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The Opinion Volume 15 Number 4 – November 14, 1974

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The Opinion, "The Opinion Volume 15 Number 4 – November 14, 1974" (1974). *The Opinion Newspaper*. 95.

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Opinion

Volume 15, No. 4

State University of New York at Buffalo School of Law

November 14, 1974

Sen. Dunne Urges Action on Prepaid Legal Services



State Sen. John R. Dunne, DVF Lecturer

by Ray Bowie

State Senator John R. Dunne, chairman of the Senate Insurance Committee and author of a "legalcare" bill now before the legislature, called upon the legal profession to support the development of prepaid legal service plans last week in an address before Distinguished Visitors Forum.

Senator Dunne set the context for his call to the profession by citing growing criticism of the profession by consumer organizations, the press, governmental sources, and even the judiciary, which have faulted attorneys for their reluctance to innovate or discipline themselves sufficiently where public need is manifest. The resulting dissatisfaction has, he said, given rise to demands for governmental regulation of the legal profession, evident in Sen. Tunney's Judiciary subcommittee on legal service needs and the recent anti-trust actions against minimum fee schedules.

"Clearly," Sen. Dunne observed, "prepaid legal services plans have arrived," noting that a Taft-Hartley Act amendment now allows employer contributions to prepaid legal services insurance funds and that unions are demanding such plans as their contracts come up for renewal.

Speaking to the mechanics of prepaid legal services, Sen. Dunne explained that there are two basic schemes: closed panel and open panel, the difference being that closed panel involves a client group contracting with a specific group of attorneys while open panel allows a group of attorneys to offer a prepaid plan to the public at large. The plans, both closed and open panel, vary widely as to costs, benefits and other terms similar to group medical insur-

ance, with the underlying premise being the insurance principle of "spreading risks" so as to minimize cost to the individual.

A client group under the closed panel system could, he added, establish a prepaid plan by either retaining its own counsel, contracting with a specific firm, or arranging with an insurance company to be reimbursed for legal expenses according to a schedule of fees.

"A substantial number of lawyers view prepaid legal services plans as an improvement," Sen. Dunne contended, but "while practically all bar associations are aware of this interest, the difficulty is in reconciling different provisions, chiefly open or closed panels." Consumer advocates, meanwhile, have demanded low cost, quality services, and the avoiding of the escalating cost patterns characteristic of group health plans.

The American Bar Association, Dunne noted, has been studying prepaid plans since 1968 but has not opted for any particular prototype, preferring instead to preserve local flexibility. In 1972, the ABA urged state and local bar associations to involve themselves in sponsorship of prepaid plans but to allow freedom of choice of attorneys. Consumer and labor organizations, Dunne recounted, identified this with open panels, and feared that bar associations might use the ABA resolution to suppress closed panel plans, thereby permitting the bar to fix fees with the open panel plans.

"A prepaid plan," he emphasized, "must be designed for consumers, not for lawyers." To this end, Sen. Dunne advocated that prepaid plans be open to constant review to insure responsiveness to the consumers of legal services,

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Budget Snarls Mount: SBA Treasurer Resigns

In the wake of mounting complaints from student organizations and SBA officers as to delays in vouchering expenses, SBA Treasurer Sara Zurenda resigned from office last week following a meeting of the SBA Executive Board at which budget grievances were reportedly freely discussed.

Several SBA organizations have been complaining to President Don Lohr over the summer and into the fall that they had been unable to obtain supplies, make commitments involving their budgets, or pay creditors due to inexplicable delays in the processing of their vouchers. Sub-Board I, the custodial agent for student governments, repeatedly informed Mr. Lohr that

the SBA Treasurer was failing to submit requisition-purchase forms to Sub-Board so that checks could be written against the amounts SBA vouchered.

Ms. Zurenda, elected Treasurer last March, claimed, whenever contacted about the delays, that she had either mailed out the forms to Sub-Board, never received the organization vouchers in a timely manner, or else found the delays to be a Sub-Board responsibility. Part of the problem, conjectured one SBA source, was that Ms. Zurenda preferred to wait until a number of vouchers had accumulated with SBA before sending requisition-purchase forms to Sub-Board in a large batch.

Under procedures in effect last year, SBA organizations presented

vouchers with receipts to SBA, whereupon the Treasurer was to fill out a requisition-purchase form and submit it to Sub-Board, which wrote the check for the indicated amount. Critics of Ms. Zurenda's performance as Treasurer charged that the budgetary snarls resulted from her alleged negligence in submitting requisition-purchase forms to Sub-Board, while Ms. Zurenda herself had pointed to Sub-Board as the source of the delays.

Following her resignation at the Executive Board meeting, SBA President Lohr requested that an SBA director volunteer to assume the acting treasurer's position, but there was little immediate interest in the position, many directors reportedly fearing that the budget problems posed too great a burden.

Interview:

The Sociologist of Law & The Legal 'Subculture'

"How about you?"
"But, I'm not a lawyer."
"That might not be a prerequisite."

