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THE VILLANOVA DOCKET

Vol. XXIX, No. 8 THE VILLANOVA SCHOOL OF LAW March, 1993

HIV Status Remains a Question

by Steve Donweber

AIDS is a national epidemic with ramifications that extend to both the medical and social realms of society. While the medical aspects of the disease are tragic and terminal, it is the social aspects that have the potential to cause far greater pain. Fear and ignorance about AIDS are widespread. Unfortunately, horrifying examples of discrimination on the basis of AIDS are commonplace. Stories of violence, denials of access to education and housing, shabby treatment in the courtroom and the workplace are all too common.

In response to this discrimination and the intertwining of the medical and social aspects of AIDS, the Pennsylvania legislature, in 1991, enacted the Confidentiality of HIV-Related Information Act (Pa. Stat. Ann. tit. 35, §§ 7601-12 (1991)). The Act prohibits, with certain exceptions, the disclosure of confidential HIV-related information. The underlying rationale of the Act is that while medical information in general is among the most intimate information residing in an individual's zone of privacy, HIV-related information is worthy of statutory protection because of the social aspects of the disease and the potential catastrophic consequences of disclosure.

The first case to be decided under the Act, *In re Application of Hershey Hospital,* is now on appeal before the Pennsylvania Supreme Court. The case, one of national first impression on the scope of AIDS confidentiality statutes, involves the disclosure by a hospital of a resident's HIV status. The resident, Dr. Doe, was cut by the attending surgeon's scalpel during a surgical procedure. He voluntarily submitted to an HIV test and was informed that the results were positive. He informed his superiors of the results and withdrew from the program. In response, the hospital sought to disclose Dr. Doe's confidential HIV-related information to the attending physicians in the program, the other residents in the program, Doe's patients, the physicians of Doe's patients and the general public.

If the exceptions to the general prohibition against disclosure do not apply, section 8(a) of the Act requires that a person or entity seeking to disclose confidential HIV-related information obtain a court order to do so. Court-ordered disclosures of confidential HIV-related information are specifically restricted in all instances under the Act unless there has been a demonstration of a "compelling need" for disclosure. The "compelling need" standard requires judicial assessment of three interests: the privacy interest of the subject of the disclosure; the public health interest in confidentiality; and the interest in disclosure. As with all judicial consideration of competing interests, these factors must be weighed against each other.

An individual's privacy interest in his or her confidential HIV-related information is quite strong. Numerous courts have acknowledged that medical information falls within the zone of privacy protected by the Constitution. Such information is highly personal and intimate and goes to the very core of this protected zone. Confidential HIV-related information is arguably even more worthy of protection because the medical facts of AIDS are intertwined with discrimination and fear. A recent editorial in the *Philadelphia Inquirer* explained the problems that a group of people with AIDS were facing in trying to set up group living arrangements for AIDS patients. One neighbor of the proposed house professed a fear of stepping on a bloody hunk of glass that would be thrown onto his property by one of the patients. The wife of this gentleman expressed a further fear that her property would lose value because of the presence of people with AIDS in the neighborhood. While, as graduate students, we have a tendency to recoil at such thoughts, they are prevalent and reveal a fear that cuts deep into society. As such, an individual's interest in keeping HIV-related information confidential is twofold. One, the individual has a constitutionally protected privacy interest in the information, and, two, it is in that individual's best interest to keep the information private so to avoid the existing discrimination.

The public interest in keeping HIV-related information private is strong as well. One of the main policies behind the enactment of the Confidentiality of HIV-Related Information Act was to encourage voluntary testing. The framers of the Act saw voluntary testing as being one of the key vehicles in preventing the spread of AIDS. The major way to encourage voluntary testing is by keeping the resulting information confidential. Individuals might be less willing to come forth and be tested if they are not given assurances that their HIV status will remain confidential.

"Professor Richard Turkington was a primary drafter of Pennsylvania's HIV Confidentiality Statute. He was appointed to write the brief amicus curiae for *In re Application of Hershey Hospital.* Steve Donweber ('93) assisted him in drafting the brief amicus curiae."

Finally, according to the Act, a court must weigh the above two interests against the interest of the entity or individual seeking disclosure.

In deciding *Hershey,* the Court of Common Pleas issued the requisite order and authorized the disclosure. The Superior Court affirmed. Upon the Pennsylvania Supreme Court's decision to accept the case on appeal, the Pennsylvania Bar Association appointed Professor Richard Turkington of Villanova to write the amicus curiae brief on its behalf in support of Dr. Doe.

Professor Turkington, a member of the Pennsylvania Bar Association's Task Force on AIDS and an author of the Act, decided that the best approach to this brief would be to argue misapplication of the law by the lower courts and attempt to eliminate some ambiguity in the statute by providing the Supreme Court with a coherent interpretation of the Act.

The key problem in both lower courts' opinions was a misunderstanding of the Act's "compelling need" requirement. The "compelling need" assessment requires that competing individual and societal interests be weighed. The two lower courts neglected to do so.

Each opinion focuses on the risk of transmission in allowing an HIV-positive physician to perform invasive procedures. While each court acknowledged that the risk was minimal (somewhere in the neighborhood of 1/48,000), such risk was deemed sufficient to justify the massive disclosures. No weight was given to the public interest in confidentiality. Under such a formulation, the theoretical risk itself (meaning Dr. Doe's occupation as a physician), is sufficient to demonstrate "compelling need." This reasoning is at odds with the plain language of the statute and creates a per se right of disclosure on the part of hospitals with respect to their surgeons.

To argue that the massive disclosures ordered in *Hershey* by the Court of Common Pleas violated the Act is **not** to argue that disclosure is prohibited in all circumstances. The Act itself recognizes that the interest in disclosure may, at times, override the interests in confidentiality. The key to establishing a coherent policy with respect to HIV positive physicians is to determine when a "compelling need" for disclosure actually exists.

Unpacking "compelling need" involves separating the standard into its component parts. The Act mandates a consideration of three factors: the private interest in confidentiality, the public interest in confidentiality and the interest in disclosure. The private and public interests in confidentiality remain constant over the range of individuals who may be HIV positive. For example, an HIV positive law student and an HIV

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OP/ED

And So It Goes

by Angeline Chen

It's been a pretty crazy month or two around here. As this issue goes out, the 1Ls will be just wrapping up their briefs (remember way back when?), grades will be in our hot, sweaty hands, and the 100 Daze party will be a fading memory. (And so, too, thankfully enough will be the Barristers' Ball.) In the meantime, bar review people are camped out in the vending room, several individuals have already begun sniffing out the primo outlines, and the Reimel finals are just around the corner. No doubt about it, we're on the home stretch.

The wondrous thing about all of this is that we've managed not to kill each other in the meantime. It's quite a recipe, after all. Stick 650 some students in a pressure cooker at its highest setting. Add faculty and administration. Mix well with blood, sweat and tears (for flavor). Sprinkle tension over mixture. Cover. Then run for your life.

It might benefit us to pause for a moment in all this madness and think about what it is we're doing. People have been mighty testy as of late, and (dare I say it? But of course!) many have been acting like what we used to call "jerks" in our younger days (but are considerably more explicit about in our terminology now that we have had a couple more years of experience and have increased our vocabulary). Why is that? Is it the pressures of law school bearing down heavy on our shoulders, such that we forget the basic concepts of courtesy and kindness? Is it some kind of "nastiness" bug that hits law schools sometime during January? Did Marita's run out of Bud on tap? Or, worse yet, is it some indication of why, of all professions, lawyers are the ones most likely to be held in the most contempt and seen as, well, jerks?

But oh, it gets better. We can manage to live with people we can't really stand — this is the way society is. Tolerance is a virtue, and deep down we all realize that it is highly probable (in fact, more than likely) that somewhere, out there in the madding crowd, is someone who just might think we're a jerk, too. So, it's live and let live, right?

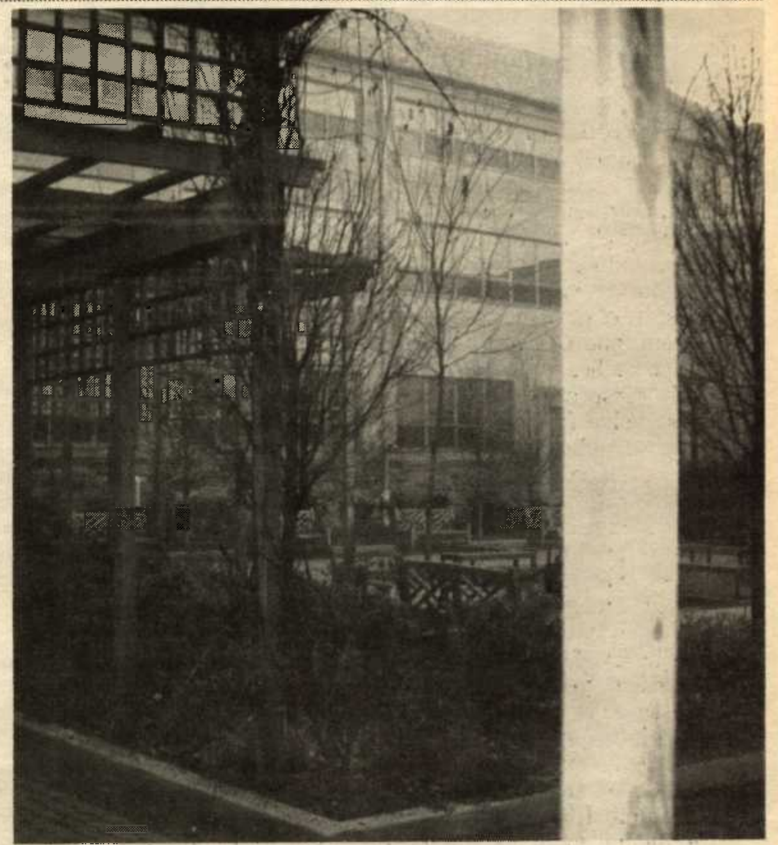
There's only one problem in that conclusion, and this problem kicks in when we are required (for whatever reason) to have to depend upon someone else. And in that nightmare of scenarios, suddenly, someone you were counting on (sometimes even someone whom you would have sworn would let you have the last brownie), disappears when the chips are down. And this is when that someone is no longer just a jerk, but has also managed to make your life/your project/your class/your 1L brief a true ordeal. (This is also when you find out how colorful your vocabulary can *really* get.)

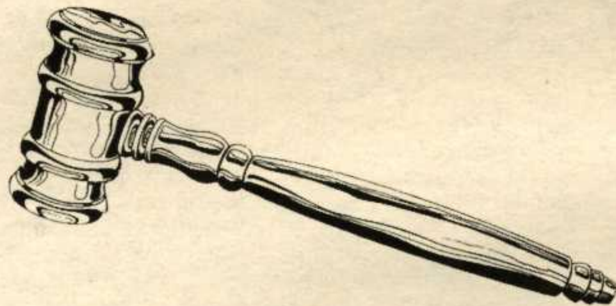
The sad thing is that depending on someone else needn't be a horror story. Working together with someone when there is mutual respect, cooperation, and support can be a wondrous thing. I will always be grateful that my first year oral argument partner made the experience a real joy. (Thanks, Tony!) Teamwork in motion is a truly wondrous thing to observe. Having to work with someone(s) else is not something we should seek to avoid. Ninety-five percent of the time everything will work out, although to varying degrees. But it's that five percent that we worry about, that causes us immeasurable frustration.

And still we pick up and survive, move on into battle and carry on. Humans are known for their adaptibility, after all. For a while, our friends will be subjected to long-winded versions of "what really happened" and be obliged to offer the requisite sympathetic nods and murmurs. Eventually, however, time erases the outrage or indignancy, and life (as they say) moves on.

A lesson is to be learned on both sides, whatever part you play. Namely, that responsibility is a harsh mistress, but one that is almost always undertaken voluntarily. If you don't want to be saddled with it, you're going to have a rough road ahead of you as you are forced to deal with your colleagues. First of all, we are a self-governing profession, so your colleagues (that's right, the ones you just screwed) will be your judge. Secondly, if the Model Rules or Rule 11 don't get you, the reputation you establish as an irresponsible lout surely will.

The countdown is getting closer. Hang in there, and see you next issue.





Clinton Transition: Month Two

by Sal Pastino

Two months have elapsed since the inaugural bells rang across the nation and the torch of American power passed from the hands of George Bush to Bill Clinton. What has happened so far? President Clinton has had to back away on his pledge of aiding Haitian refugees for fear that as many as 2,000 men, women and children could drown in the poorly constructed boats between there and Florida. A higher than expected deficit has forced Clinton to back off on his middle class tax pledge. He apparently intends to cut Social Security benefits and camouflage the resultant controversy with the gays in the military issue. He had trouble nominating someone to be Attorney General. The mass of international crises are derailing plans to rebuild the American economy. President Clinton is not getting the honeymoon that other presidents have enjoyed. His is the roughest transition that any American president has faced.

Many of Clinton's problems stem from the military actions taken by President Bush against Iraq in the final days of his administration. While wholly appropriate, the fact that no Western country seems able to help Moslems in what was Yugoslavia and at the same time is attacking a Moslem Iraq has provided lucrative propaganda for dictator Saddam Hussein. Not only is he turning Islamic countries against the United States, he is causing the Allied coalition to act hesitantly. Russia wants all American action to go through the U.N. Security Council for approval and France regrets ever getting involved at all. The Vietnam syndrome which many Americans feared would cause us to lose the Gulf War may be costing us our victory.

Somalia is yet another area of crisis which President Clinton must worry about. While there may be thousands of starving who have proven invaluable in giving information to U.S. Marines in their efforts to destroy warlord weapons supplies, these same warlords are losing their awe of American forces. Sniper attacks have increased and while casualties have been low, they do continue to grow. We have U.S. forces stationed in Somalia, Kuwait, Saudi Arabia and we may eventually bring them into Bosnia and Serbia. American military power is being spread out too thinly to be completely effective anywhere. President Clinton will have to decide what area our forces should be concentrated in first and address those problems before he can tackle his domestic agenda.

And what of the problems at home? While America has finally broken out of the recession the recovery has been so weak that we risk falling back into recession soon. So where does our President have his focus? Is it on the economy? No. He is concentrating on letting gays into the military. Unemployment is still relatively high and it is difficult for even well-experienced workers to find a job. Companies, seeing that they manage to get by with fewer people, have absolutely no incentive to hire former employees back. Many of these people are forced into even lower-paying jobs. His intention to cut Social Security benefits and raise the gasoline tax is frustrating and alienating the very middle class he vowed to help. For these reasons President Clinton does not have the trust of the business community. Already conservative Republicans are attacking Clinton as the President America does not want — and his low popularity rating makes the charge stick.

After twelve years of too much empty symbolism and too little domestic action from a Reagan-Bush Administration, America has finally made the change to Bill Clinton. Unfortunately, President Clinton is acting so slowly and haphazardly that the American public may see no benefit from this change. As a result, the American people may once again be conned by a conservative Republican — probably Jack Kemp — come 1996. If President Bill Clinton does not maintain some consistency with his promises America will suffer greatly.

THE VILLANOVA DOCKET

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Faculty Advisor
Prof. John Cannon

COMMENTARY

Presidential Leadership

by Professor H. Perritt

Originally, at the Docket's request, I wrote an article about Computer Law. Now, it seems more timely to think about the new Administration, the possibilities for Presidential leadership, the state of the American political system, and our role in "taking up the challenge."

