law schools. Thus, we owe a debt of gratitude to the loyal alumni and friends of Fordham who generously contributed and we must not forget the countless people who so selflessly expended their time and energy eliciting these donations.

On October 24, 1984, the tireless efforts of the Law School Community over a period of many years came to fruition with the dedication of the new wing of the Law School. This new construction has made Fordham one of the most aesthetically pleasing law schools in the country. More importantly, the new structure reflects Fordham's ongoing enthusiasm and never-ending quest to become one of the finest Law Schools in the United States. This goal has also been pursued for many years and again there are many to thank for the outstanding success achieved.

In particular, we should recognize the previous two Deans of the Law School -- The Honorable Joseph M. McLaughlin (1971-1981) and The Honorable William Hughes Mulligan (1956-1971). Under the steadfast direction of these men, Fordham Law School remained on an unwavering course of continued development, the expansion project might never have been necessary and the Law School would not be enjoying the recognition and reputation it now holds. Of course we would be remiss to ignore the leadership of the other prior Dean of Fordham Law who so ably laid the foundation, so to speak, for the present stature of the Law School. We should also acknowledge the dedicated faculty through the years as well as a special thank you to the students who were attending classes while the construction was in progress over the past year or so.

Any Dean of an educational institution must be a very special and gifted human being to assume the tremendous responsibility that inheres in the position. The pressure of such duties is unending. It is analogous to be-

ing a general contractor who must direct and answer to hundreds of subcontractors on a daily basis.

As Dean of a law school, one must be a leader, but know where to draw the line. He (or she) must be forceful and decisive, yet flexible and understanding. He must be a diplomat sometimes and in this case, a persuasive fundraiser. Most importantly, he must be an overseer with the ability to place the problems and tasks he faces in the proper perspective and set his priorities accordingly.

Dean John D. Feerick, in only about three years has unquestionably proven to us all that he possesses the unique and dynamic qualities of a true and devoted leader.

In 1958, John Feerick graduated from Fordham College (Bachelor of Science Degree) and in 1961 from Fordham Law School where he was Editor-In-Chief of the Fordham Law Review. He went on to become a partner in one of the nation's largest and most prestigious law firms--Skadden, Arps, Slate, Meagher & Flom. As a practicing attorney, his skills are unquestioned. Because of our limited amount of space, it is impractical to attempt to list all his auspicious achievements in the legal profession. Suffice it to say that his work in the areas of Labor Law and Constitutional Law has gained him national recognition and respect. Furthermore, his membership on numerous associations and committees dedicated to the betterment of the legal profession demonstrates his sincere commitment to this end.

As Dean Feerick so aptly puts it, he has "never been very far away from the Law School." In 1976, he became an Adjunct Professor of Law and continued in that capacity until he accepted his appointment as Dean in July of 1982 taking this position, Dean Feerick was well aware of the incredible challenge he was assuming. Thus far, his efforts would be judged a monumental success by anyone's standards.

Apart from his outstanding qualities as a lawyer and a leader, those who know Dean Feerick personally will unashamedly praise his sincerity and genuineness as a human being. He can certainly be used as a role model for the young attorney or attorney-to-be and we are fortunate that he is with us at Fordham. He is truly a Dean for all seasons.

Despite his aversus workload, Dean Feerick made time to speak with the Advocate and answer a number of questions on a variety of topics. We have reprinted this meeting below because we are certain it will be of particular interest to the students and to the Fordham Community in general.

Q. What factors did you take into consideration in making your decision to accept the position as dean of Fordham Law School?

A. As I have said in the past, I really never left Fordham, and when Dean McLaughlin decided to move on to the federal bench I received a lot of encouragement to consider making the change. I found the whole process of making the decision a difficult one. I love my law firm but at the same time I was challenged by the opportunity to do something different at this point in my life, and Fordham has always been an emotional involvement of mine and I reached the conclusion that this was something I would find very fulfilling. I think when you make a change like this there are a lot of factors that come into play like your values. One is on a lot of different planes, a conscious plane, and a subconscious plane, I knew at the time that I was considering this particular position that the school was facing a special challenge, the expansion, and I had been involved in the conception of this project serving on the Board of Trustees at that time. This also gave me an opportunity to give something back to my school.

Q. Relatively speaking which position do you find to be more challenging?

A. I find being Dean a far more difficult job. It calls for a lot more managerial and administrative skills than I ever had to exercise in my past endeavors. When one is dean of a law school it is somewhat akin to a chief executive of an enterprise. There is a lot of responsibility that goes with the fiscal side of the enterprise, the long range planning, the esprit d'corps of those who work for the enterprise, and there is certainly an expectation that the dean of a school be a catalyst in some areas. That brings into play creativity as well. Although the job is difficult, it is fulfilling in many ways. There is no end to the kinds of things one can do to be helpful--not only for the students but for institution itself as an entity.

Q. Do you miss the practice of law?

A. I miss a lot of friends and stimulation that goes with dealing with legal problems and clients but I feel now, as I did then, that this was the right decision to have made at this point in my life.

Q. What goals did you set upon accepting your position as dean of Fordham Law School?

A. There were two areas that crossed with each other that were very important (i) one was trying to contribute to an atmosphere within the school of caring; this was one of my primary goals to contribute to the environment and community within the school and whatever success we have had in that area is because of the various administrators, faculty, and assistant deans. (ii) My second major objective was the continued development of the school, and nurturing the pride of the alumni in the school. My general goals upon coming to Fordham therefore ran in largely philosophical areas... nothing concrete.

Q. Are there any other objectives that you would like to share with us?

A. At this point let me say that the faculty is the core of the school. One of the reputations that we have had throughout the history of the school is that of an outstanding teaching faculty, and much of the real work that goes on at the school is done by the faculty. Not only in the classroom but by way of committees. There are a number of faculty committees in operation right now that contribute significantly to the continued growth of the school--for example, we have a curriculum committee that is chaired this year by Professor Martin and in past years by Professor Fogelman. That committee meets regularly away from the glare of publicity, and consistently reviews the courses and curriculum and makes recommendations accordingly. For instance, it recommended the concept of the mini-section in the day and evening divisions. While its work may not be as dramatic and obvious to everyone, as the new wing, in my judgement it is far more important because it is dealing with the continued excellence of our academic program.