Richard Schwartz, a Professor of Sociology and Law at Northwestern University, had been asked by a member of a search committee to evaluate several candidates for the position of Dean of Buffalo Law School when he was asked the surprising question.

He paid attention. "It was like Groucho Marx saying that any club that would have me I wouldn't care to be a member of — but in reverse. Any law school that would consider a non-lawyer as dean would have to be interesting."

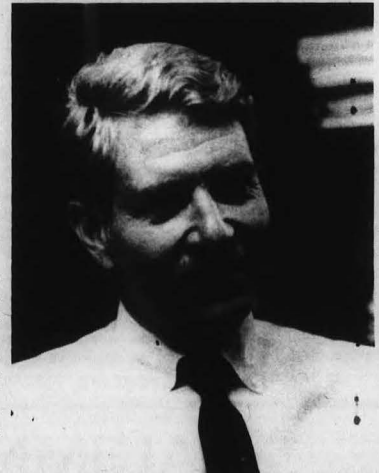
But, as evidenced by his background, Schwartz was anything but alien to legal institutions that he had called in a 1959 article "the most intriguing subculture I have ever studied."

The New Jersey born, Connecticut-educated scholar, who took his undergraduate and graduate work at Yale University and then taught Sociology and Sociology of Law both there and at Northwestern, finally agreed to be dean of the Buffalo chapter of that intriguing subculture in 1971.

At the same time he assumed the positions of Provost of the Faculty of Law and Jurisprudence and Professor in the Faculty of Law and Jurisprudence and in the Sociology Department.

Still, a sociologist of law as the dean of a law school is a striking anomaly, regardless of preparation and interest. What is it like to be in such a unique position? "Fascinating," says Schwartz.

Schwartz' specific work on the law began twenty-five years ago when his research of a doctoral thesis took him to Israel to study the social and legal systems of two forms of Israeli communes, the *kibbutz* and the *moshav*. Out of this work came an invitation to write an article for the *Yale Law Journal*, which at the time was seeking to de-emphasize its strict legal orientation. After two more years of post-doctoral study, that offer was finally accepted with the publication of "Social Factors in the Development of Legal Control: A Case Study of Two Israeli Settlements" in 64 *Yale*



Dean Richard D. Schwartz

Law Journal 4 (1954). This, his first full article, was a beginning in many ways.

"I became interested in the question: Why do legal systems develop? What sorts of policies do legal systems deal with?" He found what he thought was at least a partial answer.

"If societal control systems that already exist in a society are coping satisfactorily, then you may never get the generation of a legal system. But, those societal controls must be generally effective as devices for managing disturbance," Schwartz described his assertion in a recent interview.

An equally important aspect of the finding was its promise as a general hypothesis, testable in other social settings than the one from which it derived.

— concluded next issue

Editorials

Disgrace Demands Albany Action

Nothing more could point out the necessity for State legislative action to provide for appointment of State judges under the Constitution than the disgrace perpetrated on the Judiciary last week by the election of Jacob Fuchsberg to the Court of Appeals. Fuchsberg, a man without judicial qualifications who has now bought himself an associate judgeship, had been criticized by citizen and bar groups for his deceptive self-advertisement and his disreputable campaign tactics both this year and last, when he

ambitiously sought the chief judgeship.

In one of his few explicit campaign pledges, Governor-elect Hugh L. Carey has committed himself to an appointive system of judicial selection for State judges, under which system Jacob Fuchsberg would assuredly have stood the proverbial snowball's chance in hell of ever sitting on a State bench. While the damage is done in this case, let's hope that Mr. Carey achieves his pledge so that a like disgrace never again blackens the New York Judiciary.

Trenchant Observation

Dear Editor,

Did you know that, according to Bernice Stachowicz, the Law School uses about 30 pounds of coffee every day? If anyone were to charge that we wasted food, they would certainly have adequate grounds.

Gary Muldoon

Smoke Gets In Your Food

Dear Editor,

One of the hardest things for me to get used to as a first year law student has not been the new language, the long hours of reading, or the struggle to understand new concepts, but rather the difficulty in constantly being around people who smoke!

Now, that may seem like a ridiculous concern to people who have smoked for a long time or who have accepted other people's smoking, but for someone like me who is not used to having her throat hurt, eyes water, and hair and clothes smell of tobacco, it is a very real concern.

I don't want to get into a heavy discussion on the "evils" of smoking — the air pollution, danger to one's health, subtle self-inflicted oppression, oral fixation — in order to convince people to stop smoking, but I do think there should be a place where non-smokers can meet, talk and, in particular, eat without cigarette smoke and smell permeating the air.

Except for the library and in some classes, there are very few areas in the building where non-smokers can get away from the smoke. And smoke-free places to eat are virtually non-existent. Because of this very real problem, I would like to propose that the small eating room on the second floor be designated as a non-smoking area. The room has almost no ventilation, so smoking there is particularly offensive. It is a small self-contained space with many tables and chairs close together, making it practically impossible to get away from cigarette smoke there.