My perspectives on these subjects evolve from having served three Republican presidents (Nixon, Ford, and Bush) in official policy positions and having served as a member of the Transition Team for President Clinton.[1] These experiences reinforce the lessons offered by political scientists who study the American Presidency. They observe that the American presidency, as it is structured in the Constitution, is potentially extremely weak and potentially extremely strong. It depends on styles of presidential leadership. It depends on whether the incumbent understands that the source of presidential power is the power to persuade. In other words, in Theodore Roosevelt's words, the presidency is a "bully pulpit."

One cannot persuade unless one has a coherent message with a limited number of themes. Franklin Roosevelt, John F. Kennedy, and Ronald Reagan understood these political truths. Jimmy Carter and George Bush did not. I believe that President Clinton understands these truths. I hope he is able to put them into practice.[2]

There are some important limits on what the President can accomplish. You and I can do some things to relax those limits.

Some of the most important limits arise from the phenomenon of powerful-issue interest groups that now typify the American political process. Interest groups are not, of course, a new phenomenon. Nor are they inimical to the American political structure. James Madison drafted the Constitution so that competing interests would sort themselves out through the checks and balances of separation of powers. What is different now is that American politics is more centralized. Transportation and communications technologies make it easy for political messages aimed at national audiences to get across while making it more difficult for political messages aimed at municipal or state audiences to be heard. We get more news about national affairs from Dan Rather than we get about local affairs from community newspapers and live interaction with local officials.

But none of us has the time or the energy to immerse ourselves in the full range of matters that the government deals with. Because there are so many things on the national stage, we enlist the aid of intermediaries to focus our attention and express our views. Most of us participate in politics through professional and well-financed interest groups like the American Bar Association, the Association of American Law Schools, the National Rifle Association, National Organization for Women, and increasingly assertive religious organizations. Politics is made manageable for citizen participation not by horizontal specialization through geographic decentralization, but by vertical specialization — by issue. We are involved in a more limited range of issues but at the national level more than subordinate geographical levels.

This is what gives rise to deadlock in the tyranny of special interest groups. Each narrow interest group is large enough because it works at the national level, to raise lots of money and to have a professional staff. It ensures membership loyalty and its own institutional financial security by being unyielding with respect to its single issue. Its professional staff members who write testimony for congressional committees, submit comments on administrative actions and dole out the money to political action committees have no experience in exploring compromise and solving problems; they get rewarded only for being unyielding.

Obviously no one interest can get everything it wants, but it can frustrate change by threatening the political life of anyone who supports any change in the status quo that disturbs current expectations of its constituents in the slightest.

All of this makes it very difficult for a President who wants to lead, and even more difficult for one who wants to change. President Clinton was elected on a theme of change. It is not impossible for him to do this, but it is important to understand what he must do to be successful.

He must persuade the people in general that change is in their interest. He must do this by circumventing the usual channels of political communication, especially the interest groups. Not only that, he must persuade individual citizens to accept sacrifices in their interests — as the interest groups have helped them define the interests. He must persuade them not to be single-mindedly insistent on realization of every single entitlement.

What does this have to do with you and me? Everything. We are the individual citizens to whom the President must appeal successfully. We are the citizens who get most of our information about politics and who act politically through very specialized interest groups. We are the interest group constituents who must ensure that our spokespersons — interest group and elected spokespersons, are willing to make compromises to serve the broader national interest. We are the ones who may have to accept some reductions in health care benefits if health care reform is to succeed. We are the ones who may have to accept some loss in opportunities for contingent fees if legal reform is to succeed. We are the ones who may have to accept military base closings if the Federal budget is to be balanced. We are the ones who may have to accept some reductions in subsidies for post-graduate education if the budget is to be balanced.

But that is not all. We have multiple roles. We are not only citizens, we are also present or future members of the Bar. We have an ethical duty to be zealous advocates for our clients. Many lawyers assume that means single-minded, unyielding aggressive rejection of any scenario that might diminish our client's expectations. But we also are admonished by the Code of Professional Responsibility, as it applies to members of the Pennsylvania, New Jersey, Delaware, and Maryland Bars, and as it is suggested by the ABA model rules, to encourage clients to think about larger ethical, fairness, and policy issues. Surely if your client asks you to oppose tooth and nail any change in the present scheme for Medicare reimbursement of preventive doctors office visits, you are entitled to say to your client, "Have you considered the relationship between this and the broader question of the quality of health care, the availability of health care to the poor, and the rate of increase in health care costs?" and then to explain that relationship, thereby enabling your client to take perhaps a more informed view of her interests.

While markets and James Madison's system of checks and balances anticipate energetic pursuit of self-interest, both also depend on a sense of community and a willingness to make some sacrifices in the interest of the larger community.

[1] I was Executive Secretary of the Cost of Living Council (the wage and price control agency) in the second Nixon Administration, served on the White House staff and as Deputy under Secretary of Labor in the Ford Administration, and served as Vice-Chairman of the "Coal Commission" in the Bush Administration.

[2] This is not a partisan appeal. I am a Republican, while this article urges support for a Democratic President.

CROSSW RD® Crossword

Edited by Stan Chess

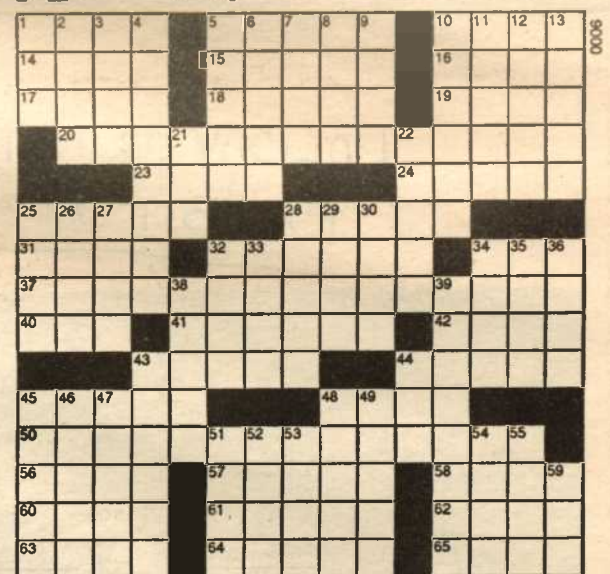
Puzzle Created by Richard Silvestri

ACROSS

1 Hauler on the highway
5 Capacitance unit
10 "I ___ Dream" (1967 hit)
14 Egg order
15 Saudi's neighbor
16 Football Hall of Famer Page
17 Jocular Jay
18 "Cielito ___"
19 Marmalade ingredient
20 Location
23 City on the Brazos
24 Kentucky Derby prize
25 Skewered meat
28 Fifteenth-century explorer
31 Jack Frost's profession?
32 *Dick Van Dyke Show* actor
34 Outquip
37 Sandspur
40 Prepared
41 State of agitation
42 Salmon tail?
43 Metallic mixture
44 Beau tie?
45 Martin or Miller
48 Quickly, quickly
50 Thorou[illegible]
56 Sleuthing pooch
57 Saclike cavity
58 Winter Palace resident
60 Proof annotation
61 ___ *Nation* (1988 film)
62 The Stooges, e.g.
63 Now's partner
64 Gets all worked up
65 Cellar contents?

DOWN

1 Helios, to the Romans
2 Green head?
3 Dinner reading
4 Smeltery product
5 Kind of acid
6 Another kind of acid
7 Called up
8 *The Egg* ___
9 "Drip Drop" singer
10 Painted woman
[illegible] perhaps
12 Twist or stomp
13 Vicuna's habitat
21 Haul in
22 Antler point
25 It's sometimes stolen
26 Adolescent affliction
27 Ringo's responsibility
28 Ms. Guisewite or her strip
29 Hanker
30 Warrior of 1899
32 Face on the wall
33 Inner, in combinations
34 $Mg_3Si_4O_{10}(OH)_2$
35 Akershus Castle site
36 H.S. exam
38 Actress Greene
39 They're often paid
[illegible] the ace?
44 Swiss waterway
45 Overhead
46 Sample the sherry
47 Log in
48 Piece of property
49 Secretary of commerce: 1969—72
51 Stowe sight
52 Honolulu bowl game
53 She was Joanie on *Happy Days*
54 Book before Nehemiah
55 Peacock's pride
59 Rubbish



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(Answers on Page 10)

Discrimination in the 90's: The Song Remains the Same

by T. John Forkin

The headlines read "Racially motivated shooting," "Parents refuse to bus their children," "Man attacked outside of bar," "Police set dogs on homeless." No, these stories are not from the 60's, they are from the Press last week in 1993. Although the evils of discrimination are not always visible, their presence lingers in the shadows of the social psyche threatening the civil rights of all.

"Even the most casual observer can see that the South has marvelous possibilities, it is rich in natural resources, blessed with the native warmth of spirit and endowed with the beauties of nature. Yet in spite of these assets it is retarded by a blight that debilitates not only the black but the white as well. To the white men, women and children bearing the scars of ignorance, deprivation and poverty there is evidence that harm to one is injury to all. Segregaton has placed the South educationally, morally and economically behind the rest of the nation. Yet there are in the white South millions of people of good will, whose voices are yet unheard, whose course is yet unclear and whose courageous acts are yet unseen. These persons are often silent today because of fear; fear of social change or political and economic reprisals. In the name of God, in the interest of human dignity and for the cause of democracy these millions are called upon to gird their courage and to speak out and offer the leadership that is needed. If the people of goodwill fail to act, history will have to record that the greatness of this period of social transition were not the vitriolic words and the violent acts of the bad people, but rather the appalling silence and indifference of the good people." (Rev. Dr. Martin Luther King Jr. 1965 Atlanta.)

At the conclusion of our 1L Civil Procedure Class, Prof. Perritt quoted Dr. King. I was very moved by these words as were the majority of my classmates. In his analysis, Prof. Perritt noted that:

"Dr. King was not only talking to the people of Atlanta, but to you; and he was not only speaking of racial indifference but indifference."

I often reflect on that last day in Civil Procedure and wonder why things have not really changed in about 30 years. The answer is simple — indifference. Discrimination in any way, shape or form is a cancer that erodes the health and welfare of society. You only need to look around the corner to find it, or perhaps it is right in your face. It is evident from misinformed and biased journalists who project a deep rooted hatred for those who think with an objective mind towards FACTS as opposed to conjecture.

Civil Rights is about freedom to pursue your dreams, to be let alone, to live in peace. This may seem like a lot of Aristotelian crap, but until you have looked into the eyes of a child in a homeless shelter and see no dreams, or just read the headlines in today's papers you may begin to find out that the real purpose of law school is to teach us to some day make a difference, to serve the social good.

For many, the Civil Rights movement died with Dr. King. We have not had an administration that has addressed Civil Rights per se in 30 years! There is a renaissance in the area of Civil Rights in this nation and a dire need for involvement of "the good people." As attorneys, we can never fail to use our power to change things, we can never be indifferent. We must use the tools of analysis and judgment that VLS has given us and begin to build.

There has been a lot of talk about "this s*#ks" or "that S?#□s" or "why don't we have this" or "Civil Rights ain't no big deal," or "Clinton's a lying ba@#¢&d." There is a lot of indifference right in this school toward a great many things. To alleviate this barrier of indifference the Law School Community must begin to support one another, to encourage involvement, to look past one's gender or the color of their skin, and work as one team to raise this institution to the next level. Hey, the profs and administration can only do so much, the rest is in the capable hands of this student body with the goal of putting Villanova Law in the "top twenty"!

I firmly believe that this student body is the best of the best, but there must be a concerned effort not to be indifferent. Who cares if this is not YALE, HARVARD, or PENN. We are Villanova! The main difference in the top ten schools is that they know they have the power and they have comprehensive Civil Rights programs to learn how to use that power. Villanova Law has that same power, the power to change things but it is not used enough. There is also a developing Civil Rights Program. I am not saying participate in the Civil Rights Law Society because Yale has one and they are #1 but rather because it is the right thing to do. It will really be difficult to make a difference in society without a firm grasp of Civil Rights issues. I hope thirty years from now I won't be reading of racially motivated shootings, bussing problems or other crimes of discrimination. And I certainly do **not** want to read some ultra-conservative psycho babble column. If we fail to address these issues in law school we will be ill-equipped to prevent this tragedy from perpetuating itself. Duty now for the future, hopefully this time it will not end with a bullet.

Perhaps someday Thurgood Marshall's dissents will shine in the light of justice.

COMMENTARY

1-900-BOB-TALK

Rather than get myself in trouble with a Valentine's Day article along the lines of VLS grad David "Doogie" Krell, I've decided to forego my usual column and write something palatable for the masses.

Perhaps the most under-rated Bogart film, or should I say Audrey Hepburn film, is "Sabrina." Our story begins with the young, beautiful and sometimes naive Sabrina (played by Miss Audrey) returning home after having gone to cooking school in Paris. Glamorous, you say? Maybe not. She's the daughter of a chauffeur for one of the area's leading corporate families and probably dabbled in French cuisine so she, herself, could work for a filthy-rich family, or, heavens no, attract a husband! (Old films aren't exactly known for their political correctness.)

Sabrina is at the station ostensibly waiting for her father the chauffeur when the son of her father's employer shows up in his British convertible to pick her up. Initially, he does not recognize Sabrina, for she is more fashionably-dressed than usual and carries herself in a very sophisticated fashion, unlike the shy chauffeur's daughter he remembered. Paris has definitely changed her. Oh, but there's more. Sabrina is secretly infatuated with the young corporate heir.

Once she is driven back to the Estate, her dreams are shattered when she finds that her heartthrob is engaged. Don't be alarmed, the engagement comes as a surprise to HIM, too. This is where Humphrey Bogart finally enters the picture. He is the brother of Sabrina's beloved and is plotting along with his father to get the young lad hitched with the daughter of another corporate mogul. If you can't write the next line of this article yourself, you're either A) hopelessly romantic, B) rather stupid, or C) under local anesthesia. Oh, okay, I'll tell you. Bogie and Daddy-O are trying to effect a corporate merger and are using Sabrina's would-be love interest as a pawn — forget the small fact that he happens to be their brother and son, respectively.

The family throws a huge engagement party for the son and his betrothed, planning, if all goes well, to make sure the two youngsters become intimate with one another. Modern translation: hook up in a BIG way. That's not all. If Bogie can pull this one off, the family stands to make millions of dollars! There is, of course, one small problem. Sonny-boy is attracted to the young and sensuously French-primped Sabrina.

During the party, Sonny-boy palms off his betrothed onto some unsuspecting member of the noblesse oblige, shoves a champagne glass into each one of his back pockets, and purloins a bottle of bubbly from the bar. What is he up to? He's on his way to the family tennis court to meet Sabrina and they're not exactly planning to use racquets in THIS game of love. Reality check: Bogie looks like someone just ripped the dictaphone out of his Packard. One of the servants just told him of his baby brother's scheme and he's terribly incensed, but keeping his cool — in an Anglo-American sort of way.

Emotionally wounded at the fact that baby bro doesn't fully appreciate the great lengths he went through to make sure the young spry is happy for the rest of his life, while Bogie and Daddy-O dance around in hundred-dollar bills, Humphrey grabs the boy and brings him to Daddy. The two then berate the poor sap for being so selfish as to fall in love with the chauffeur's daughter while they selflessly attempted to find a suitable bride for him and make scads of dough "tutto ad un fiato" (that's Italian for "pretty damn quick"). When Junior refuses to succumb to reason, Bogie shoves him back into a chair. Oh darn, there go the champagne glasses. Wouldn't a swift kick in the ... you know what I'm getting at; after all, this is a family show.