If that in any way suffers, we would lose a lot more than having an inadequate facility. As I said, we have a number of other committees that are functioning, such as the Clinical Legal Education Committee, which Prof. Har-

ris is chairing this year. We have a faculty recruitment committee that Dean Crowley chairs in which additions to the faculty, both part and full time, are reviewed. This involves a process of interviewing hundreds of people during the course of the year, as well as making visits to other states to interview prospective candidates for teaching positions at Fordham. As you can see much of the future development of the law school is in the hands of these faculty committees. Any decision made by these committees goes to the full time faculty, and, if approved, the dean would be expected to implement such decisions.

Q. Are the ideas of these committees initiated by you?

A. Not necessarily. I have ideas that I pass along to the various appropriate committees, and some of these ideas would be a small percentage of the ideas handled by the various committees, because the committees themselves usually generate their own ideas.

Q. What do you regard as the most important priorities and values of a lawyer in today's society?

A. The starting point is to focus on the fact that as a lawyer you have been given a public calling to render service to people. While I recognize that practicing law is a means of making a living, it would be extremely unfortunate for us as lawyers and as a profession if that were the primary focus. My own sense is that a lawyer has an obligation to render service. It may not necessarily be service in the practice of law; it could be in the community, civic group, to a charitable organization, to a law school.

Q. What are the most important objectives of a law school as an academic institution?

A. In addition to instilling moral and ethical responsibilities a law school should prepare a student for the practice of law and this would involve communicating information about our whole legal system. This would involve a good deal of substantive knowledge and trying to nurture and develop one's skills of analysis. But law school would fall far short of what it should be doing if all it accomplished was producing a graduate who is knowledgeable in the law, and has developed the skills of advocacy and analysis, but does not have the larger sense of what the profession is all about.

Q. Justice Supreme Court Sandra Day O'Connor spoke of the duty of a law school to instill a sense of morality and ethics in the attorney-to-be; Does Fordham accomplish this task?

A. We have to continue to focus on this subject in terms of how we might do an even better job. In this area you are dealing with a subject that you can never be content with no matter what you are doing. I think the stresses of life are such that an institution has to be constantly asking the question of how we can do more in terms of instilling that sense of moral and social consciousness. Presently we are doing a good job, but we can do more and we should do more, and part of the approach to this area is tied in with developing a greater sense of community within the school. It seems to me as the community develops you are also developing the moral and social aspects of the environment. Nonetheless, one can never rest when dealing with this subject.

Q. Does FLS adequately prepare its graduates for the duties an attorney is expected to perform in a law firm?

A. Fordham Law School does about as good a job as could be expected of an educational institution. The student who leaves a law school today has worked very hard and gone through a very demanding program. The practice of law also demands a great deal of preparation and work and FLS certainly does give you preparation for the world after law school and it gives you a pretty good idea of the pervasiveness of law and the legal system. In particular the advocacy programs that exist today, which did not exist when I went to law school, enable the law student to have the opportunity to present a case as if it were an actual case. Also our legal writing program, which we are constantly seeking to improve, significantly contributes to the research and writing skills needed to practice law.

(Continued on page 14)

A DEAN FOR ALL SEASONS

(Continued from page 13)

Q. Do you foresee any specific changes in the curriculum in the near future?

A. We are constantly reviewing and revising the curriculum. For instance, in the area of corporate law, there was only one course offered in this area twenty years ago while today we have a number of offerings. Specifically, I anticipate further development in terms of our International Law offerings.

Q. Do you foresee the student body changing with respect to the number of students accepted or the quality of the students accepted?

A. In terms of the number of students we are pretty much committed to the present enrollment which might fluctuate ten or twenty on either side in a given year. With respect to the quality of the student, I would like to see us continue the quality of student we have today. I think we have an excellent quality of student and to the extent that I am involved I hope we can continue to maintain this level.

Q. What is your view with regard to the idea of housing for FLS students?

A. Without question student housing would add tremendously to our school in several ways. I have a sense that a number of our students would very much welcome housing as cutting down the expenses of going to law school compared to the expenses they are paying elsewhere, and we want to continue to service the constituencies we have now and have had in previous years. I think we can better do that if we offered housing. I also think housing has the possible benefit, to some extent, of attracting students from other locations which will add diversity and strength to our school. On the other hand, I feel very strongly about our school continuing to service and be a strong school for those in the regional area. I would be concerned if we did not continue to be a school that those in the regional (metropolitan) area could go to.

Q. Do you feel that an increase in housing will contribute to your goal of creating a more congenial atmosphere at the law school?

A. Absolutely. This would be another advantage of housing here at the law school.

Q. What is your view of the difference between the day and night divisions of Fordham Law School?

A. I feel that both divisions, day and night, are on a par with each other and I personally have a total commitment to our evening pro-

gram. Frankly, I am very proud of our evening program. As Senator D'Amato said in his speech at the Dedication Ceremony, the evening division is one of the features of Fordham Law School that has made us great. As you may be aware, some of our highly regarded faculty such as Professor Byrn and Dean Crowley have graduated from the evening division. We have been able to provide a legal education to a lot of people who are unable to go to law school during the day. We are now planning a celebration for the 75th anniversary of the evening program for 1986.

Q. What stage is the rumored LLM program at?

A. We have a faculty committee which is chaired by Professor Hawk dealing with the whole question of the graduate law program and its feasibility at FLS. It is still in the discussion stage, and the committee is considering a number of ideas right now, particularly in the area of international law. I can't say much more about it at this point, because it is still in its incipient stage. I do not rule this out as a possible development in the future of Fordham Law School. On the contrary, this may well be a development one would find here before the end of the 1980s.

Q. What is your view on the clinical education process?

A. I personally favor more experimentation and expansion in the area of clinical education. The clinical area does not only involve the representation of clients in terms of a law office setting, but also involved the use of simulation and seminars. Thanks are due to Professor Harris and other members of the faculty who have offered courses enabling students to work in various governmental agencies and receive course credits. We look forward to the results of the recently instituted program with the Corporation Counsel of the City of New York.

Q. The advent of advertising in the legal profession has brought about a number of "legal clinics" such as Jacoby and Meyers? How do you view such "legal clinics"?