Smokers may have forgotten what food tastes like, their senses of smell and taste being so distorted by now, but non-smokers don't want to lose these senses. Smokers may be

— continued on page 7

UP FROM THE NADIR

In a year in which the mandatory student activity fee must be submitted to referendum in each of the University's student bodies, one would assume that the various student governments and Sub-Board, their common custodial agent, would take special care to insure that the allocation and disbursement of student monies is accomplished in a manner that is equitable and efficient for student groups and their creditors. At least with respect to the operations of Sub-Board and our own SBA, however, the opposite is more accurately the case, and the situation seems to be reaching new nadirs.

Throughout the spring and into this fall, vouchers, receipts, and requisition forms seem to have oozed like molasses at freezing temperature between the SBA and Sub-Board, even while the activities of student organizations and their relations with creditors have at times hovered around absolute zero. Activities have stagnated, supplies have dwindled, creditors have sued, and promises have been undercut in a dizzying vertigo of fiscal ineptitude culminating recently with the resignation of SBA's treasurer.

But however derelict one treasurer may have been, it would be seriously myopic to believe that SBA's budgetary snarls were the product of merely individual negligence or incompetence rather than systemic defects.

All SBA disbursements currently pass through Sub-Board I, a student-created monument to bureaucratic procedure and paper-pushing that shows that, in at least one respect, students are in the same league as Albany and Washington. This monument is charged with keeping custody of SBA monies and writing checks against vouchers submitted by SBA.

At other SUNY units across the state, student governments often keep their own books and authorize a bonded treasurer or secretary to write their own checks, thereby facilitating local budgetary supervision and disbursement efficiency. With its small budget and ready accessibility to students, SBA could withdraw its budget from Sub-Board's custody, hire a student knowledgeable in accounting to keep the books, and bond the president and treasurer so that they could write checks against funds allocated to student groups.

Systemic defects call for systemic remedy, and few would disagree that some remedy must be sought now to preserve SBA's fiscal integrity and protect against a negative vote in this spring's activity fee referendum. To these ends, we urge SBA to at least investigate proceeding toward budgetary autonomy.

DANGER IN EXCLUSION

At the October 30 meeting of BALSA, New York State Assemblyman Arthur O. Eve requested that the *Opinion* photographer covering the event absent himself from the meeting, citing prior adverse coverage in the "UB press" concerning a dispute between himself and President Ketter as a reason for the request. Because of Mr. Eve's stature in the community, *Opinion* felt his appearance at the Law School merited full coverage, for which BALSA was asked to write the article while *Opinion* would photograph the event.

While Assemblyman Eve might be justified in claiming that he has received bad press in the past, this has, first of all, certainly not been the case with *Opinion*, as our attempt to cover his appearance here would have been our very first coverage of Mr. Eve. We regret that Mr. Eve seemingly identified us with other newspapers and hence cast negative aspersions on our journalistic efforts.

Assemblyman Eve also claimed that his appearance before BALSA was private or exclusive and consequently not open to the student body or press. *Opinion* firmly

believes that, while confidentiality is to be respected, the practice or policy of the Law School in making its facilities available, or of student organizations in sponsoring events, should be to avoid exclusion of any members of the Law School community or the representatives of the media, who seek to serve that community. In the case of Mr. Eve's appearance, reporting of the event was entrusted to BALSA's discretion while *Opinion* sought only photographs, this arrangement having been suggested to preserve necessary confidentiality.

To its credit, BALSA itself did nothing to close the meeting or hinder media coverage. We urge upon all student organizations the recognition that closed proceedings and restrictions on communication would only breed distrust and misunderstanding among students, thereby having the unwanted effect of isolating such groups from the community of which they are necessarily part. Such an outcome, we choose to believe, would be as abhorrent to Assemblyman Eve as it is to us.

ALUMNI LINE

by Earl S. Carrel

Our congratulations go out to all of our Alumni who were successful in the recent elections. There are too many to mention each individually, but as always, it is nice to see so many UB Law School graduates active in the community.

Other than the elections and general bad news, the last month has been fairly quiet. Contributions are always welcome for this column. Just send them in to *ALUMNI LINE*.

Looking ahead to some future columns, we will have an open letter from Judge Rudolph Johnson, the president of the Law Alumni Association, some comments on the state of the Continuing Legal Education Program, and some surprising comments on the art of lawyering. Of course there will be the usual class notes and items of interest.

JOHN M.N. ZAJAS, '39, died October 16, 1974. He was a former acting Lackawanna City Court Judge and assistant Erie County District Attorney.

JOHN W. CREAHAN, '50, has been named a standing trustee in U.S. Bankruptcy Court. He will handle cases in the 16 counties of the Western District of New York outside of Erie County. As trustee, Mr. Creahan will help debtors avoid bankruptcy through the Wage Earner Plan under Chapter XLLI.