While the family doctor is busy extruding shards of glass from Junior's posterior, Bogie is hurriedly cleaning up all this mess. In one swift moment of frigid calculation, he arrives at the tennis court, finds Sabrina, tells her that her beloved is in love with another, and then has the audacity to engage her in a waltz with the brimming passion usually associated with a mercy date. The next day, Bogie takes Sabrina for a journey on the family yacht. He then decides to take her for an intimate ride in one of the life boats. This is not one of your ordinary life boats — it's equipped with a victrola.

As Bogie plays a few of his old records, he poignantly contemplates his youth, before his father whisked him away from his youthful dalliances only to mold him into a heartless, money-grubbing corporate raider. Now the audience is supposed to realize that despite the five cars in the family garage, the tennis courts, the yacht, and the family skyscraper equipped with a bedroom behind a trick wall in the main office, Bogie is not a happy camper. Geez, I can think of at least one newly ordained head of state who'd enjoy that trick wall thing, but I digress. Obviously, something's missing in Bogie's life. "You spoiled brat! Any man would kill to be in your shoes, yet you want more. You're unloved! Welcome to the real world." Given this reality and the fact that I just stole one of Sir John Gielgud's lines from the tragicomedy "Arthur," there's only one thing left to be done. Those of you who said it's time for Bogie and Sabrina to do the "Humpty Dance" can go stand in the corner with your face to the wall and write, "I will keep my filthy mind out of the gutter," one thousand times.

Bogie inevitably falls in love with Sabrina as she realizes that her heartthrob's brother isn't really a one-dimensional boob with a fistful of money. This would never have happened had Bogie not elected to break the cardinal rule of post-war Hollywood machismo — never let them see your sensitive side. Pretending not to notice this surge of fuzzy feelings, Bogie slyly asks Sabrina if she'd like to return to France with the ulterior motive of getting rid of her so that Junior could marry the debutante. As if this weren't enough, Bogie, while suffering from a then-unknown malady now known as "yuppie angst," tells Sabrina that he actually enjoyed himself while he spent quality time with her, but that it couldn't go on any longer. Sabrina, astutely realizing that she's been played for a fool, storms out of the vulgarly grand, 40's era suite of offices.

Bogie has to get rid of her and salvage a troubled business deal. He procures two tickets, he tells her, so she and Junior can go to Paris by boat. Sabrina, cynically believing none of this drivel, resigns herself to the fact that her father's employer doesn't want his son to marry the chauffeur's daughter. She decides to go along with the scheme if only to return to Paris where she was happy — at cooking school?

While no one was looking, the boy wonder managed to fall in love, save the corporate merger and besmirch Sabrina's subservient status in society right in front of Bogie so that he'll inevitably pummel his little brother. Sibling rivalry? Of course not. Junior wanted to get hit by Bogie so that the financial genius would realize that HE'S the one who should be with Sabrina regardless of what the upper crust thinks. What about Daddy-O? He couldn't care less as long as the merger goes through and he gets a fresh olive in his martini.

Finally, Sabrina finds herself on the ship, waiting for no one, when Bogie suddenly appears and silently admits his love for her by wrapping his arms around her. Moral of the story — falling in love is not a planned event, so don't even try it.

Signed, as always,
Mr. Turchi

COMMENTARY

Dear Conservative Guy

by Tom Dougherty

Dear Conservative Guy,

I still hate Villanova. I know that this is the best law school that accepted me but I'm still annoyed. For example, why is this place so Catholic?

I don't know why people are under the impression that this is a Catholic law school. Although the school is technically affiliated with the Catholic church, nobody has let the faculty in on this little secret. With a few noteworthy exceptions, the faculty here is so pro-choice that I'm surprised that getting an abortion isn't a graduation requirement. While I understand and defend the need for an academic institution to maintain academic freedom, it would be nice if there was even a token display of respect for the church. Unfortunately, Catholics are sheep and nobody defends us from ridicule.

Dear Conservative Guy,

I paid $40 to go to the Barrister's Ball. I was robbed. Down with SBA!

On behalf of SBA, I want to blame Jeff Bosley. Just kidding. I would rather not comment on this issue before it is settled.

Dear Conservative Guy,

Have you ever used a Peruvian couple to care for your children?

Since I don't have children, I do not need Peruvian babysitters. However, I must confess that Manuel and Lina often write the first draft of this column.

Dear Conservative Guy,

Everybody in this school constantly has the same conversations. Sometimes I bring up the wrong topic in the wrong season. Please give me a list of topics and when to raise them.

People in this school have a very limited list of topics. They speak about the same issues every year at the same time. Since nobody is bothered by the fact that our conversations go nowhere, here is the Villanova Law School Approved Topic List.

September — On-campus interviews. Approved statement — "The interviewers only care about your grades. How come the people at the top of the class drop resumes at every firm? Why don't they give other people a chance?"

October — Why do the undergrads have a week off? Have you started outlining?

November — This exam schedule #!*&$. Approved statement — "I can't believe that I have ___ #!*&$ exams in ___ #!*&$ days. What's the point of self-scheduled exams if most of my exams are scheduled?"

December — See above.

January — Grades. Approved statement — "If we have to take exams in two weeks why does it take two months for the professors to grade them? At college we always got our grades 20 minutes after the exam."

February — See above.

March — Grades. Approved statement — "Grades are such #!*&$. Everybody on law reviews gets their grades bumped up. The professors know who is on law review. It's so unfair."

April — Jobs. Approved statement — "What do they want from me?" Alternate topic — Exams and grades. See November through March.

May — Who cares? I'm graduating.

Dear Conservative Guy,

What's Clinton done wrong this month?

Well, Babysittergate is kind of interesting. I'm also happy that President Clinton lived up to his campaign promise to have a new spirit of ethics in government. Ron Brown certainly is a saintly soul.

Dear Conservative Guy,

If Reggie White goes to Washington ...

Please send your questions to John Lago. Ask him about the Troy Aikman poster in his bedroom.

VS. Dear Liberal Gal

by Angie Chen

Dear Liberal Gal,

The honeymoon's over. Slick Willy can't find an untarnished, upright, outstanding woman to stick in the role of Attorney General. He's forcing the military to accept homosexuals into their ranks, despite the inevitable decline in morale this would cause. *Somalia's still* a mess. Bosnia's next. Socks is having an affair with Bill the Cat. Will you concede that electing Clinton as President has led this country into a snowball ride down the hill into a moral morass?

At least Clinton signed the Family Leave Bill, which Bush vetoed twice. (Bush? Wasn't he the Family President? Or was that only to the same extent that he was the Education President and the Environmental President?)

I think the fact that Clinton is holding the nominee for Attorney General to such a strict standard is commendable. As the nation's leading attorney, it is crucial to find an individual (man or woman) who gives the highest respect to the law. Zoe Baird apparently did not have this respect, since she seemed to feel that she could violate the law so long as it was convenient to her (i.e., before she found out she had a shot at the Attorney General's position). President Clinton should take as long as it will take to find a person with the appropriate integrity for the position.

The rejection of homosexuals from the military is based on prejudice and unjustified phobia. Discrimination against people because of their sexual orientation is just as wrong and hateful as discrimination against people because of their race or gender. This is not a "floodgates of sexual promiscuity" problem here, folks. It's not as if homosexuals admitted in the armed forces will demand that the armed forces commission pink, frilly uniforms and schedule "love-in" time. Homosexuals in the armed forces take their job as seriously as heterosexuals, and furthermore will be equally efficient and capable. I have yet to hear one logical reason why homosexuals should continue to be discriminated against in this manner. I *have* heard a lot of homophobic reasons.

And of course Somalia's still a mess, you nitwit. We knew it would be for a while when Bush first sent our troops over there. [Ditto on Bosnia being still a mess.]

As for Socks and Bill the Cat, talk to Gary Trudeau.

(And if you hadn't guessed, no, I don't concede.)

Dear Liberal Gal,

The 100 Daze Party is over. The Barristers' Ball (which cost $40) had nasty bartenders, limited alcohol and glasses, was all the way downtown in Philadelphia, and had a dance floor the size of a postage stamp. How come the 100 Daze Party, which was free, had none of these problems?

How the heck would I know? Contrary to The Conservative Guy, I say blame it on Chris Pepe. But then that's because I blame everything on Chris Pepe (when I'm not blaming it on The Conservative Guy or Rob Turchi). It's also because it's so much more fun to blame things on Chris Pepe anyway.

Dear Liberal Gal,

Why do you insist on printing horrendous pictures of everybody in *The Docket?* One of these days somebody is going to make you eat your camera (and your little dog, too!).

The sad thing is that I honestly do select only those pictures that I think are flattering to people. I'd hate to see what would happen if I were to select the pictures that I thought were *horrible*. The potential for blackmail is tremendous. Let this be a warning to any of you out there who are considering running for President someday. (Or Attorney General, for that matter.)

Dear Liberal Gal,

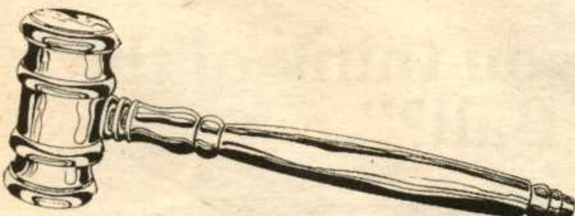
I just finished writing my first-year brief, and it was probably the most miserable experience in my entire life. I didn't sleep for a month. I lost 20 lbs. because I forgot to eat. My hands are still shaking from all the Mountain Dew I drank. My eyes burn from staring at the computer screen and the itsy bitsy print in those Federal Reporters. I hated every second I was doing it, and can't stand the thought that this may be what I'll be doing for the rest of my life. Tell me there's still hope.

The Liberal Gal does not wish to hear your silly complaints. You youngsters have no idea how easy you have it. Why, back when *we* were first years, we were not allowed to use Westlaw or LEXIS. We couldn't even *look* at the Westlaw of LEXIS terminals, or we would spontaneously combust on the spot. No sirree, we wrote *our* briefs the old-fashioned way, by going through the stacks. Hmph. So there.

Dear Liberal Gal,

I want to know why we can't get our grades earlier than halfway into the second semester. Exams were finished well over a month ago! I hear that Temple and Penn got their grades back five minutes after they handed their grades in. Why can't we do that, too? Isn't this what we pay the professors for? What's the deal?

You are free to transfer to Temple or Penn if your sole desire is to have your grades in your hot, sweaty hands right away, and you feel that those fine institutions of legal learning better fit your demands. First of all, those schools have more faculty. There are several professors at Villanova who literally have to grade hundreds of exams. Since many of you gripe so much about fairness of grades, The Liberal Gal thinks you should be grateful that these professors take the time to make sure that your exam is graded as fairly as possible and gets the attention that it deserves. Or doesn't, as the case may be. Second, considering what some of your grades are, The Liberal Gal also thinks that many of you should be grateful that you *don't* get your grades until later.



Existentialism Looks at Law School

by Sean Whalen

1.

In the beginning:

The potential energy of all conceivable things drives a hurricane menagerie, an abstract whirlwind spectacle of the full yield of creation's possibilities. The great and infinite maelstrom promenades a universe of breadth and variety in a chaotic multidimensional tease, each element purposefully manifested in its deepest affectiveness. The Master sits in the center of the storm, looks on at the churning Pandemonium of Potential Being, and deliberates over which will be the first to enjoy existence. A paradigm of beauty, empty and shapless yet strangely fecund on this Great Day of Making, pirouettes by with mock humility, giddy with anticipation. A maudlin grayness, a cloud holding an eternity of tears: tears of all joys and sadnesses; of countless poignant memories and opportunities forgone; waits with heavy patience for its inevitable call. From the shadows on the cusp of cognition, metaphors and similes scamper out chameleon-like across The Panoply of Creatability, and disappear into ethereal puffs of ink blots and analogy. Elusive, coquettish answers lead adept and adroit questions through the Myriad of Possibility; the path an eternally tightening, never-ending fox hunt where sophisms get left behind to chase their tails in mobius eddies of circular logic. In such ways, All Things Conceivable vie for the attention of the Master.

The master considers the spectacle, and says: "I will make a toad." "And then I shall eat it."

And just like that, it is done. With the echoes of a croak still reverberating across That Which Could Have Been, he burps, spits a twitching flipper from between his bloodied teeth and says, "and it was good."

2.

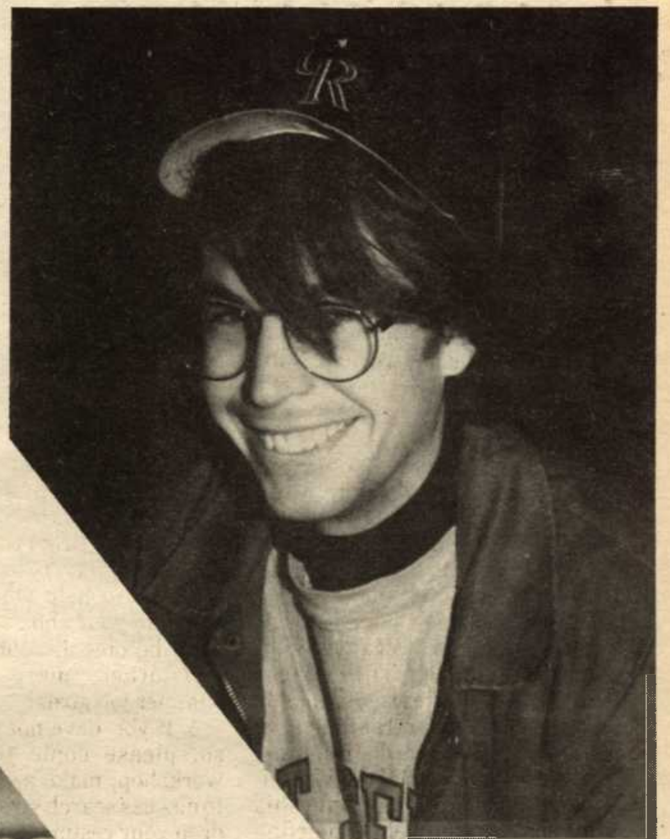
Ya know those million monkeys that sit and pound at those typewriters for a million years and one of them is destined to finish the works of Shakespeare one day? Ya know that one monkey, he doesn't even know he did it, that he's written the last play and he can stop now. The whole bunch of them will keep going for millions of more years, not realizing that they have fulfilled the prophesy of the aphorism and can all go home. I really feel kinda sorry for those stupid monkeys, ya know?

Or,

The Penultimate Transcript

ROVING REPORTER

"It was the most fun a couple could have with their clothes on."
— Christopher French, 3L



"I think the caterers should be punished and made to clean room 103 of the Omni Hotel."
— Scott Donnin, 3L

"It was weak. I was never interested. Although the part of the doctor was played with gusto and verve and the girl had a delightful cameo role. A puckish satire of contemporary morays. A droll spoof aimed more at the heart than at the head. (*This all from Woddy Allen's Love & Death*). My real thoughts: I kep my pants on, which is for me a plus."
— Mike Green, 2L

"It hung a little too far to the moral right."
— John Conwell, 3L

"I didn't really have a problem with it. Of course, I don't really remember much about it."
— Chrissie Clarke, 1L

"Nice place. Nice view. But, for those who weren't driving, there wasn't enough bar time. Seems like the caterers made a few bucks off all of us."
— Peter Harter, 3L

"What did you think of the Barristers' Ball?"

FEATURES

Career Services Quid Pro Quo

The following is our response to recent comments in **The Docket** concerning the 1L job situation.