A. I am not satisfied with the state of my own knowledge of the various groups. There are vast legal needs of consumers of legal services in this country not being met, and since this is the goal of these groups, I am in favor of continued experimentation with this kind of

development. In terms of law firms locating their offices in department stores, there comes a point where the way one does it can be dangerous to the whole professionalism associated with the practice of law. However, I am not in a position to single out any group that may not be doing a good job.

Q. Does the placement office sufficiently meet the needs of student body?

A. We are very fortunate to have Maureen Provost as our Placement Director. I was part of the search committee which selected her for her present position. She has developed an outstanding staff. In the placement area you never reach a point where you have done enough. In each of the years that I have been here, acting on recommendations from Maureen Provost, we have increased the staff of the placement office I know that people are not easily satisfied and are constantly seeking new opportunities for the students. At this time I know Maureen is working diligently to attract a greater number of smaller firms. This year we had more employers come to the school to interview our students than any other year in the history of the school.

Q. What advice would you give a student in searching for employment opportunities?

A. I try to deal with basics. One should take full advantage of the academic programs we offer. Do not be content with your performance in first year. Second year, may, in the long run, be more important than first year. As you look ahead you are not always aware of the different opportunities that may come to your attention. I urge students to take advantage of opportunities to write on any of the publications or in conjunction with a professor. I also urge students to consult with members of the faculty and alumni and seek out their advice.

Q. Do you see any weaknesses at FLS that are in need of improvement?

A. Yes. In the endowment area we are weak. We have been through all the years of our existence a school that's been tuition dependent. We are reaching a point where it is not possible to be so tuition dependent. The greatness of our law school in years to come will depend on its ability to attract revenue from non-tuition sources. One of my dreams and hopes is that we will be able to attract major

gifts and contributions such as the gift we received last year from the Norman and Rosiba Winston Foundation to establish a chair in law in the name of Sidney C. Norris. Gifts that will enable us to help our students in the area of financial aid will be very important in the years ahead as well. In any event it appears we are on our way to a period of continued generous giving by our alumni and friends.

Q. Where does FLS stand with respect to the other law schools across the country?

A. I put Fordham in the top ten percent of American law schools and we anticipate constant improvement over the coming years. Today graduates of our school practice law in every state of the country and in every setting. In years to come there will be an even larger percent of our graduates in every state in the country. This as much as anything else makes a statement about the school and its reputation throughout the country.

Q. Do you desire to take a more active role in teaching at FLS?

A. I do. Unfortunately my time is greatly restricted and I don't feel that it would be correct for me to teach a course if I could not prepare for a course as a teacher needs to prepare for a particular course. While I do a seminar in the employment discrimination area at the present time, I would like to teach a course in the area of constitutional law, which is of considerable interest to me. I hope to do more teaching and I hope to do more writing. I used to love to write and was pleased to have had the opportunity to have written a number of articles for the Fordham Law Review.

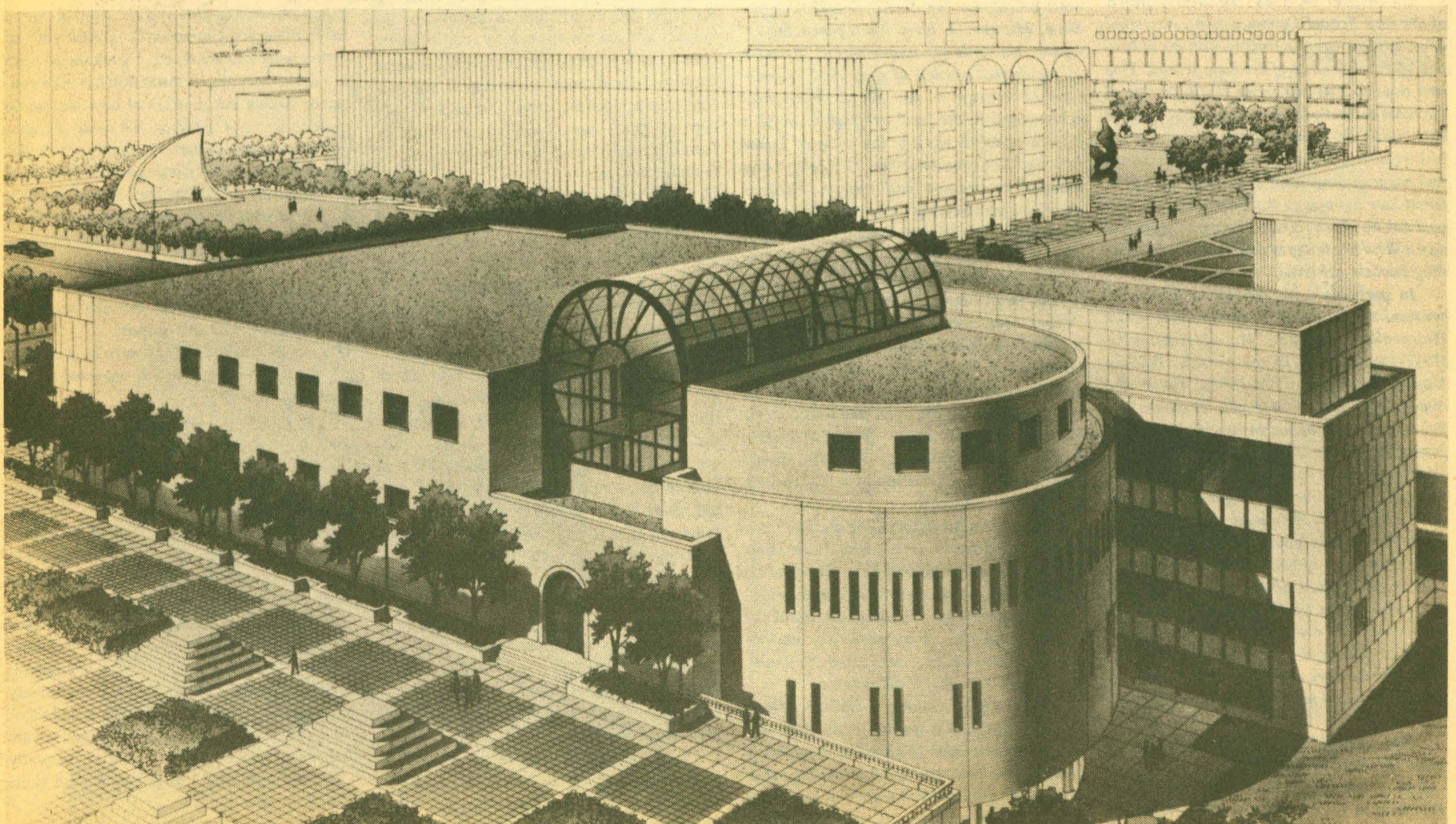
Q. What did you find to be your most challenging course while you were attending law school?