HUGH McM. RUSS, JR., '57, has been appointed to the Erie County Board of Ethics. A partner in the firm of Hodgson, Russ, Andrews, Wood, and Goodyear, Mr. Russ will serve through July, 1976.

Volume 15, Number 4

November 14, 1974

Opinion

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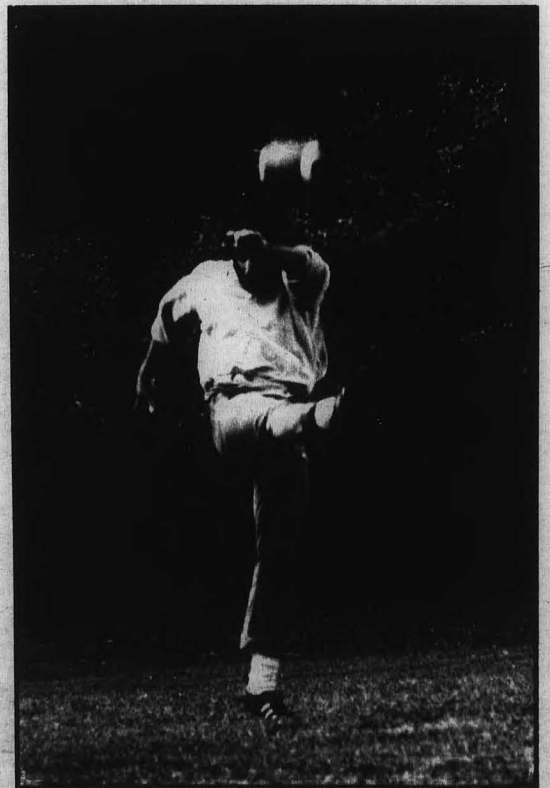
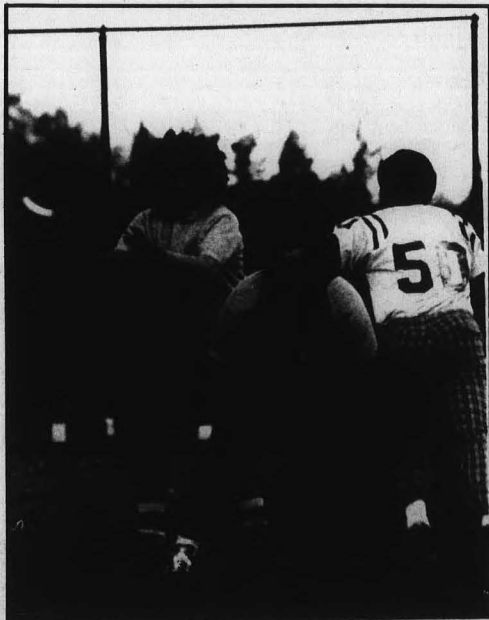
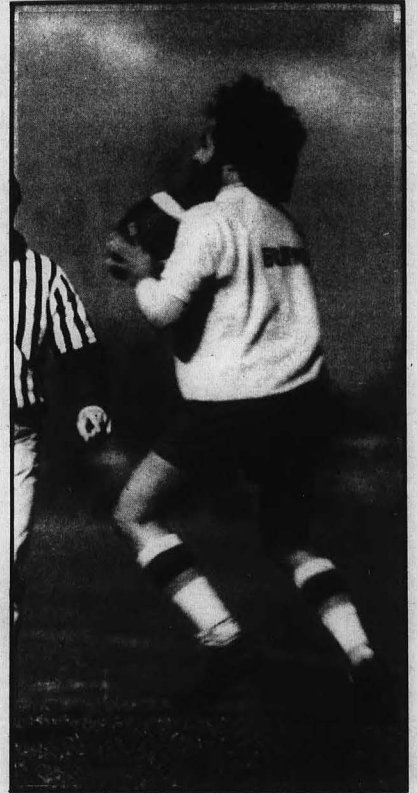
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OPINION is published every two weeks, except for vacations, during the academic year. It is the student newspaper of the State University of New York at Buffalo School of Law, John Lord O'Brien Hall, SUNYAB Amherst Campus, Buffalo, New York 14260. The views expressed in this paper are not necessarily those of the Editorial Board or Staff of *OPINION*. *OPINION* is a non-profit organization. Third Class postage entered at Buffalo, New York.