1. Kudos to Mr. Rappaport for demonstrating guts (for signing his name), thoughtfulness and maturity in the article that appeared in the last issue of **The Docket.** Although it may not always appear to be the case, we *are* all on the same side and, fostering a cooperative relationship through open debate, rather than an adversarial one, makes sense.

2. The article contends that 1L's are receiving the message that they shouldn't "be concerned with working in a legal environment this summer." To the extent that Career Services is responsible for this misunderstanding, we want to set the record straight:

* We *very much* **DO** advise 1L students to do something this summer that will help you define your career goals, demonstrate a seriousness of purpose and look good on a resume. While this doesn't have to be a legal job, it certainly wouldn't hurt. Furthermore, if you want a legal job, and **seek one** (this is key), the odds are you will find one. Chances are very good that it *will not* be with a large law firm paying big bucks, however, opportunities with small and mid-size firms, government agencies, judges, public interest organizations, law school professors, etc., *are* available.

* This said, 1L academic pursuits should *always* come before a preoccupation with summer job seeking. We counsel this because you will find in seeking your 2L summer job and initial post-graduate employment that, with few exceptions, *nothing* you have or will do, including what you do this summer, will matter more to a traditional legal employer than how well you do in law school (i.e. grades, journal experience and/or Moot Court).

* The other issues raised in the article fall outside our jurisdiction, however, students should know that prospective employers receive information about the school, including the grading system, so that they have a basis upon which to compare our students to candidates from other schools. Moreover, although employers are largely (and maddeningly) intransigent on this subject, our office *strenuously* encourages them to look at other factors, in additon to law school achievements, that may be indicators of potential (i.e. undergraduate performance, professional experience, civic activities, leadership, industry, life experience, etc.).

3. With respect to contentions in an earlier **Docket** piece that our office did not "help" a 1L student who was seeking a job in a big firm, we wish to emphasize that we *will* assist 1L students with *any* type of employment search. We do, however, inform students who are looking exclusively at big firms that it's a very tight market. It is incumbent upon us to help you *realistically* evaluate your choices so that you don't become discouraged or neglect other, more attainable, summer job goals.

4. If you have not already done so, please come to a resume workshop, make an appointment to discuss search strategies or just drop your resume off in our office and we will review it.

3L POST-GRADUATE JOB ANGST

Despite the market, graduating VLS classes for the past 3 years have been finding employment, usually reaching an employment rate of over 90% 6-8 months after graduation.

While per diem arrangements, continuing education and non-traditional employment is up several percentage points (as it is nationally) the types of employment found by VLS graduates today is consistent with previous years' results and is competitive with the national employment profile reported by the National Association of Law Placement (NALP).

NALP statistics project that law graduates of the 90's can expect longer post-graduate job searches, more competition and lower average starting salaries than their predecessors. However, due to mid-level lawyer attrition, NALP forecasts that, after as little as one year's experience, law graduates can expect to find more lateral opportunities and thereby boost earnings. The key, then, is to get initial post-graduate legal experience, whether it be in a judicial clerkship, a per diem job with a small firm or a government agency. If the NALP projections are correct, after a year or two of experience, law graduates can expect to find much better opportunities.

How Not To Succeed In Law School

[The following excerpt is from a law review article written by and being reprinted with the kind permission of Professor James D. Gordon, III, Professor of Law at the Brigham Young University School of Law.]

XI. Interviewing for Jobs

It used to be that, at the beginning of their second year, students would participate in on-campus interviews for employment nearly two years later. Employers quickly recognized, however, that this was not nearly early enough. So, job interviews now begin in the fall semester of the students' *first* year, nearly *three* years before they graduate. The students work for the law firms the following summer and have a dandy time being escorted around to fancy restaurants and on trips down the Colorado River. Of course, much as the students appreciate these flattering jaunts, they cannot help but notice that they never meet any lawyer who actually works for the firm in any of these places (other than those who are actually engaged in chaperoning the law students).

Before you interview, you will need to prepare a "resume." It is also called a "curriculum vitae," a Latin meaning "preposterous fable." There is a fine art to interpreting resumes. "Top 10%" means "top 20%." "Top 20%" means "top half." "Middle of the class" means "bottom half." Law schools get extremely angry when students pad their resumes like this. They give moralistic lectures telling students that it is just plain dishonest. Because they are the nation's leading law schools, the twenty-five schools in the Top Ten get particularly huffy about it. One final suggestion: to avoid unwarranted federal interference, take care not to send your resume through the mails.

People realize that it is impossible in one twenty-minute interview to learn enough about a firm to decide whether you want to trust to its care your career training, your professional reputation, the financial security of you and your family, and all your waking hours for the rest of your entire life. Doing that takes at least two or three twenty-minute interviews. For this reason, law firms invite you to make a "call back," a "fly out," or a "dogsled ride back," depending on where they are located. Whatever they call it, you get to spend a day at the firm and learn all there is to know. Pay special attention if you are walking down the hall and an associate cracks open a door and whispers to you, "Pssst! Get out of here while you still can!" This is generally not a good sign.

You should ask how many hours associates are required to bill. In some firms, associates bill as many as 3,000 hours a year. Sometimes this is accomplished through "triple billing," a technique by which an associate works on client A's matter while flying to a city for client B, and he thinks that the issue may possibly somehow someday be relevant to client C. So he bills each client full rate. It is also accomplished through a time warp on the 14th floor, which allows associates to bill fifteen hours in a ten-hour day.

In any case, associates work very hard. One student asked if the associates ever do anything fun together. "Sure," the interviewer replied. "About two o'clock, we knock off for an hour and go play a game of racquetball." The student observed, "What a great way to break up the afternoon." The interviewer responded, "Afternoon?"

Lawyers are defined as "professional employees" and are therefore exempt from the federal labor laws, which set forth the minimum standards of human decency. If during your visit to the restroom you see cots and complete changes of clothing, this is a bad sign. It is an especially bad sign if the law firm is having its offices rezoned as "residential."

Let me explain how large law firms work. The partners hire associates, pay them about a third of the income the associates bring in, and keep the rest. Naturally, the more associates and the fewer partners, the better. After the associates have billed a gazillion hours a year writing memos for seven years, the partners throw them out on their ears and hire new associates.[1] Large law firms therefore combine the best features of an indentured servitude, a sweat shop in the garment district, and a pyramid scheme.

If you make partner, life is not much better. The definition of partner is a "self-employed slave." Partners spend most of their lives squabbling like a pack of hyenas over the firm's profits. This is what it means to practice at the highest level of a noble profession dedicated to the ideal of public service, to be the defenders of liberty and the architects of social worlds. It is also what it means to be a hyena. So all in all, the big firm scene might not be for you. Particularly if they don't make you an offer.

You should not get discouraged, however. You should remember that there are many job opportunities and lots of different types of work that lawyers do. For example:

Corporate work: drafting documents for scumsucking corporations that poison huge numbers of innocent people.

Litigation: defending scumsucking corporations that poison huge numbers of innocent people.

Criminal Defense: defending scumsucking individuals who poison a few innocent people at a time, mostly because they lack the capital and technology to poison huge numbers of innocent people.

Public Interest Work: suing scumsucking corporations that poison huge numbers of innocent people. Lawyers doing this work earn less than what the law firms on the other side of the litigation pay their pencil sharpeners.

Weigh your options carefully.

If you want to delay making a choice, or if you want to wean yourself from poverty slowly, you might do a judicial clerkship for a year. This is an opportunity to hone your skills polishing the shoes and ironing the robes of some political hack with life tenure. You might get to clerk for an "Associate Justice" of the U.S. Supreme Court, or maybe even a "Full" Justice. If so, you get to write constitutional decisions that dramatically change the entire structure of Western Civilization (drawing broadly on your vast experience as a law student and your undergraduate degree in Sports Medicine), while your Justice whiles away the time sharpening the teeth of his prize pit bull with a chainsaw, or whittling the heads of dolls. Also, you get to write repeatedly the two words most commonly used by Supreme Court Justices: "Habeas denied."

1. During the recent economic downturn, however, law firms found that normal attrition was inadequate, and partners could be seen throwing associates out of windows like sandbags.

Library Carrels Condemned by Board of Health

Law's Response to Computers

by Professor H. Perritt

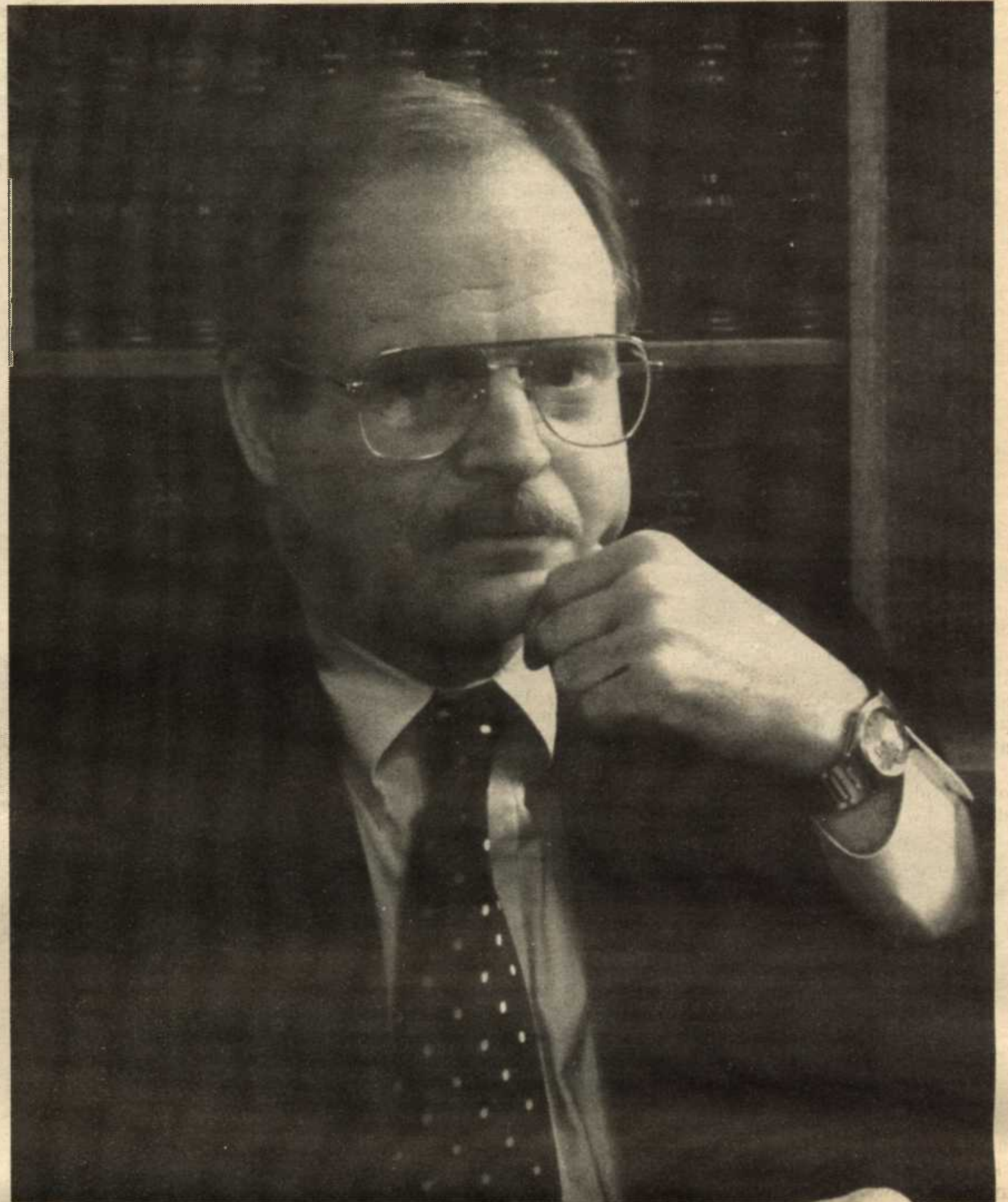
In market economies the law is reactive. It does not prescribe in advance how technology will develop. Rather, technology develops on its own, guided by market forces, and the law responds to problems that arise out of technology development.

The legal implications of the technological revolution in computers and communications have interested me since I was an undergraduate in engineering at MIT. More recently, I was privileged to serve on President Clinton's Transition Team, analyzing the relationship between visions of new electronic infrastructures for the United States and discrete regulatory issues affecting present computer, telephone, broadcast, and cable industries. This article seeks to sketch some of the interesting legal questions and to suggest how good lawyers, judges, and legislators should go about answering those questions. The theme of the article is consistent with my basic conviction: computer law requires the development of new legal categories and concepts less frequently than it requires a return to the basic principles behind existing doctrines and rules.

For example, suppose a university — as many, including Villanova, do — sets up a computer system that is accessible via a personal computer, a modem, and an ordinary telephone line. Then suppose someone not associated with that university establishes a connection and uses the computer system to send files to people in other parts of the country. Trespass is an obvious legal theory the university might use to recover damages or to obtain an injunction. But do the facts meet the requirements of the common law tort of trespass? Is a physical invasion a prerequisite to liability for trespass? If it is, does placing the telephone call and sending the data satisfy the requirement of a physical invasion? In order to solve this computer law problem one must think hard about the underlying principles of common law trespass, a concept that goes back at least 600 years.

Or, suppose you have used the joint IBM/Sears Prodigy service or the competing CompuServe service to place an order for merchandise, giving your credit card number as a method of paying for it. There was no piece of paper; nor was there a "signature," in the sense that most people think of signatures. Was there nevertheless a contract? Answering this question is becoming very important as millions of commercial transactions, including funds transfers between financial institutions, are handled through "Electronic Data Interchange" (EDI), which involves two computers exchanging purchase orders, acknowledgements, shipping documents, invoices, and payment orders without any human intervention. To answer the question you must think hard about the Statute of Frauds, modes of offer and acceptance, the meaning of "writing" and the meaning of "signature." Ultimately, you have to think hard about the underlying purpose of traditional formalities in the contract formation process.

Or, suppose you are a U.S. Attorney and want to get a search warrant in support of a drug enforcement administration investigation. A reliable informant says that the drug sales operation is run from a house in Bucks County. More particularly, the informant says that the drug king keeps the data, of all the transactions and the incoming shipments on a database that he accesses through his PC. In fact, although the PC is the point of access for the data the data actually is stored on a database in a computer connected to the Internet in Florida. Rule 41(a) of the Federal Rules of Criminal Procedure require that a search warrant be obtained from the United States District Court in the judicial district where the person or property to be searched is located. Under the warrant, you want to copy the incriminating data onto a diskette from the computer in Bucks County. Is a search warrant obtained in the Eastern District of Pennsylvania valid or must you get one from a federal court in Florida? If you get one in Florida, you do not know the physical location of the computer on which the database resides so it will do you little good. In order to solve this problem you must think carefully about the purpose of the physical proximity requirement in Rule 41(a).



Suppose someone obtains your private EMail messages to your fiance at another college and is in the process of "publishing" them electronically through the CompuServe mail system, using Bell of Pennsylvania telephone lines to reach CompuServe. It should not be too difficult for you to win an invasion of privacy claim against the person who got the EMail messages and is publishing them. But can you also get an injunction against CompuServe for providing the means of dissemination? What about Bell Atlantic? Suppose you tell CompuServe about the problem and request that CompuServe block the dissemination of your private messages, but CompuServe refuses. Can you recover damages? Answering these questions requires you to think hard about underlying principles of intentional tort and possibly negligence as well.

Suppose you want to express views on public policy issues that Senator Jesse Helms opposes. Because Prodigy is frightened of Senator Helms, it deletes your messages from its electronic bulletin boards. Does this violate your first amendment rights?