A. I found most of my courses difficult. If there was one course that was more of a challenge than all the others it was the course in contracts taught by Professor Calamari, but at the same time I could not have had a better teacher for that course.

Q. What are your plans for the future?

A. I have no plans. I recognize that my predecessors have become federal judges after they served as dean, but as I have said I have no plans or agenda to become a judge or not to become a judge. I frankly have not crossed this bridge. I enjoy what I am presently doing.

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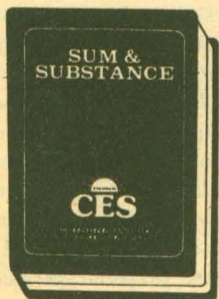
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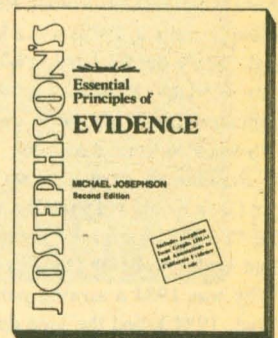
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IN THE JESUIT TRADITION

THE SECOND FOUNDING

By Rev. Edward G. Zogby, S.J.

For the last four years I have been associated with the Law School as Jesuit chaplain, but I am now no longer the chaplain. We can now boast of having a rabbi and a Protestant minister on our campus ministries staff. I am further pleased that the three of us are doing this because we want to; for each it is a matter of volunteer presence. However, none of this could have happened without an agreeing administration. This present administration, under the welcoming presence of Dean Feerick, as well as the faculty and students, have made us feel at home. Thank you.

On October 24, 1984, we saw experienced the setting of the capstone for the new construction. It was a re-dedication of the Law School. But it was more than that to those who were part of the recent evolution, and Father O'Hare said it well when he proclaimed this as the day of the Second Founding of the Law School. Ned Doyle set another stone in place with his invitation to all present to see life as a grand design of communication in which people learn the techniques not of manipulation but of empowerment. Communication is the means whereby we share with each other who we are with a gusto and an interest which transforms society itself from within. No one course in communication can teach what is really an engagement of human hearts and minds and wills; that kind of union is coaxed out of each person by the milieu itself, the Law School

itself. Right now there is romance in the air - the Atrium speaks of it with its bright banners and town square atmosphere. Martin Heidegger says that man is really a shepherd of Being whose caring is true nurture. That quality is present in the Law School and good communication is inspiring students and faculty alike to carry it out like a ripple effect. That is happening. Thank you.

Another place in the Law School where I see it happening is in the *Advocate* staff, of whom I would single out for special recognition Mark Kosak and David Heires. They have welcomed me to write this series of articles for the paper and have inspired me in many ways. And, by inviting so many others as well, the *Advocate* has become a mainline way of bringing the Law School together for news, a sharing of opinions, and a way of generating concern over issues which take the study of law into the marketplace. What they have done re-founding the *Advocate* has been a serious pro-peutic in furthering the evolution which had its flowering on October 24th. Just as their efforts and aims have not been accidental but a product of serious planning and untold hours of hard work, its continuance should not be a matter of chance. The *Advocate* should be applauded and its continuance assured by administrative commitment to its well-bring. To the *Advocate* - - thank you, and **ad multos annos**.

For me personally one of the proudest moments at the dedication ceremony was Governor Cuomo's endorsement of and articulation of the Jesuit tradition in higher education and in the Law School as a "model of intellectual success." By recalling that our founder, St. Ignatius Loyola, was a man who went to jail for higher causes, Cuomo set the stage for Justice O'Connor's invitation to see the necessity for real moral and ethical responsibility and commitment by today's lawyers. Both persons saw the greater possibility of that happening in a Law School in the Jesuit tradition. Such a vision does not occur in a quantifiable way, or numerically by the count of how many Jesuits are actually present. Rather it is a shared vision; and a vision is a matter of good infection. It is something you catch, like spring fever; and like spring fever, it is not limited to Catholics. Such an infection overrides skepticism and purely selfish goals. It insinuates itself by creating an itch for **something more** - that there is something more to the study of law that comes through an ardent commitment to the study of law. The breakthrough of that something more requires that another consideration come into play. Mayor Koch said it at the dedication ceremony as he said it at last year's graduation, **public service**. In fact, all the speakers mentioned **pro bono** work in one way or another. Obviously, Jesuit tradition exists to get all people to a level in which **pro bono**

thinking comes almost as naturally as breathing. The infection, the itch for something more, creates the possibility of generosity of spirit growing out of moral and ethical commitment to one's responsibility in being a lawyer in a less than caring age.

Governor Cuomo emphasized an important element of the Jesuit tradition - that faith and reason can and must co-exist. Such a tradition, he said, offers a rigorous challenge to lawyers to have intellectual standards built on love and compassion. In this tradition, students are "trained to use reason in pursuit of truth, and to see through contradictions but never to deny complexity." Citing the Jesuit priest-scientist Pierre Teilhard de Chardin, Cuomo said that the task is to embrace the world and seek its transformation, thus to complete the work of creation. This tradition, by building on the premise that goodness can be found in all things, encourages the capacity in people to understand various traditions of thought and to foster their mutual enrichment. Thus religion and politics, Church and State, private and public morality can co-exist and work to enrich each other.

One can be proud of Fordham Law School at this time of the second founding. The infection is at work and I am grateful to be able to have a part in this worthy enterprise in the truest sense - in the Jesuit tradition. Thank you.

COMMENTARY

1984: THE DAWN OF A NEW ERA

Ronald Reagan won and Waler Mondale lost. That's pretty easy summary of the 1984 election, but it fails to capture the essence of what is a turning point year in the history of American politics. Out of the Republican Party's greatest triumph will come its greatest defeat. Out of the Democratic Party's ashes shall rise a glorious phoenix.