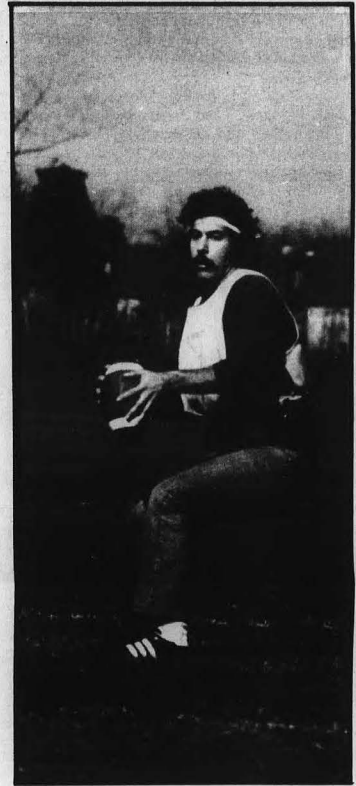
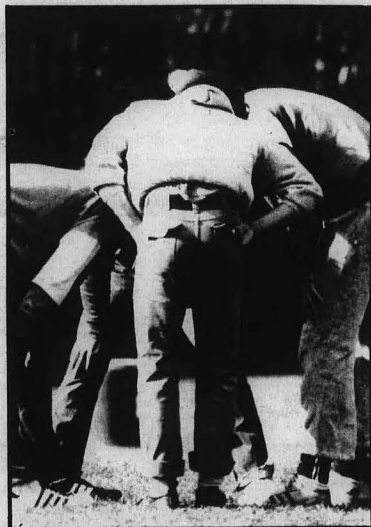
Editorial policy of *OPINION* is determined collectively by the Editorial Board. *OPINION* is funded by SBA from Student Law Fees.

Why Would They Want To Hurt Themselves?



Scouting Report On Page 6

PHOTOGRAPHIC ESSAY
BY T. CENTNER



(Photos On Page 5)

FACULTY JOCKS:

A traditional plus feature at any school is an interaction between the faculty and students. In a small, but not minor, way, this relationship has been expanded by the formation of a faculty football team (one faculty member was heard to comment that Buffalo may be the only law school in the country which can field an eight man faculty football team — whether that is a good or an ominous sign should become clearer as time progresses). Apparently, the team has played together several times, although I have seen only one game (a loss to first-year Section One), upon which I base the following analysis.

Barry Boyer

Although I have not seen him play, I have heard reports that he is an excellent blocker and rusher. If so, the faculty should have a line that could prove to be the dominating factor in future games. He should be inserted as blocking back and offensive/defensive lineman.

Ron Allen

At his peak, he would likely be the best athlete in the school. His talents and physical qualities render him capable of playing any position on the field. To best select a spot for him, it is necessary to bear in mind that his teammates are not as universally suited for the game. As such, it might maximize team strength for him to be a pass rusher on defense and blocking back on offense.

Richard Bell

Known to some as "half-moon" Bell for his choice of warm weather football shorts. With his limbs exposed, he looks like a former Marine should (amazingly sinewy arms and legs). To capitalize on his speed and quickness, he should play defensive back and wide receiver.

Haywood Burns

On this team, his skills are not limited to defense. An excellent play-caller, with speed and a reasonable arm, he is well qualified to be quarterback. Defensively, his talent could best be utilized in linebacking. Unfortunately, a recent injury may keep him out of the lineup for a few weeks.

Dannye Holley

His size and weight make him one of the most potent pass rushers or blockers on any participating team. In light of the injury to Haywood Burns, Dannye Holley would be an excellent alternate, who has the advantage of height, a great advantage in the face of any possible pass rush.

Jason Karp

One of few players who are devoted enough to dive for an interception, a quality which immediately qualified him for a defensive back position. His speed would best serve the offense as a wide receiver.

Al Katz

An unknown quantity to this writer. Rumor has it that he is of sufficient size and ferocity to play the offensive line, yet quick enough to be a linebacker.

L. Thorne McCarty

Another unknown. If qualified, he should play linebacker on defense and center on offense, since these are the positions which remain to be filled.

Bob Reis

Tremendously enthusiastic player, who is qualified to play more than one position, but he would best serve the team as linebacker (middle linebacker for the occasional blitz), and offensive lineman.

Although these suggestions are for the betterment of the team, they do not take into account whether or not anyone will enjoy what they are doing. These games are seen by most as recreation, and as such everyone should have a chance to play the position he enjoys. Where to strike the balance between the importance of having fun and winning is one of the things the team can discuss in the huddles.

As a football team, the faculty can play a reasonably good game. However, it appears, on paper at least, that the real future for them lies on the basketball courts. With Allen gunning and Holley rebounding, I doubt whether anyone could contain them. Nonetheless, I am sure that any of the intramural basketball teams would be more than interested in a match against the faculty. Hopefully, the reverse will be true, and somehow it can be worked out.

continued from page 3

End of the Bar

"It will help me nothing
To plead mine innocence; for that dye is on me
which makes my whitest part black,"
Henry VIII (I i 207)
if you persist, you may see his rights vindicated by a
decision on appeal, undoubtedly *per curiam*:
"A wilful stillness entertain,
With purpose to be dress'd in an opinion
of wisdom, gravity, profound conceit,
As who should say, 'I am Sir Oracle,
And when I ope my lips let no dog bark!'
O my Antonio, I do know of these
That therefore only are reputed wise
For saying nothing . . ."