Or, suppose Bell Atlantic sets up a new digital information service that it says is a channel for a rich diversity of information sources. Yet when you try to make arrangements to put your electronic news letter on "animal rights" into the service, Bell Atlantic refuses. Does this violate Bell Atlantic's common carrier obligations either under federal or state law or at common law? Traditional common carrier obligations impose a duty to serve everyone without discrimination within the constraints of the capacity of the common carrier.

Most people already recognize that the spread of computers and digital communication systems raises interesting intellectual property questions. When you use a computer program to extract the citations from a brief in a word processing file automatically, who is the author of the resulting work (the citations list)? The computer? You, even though you exercise no more creative effort than starting the program and pressing the enter key? The author of the computer program? More than one of the above jointly? If the answer in whole or in part is the computer, what does it mean for a computer to own a copyright?

A different and even more profound intellectual property problem arises from the ease and low costs with which computerized materials can be duplicated. In a recent program which I chaired, Mitch Kapor, the inventor of the Lotus 123 spreadsheet and former CEO of Lotus Development Corporation opined that it is so easy to duplicate, modify, and redistribute materials on computer networks that copyright law as we know it has become unworkable because copyrights are unenforceable. If this is so, what should be put in place of copyright law? Answering this question requires one to think about the fundamental purposes of intellectual property law — and the role of enforceability in the evolution of legal systems.

Finally, suppose the technology has moved along a little further. When you bring one of the claims suggested by the foregoing discussion in a court of general jurisdiction, you discover a set of local rules that require you to file your complaint in WordPerfect format on a diskette, that gives notice to your opponent and to you by means of electronic mail messages, and that organizes all of the documents in the case in a sophisticated electronic database which the judge works from when he decides motions. Is this a good idea or a bad idea? Does giving notice in this fashion violate procedural due process because it is not "reasonably calculated to give actual notice?"

If these questions and these technological contexts fascinate you, what can you do about getting involved to help figure out the answers? To some extent you would have to work to avoid being involved: computer law questions like the ones sketched in this article are popping up in all areas of practice and in all law school courses. Two years ago when I was just beginning my term as chairman of the Law and Computers Section of the Association of American Law Schools, I gave a speech at the Association meeting in which I saw that the best way to reach computer law is to introduce computer law problems into the regular courses like Contracts, Constitutional Law, Civil Procedure, and Administrative Law. Indeed, I have been doing that in my regular courses: the Employment Relation, Administrative Law, and Dispute Resolution for several years. This semester I intend to do some of that in first year Civil Procedure.

If you really like this stuff, you can take VULS's courses in Computer Law, Computer Applications in Law, Copyright, Patent, and the seminar in Computer Science and the Legal Process. Later, you can get involved in one or more of about a dozen different committees in the American Bar Association addressing legal issues arising out of the spreading use of computers and computerized communications systems. Similar committees exist in the Pennsylvania Bar Association.

"The pressure for law to respond to new technologies is proportional to the pervasiveness of a new technology and magnitude of the difference between the new technology and its predecessors."

The proposition that technology drives law is not a new one. Anglo-American Law always has developed in response to new risks of injury and new modes of human interaction created by new technologies. The steam engine, electric power, the telegraph, the telephone, and associated transportation technologies expanded markets and made it feasible to increase the scale of production dramatically. The result was the large corporation and trust to which the law responded by developing antitrust law, corporation law, and labor law. Railroad and automobile technologies greatly changed the incidence and severity of physical injuries, while making the relationship between the person causing the injury and the victim more remote. The law responded by creating new tort doctrines and no-fault compensation systems.

The pressure for law to respond to new technologies is proportional to the pervasiveness of a new technology and magnitude of the difference between the new technology and its predeccessors. Since the development of digital computers shortly after World War II, computer technology has become as pervasive as the steam engine at the end of the nineteenth century, electric power at the beginning of the twentieth, and the automobile in the middle of the twentieth. Now, computer technologies are merging with communications technologies so that the future PC may be indistinguishable from the future telephone and television set. The information industry is moving from printing presses and conventional libraries to wide area network information servers and remote access to reference materials in elecrtronic form. Tomorrow's law library may have more workstations than books.

The convergence of computer and communications technologies will have a profound effect on the law. Making, interpreting and enforcing contracts, First Amendment immunities, tort remedies for foreseeable injury associated with fault, dispute resolution employed by legislatures, courts, and agencies, all will be affected. All will be reassessed in the digital electronic network context.

FEATURES

HIV Status

(Continued from page 1)
positive physician would have essentially the same privacy interest in their confidential HIV-related information. Therefore, unless the Act does provide for a per se right to disclose or to keep the information confidential (which it does not), there must be a variable in the equation that will allow courts to make informed decisions. When one isolates the variables at play in determining the interest in disclosure, the most important appears to be risk of transmission of HIV. Using the example above, the HIV positive law student and the HIV positive physician would have far different risk variables over a certain range of behavior while the private and public interests in confidentality would remain constant. If the public and private interests in confidentiality remain constant and the risk of transmission of HIV fluctuates over a range of occupations and behavior, the equation courts should employ in determining a "compelling need" for disclosure should probably look as follows: Disclosure is authorized when:

Risk - Privacy Interest + Public Interest

Therefore, if the risk of transmission of HIV is greater than or equal to the private interest in confidentiality plus the public interest in confidentiality, the court should authorize the disclosure.

While the above reasoning seems rather clear and neat, it is not particularly helpful and the precision is illusory. The key question remains as to what that risk level must be. This question cannot be answered from a personal perspective. If asked, any group of people would state that the acceptable level of risk for them is zero. The equation, however, has two sides and a zero level of acceptable risk would produce untenable results. If, as the courts in *Hershey* seem to say, a risk of 1/48,000 is enough, that means that a 1/48,000 chance of contracting HIV from an HIV positive surgeon is greater than or equal to the private interest in confidentiality plus the public interest in confidentiality. Without even looking to the merits of that proposition, it seems rather clear that the lower courts arrived at the wrong answer because they only looked to one side of the equation; effectively saying that **any** risk is sufficient to override the competing private and public interests. Such reasoning cannot stand.

Without begging the question any further, it appears that, using the Act as a guide, the appropriate level of risk for determining compelling need is the risk that arises from a "significant exposure." Under section 8(b) of the Act (designed mostly for the protection of health care workers), a "significant exposure" is required when an individual seeks a court order to have another tested for HIV and to have those results disclosed. The act defines "significant exposure" as "[d]irect contact with blood or body fluids of a patient in a manner which ... is capable of transmitting human immunodeficiency virus." The "significant exposure" requirement, while not built into the sections of the Act at issue in *Hershey*, does provide a means of evaluating risk such that a "compelling need" for disclosure can be determined.

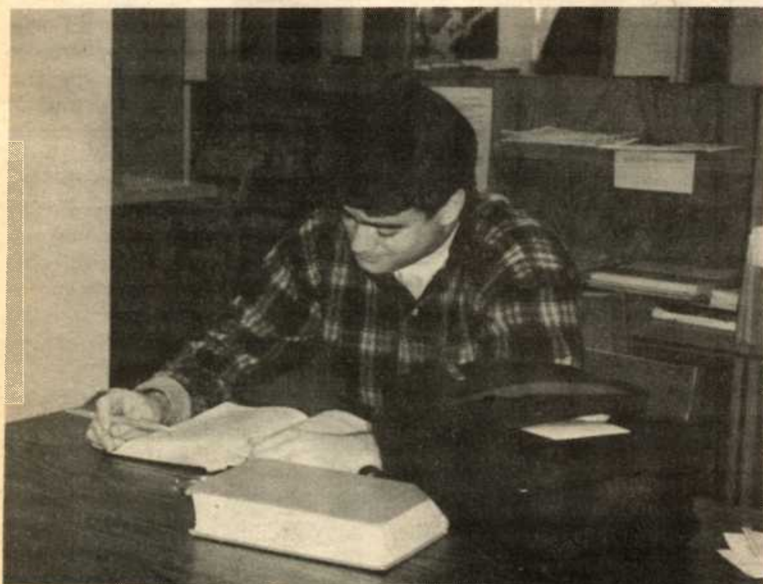
Yet, even this answer, grounded as it is in the law, begs the question of what level of risk of transmission of HIV justifies the disclosure. The only explanation is annoyingly unknown. Courts often face the criticism that they are "merely" result-oriented and that the decisions they reach are the product of legal manipulation. If so, so what? The facts of life are obviously too complex to control through the use of a set of rules derived from another set of facts entirely. Accept the unknown for what it is and attempt to deal with it. As the great theoretical pysicist, Richard Feynman, said in a lecture at Cornell on the nature of "explanation":

> That is the same with all our other laws — they are not exact. There is always an edge of mystery, always a place where we have some fiddling around to do yet. This may or may not be a property of Nature, but it certainly is common to all the laws as we know them today.

Feynman was speaking about the "law" of gravity. What he has to say on it is applicable to the way we view the law of behavior. Life and law create mysteries and lawyers attempt to deal with these mysteries through the use of prior common occurrences. Sometimes, it does not work.

Whether one uses "significant exposure," "compelling need" or some other formulation, it seems clear that the law in Pennsylvania is in flux and that the Supreme Court faces a difficult challenge in deciding *Hershey*. This area requires a rather delicate balancing act between doing what is possible to halt the spread of AIDS and doing what is necessary to protect the privacy interests of individuals. While such a balance seems impossible, it must be attempted. Courts must deal with HIV cases objectively and avoid the ignorance that so thoroughly surrounds this area. If society is to truly deal with the AIDS epidemic, it is time to put aside fear, learn the facts and apply them with intelligence and compassion.

[Steve Donweber, '93, co-authored the brief amicus curiae with Professor Turkington. Steve is Managing Editor of Articles for the Villanova Law Review.]



The Phantom Flyer: Professor John F. Dobbyn

By T. John Forkin

Law profs: old, pipe smoking, lecturing, pretentious, ambiguous, no time for pleasure or play. Their reward for hard work is more hard work. NOT! At least not at Villanova Law where our profs race cars, run marathons and play hockey. Play hockey? Pretty cool, eh!

Prof. Dobbyn began playing hockey 40 years ago in Boston. It all began when his father took him to see a Boston Bruins game at the Garden. Hockey was, and still is, big in Boston, and the young Dobbyn took to it like a fish to water — so what if the water is frozen? He played for his High School varsity team and, while attending college at Harvard, played for numerous club teams. Hockey provided a great work-out for the undergrad scholar, an opportunity to focus on something other than the rigors of the Ivy. "To flow on the ice" in what Prof. Dobbyn describes as "the greatest game in the world, it's all there, speed, power, contact, fitness and strategy. There is a beauty and flow to the sport which allows you to focus your mind and body as one." All was great in Bean Town, until one day it came to an end, GRADUATION! Following commencement, Prof. Dobbyn entered the Armed Services followed by law school at Boston College and LL.M. work at Harvard. Hockey, it seemed, was a childhood pleasure, something that could not be recaptured. Work allowed little time for play not to mention family, which more than filled the pleasure void left by hockey. Almost 20 years passed, all the while the avid hockey fan following his sport religiously in the papers.

One day, in 1988, on his 50th birthday, everything changed. Prof. Dobbyn's lovely wife Lois gave him the best present one could receive, a chance to relive their youth. Prof. Dobbyn was to attend the Flyers Fantasy Weekend in Montreal. This was the opportunity to attend a full on training camp, get coached by former Flyer Greats, and play in a round robin tournament with the winner to play a team consisting of the likes of Bobby Clark, Oris Kinderchuck, Dave Schultz, Reggie Leach and Bill Barber.

To get in shape for the big weekend Prof. Dobbyn began to workout on local ice. In two weeks time he was ready, the rust had come off and it was off to Canada and the Mecca of Hockey.

The first day of camp consisted of a series of orientations, and some basic drills to acquaint the "rookies" with what was to be expected of them. The second day was scrimmage/inter squad tournament, with the winner in a playoff game against the Flyers Legends. As fate would have it (along with a little Irish luck), Prof. Dobbyns' team was victorious and would play the next day.

That evening, Prof. Dobbyn and his teammates went out with Bobby Clark and some of the Flyers to kick back a couple LABATTS. "Those guys were so personable, we sat around and talked about old hockey stories and family," Dobbyn noted. However, this could have been a ploy to get the "rookies" drunk and take no chances on losing. O.K., maybe they were just being nice guys.

Sunday, game day, the teams showed up at the rink and were given their game jerseys. Prof. Dobbyn ended up with #16, Bobby Clarks' number. It was the first time Clark had ever played against his own number, he skated over to Dobbyn and said "hey, that jersey looks pretty good on you." (No doubt a psych job). Never the less not bad, eh? Skating on the same ice with one of the best hockey teams of all time, checking Dave Schultz and BEING CHECKED by Dave Schultz, having Gene Hart announce you in a starting line-up, guarding Bobby Clark (Dobbyn knows defense). What a weekend!

On Monday, it was back to work at his other passion, teaching law at Villanova. It was obvious, however, that his fire to play hockey had been rekindled. It is not uncommon for Prof. Dobbyn to head out the door with his son John to play a little hockey at 12:30 a.m.?! This is the only time their league could get ice time at the Viking Rink in King of Prussia. When his wife asks, "Why are *you* going?" Prof. Dobbyn replies, "To keep an eye on John." She will then ask John, "Why?" which is met with the answer, "To keep an eye on Dad." Who said you can't return to your youth? Skating in the wee morning hours and attending every home game at the Spectrum — Prof. Dobbyn is the Phantom Flyer.

The moral of this story is to pursue your passion, you are never too old, strive not only to be the best lawyer but just simply the best, CARPE DIEM!

FEATURES

Culinary Court

Acting Chief Critic Garg delivered the opinion of the Court, joined by Associate Critics Fischer and Reed.

This is an action to decide the cuisinal orientation of the Restaurant. The facts of the meal are as follows. Jazzmin Restaurant is located at the corner of Garrett & Conestoga Roads in Rosemont, Pennsylvania (a Main Line colloquialism is "Garrett Hill"). The telephone number is (215) 525-8199. The parking lot to the rear of the restaurant provides adequate parking. (The Maitre' d told us several times that we must never park across the street or Happy Hooker will be most happy tonight.)

As one first enters Jazzmin, an aura of quaintness prevails. There are no booths available, but the tables will support those ordering the whole menu. Unlike Villanova Law School there is no smoking around the food but you can smoke in the lounge area. Each side of the entrance to the lounge bears one of each ofthe names of the owner's daughters, Yasmin and Naureen. (Neither are yet of age for those thinking of arranged marriages.) Don't ask for a table in the back room because it doesn't exist; it's just an illusion cast by a mirror. The selection of music did not add to our information in deciding the cuisinal orientation of the restaurant. However the menu helped us confirm the owner's representation of the cuisine.

We tried only five of the eight listed appetizers (most were $2.00 to $4.00); we would have gotten six but previous patrons exhausted their supply of samosa subji. Chooza Khybar (a boneless Tandoori chicken prepared with pomegranate and black pepper corn), samosa meat (two fried turnovers filled with spiced lamb), vegetable pakora (garden fresh-cut vegetables fried in a spiced chicken batter), and chicken pakora (fried chicken fritters spiced with onion, garlic and ginger) all came with a yogurt and mint dressing, while the chicken satay (a grilled, marinated chicken strip) came with a peanut sauce. All were served on a bed of lettuce with a slice of cucumber and two were outstanding (Chooza Khybar and Chicken Satay). We strongly suggest two side dishes for the appetizers; Mango Chutney (sweet and sour mango relish) and Dal Masoor (red lentils in a mild ginger and garlic sauce.).