Anyone who has read Stanley Kelley's masterful book *Interpreting Elections* knows that there are two types of landslides - solid ones and those built on sand. Ronald Reagan's landslide, like Nixon's in 1972, was a landslide built on sand. While the foundation no longer matters to Ronald Reagan, it does to the Republicans, things will soon go from President No-Stick to Candidate Glue. No one else in the Republican Party can act like Ronald Reagan (Jack Kemp is a joke for an imitation). All the "actors" are in the Democratic Party and that bodes well for Democratic politics.

Why was 1984 a turning point? First and foremost, 1984 killed the idea that issues win elections. The perceived state of a country that one is able to project, true or false, does. The economy is headed for a recession unless Paul Volcker races the money supply (which would rekindle inflation). Yet, people believe our economy is on a solid foundation. We don't have arms negotiations with the Russians, we have an arms race and no negotiations. Yet, peo-

ple believe we are closer to an arms control agreement. We don't have a policy which helps the poor, we have a policy which tells the poor "fend for yourselves." Yet, people believe we have a safety net when over 1 in 7 Americans lives below the poverty line. We don't have a policy of protecting civil liberties, we have a policy of violating liberties (the Republican Party, formerly a home for libertarianism, has decided that only corporations are entitled to "liberty."). Yet, people believe that we're more free now. We don't have a policy which encourages long-term growth, we have a policy which encourages short-term greed. Yet, people think the recovery will last. With all these problems, people still voted for Reagan. Why? Personality Politics! It made people believe the untrue by making them not think. 1984 represented the ultimate triumph of Personality Politics. Brought to the forefront in the Age of Kennedy, Personality Politics is now the ultimate weapon in Presidential Politics. Don't worry about where you stand on the issues just make sure people like you. Polls show people who disagreed with the President on the issues voted for him anyway. Why? Because they liked him and were indifferent to Walter Mondale. People didn't vote on issues, they voted on instinct. They didn't think, they just did what Reagan's "Catch that Ronnie spirit" advertisements told them to do. (Did you know that

the Pepsi ad people did Reagan's commercials?) Personality Politics, do I hate it? At this point, no. I'm all for it. In 1988 all the personality politicians are Democrats (Hart, Cuomo, Kennedy and Bradley). The Republicans? Kemp is literally a joke. Howard Baker is a Republican Henry Jackson (i.e. he has "Fritz Mondale" boredom syndrome). Bob Dole is too much like Al D'Amato (negative campaigns don't win in national elections, witness Mondale's campaign). Bush can be impressive, but too many people don't care for him (i.e. most of those at this year's Republican convention wouldn't touch him with a ten foot pole.).

1984 also proved once again that a certain part of the population is most influenced by Personality Politics and that part is youth. How many young people who voted for Reagan would vote for Cuomo instead? Every young voter I know who is not an ideologue (i.e. not like me or Bill Di Conza) chose Cuomo over Reagan in a hypothetical election. And I asked plenty of young voters, all who were voting for Reagan. Why the switch? After all, the two are at opposite ends of the political spectrum? Personality Politics! History even shows youth being persuaded heavily by Personality Politics. Witness Jerry Brown in 1976, John Anderson in 1980 and Gary Hart in 1984. Youth will switch in 1988 to the Democratic Party because

the Democratic Party will have the personalities.

Most significantly (and I discuss this with less disgust because I really don't care for Personality Politics) the 1984 election marked the end of the old liberals in the Democratic Party. The new liberals (Hart, Cuomo, Bradley and to some extent Kennedy) are more fiscally prudent and more concerned with economic growth and the interaction of government with industry. They still have a deep concern for the lower levels of society, but realize that help comes to them through thinking government not reacting government. (Republicans still believe those who are starving will be saved by trickle-downism and thus government should ignore them). People will react to the new liberals because they will unite the country not divide it into the two factions of wealth and poverty. The new liberals are exciting and dynamic. By 1988, the Moral Majority and the Republicans. By 1988, the Democrat's dark hour will become its greatest victory.

By Robert Altman

(After helping to run two campaigns this fall the author plans to take a short vacation from running campaigns.)

COMMENTARY

THE REAGAN REVOLUTION ROLLS AHEAD

By William A. DiConza

"Tonight is the end of nothing, it is the beginning of everything...America's best days lie ahead."

These are the words with which Ronald Reagan accepted the call of the American people to continue as our leader and as leader of the most powerful free nation on Earth. The call was not a simple, quiet request; it was a resounding and unified mandate of historical proportions. Never before has such a clear signal been heard both across our nation and around the world. It was a duel signal - one which openly and clearly accepted what our President has done and will continue to do; and one which blatantly and emphatically rejected the tired, loosing whines of the once "great" Democratic Party. The signal sent from the voting booths across America deserves continuing reflection and understanding if we, as a people, are to learn from our past mistakes. The signal holds implication for both the United States and for the entire world community.

Walter Mondale and Geraldine Ferraro constantly told us that the reason for the President's tremendous popularity was that he was a showman, "a cheerleader and not a quarterback." Ronald Reagan told us that **We**, the American people, are the quarterbacks and that we call the plays...

Ronald Reagan and George Bush won 49 States.

Walter Mondale and Geraldine Ferraro told us we were "under taxed" and that as a first step toward helping our economy we needed

to send more money to Washington. Our President told us we were "over spent" and that as growth continued and real jobs continued to be created more revenues would indeed be generated...

Ronald Reagan and George Bush won 525 Electoral Votes.

Walter Mondale and Gerry Ferraro told us we needed to better understand the Soviets. They claimed it was our President's fault for the way the Soviet walked out of arms talks and refused to negotiate with us. President Reagan and the American people understood that the path to peace is not a path built on weakness, but on strength.

Ronald Reagan and George Bush won nearly 60% of the popular vote.

These are all numbers and facts and I felt it necessary to remind those few who supported the Mondale/Ferraro ticket of where America's sentiments lie. Let us now look to the deeper, broader message sent out on November 6th.

America is better off than she has ever been and will continue to be better still in the decades ahead. We are once again returning to the community of people who believe individual growth and prosperity will give us the basis with which we can help those less fortunate in our society.