Merchant of Venice (I i 90).

Opinion Sports

Bubble To Open In January

by Dave Geringer

Students inconvenienced by lack of recreational facilities at the Amherst Campus will find their problems at least partially solved next semester. A bubble-type structure to be built on the parking lot between O'Brian Hall and the Ellicott Complex will be ready for use in January.

The facility, to be utilized for classes, recreation and intramurals, will contain space for five full-length basketball courts and feature a variety of activities.

"We'll probably have two nights of intramural basketball weekly, as well as recreational tennis, volleyball, badminton and an intramural floor hockey program," noted intramurals director Bill Monkarsch. "We'll use the morning hours for basic instructional programs, then open it (the bubble) up for recreation about 2 p.m. We may run intramurals from 5:00 to 8:30, and recreation until 11, or the other way around. We might have a night of recreational tennis from 9 p.m. to 2 a.m.; but it (the

bubble) will probably be open until about 11 p.m. otherwise," Monkarsch added.

No showers

Monkarsch disclosed that the facility will open without locker or shower facilities. "Right now, it has no showers or lockers," Monkarsch said. "We have plans for that in the near future."

The intramural director revealed a possible problem regarding the inside of the bubble. "Right now, our big problem is the floor," Monkarsch decided. "If we can get some money, we want to put some type of a seal on the floor." At present, the floor is a concrete parking lot.

Monkarsch affirmed his belief that the bubble will be a great service to the students at Amherst. "I think that it's a tremendous step forward," Monkarsch stated. "It gives the students at Amherst something in the way of a recreational facility, which is badly needed since it will be several years before the field house is completed."

Hockey Bulls Open Quest For Playoffs

by Dave Geringer

The winter intercollegiate sports program got underway last week when the hockey Bulls began their season at Kent State. Buffalo, which has already played three times, will host powerful St. Lawrence, a perennial Division I playoff contender next Tuesday at Holiday Twin Rinks.

In attempting to advance to the Division II playoffs, the Bulls are trying to accomplish a feat they have not performed since the 1971-72 season. Buffalo will return nine regular skaters at the sixteen (twelve forward, four defense) skating positions.

Last year's edition of the hockey Bulls scored 200 goals, topping all other Eastern squads. However, Buffalo surrendered 144, a total that must be cut down this year if the Bulls hope to make the playoffs.

Defenseman Randy Cooper, a freshman, is the only newcomer to have earned a regular position so far. Mark Sylvester, who scored fourteen goals and thirty-seven points last year, joins Mike Perry (five goals and 19 assists for 24 points) as the top returning blueliners.

Regulars return

Buffalo numbers six returning regulars and six of last year's semi-regulars among its four forward lines this season. Mike Klym, the Bulls' all-time

leading scorer, heads the contingent returning for his final season in a Buffalo uniform. Klym, possessor of a blazing slapshot, tallied 36 goals and 62 points last year. Rick Wolstenholmes (18-26-44) will replace last year's leading scorer, John Stranges (66 points) as Klym's center this season.

Co-captain Doug Bowman (13-22-35) returns to center another line, joining strong-skating Jack Kaminska and Mike Dixon (11-13-24). Chuck Davies (12-21-33) and Mike Caruana, a converted defenseman, are the other returning forwards.

John Moore, who played steadily if not spectacularly during the latter part of last season, is the Bulls' top returning goaltender. Don Maracle, who divided duties with Moore last year, also returns.

Bulls to be physical

Bull coach Ed Wright believes that the Bulls now possess a squad that will do its share of intimidating as well as scoring. "Nobody's going to push us around this year, that's for sure," Wright predicted. "We've got the size necessary to play our type of game (basically forechecking, rather than the wide-open skating which has characterized past Buffalo squads)." The Bulls' ability to play "their game" on the road against other Division II opponents will probably determine their success or failure in advancing to the playoffs next spring.

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Faculty Discuss SBA Funds Day Care, Prepares Referendum

by Ray Bowe

In one of the most important discussions to engross the faculty this year, November's faculty meeting concerned itself with an Academic Policy and Program Committee resolution asking for faculty commitment to five curriculum areas as the Law School's top priorities for the academic year.

The resolution, presented by Prof. Ken Joyce and previously adopted by the APCC, had already been incorporated by the Appointments Committee as a guide to faculty hiring this year and was presented to the full faculty for its ratification. The resolution, based upon a study of curriculum needs submitted earlier by Assoc. Dean Fleming, listed property, procedure, corporation law, commercial law, and labor law as the School's program needs.

Speaking to the resolution, Prof. Joyce said that while he personally was opposed to exclusive faculty concern with the five needs, he did feel that the faculty should at least discuss whether they should be exclusive priorities and whether the Appointments Committee had made adequate provision for such priorities.