The menu offered a choice of two soups; subji soup and murgh shorba (each cost $2.50). The subji soup (meaning vegetable soup) had a watery consistency, giving the vegetables (cauliflower and other more common soup vegetables) a mushy texture, with indiscernible tastes. The murgh shorba could have used more chicken, but the broth's intense chicken flavor more than compensated. Both soups required the addition of black pepper (even Critic Reed, who shudders at the thought, was forced to take part).

We ordered the four different Tandoori Breads (well worth the $1.00 to $2.00 cost per order) in addition to the main courses. The Naan (teardrop-shaped white bread) was a far cry from Stroehmann's, but closely related to a pita without a pocket. The Tandoori Roti (round, flat, whole wheat bread) paled in comparison to the Paratha which was buttered and pan fried rather than simply baked. As a result, Critic Reed requested an additional order to go. Papadam (a thin, crispy lentil flat bread) prepared our taste buds for the spicy meal ahead.

Basmati rice (excellent), sauteed zucchini ("better than my maid makes," quipped one critic) and a diced tomato, cucumber, and lettuce salad supported each of the entrees (prices range from $6.50 to $15.50). The special of the day, Murgh Channa (chicken chunks and chick peas sauteed with garlic, ginger,and coriander) had a pleasant flavor. Though very good, it did not have the superior taste of the Chicken Karahi (shredded chicken with garlic, ginger, tomato, and onions) which was spiced to Critic Reed's mild tolerance and did not need instructions to "Burn it!" *See gennerally* **Primavera v. San Marco,** XXIX #7 Vill. Docket 8 (Cul. Ct. 1993). The Bonjon Boroni (eggplant served in a tomato, onion, garlic, and a special yogurt sauce) arrived only lukewarm, but because of the special 'extra spicy' order the lukewarm temperature went unnoticed. The wonderful taste proved a third method of reaching Nirvana. The Kahwa tea (a green tea with cardimom, cinnamon, and anise) is the perfect accompaniment throughout the meal. It was a taste even Mahatma Ghandi would kill for.

Jazzmin has a wonderful assortment of desserts that would satiate any sugar addict's craving. Gulab Jamen (two pancake dough balls soaked in rose water syrup), Sawian (sweetened angel hair pasta blended in a white cream pudding), Ferni (white milk pudding with rice flower and rose water syrup with crushed pistachios), and homemade Mango ice cream all had unique tastes. When ordering the mango ice cream, be sure to ask for a shot of rum to mix with it; this will prove to be a surprising twist. Of all of these, we found the Sawian the most heavenly.

We find that this restaurant's cuisinal persuasian has been correctly labeled as "Fine Pakistani, Indian, Afghani, and Continental."

CROSSW RD® Crossword

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0006

Overheard

"Purgatory is just a waystation to Heaven."
— Classroom

"Where do you want it? How far up? Help me! Get a Grip!"
— Library

"I have a proposition for you. What are you doing this weekend? Do you want to make some money? Will you watch my dog?"
— Library

"My thing is right where it should be — in my pants."
— Hallway

"I don't keep my ears peeled for that sort of thing."
— Library

"You wouldn't believe what you could do with a dogtag."
— Library

HOT JOINT DEGREES OF THE FUTURE...

JD & MBA in TRUCKING

JD & MBA in SPORTS MGT.

JD & MASTERS OF AGRICULTURE

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Student Spotlight: Jim Mackey

by T. John Forkin

First year at law school is hard enough and working, even part-time, should absolutely be out of the question. However, those who go against sound advice and good judgment either do so because they need the money or they really love what they do. Jim Mackey loves coaching swimming, and his team, Marple Newtown High School, is one of the top-ranked teams in the state.

Jim started swimming at age five in Rockville, Maryland in the local swim club. There he worked out and became close friends with current Olympic and world record holder, Mark Barrowman. The two boys pushed each other and became two of the better age group swimmers in the area. By the time Jim was ten, his family moved to Malvern, where he and his sister joined the Malvern Swim Club and quickly dominated their prospective age groups. (Danielle is three years older). By age fourteen, Jim applied his talents on the Marple Newtown High Swimm Team and quickly became a starter, competing in the 200 I.M., 100 back, 100 free and 50 free with an occasional relay. By seventeen, Jim was the District Champion and one of the top swimmers in Pennsylvania, working out with the likes of Dave Wharton, Erika Hanson, and Steve Petrie. Jim would later follow in his sister's footsteps and attend Villanova on a full swimming scholarship. At Villanova, under the tutelage of the legendary Ed Geisz, Jim in his freshman year became one of the Big East's top swimmers in the Individual Medley and backstroke, helping lead the Cats to the runner-up spot in the Conference and later to a National Catholic Championship. During his junior year, Jim was plagued by injuries and his results began to fall short of his expectations. With less time in the pool, the honor student focused on his studies, with the ultimate goal of attending Villanova Law School. That same year, Hall of Fame Coach Geisz announced his retirement after thirty-seven years. The absence of his friend and the difficulty of adapting to a new inexperienced coach his senior year pushed Jim into graduating early in fall 91. He submitted his application to Villanova Law and then to Penn as a safety school, keeping his fingers crossed.

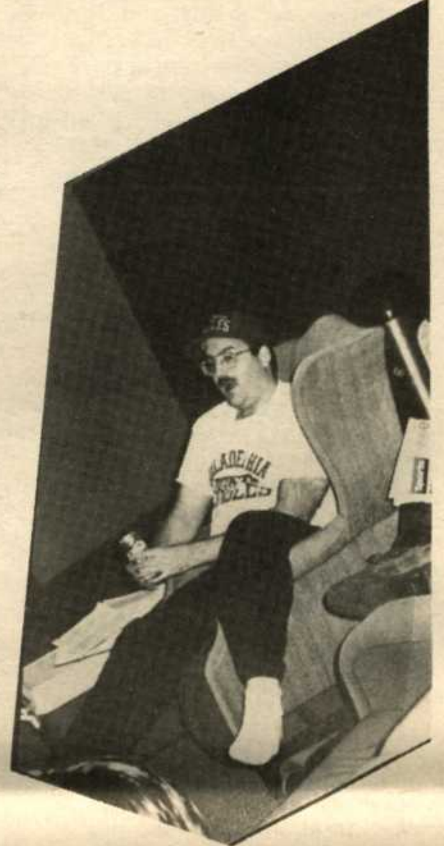
Jim liked the sense of family at Villanova and the strong academic tradition, especially that of the Sports Law Program. Everything was set in place. 1L orientation, books, Emmanuels, heaps of advice, and a job. JOB?? Jim's sister was the Head Boys Swim Coach at Marple Newtown High School and was in dire need of a Girls Coach. Enter brother, the first-year law student. Against sound advice and all sense of logic, Jim became the Girls Coach and Boys Sprint Coach. What's up with that? This soaks up about thirty hours a week, lasting from October to March. He likes the coaching as it gives him "the opportunity to see boys and girls develop into young men and women, watching them set their goals and better yet to achieve them." After all it was this goal setting that provided Jim with the desire to go to law school.

After the season Jim is going to be doing some serious outlining, and maybe get more sleep as opposed to the normal five to six hours. This summer he will not be returning to his championship lifeguard relay squad in Barnegate, N.J. Instead he will fight the good fight and search for that "elusive" 1L clerkship, and oh yeah, he'll be coaching at his sister's swim club (Rip Tide) part time, and doing the swim portion for a local tri-athlon team. But for now he's enjoying coaching and law school.

Please do not attempt this at home, the person doing this is a trained professional (or really stupid) — Carpe Diem.

The writer is open to ideas and/or nominations for people you would like to see in THE SPOTLIGHT, so if you want to read more about the diverse student body at Villanova or if you want to see Mike Green make another ultra-megacool poster, write me.

AROUND THE LAW SCHOOL



ORGANIZATIONS & EVENTS

Civil Rights Law Society: A New Beginning

January 20, 1993 witnessed the inauguration of a new administration and the dawn of a new beginning, not only for the nation but for the Villanova Law School as well. The Clinton Presidency brings a priority for Civil Rights to the capital, a priority that has lain dormant since the Kennedy administration. To address these priorities and evolving issues, Villanova Law has a new organization.

The Civil Rights Law Society (CRLS), is the brainchild of 1L Deborah Abrams. When she first came to Villanova, Deborah was excited, the courses were challenging, the professors were friendly and approachable and the classes were not too large. This '92 Temple graduate could have gone to law school anywhere, she chose Villanova. One thing that bothered Deborah was the lack of a comprehensive civil rights program, per se, and the apparent lack of a forum for the students to address civil rights issues.

As opposed to sitting back and not doing anything about it, Deborah and 1L classmate Molly Shannon formed the CRLS. The first organization meeting was ironically held on Jan. 20 at 2:30, and despite the awkward time slot (most classes were still in session) there was a large student turnout. Groundwork was laid for the foundation of the program with both short-term and long-term goals. The CRLS will hold meetings every two weeks and discuss topics in an open student forum setting. Such issues will include racial, religious and gender discrimination, various AIDS and privacy issues. Deborah noted the commitment of CRLS to serve as a platform for the various law school groups such as the Black Law Students Association, Women's Law Caucus, Asian-Pacific American Law Students, Latin American Law Students Association, Jewish Law Students Association, International Law Society, Catholic Law Students Association, Health Law Society, Criminal Law Society, Public Interest Law Society and any other group wishing to address Civil Rights issues that they deem important, whether it be in the Villanova Law School Community or abroad. The purpose of this is for CRLS to serve as an ear to the student body and a unified voice for solutions. Deborah and Molly would like to "encourage full participation of all special interest groups in an effort to ameliorate the barriers and any misconceptions."

The CRLS intends to spearhead such issues by establishing a student diversity coalition to analyze facts, propose solutions and assist in their implementation. This and other news will be published in a monthly CRLS newsletter, with the eventual goal of forming a Journal. A mentor program is also in the works, which will take incoming 1Ls and acquaint them with the Civil Rights Program and the issues at hand. There is also a Civil Rights Symposium tentatively being scheduled for sometime this spring, with several prestigious speakers showing interest.

Martin Luther King, Jr. noted in his famous Atlanta speech that "what retards the growth of Civil Rights in America is not the vitriolic words and violent acts of the bad people but rather the appalling silence and indifference of the good people."

The Civil Rights Law Society is still in its infant stage and welcomes any input from the student body. There has already been an overwhelming amount of support from students, faculty and administration. If you would like more information concerning CRLS, upcoming meetings or newsletters, please see Chair Deborah Abrams or co-chair Molly Shannon, boxes #3 and #579.

Farmworkers Legal Education Project

by Elaine Jenkins-Wacey

The Farmworkers Legal Education Project (FLEP) continued its work during the fall semester. Groups of students went to La Comunidad Hspana, a center for Hispanic farmworkers in Kennett Square, to present an explanation of basic legal rights. This is the second year FLEP has gone to Chester County to help the farmworkers. The faculty sponsor this year is Professor Gil Carrasco, and the chair is Jennifer McGovern. The project began in the fall semester of 1991.

In May 1991, *The Philadelphia Inquirer* published a series of articles describing the legal or law-related problems of the Hispanic farm workers, mostly men, in Chester County. There are over 10,000 Hispanic farm workers in the area, working mainly in the mushroom farms. (Kennett Square is the mushroom capitol of the nation). Many of the farmworkers' difficulties stem from the fact that they do not speak English, and few members of the state and local police forces, or the court system, speak Spanish. Police stopped the men for minor traffic violations or automobile registration problems, but the routine stops often ended with the Hispanic men being arrested because of the language barrier. At times they were jailed without understanding what had happened. Additionally, as the victims of crimes, the farmworkers were unable to explain the incidents, and many of their cases went unsolved. Problems also arose when the men went to court, and again these problems were due to the language barriers and to the lack of translators in the court system.

Jennifer Rosato, a Legal Writing instructor at Villanova Law School, read the articles by Sergio Bustos and Gary Cohn, and decided that students at VLS could do something to help the farmworkers' situation. As faculty sponsor of the Latin American Law Students Association (LALSA), Ms. Rosato proposed that the Spanish-speaking members of the group become teachers, and go to the farmworkers' camps on the mushroom farms to teach the workers their legal rights in Spanish. She also encouraged the entire student body, whether Spanish-speaking or not, to research the topics to be presented. The response from VLS students was wonderful. Many researchers and teachers volunteered their time.

Students participating in the project researched topics such as registering and driving a car in Pennsylvania, DUI fines and jail terms, and *Miranda* rights. The student teachers then translated the material, and created a skit to present the information to the farmworkers. The teachers decided that the skit format would make the material more interesting to the farmworkers than a lecture. A skit started with one teacher describing a properly functioning and registered car in Pennsylvania while another teacher pointed to the appropriate parts of a child's model car. In another skit, the teachers simulated a drunk driving stop. The police spoke English, the passenger was drinking beer, and the driver's mushroom-cutting knife was visible on the back seat. Finally, the lesson ended with a "wrong role play" where the students discussed what the teachers had done wrong while driving a pretend car made out of chairs.

The process was repeated later in the year to create another lesson. Second semester materials focused on legal rights at trial. The skit started with a review of a traffic stop, included a search and seizure, and ended at a trial. Farmworkers played the roles of jurors, and even the judge.

Last year the teachers presented the skit to the farmworkers on the farm property by going to regularly scheduled English as a Second Language (ESL) classes. The teachers formed groups of three or four, and drove to La Comunidad Hispana to get directions to the farms. Each group taught at least two or three different classes. During the Spring semester, the teachers presented fewer classes because funding for the ESL classes had been cut back. At least one of the second semester classes was held in a farmworker's apartment in West Chester, attended by all the neighbors. At every presentation the students were very interested in the material, and were eager to ask questions and to talk about problems they had experienced in the legal system. During the classes, the students also expressed interest in attending presentations on immigration, as well as having the teachers present the two current lessons to a wider audience.

Also last spring, based on the work done by FLEP, LALSA sponsored a symposium entitled "Language and Cultural Barriers to Effective Due Process." Speakers included representatives of the Federal Defender's Office and the U.S. Attorney's office, the executive director of La Comunidad Hispana, and the two reporters from *The Philadelphia Inquirer* who brought the farmworkers' problems to the attention of the public. Since the start of FLEP, conditions for the farmworkers have been improving. Public awareness has increased; the Pennsylvania State Police have hired two Spanish speaking troopers, and the Chester County court system has a translator on call.

Although there are changes going on, there is still a great need for FLEP. Last semester, student groups went out to present the unit originally presented last fall. Unfortunately, due to the continuing lack of ESL classes, they taught it only three times to small Graduate Equivalency Diploma (GED) classes. Current second and third year FLEP members were encouraged this year at the enthusiastic response from first year VLS students who joined the group. This semester, FLEP is preparing a unit on immigration. The skits will include the status of aliens classified in the different levels, and the penalties and consequences of violating the immigration laws and procedures. Classes will take place at La Comunidad Hispana in Kennett Square. La Comunidad will publicize the dates of the classes to attract as many farmworkers as possible for the lessons.

It isn't necessary to speak Spanish well, or even at all, to be involved in FLEP. Researchers are always welcome, whatever languages they speak. Spanish speaking teachers are needed, and non Spanish speakers who want to go to La Comunidad may play the role of the police, the passenger, or just go and watch. FLEP members report a significant feeling of accomplishment from their involvement in the project because of the visible positive impact the classes have had on the Hispanic farmworkers in Chester County. Anyone interested in participating in FLEP should contact Jennifer McGovern, box 432.