As a Surrogate Speaker and Deputy Youth Coordinator for Reagan-Bush '84, I was able to meet and speak with many of our State's young citizens. They saw in Ronald Reagan the extreme optimism which once made our coun-

try so great. They rejected, along with most Americans, the idea of soaking the rich against the poor, the blacks against the whites, the young against the old. They realized that we are all in this together and that we, as a united nation, must sink or swim together.

What makes President Reagan such a great leader? Some of his finest qualities are those so very much absent in the Democratic Party: Ronald Reagan has not changed his views of America since he spoke on behalf of Barry Goldwater nearly 20 years ago. Mr. Reagan, a Californian, movie star, antigovernment "radical" has been consistent and honest about his vision of our country. America, having matured over the years, is just beginning to realize how right our President has been all along. The liberalism of America's adolescence is being transformed into the conservative, responsive realism of her future. We can no longer solve problems by throwing money at them. We can no longer have prosperity by having Uncle Sam on our backs. We can no longer have peace by simply wishing for it.

The Soviets and her agents were given a very strong message this past Tuesday, one which even **they** might be able to understand: "America approves of Ronald Reagan and the things in which he believes; we will never be weak again." The foundation for real peace has never been more solid. We no longer sign treaties limiting nuclear growth; rather, we look to an actual **reduction** in these weapons and will settle for nothing less.

Nor will we stand by and permit our

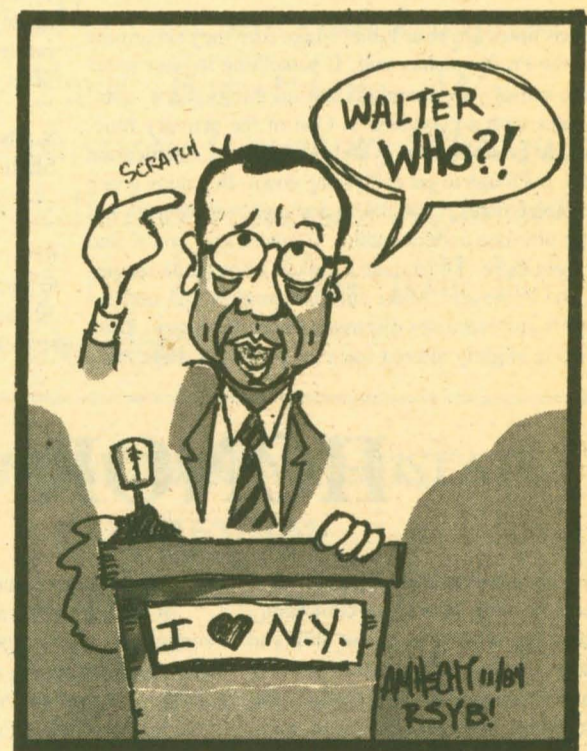
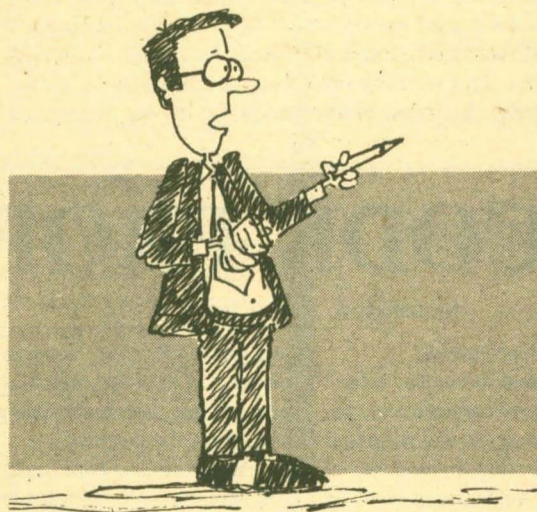
hemisphere to be contaminated by the failures and despotism of Communism. Unlike Walter Mondale, who was "baffled" and did not "understand why the Soviets acted as they did" in invading Afghanistan, Ronald Reagan knows just how to deal with the Kremlin and this will gain their respect which in turn will lead to a real peace.

In July of 1980, Ronald Reagan told us that it was time to take our destiny into our own hands. From his first day in office, President Reagan began to change America for the better. We, as a people united, realized this on election day and overwhelmingly gave Mr. Reagan our approval to keep the Reagan Revolution, the people's revolution, moving ahead. Ronald Reagan swept every region of our country. He won every age group. He bridged the generation gap. He did all this without pondering to the special interest groups and without demeaning the office of Vice-President by placing an unqualified person on the ticket simply because of her gender. Ronald Reagan does not believe in tokenism and the American people respect this.

So, let us rejoice in our consensus. Let us be proud that America has again embraced a political philosophy firmly grounded in traditional values of prosperity through opportunity and advancement through ability. Let us realize our respect around the world and our ability, at last, to build a real peach. Let us come together and realize America's finest years, for as the President said... "You Ain't See Nothing Yet!"



GOVERNOR... IN 1988 WHEN YOU TRY TO BECOME PRESIDENT, HOW ARE YOU GOING TO DEAL WITH YESTERDAY'S RESULTS AND YOUR TIES TO WALTER MONDALE?



FOR THE WASHINGTON POST

EXAM TAKING . . . Preparation and Execution

By Prof. Georgene Vairo

Are you nervous? Have you developed a tic or some other neurotic symptom within the last few weeks? If so, it may be because exams are just around the corner. Hopefully most of you have been keeping up with required reading and have been reviewing throughout the semester. But for those who haven't, BEWARE! You can not expect to cram an entire course or semester worth of material into your head or to do well in only a few days of study. The time to begin your exam preparation is now. Consider the following commandments as you prepare:

The typical law school exam presents fact patterns that require the performance of five tasks: 1) sifting the relevant facts from the problem; 2) examining the facts to determine the legal issues that are lurking about; 3) stating the applicable legal rules, detailing each of their elements; 4) applying the legal rules to the facts presented; and finally, 5) writing a tight, crisp, well-organized and precise answer.

As you can see, the critical task is identifying and analyzing the legal issues. This makes sense because you will be useless as a lawyer if you are unable to uncover the facts presented by your client which carry legal implications.