Prof. Herman Schwartz, chairman of the Appointments Committee, noted that his committee had accepted the APCC priorities but had to consider two other institutional mandates as well, these being affirmative action hiring and interdisciplinary appointments. Program deficiencies had, he said, become one of three considerations entering into appointments decisions.

Last year, Schwartz added, the Appointments Committee felt that the faculty should make appointments decisions on a case-by-case basis. This year, the Committee would seek corporate and commercial law candidates as its first priority, he explained, but would not devote itself exclusively to the five curriculum needs to the neglect of affirmative action and interdisciplinary candidates.

Prof. Buergenthal stressed that it was "high time the Appointments Committee had some indication of priorities from the faculty," as it is better to deal with appointments priorities in abstract than on an ad hoc basis with particular candidates.

Prof. Marc Galanter described exclusive concern with such priorities as "making a tub for the whale," expressing instead his concern that other counterbalancing commitments to interdisciplinary and other ongoing programs also be taken into consideration for appointments.

Prof. Robert Gordon agreed that the faculty must be cognizant of commitments, other than to filling course deficiencies, opining that "some candidates may be so exceptionally good that such priorities should not be applied to them."

Responding to the position shared by Galanter and Gordon, Mr. Joyce stated that he was "opposed to seeking the best people and then determining what they are to teach," a philosophy which guided some appointments decisions in the past. Prof. W. Howard Mann added that he felt that any definition of priorities would apply only for the next academic year and that any such definition could be easily revised.

When Prof. Wade Newhouse questioned the inclusion of labor law as a priority, Herman Schwartz stated that the Appointments Committee was not presently recruiting for labor law instructors, while Mr. Fleming explained that labor law had been listed only so that the faculty could respond to contingencies should that area become a deficiency.

Prof. Paul Goldstein moved, however, to delete labor law from the priorities, to which motion Prof. Buergenthal responded by asking that international commercial transactions be added as a substitute area. Buergenthal said that "it is outrageous that a school of this size has no course in international transactions."

Despite the exhaustive exchange of views, no vote on the APCC resolution was taken at the meeting, however, as the faculty agreed to table further discussion until their December meeting so as to allow SBA the opportunity to sample student opinion on the question of curriculum priorities in a forthcoming referendum. Provost Schwartz reported that the tabling of discussion would not interfere with the Appointments Committee, as no appointment would be voted upon until December, and that he expects that students will support the APCC definition of priorities.

In its first major allocation of the semester, the Student Bar Association voted last week, following heated debate, to appropriate \$500 to the UB Day Care facility on the Main Campus and communicate to President Ketter SBA's support of University funding of the Day Care operation.

A representative of the Day Care facility was invited to explain to the SBA directors the operation of the facility, its funding problems now that no student government will provide support, and its fear that an offer of University funding might result in unwanted University control of Day Care.

In questioning following the presentation, it was elicited that one law student had made use of UB Day Care, which admission prompted a series of questions from third-year director Mark Linneman as to the propriety of the allocation request. His questioning was interrupted by second-year director Bert Slonim, author of the allocation request, who charged that such questioning was "an interrogation" and was leading to hostile conclusions, a charge supported by Second Vice President Rosemary Gerasia. Mr. Slonim's point of order was overruled and questioning continued, but the ensuing vote went overwhelmingly for the \$500 allocation by tallies of 10 for, 2 opposed, and 1 abstention.

A motion by second-year director Cindy Falk, passed by SBA two weeks ago, had already put SBA in support of University funding of existing Day Care facilities "as well as the establishment and funding of a day care center on the Amherst campus."

* A second allocation request, one presented by BALSAs in the amount of \$200 so that BALSAs representatives could attend a minority recruitment program at New England School of Law, failed to receive consideration at the same meeting as the Day Care request due to lack of time. BALSAs hoped that the allocation would still be passed in time to allow them to attend the convention.

BALSAs has also requested another supplemental allocation in the amount of \$100, to provide Barbara Rowan with an honorarium for her participation in the Minority Symposium last May, which occurred in the previous fiscal year.

*SBA announced that Jean Consiglio, secretary in the Registrar's Office, has been hired as permanent secretary to the SBA and SBA organizations. SBA typing is to have priority, but typing for other funded organizations will be done on a first-come first-served basis as time permits.

*The SBA directors also showed interest in a report that the Academic Program and Policy Committee is defining course priorities for purposes of future faculty appointments and budgeting, which priorities are emerging from faculty discussions as property, civil procedure, corporation law, commercial law, and labor law. APCC has suggested to SBA that some sort of student poll be taken to assess student response to these priorities. On a motion by First Vice President Laura Zeisel, SBA agreed to charge two students with responsibility for drafting a ballot and preparing a student referendum on academic priorities, which will be scheduled in the near future. The faculty will be considering the priorities at their December meeting.