Environmental Law Symposium

Villanova University School of Law sponsored its fourth annual Environmental Law Journal symposium on February 20, 1993 at 11 a.m. in Garey Hall. The topic discussed was "Municipal Liability Under CERCLA." The distinguished panel brought together in one forum individuals who have experience with industry, municipalities, hazardous waste treatment facilities, EPA, and policy makers.

Over the last two decades, it has become increasingly apparent that the United States must take affirmative steps to repair the environmental damage that has been caused by the nation's numerous hazardous waste sites. Unfortunately, the actions necessary for clean-up of these sites involve significant economic costs. The allocation of these costs has been the subject of much controversy.

One of the most debated issues is whether local governments should bear some of this burden as a result of their disposal of municipal solid waste. Resolution of this issue is of great importance to both private and public sectors of our economy. The issues and policies involved are of particular importance as the Clinton Administration begins to establish its environmental agenda.

The panelists included Robert McKinstry, Jr., Esq., a partner in Philadelphia's Ballard, Spahr, Andrews & Ingersoll's environmental division. Richard C. Fortuna is the executive director of the Hazardous Waste Treatment Council, a Washington, D.C. based trade association representing commercial hazardous waste firms. Charles B. Howland, Esq. and Mary E. Rugala, Esq., who are both assistant regional counsel in the CERCLA Removal and Pennsylvania Branch of Region III of the EPA. Howland is the staff attorney on *U.S. v. Aluminum Co. of America (Moyer's Landfill)*, the Region's largest cost recovery suit. Rugala's duties include CERCLA enforcement and counseling to CERCLA program for a number of sites, including the Strasburg Landfill Site. (Howland and Rugala were speaking in their private capacities. No official support or endorsement by the EPA or any other agency of the Federal Government was intended or should be inferred.) David Van Slyke, Esq. is counsel to the firm of Petri, Flaherty, Beliveau & Pachios in Portland, Maine. He has represented both municipalities and industry under Superfund. Ellen S. Friedell, Esq. is senior counsel to Rohm and Haas Company, a specialties chemical company located in Philadelphia. The moderator of the symposium was Joseph Manko, Esq. who is a partner in the law firm of Manko, Gold & Katcher where he practices environmental, natural resources and land use law.

Health Care Symposium

The Health Law Society sponsored a panel discussion of distinguished speakers dealing with the issues related to HIV+ status of individuals in the nursing/hospice area, corporate arena, and plaintiff litigation and civil rights protection. This discussion on January 26, 1993 was very well attended and the audience asked relevant and interesting questions. Professor Turkington, who coauthored the HIV confidentiality statute in Pennsylvania, moderated the panel discussion. David Webber, an attorney with the AIDS Law Project, Tom Tammany, an attorney for Main Line Health, and Katherine Madden, a nurse specializing in the field of AIDS and other communicable diseases, spoke about their particular areas of practice. Mr. Webber illustrated the various ways a person's HIV status affects our relationship with clients by requiring complete confidentiality of the medical information. He also talked of the various arenas of law involved in some way with the disease of AIDS such as labor law, health care, corporate, and civil rights. Mr. Tammany discussed the recent cases in the area of HIV+ status and confidentiality and the effect on patient-doctor relationships. Ms. Madden gave a more personal account of AIDS patients and attempted to dispel myths about the illness and the fears associated with the disease. The discussion was videotaped and is available at the library. If anyone is interested in further information related to the speakers or their agencies, feel free to ask Stacey Kerr.

ORGANIZATIONS & EVENTS

ABA/LSD Report

by Carl Baker

One year ago this month I was elected Circuit Governor for the American Bar Association/Law Student Division (ABA/LSD). In all honesty I did not know what I was getting myself into. I knew I was to represent the interests of all the law students in the states of Delaware, New Jersey, Maryland, and Pennsylvania, but not much more than that; nor did I know exactly how I would achieve this goal.

Needless to say, I learned quickly. Soon I was corresponding with ABA representatives and SBA presidents from fifteen law schools and a few deans thrown in for good measure. The experience has been exceptional. Not only have I been exposed to the concerns of local law students, I have met with representatives from almost every law school in the country.

The American Bar Association is divided up into divisions based on experience. The law student division is the beginning, once accepted to the bar we are eligible to join the Young Lawyers Division, and eventually we will become part of the senior bar. Each division serves its constituency. For example the Law Student Division creates resolutions that affect the day-to-day concerns of law students: anonymous examinations, financial aid, admissions policies, etc. The Young Lawyers Division focuses upon the concerns of young associates in large firms, how to begin a solo practice, etc. As a first year student, I represented the concerns of the Mid-Atlantic states nationally. During the beginning of my second year, I ran for the office of national chair of the Law Student Division. Forgetting the saying, "Be careful what you wish for it may just come true," in November I was elected chair-elect of the Law Student Division and in August I will assume the full duties of chair.

As chair, I am responsible for the daily functions of a one million dollar budget and the concerns of 35,000 law students nationally. The primary focus of the division is to better prepare students to become successful attorneys. Success is not measured in dollars. A better measure of success is job satisfaction. Hopefully during law school students will be exposed to various types of law: international, tax, sports/entertainment, etc., so that they will have an awareness of what is out there and not just take the first opportunity that comes along. Complementary with this notion is creating the opportunities for students to network and participate in programs that will give them an upper hand when interviews do come around.

Lastly, our focus would be woefully unbalanced if we did not help foster assistance to the disenfranchised. Programs such as Work-A-Day, Volunteer Income Tax Assistance, etc. help students understand that the legal profession is not isolated from the needs of the community. Rather we owe it to the community to insure that everyone, regardless of social status, shares in the equal protection guaranteed by the constitution.

Law school is just the beginning of our legal careers and the ABA can be a life-long support organization both professionally and socially. I'm very happy to be a part of the organization and I'm very proud to represent Villanova Law to the legal community of America.

Affirmative Action Symposium

by Gregory B. Williams and T. John Forkin

The Black Law Students Association sponsored their 2nd Annual Symposium with its focus on "Affirmative Action: Separating Myth from Fact."

There was a solid crowd in attendance with a diverse mix of law students, undergrads and other visitors. The symposium was moderated by Professor Gordon with the panel consisting of Charisse Lillie, Esq. (Partner at Ballard, Spahr, Andrews & Ingersoll), Mae Russ Haith, Esq. (National Coalition of Black Women) and A. Michael Pratt, Esq. (Chief Deputy City Solicitor, Phila.)

The goal of the symposium was to clarify some ambiguities and "separate myth from fact" concerning affirmative action. Mrs. Lillie recalled her encounters with discrimination as a Philadelphia city solicitor in the 1980s. "Affirmative action was conceived on equity principles with the goal to alleviate benign discimination." At the time approximately 98.5% of all city contracts went to non-minority firms. These statistics certainly did not ring of fairness. "In applying and enforcing affirmative action through the City Solicitor's office, the Wilson Goode Administration was able to level the playing field a bit." The inequities of former contract bids were never known because information concerning city bids was not available to the public. The bottom line was the loss of a substantial amount of economic opportunity to Philadelphia's black community.

Mr. Pratt confirmed these facts and noted that his office's current objective "is to generate opportunity in the minority community, focusing mainly on the large contracts at that level." Recently Mr. Pratt found an article in circulation that instructed builders in how to skirt affirmative action resolutions. Needless to say, such a find is disturbing. Mr. Pratt described it as "well thought out and quite accurate in its method of breaking the rules."

Mrs. Haith had a somewhat different view of the purpose of affirmative action. She views affirmative action as an equitable reparation for the three hundred and seventy years of free work by the slaves. This is why she stated that affirmative action is only for blacks and not other minorities or "suspect groups."

Mrs. Haith's views, although disturbing to some in the audience were crucial in formulating the basic knowledge to comprehend the magnitude of the problems in the system.

During the recent bidding for the Philadelphia Convention Center, Mr. Pratt noted that affirmative action played a major role in assuring equality in the contract selection.

However, it was the consensus of the panel that the notions that affirmative action only promotes African Americans and that affirmative action eliminates discrimination are myths. The panel's final opinion was that affirmative action has created more opportunities for minorities. We are still far away from the point where we have equal opportunity for all people.

More Intellectual Property?

by Frank Cona

The long wait is over. Herein lies the next installment in the Intellectual Property Society's gripping series on the area of law deemed by some as the "field of the '90s." Today's thought-provoking topic: patent law.

So what's it all about? In 1791, Congress first provided a means of gaining protection for the creation of new inventions. The purpose of this act — still the underlying impetus behind allowing an individual to patent technology — was to spur the advancement of the "useful arts"; i.e., technology. In typical capitalistic fashion, Congress provided a monetary incentive for this otherwise philanthropic goal. As consideration for making their inventions or discoveries available to the public, inventors were to be given a monopoly over the creation for a set period of time — today, seventeen years.

"When is something patentable?" you're probably asking yourself. Basically, an invention is patentable if it is: 1) an idea which is part of a physical embodiment, 2) the invention is novel, and 3) the invention is unobvious. Pure ideas are not patentable; i.e., a mathematical algorithm or "the sky is blue." Interestingly, however, the Supreme Court *has* held that unnaturally occurring forms of life are patentable. In fact, the Court has held that even multicellular organisms are patentable; though they were nice enough to stop short of human beings, because there may be a few constitutional snags.

"How do I get a patent?" should be your next question. A patent is obtained by filing an application with the Patent and Trademark Office and arguing with them until they finally issue or reject your application. This is known as "prosecuting" a patent. Rejected applications can be appealed, however, to the Patent and Trademark Office Board of Appeals, and then to a district court or the Court of Appeals for the Federal Circuit — which hears all patent appeals.

"Can anyone prosecute a patent?" Stupid question. This process was created by lawyers, remember? Only individuals who pass the Examination to Register to Practice before the Patent and Trademark Office — or patent bar — can interact with the PTO. However, in all fairness, one does not have to be an attorney to prosecute patents, as long as they pass the exam — a technical background is required to take the exam. These individuals are called patent agents.

In fact, two of our very own are intimately familiar with this process. DJ Meincke (1L) and Anthony Grillo (3L) just passed the exam in October and have graciously offered their study materials and sage advice to anyone interested in taking the exam.

The exam itself costs about $300 to take, plus a $100 registration fee for the bar if you are lucky enough to pass. The exam is composed of a morning multiple-choice section, dealing with the applicable code sections, and an afternoon section, dealing with claim drafting and specifications — the two components of an actual patent.

Lastly, by way of blatant advertisement, the Intellectual Property Society will be hosting a speaker in the spring from the Philadelphia Volunteer Lawyers for the Arts to discuss various aspects of protecting artistic productions under copyright laws. This discussion will be open to not only law students, but artists and students from the surrounding area and should be quite interesting. The date for this and a few other choice events will be announced in the near future. Look for it.

Federalist Society officers Scott Donnini, Mark Blount and Rich Reynolds with Judge Kozinski, 9th Circuit.

IN

MEMORIAM

THURGOOD

MARSHALL

1908 — 1993

BARRISTERS BAIL

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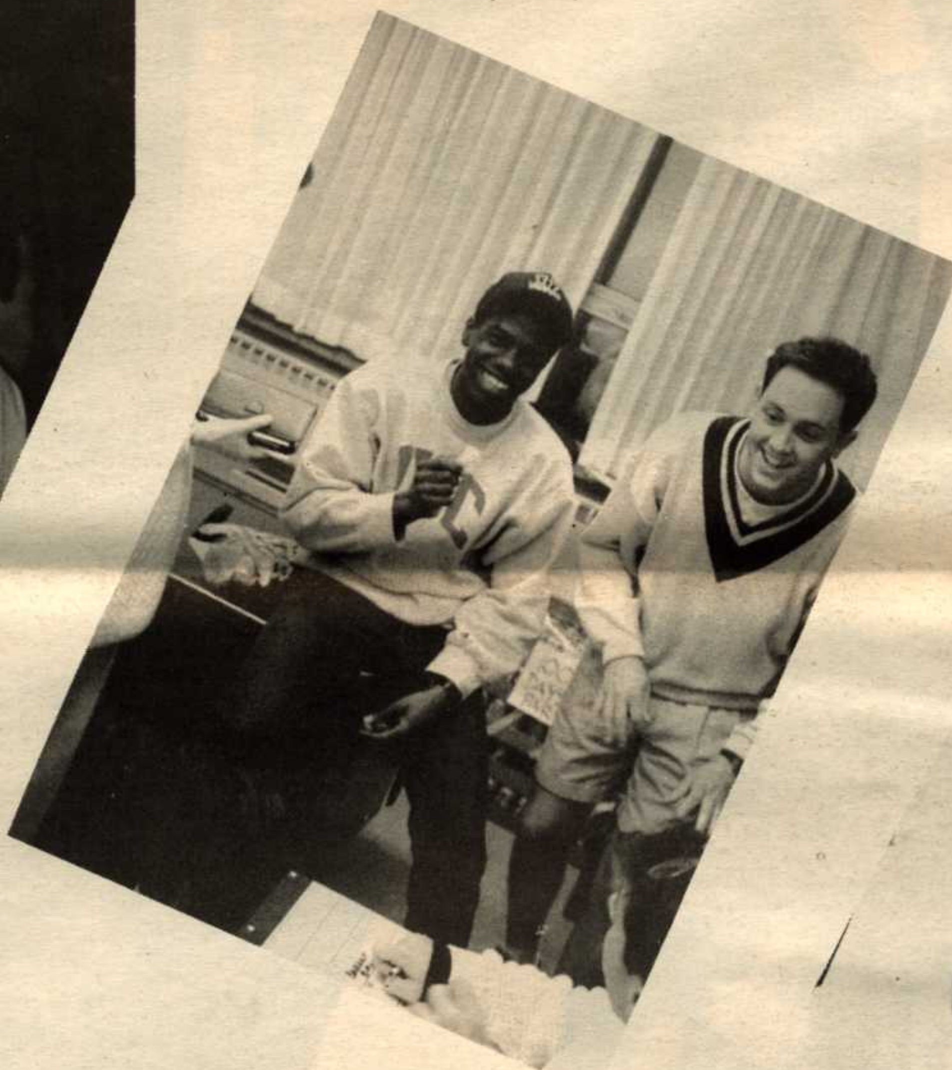
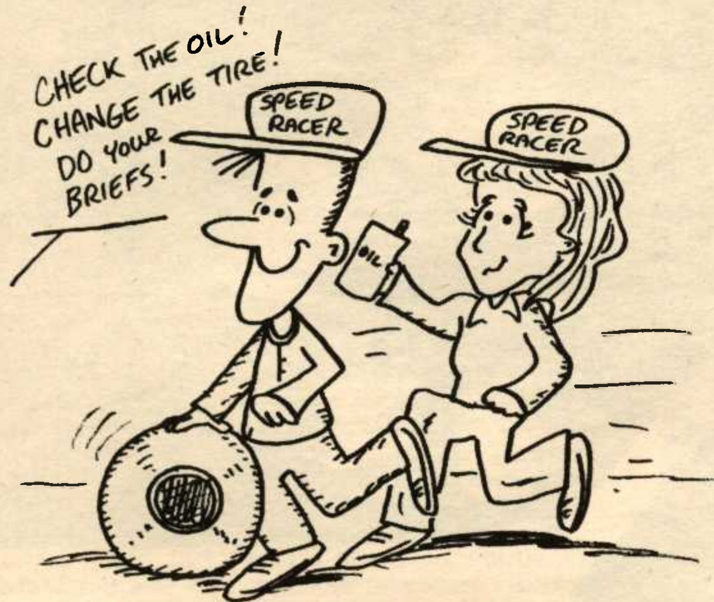