THE TEN COMMANDMENTS

PREPARATION

1. Know Thy Professor Better Than Thou Knowest Thyself.

If you listen carefully in class, you should get a pretty good idea about which topics your Professor thinks are important and therefore you may be able to predict which topics will be emphasized on the exam. You also will develop insight, by listening to Professor/Student colloquy, into the kinds of answers the Professor values highly. Each Professor is different. Listen to the signals, conscious and otherwise, that he or she is sending. If a Professor gives advice on how to prepare for and take an exam, listen. Finally, go to the library, which collects copies of old exams, and make copies of all the Professor's old exams. If the course is taught by a new Professor, ask him or her what kind of exam, essay, short answer, etc., he or she expects to give. Then go to the library and see if you can find exams by Professors that match that description.

2. Thou Shalt Not Lose the Forest for the Trees

When you begin your serious study, don't lose the forest for the trees. That is, do not get hung up on the picky details. If you try to just memorize all the rules you've learned, without first developing an understanding about the main themes and topics of the course, you will be frustrated and probably not do well. Review the Table of Contents of your casebook or textbook to get an overview of the course. Then try to understand the course, topic by topic. For example, once you have a general idea about what an "offer" is, it will be easier for you to learn all of the rules because they will make better sense to you.

3. Thou Shalt Carefully, Thoroughly and Meticulously Review Thy Class Notes.

Your class notes are your bible. Make sure they accurately reflect what the Professor has said. If something in your notes doesn't make sense, you should do several things. First, compare your notes with a classmate's. One of the primary functions of a study group is to provide a vehicle for clarification of class notes. It's tough to get everything down. In a study group you can "compare notes," and discussion to inconsistencies will lead to better ultimate understanding. Chances are, you'll find the answer right there. Third, take a look at a hornbook recommended by the Professor. Make sure you review and understand the hypo's and examples discussed by the Professor. They may show up in slightly altered form on the exam. Plus, they

give you practice in learning how the rules are applied to different fact situations.

4. Thou Shalt Not Forget to Review the Readings.

If you are sure your notes are accurate and complete, don't forget to review the cases and statutes you have studied. You'll be surprised how much more you get out of a case on review. In fact, it may even begin to make sense to you. Lightbulbs will go on in your head, thereby removing the cobwebs. It's a great feeling. Try it. Of course it takes time. But I don't have to remind you what's at stake.

5. Outline, Outline, Outline

There is no substitute for sitting down with your notes, casebook and other materials and meticulously preparing an outline. Some students write out short outlines, comprised of topical outline with short synopses of legal rules and elements that must be memorized, once they're satisfied they understand the material. That's the approach I would take. Other students prefer longer outlines, almost a rewrite of their notes. You should do what fits your style. Just make sure you're not mechanically rewriting. Don't write anything until you understand the concept or material.

6. Practice, Practice, Practice

The first commandment requires you to make copies of a Professor's old exams. Why? In the first place, it helps you figure out what the Professor emphasizes on exams. More importantly, however, it provides you with an excellent vehicle for practicing issue identification and legal analysis. Take the old exam as if it were the real exam. Write out answers, or at least outline answers, to as many questions as you can. Once you've done that, critique your answers. Go over them with study-group mates. Think about them. Ask yourself: Did I just write down legal rules, or have I done a good job of applying the rules to the facts? Are there any curious facts in the problem I have not discussed? Figure out why they are there. If the facts tell you there is a tractor out in a field somewhere, its probably there for a reason. What was the Professor getting at? If you don't think about it you'll lose points.

EXECUTION:

7. Thou Shalt Read Before Thy Write

Read the whole exam before you write anything. As you go through the fact patterns, underline the facts that catch your attention and make a note in the margin as to the legal issue the fact raises. Reading through the whole exam gives you perspective on the overall difficulty of the exam and the approximate time you should spend on each question. You may decide to answer question number three first because you're more comfortable with that question, rather than question number one, about which you haven't the faintest clue. Remember that you rarely have time to spare. Don't waste time agonizing on a difficult question. Get right down to answering one you can handle.

8. Thou Shalt Not Exceed the Recommended Times and Thou Shalt be Brief.

"If only I'd left more time for question 3. I really could have written a great answer to it." Don't ever let that happen to you! If the Professor says 30 minutes for question one, take 30 minutes. That seems obvious, but too many students end up spending too much time on short question, leaving themselves

too little time for the ones the Professors have assigned a higher point total. If you don't get to a question, you don't get any points. Don't let that happen to you. There's no excuse for it.

If you can't finish in the allotted time, it means you're going into too much detail or discussing irrelevant material. Generally, students write too much. For example, rather than write a 50 page dissertation on the history of personal jurisdiction from *Pennoyer v. Neff* on, try simply analyzing the facts in the problem. It takes less time, and if you analyze the problem correctly, stating the law succinctly and applying it to those facts, you will be demonstrating your mastery of the subject to the Professor. Brevity, not verbosity, is the virtue.

9. Thou Shalt Be Organized

After you have read over the exam, think about the first question you want to answer. Then outline it. You already should have underscored most of the relevant facts. Now organize your discussion around an analysis of those facts. The outline should identify the legal issues, in a logical order; i.e., offer before acceptance; or the existence of a duty before breach of duty. Under each legal issue, note 1) the relevant facts, and 2) the competing considerations. For example, state the facts that show the elements comprising a battery, but state also that facts showing the element of unwanted touching are not present; or state the facts to show battery, but state other facts showing a defense of self defense. Because a tort is not complete, or a defense may not succeed is no reason not to discuss it. If a fact has raised a legal issue in your mind, discuss it, brief stating your reasoning. Finally, don't forget to conclude. Once you have done all this, you'll be in a position to write a tight, precise, well-organized essay.

10. Thou Shalt Apply the Law to the Facts.

The difference between an "A" exam or a "C" exam usually is explained by failure to obey this Commandment. Professors are not looking for vague general discussions of the law. They want you to demonstrate your ability to spot the legally relevant facts and to apply the law you have learned to those facts. Thus, in your answer, you should state what the issue is, i.e., whether A made B an offer, then set forth the applicable legal principles and elements, then analyze the facts to show whether the legal standards are met. If you haven't discussed the facts pertaining to whether A made B an offer, don't expect to do well on the exam.

Now, suppose the next issue is whether B accepted A's offer, but you have concluded that A had not made an offer, or A had revoked the offer. Does that mean you may stop writing? Of course not! State "Assuming A had made an offer, . . ." then proceed to discuss the next issue.