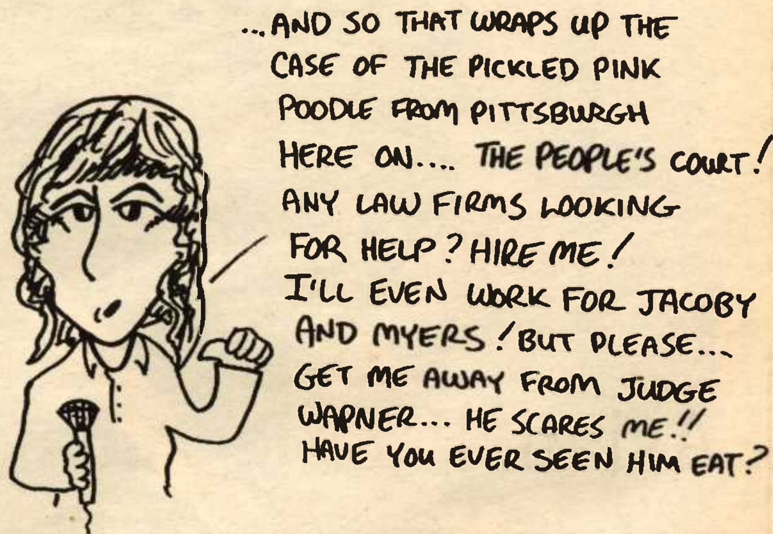
100 DAZE

PRATTOONS

OCCUPATIONAL SUGGESTIONS (FOR THOSE WHO CAN'T FIND WORK IN THE LEGAL FIELD)



* PIT CREW FOR PROF. MULRONEY



* ANNOUNCER ON 'THE PEOPLE'S COURT'

* BUNGEE JUMP OFF YOUR OUTLINES

* CARTOONIST FOR THE DOCKET

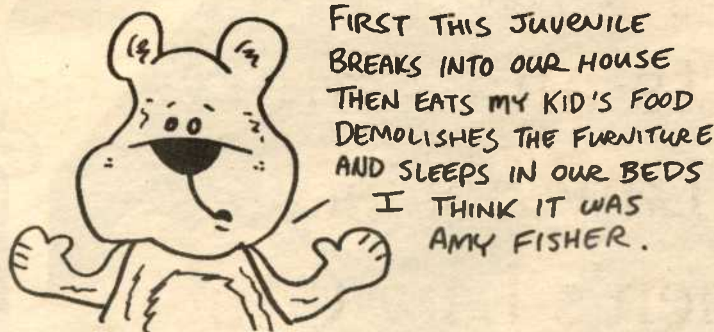
Pratt

* FICTIONAL CHARACTERS' LEGAL NEEDS *

WICKED WITCH OF THE WEST
(PROBATE)

HUMPTY DUMPTY
(PERSONAL INJURY)

LITTLE JACK HORNER
(TAX)



THE THREE BEARS
(CRIMINAL)

Pratt

SBA Spring 1993 Budget

Organization	Amount
Asian Pacific American Law Student Association	$225
Black Law Students Association	$650
Catholic Law Students Society	$300
Civil Rights Law Society	$175
Corporate Law Society	$300
Court Jesters	$600
Criminal Law Society	$425
Environmental Law Society	$400
Family Law Society	$150
Health Law Society	$200
Intellectual Property Law Society	$250
International Law Society	$525
Jewish Law Students Association	$250
Latin American Law Students Association	$600
National Italian American Bar Association	$250
Phi Delta Phi	$475
Rugby Club	$550
Sports and Entertainment Law Society	$650
Tax Law Society	$300
Women's Law Caucus	$675

THE LAST PAGE

Heeeeeeeer's Johnny!

by John Lago

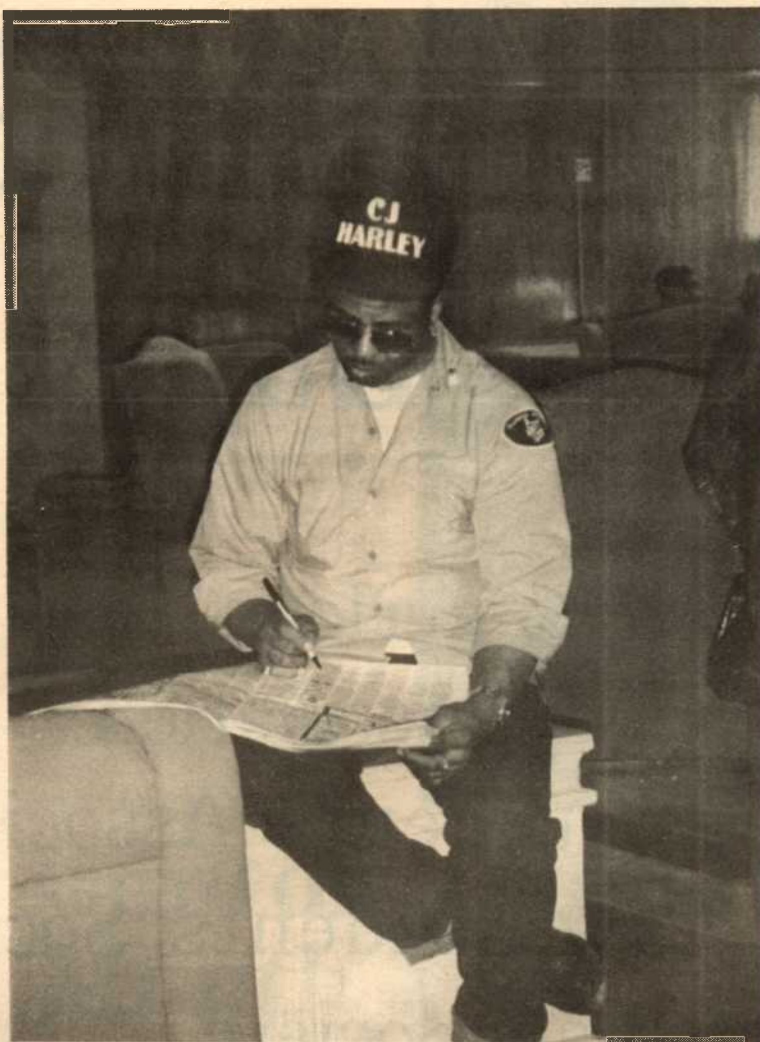
Football's over, baseball season isn't here yet, and nothing of much importance is going on in hoops or hockey, so I figured I'd take the month off and just ramble and call it an article. So, until the baseball picks are made (ooh, keep those goosebumps down), here's something to tide you over while you're in the bathroom. N-Joy ...

Now that the Cowboys have won the Super Bowl, will Tom Dougherty get the hint that they're better than the Eagles? ... I now know what the phrase "utter contempt" means after wearing my Troy Aikman jersey and Cowboys sweatshirt to school. The nasty looks, comments and gestures I received made me think about hiring a bodyguard, or possibly one of Bob Turchi's cousins ... Some people (not me) are already comparing Troy Aikman to Joe Montana. Not until he wins three more rings, OK folks? ... On the other hand, is there any other quarterback on a team capable of winning 4 Super Bowls this decade? Probably not ...

I'm not a big tennis fan, but Arthur Ashe will be missed greatly. Not only because he was a class player, but a class person ... Tim Bryant on Student Spotlight? Whose idea was that? Is there a more publicized person in the school? What's next — Tim Bryant, Model Speller? ... By the way, I WENT to a football game when I was in college. Do I get my picture in the Docket, and the story of my life written for all to see? ... In last month's Docket, 62% of those polled said VLS's facilities are unsatisfactory. Here's hoping something is done about it ... In the same poll, 71% said the VLS grading system was unfair, and 61% said it's not anonymous. Now, doesn't it sound like there's more than one unhappy person here? Dean Frankino, are you listening? ...

Don't look now, but the New York Yankees actually look decent this upcoming season. But Steinbrenner will have something to say about that ... Will the Atlanta Braves pull a Buffalo Bills, and lose the Big One for the 3rd year in a row? ... The Phillies? Uh, maybe you should get back to me in a few years ... The Villanova Wildcats in the Big East cellar? It may not be the best conference, but it seems to be the most competitive. Sorry, 'Cats ... Is there a funnier show on TV than Seinfeld? The Simpsons comes close, but Jerry, George, Elaine and Kramer get the nod here ... What happened to L.A. Law? Remember when they used to have CASES? It's become a bad Knots Landing ... Prediction: Letterman will beat Leno in the ratings come this summer. But will Dave really be happy? Will he stop thinking he's God's gift to comedy? ... Is this a sports column pretending to be entertainment, or an entertainment column trying to be a sports column. ...

The intramural basketball season is upon us (yawn), and the Flab Five (surprise) are favored to win again. Question: If they do, will Tim Bryant get that much wanted picture on the cover? ... When will the Docket get with the times and have an annual swimsuit issue? Don't you think people would pay to see some of the women here in a bikini? (like our lovely editor Angie Chen?) ... As a third year, shouldn't I receive some special privileges, like a good parking spot, or getting my grades before Spring Break? I think so ... Isn't it funny that Larry King does this every week for USA Today and gets paid, while I do it and get taunted and laughed at? ... Will the Docket ever have a FUNNY cartoon in it? Enough already with the Lexis ones ... Until next time, A-B-C ya later ...



Law and Morality in Living Wills

Drafting living wills for clients is becoming an increasingly common part of the general practice of law. During the course of a year, a busy attorney with a family-oriented practice may execute hundreds of such instruments. Yet, living wills is not a topic covered in any sort of depth by any law school course. A lawyer that drafts and executes such a vital document needs to be better aware of what the ramifications of a living will are, the varying ways in which state statutes define levels of medical care, and the nonlegal considerations which the attorney and his client should consider.

The symposium sponsored by the Catholic Law Students Association will attempt to fill the void in regard to living wills with a practical overview of the major considerations that a lawyer should be aware of in drafting this type of instrument. Attorney Charles Caniff, a practicing attorney from the Philadelphia area with expertise in this area, will go over the typical language found in the Pennsylvania statute on living wills and will touch upon the things that a lawyer new to this field would want to recognize. The Catholic Law Students Association will make available copies of the Pennsylvania statute to aid in this presentation. Following this overview of the legal mechanics that are involved, Father James McCartney, O.S.A., and Professor William Valente will give their thoughts on some of the moral and ethical considerations involved in the drafting of living wills, with reference to Judeo-Christian principles on advanced medical directives.

PA Strikes Set Record Low

HARRISBURG (Jan. 25) — The Department of Labor and Industry reported today that there were 112 labor disputes in Pennsylvania in 1992, the lowest number since the state began compiling statistics in 1971.

The figure represents a seven percent decrease in strikes from the 121 in 1991.

In 1992, 85 labor disputes occurred in the private sector, up slightly from the 81 in 1991. There were 27 public sector disputes in 1992, down from 40 in 1991.

The number of strikes has declined steadily since 1986, when there were 229 strikes. There were 123 work stoppages in 1989 and 123 in 1990.

There were 10 school strikes in 1992, compared with 34 in 1991. None of the 10 teacher strikes last year were "selective strikes" in which teachers held work stoppages one day and worked the next. In 1991, 13 of the 34 teacher strikes were "selective." Act 88, enacted July 1, 1992, prohibits "selective" one-day strikes and requires 48-hour notification be given to the appropriate school board prior to a work stoppage.

Strikes in local government numbered eleven, up from five in 1991.

Since taking office in 1987, Gov. Robert P. Casey has made improving labor-management relations a top priority in his administration.

** Created the Office of Labor-Management Cooperation, which works with the Pennsylvania MILRITE Council and other organizations to develop cooperative workplace programs throughout the state.

** Established the Schools Cooperation Committee to help teachers and administrators work together to improve the quality of education in Pennsylvania.

** Presented the Governor's Award for Labor-Management Cooperation to companies and unions that serve as excellent examples of cooperation between workers and managers.

In addition, the department's Bureau of Mediation and Pennsylvania Labor Relations Board helps resolve labor-management disputes.

The Bureau of Mediation's Timed Mediation process, which can resolve contract disputes quickly in both public and private sector bargaining, has successfully resolved five of six teacher contract disputes.

Under timed mediation, both parties agree to continue meeting without a break for a specified period of time, with a previously agreed deadline for reaching a settlement.

PA Jobless Rate Rises

HARRISBURG (Feb. 5) — Pennsylvania's seasonally adjusted unemployment rate rose in January by 0.2 percentage point to 7.5 percent, analysts with the state Department of Labor and Industry announced today.

Although January's unemployment rate was up for the first time in five months, it was well below the 1992 high of 7.9 percent reached in August. In January 1992, the unemployment rate was 7.2 percent.

At 6.02 million, the state's civilian labor force, the estimated number of Pennsylvania residents working or available for and seeking work, was down 7,000 from December. One year ago, Pennsylvania's civilian labor force numbered 5.98 million.

Employment fell for the second month in a row, down 18,000 to 5.57 million in January. The volume of unemployment increased since December, up 11,000 to 453,000. Both employment and unemployment were up by 24,000 from a year ago.

This month, Pennsylvania's labor force data underwent an annual revision process as the federal Bureau of Labor Statistics makes use of more complete information. The revisions, based upon updated population estimates and seasonal adjustment factors, affected monthly resident data back to 1987.

Early results from another survey, based upon employer payrolls rather than households, show total nonagricultural wage and salary jobs down 113,400 from December to 4.92 million in January. On average, jobs fall by more than 125,000 from December to January. Compared to one year ago, total nonfarm jobs were off by 46,400.

More than three-fourths of the overall month-to-month decline involved the service-producing sector, where job levels fell 87,200 since December to 3.80 million. All service-producing industries shared in this decline, with major losses centered in retail trade (-42,700), services (-25,400) and government (-13,200). Since January 1992, service-producing jobs dropped by 3,000.

Among goods-producing industries, jobs fell 26,100 in January to 1.11 million, in all industries within the sector. Losses were most pronounced in construction (-16,500) and manufacturing (-8,300). Goods-producing jobs were down by 42,500 from January 1992.

PA (SEASONALLY ADJUSTED)*

	JAN. 1993	DEC. 1992	JAN. 1992
Labor Force	6,024,000	6,031,000	5,975,000
Employment	5,570,000	5,588,000	5,546,000
Unemployment	453,000	442,000	429,000
Rate	7.5 pct.	7.3 pct.	7.2 pct.
(U.S. Rate)	7.1 pct.	7.3 pct.	7.1 pct.

PA (UNADJUSTED)

	JAN. 1993	DEC. 1992	JAN. 1992
Labor Force	5,980,000	5,995,000	5,935,000
Employment	5,491,000	5,589,000	5,470,000
Unemployment	489,000	407,000	465,000
Rate	8.2 pct.	6.8 pct.;	7.8 pct.
(U.S. Rate)	7.9 pct.	7.0 pct.	8.0 pct.

* **NOTE:** Seasonally adjusted figures attempt to "filter out" the labor market fluctuations which are caused by normal seasonal patterns. With these recurring patterns removed, the data provided a more accurate account of general economic trends.

For additional information on the January Pennsylvania employment data, contact the Labor and Industry Press Office. Local and regional information for December is available from Labor and Industry's regional labor market analysts. Regional analysts' names and phone numbers may be obtained from the nearest state Job Center or from the L&I Press Office (717-787-7530).