Of course, your answers should be legible and well-written. Don't force the Professor to struggle! You're not likely to get the benefit of the doubt if he or she can't make out the words or can't follow a poorly constructed sentence or paragraph. Skip lines, write on every other page. Do what you have to do to make your answers clear.

Finally, a word about so called "Study Aides." Let me remind you there is no substitute for preparing your own outline from your own notes and the cases. There are no short cuts to doing well in law school. Preparation is the key, just as it is in the real world. Spend the time trying to understand the rules and practicing their application and you'll do well. Good luck to all.

HONOR CODE PROPOSAL

By Joseph A. Burke President 2-A

In Law school, we depend upon each other to be honest. We live in a close community which depends for its survival on our ability to police ourselves individually. If that policing ability breaks down, so does our community. The ramifications, however, are much more serious than this, for if we are unable to trust each other to be honest in law school, what can we expect after law school?

The legal profession calls upon us, through the Code of Professional Responsibility, to be honest; to police ourselves. Still, we live in an artificially policed community. For example, why do we have proctors in our exams? To pass out exams and keep the time? Or to make sure we all stop writing when time is up, and to see whether anyone's cheating, the way they used

to in grade school and high school?

It is quite apparent that in our law school community, where reporter volumes coincidentally disappear during the weeks of a particular assignment, we are not doing a good job of policing ourselves. What might this mean in the context of a profession which polices itself by a Code of Professional Responsibility?

To be sure, these problems are by no means limited to Fordham Law School. Nevertheless, with the number of complaints raised last year about cheating on exams, it may well be time for the students at Fordham Law School to examine their honor code and see whether changes can be made. Can we, over the next few years, establish a workable system wherein we could take our exams without the watchful eyes of

proctors? Can we develop sanctions for violators of the code, which, while severe, will be much less destructive than getting disbarred will be on the outside?

We do have an honor code at Fordham. We will have the Code of Professional Responsibility in the legal profession upon graduation. How will we know how to deal with that Code if we've never seriously considered the honor code here at law school? Will we suddenly be able to determine the difference between right and wrong when we're thrust into a situation where our job and future may depend upon that knowledge? Based on what? One semester of Professional Responsibility?

With all due respect to our learned professors, I think we might need some more help.

I think we need to examine our own individual honor codes; each one of us. What changes do we need to make in our honor code at Fordham so that cheating is no longer an issue in a school where time is too important to be wasted on such an issue? What sacrifices are we willing to make to see those changes come about as Fordham grows, in physical size as well as stature?

I've asked a lot of questions here. I think that they are relevant, and that they should be a part of becoming a Fordham Lawyer; not just because we have a course in Professional Responsibility, but because our lives will be run by the way we distinguish between right and wrong. What better place than law school to make that distinction a part of our daily life? (I invite your response.)

EXAM SCHEDULE

WED.	5	A.M.	EVIDENCE 2A INCOME TAX 2B	FRI.	14	A.M.	WILLS - MCGONAGLE
		P.M.	N.Y. PRACTICE			P.M.	WILLS - FREILICHER LANDLORD AND TENANT COMPUTER LAW
THURS.	6	P.M.	CORPORATIONS 3E CRIMES 2E ESTATE & GIFT - KATSORIS ESTATE & GIFT - REALI	SAT.	15	A.M.	CIVIL PROCEDURE - ALL
FRI.	7	A.M.	COMMERCIAL PAPER - FELSENFELD	MON.	17	A.M.	TORTS - BYRN AND SWEENEY SEC REGULATIONS - LANZARONE CORPORATE TAX - SHARPE ADMIRALTY - SWEENEY
SAT.	8	A.M.	REMEDIES 2A, 2B			P.M.	TORTS - HOLLISTER AND MAGNETTI COMMERCIAL FINANCING - QUINN AND ABRAMS
MON.	10	A.M.	CORPORATIONS	THURS.	18	A.M.	CONFLICTS
TUES.	11	A.M.	CRIMES			P.M.	SPACE LAW COMMERCIAL PAPER - CHIANG N.Y. CRIMINAL PROCEDURE - SMITH
		P.M.	INCOME TAX - SHARPE TRUSTS - MCGONAGLE SEC REGULATIONS - KESSLER CONSTITUTIONAL CRIMINAL LAW - HANSEN INSURANCE - ROTH CORPORATE TAX - SCHMUDDE	WED.	19	A.M.	LABOR LAW - CROWLEY PRODUCTS LIABILITY CRIMINOLOGY INTERNATIONAL LAW CONNECTICUT PRACTICE
WED.	12	A.M.	ANTITRUST - HAWK TRUSTS - MAGNETTI BANKING LAW - FELSENFELD LAND USE - MCGONAGLE			P.M.	CONTRACTS - ALL
		P.M.	ANTITRUST - LIFLAND DOMESTIC RELATIONS - PHILLIPS LABOR LAW - LANZARONE	THURS.	20	P.M.	COMMERCIAL TRANSACTIONS - ABRAMS AND CHIANG
THURS.	13	A.M.	PROPERTY - PHILLIPS FEDERAL COURTS - VAIRO INTERNATIONAL BUSINESS TRANSACTIONS - GOEBEL				EXAMINATIONS LAST DAY OF CLASS
		P.M.	ACCOUNTING - KATSORIS PROPERTY - MADISON PROPERTY - BATTS				BROKER DEALER INJUNCTIONS IN LABOR PATENTS, TRADEMARKS & COPYRIGHTS

CALENDAR

November 15	Reception for Benefactors in the Atrium 5:30 p.m.	November 27	Registration for Second Semester
November 16	MPRE (Exam) Student Party for the Deans - 7:00 p.m.	November 27	National Moot Court Competition at the Bar Association
November 19	Dean's Lecture Series presents Louis Lefkowitz - 4:30 p.m.	November 30	Last Day of Classes for Upper Classes
November 22	Thanksgiving	December 1-4	Reading Days
November 23	Holiday	December 4	Career Planning Meeting for 1st Year Day and Evening and 2nd Year Even- ing Students
	Registration for Second Semester	December 5	Upper Classes - Examinations Begin
November 26	Panel on Choosing Electives - 4:30 p.m.	December 7	Last Day of Classes for First Year

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