SBA Attends Circuit Meeting

by Ed Zagajski

The American Bar Association/Law Student Division for the Second Circuit held a semi-annual conference at Brooklyn Law School two weeks ago. The conference was open to all law students of the Second Circuit. The program opened with a panel discussion on whether bar exams are necessary. The participants were Mr. Arthur Kargar, Chairman of the New York Board of Law Examiners; Mr. William Pincus, Counsel for the Foundation of Legal Education and Professional Responsibilities, who spoke in the positive; and James E. Brown, a law graduate from Wisconsin, where a graduation from a Wisconsin law school allows admission to the bar.

The afternoon session opened with Mr. Louis Nizer speaking on his book, *The Implosion Conspiracy*. After a lengthy presentation on the book, Mr. Nizer answered questions from the audience.

The conference closed with a meeting of the SBA delegates from the various law schools in the Second Circuit. The body discussed problems of running SBA book co-operatives, the possibility of allowing all law students to use other law school libraries, and a request for monthly meetings of the Second Circuit. The group expressed interest in the structure of the Faculty/Student Committees and the Faculty/Student Relations Board at this school. This school is one of few that have such structures allowing student participation. There was also a discussion of the law clinics at New York University.

Finally, two resolutions were presented and passed. The first requested that the ABA actively campaign for the Equal Rights Amendment. This resolution was passed unanimously. The other

stated that employers should not discriminate on the basis of race, creed, national origin, sex, age, family background and criteria

that are not rationally connected to legal skill and knowledge. The resolution was passed with one dissenting vote.

Dunne Urges Action

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perhaps by means of committees composed of clients, participating attorneys, and the bar association. Expressing his hope that the ABA restrictions will be lifted next year, Dunne warned that "efforts by the bar to protect the economic interests of its members to the disadvantage of the public is unworthy of the profession."

A major issue in the development of prepaid plans, particularly in New York State, is whether or not such plans are characterizable as insurance. The outcome will determine whether prepaid plans are regulated by the courts and bar associations or by the State Superintendent of Insurance.

Sen. Dunne explained that he had introduced an amendment to the Insurance Law last year which would have allowed the sale of prepaid legal services contracts in the State, but while this "legal care" bill passed the Senate this year, it died in the Assembly Rules Committee. Without stipulating open or closed provisions, the bill would have exempted any

plans offered by bar associations from regulation by the Insurance Commission. Bar association plans would instead be regulated, like bar associations themselves, by the Appellate Division.

In the absence of state legislation, three county bar associations, Dunn stated, have proceeded to establish prepaid plans of their own, arguing that such plans are not insurance. The Superintendent of Insurance opposed the offering of prepaid plans under court regulation, contending that authorizing legislation was needed. The bar-sponsored plans have, he said, been blocked by a recent Appellate Division decision that found the New York County Bar plan to be "in the nature of insurance" and hence requiring such enabling legislation.

Sen. Dunne added that the Court of Appeals is going to review this decision and hoped that the Court would accept that prepaid plans are "an idea whose time has come" and that regulation of such bar-sponsored plans would be within the scope of the Appellate Division.


Smoke-Free Eating

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am asking for this one room to be set aside as a non-smoking eating area. No one seems to know what the procedure is for actualizing this proposal, whether by petition, SBA motion, or what, but I ask other students to think about the situation, lend support to the idea and please refrain from smoking in the suggested room.

There are plenty of other areas in the building where one can smoke and eat at the same time. I

Alaine Espenscheid



"Men do not attract that which they want, but that which they are."
— James Allen

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Librarian Releases Annual Report

by Ray Bowie

Law Librarian Larry Wenger recently submitted to the faculty his Annual Report on the state of the library for the 1973-74 fiscal year, which he described as "one of the most significant in the history of the Law Library."

"For the first time in nearly a decade," he noted, "adequate space was available for users, collections and staff" with the move into O'Brien Hall last fall, and remaining organizational work should be completed during 1974-75.

The long-anticipated move to the new building did not, Wenger reminded, "occur without difficulties significant enough to hamper both library staff and users" throughout the last year. Delays in deliveries of library furniture and book stacks, caused largely by a factory fire which destroyed much of the furniture, resulted in the use of makeshift furnishings with inadequate lighting until replacement deliveries were completed in the spring of 1974.

"Thus, when the library opened last September 24," Wenger recalled, "only floors 2 and 3 were available for use, and it was December before all stack floors were open. In addition to the lack of lighting the delay in completion of the stacks required double shifting more than 25,000 volumes, which first had to be temporarily shelved and then sorted and reshelved onto permanent locations."

Prof. Wenger stated, with regard to the library's collections, that they continued to both improve and decline in quality during 1973-74. "A major reduction in funds for acquisitions and binding, from \$192,250 to \$141,930, left the library with the lowest total allocation since 1966, and with funds for little more than subscription renewals and standing orders." Current monographs were hardest hit, while the already-weak treatise collection "received further setbacks and will require major efforts to remedy." The library was consequently unable to increase its subscriptions to looseleaf services, laws, and court reports.

Wenger revealed that an analysis of collections, begun three years ago but suspended, was resumed last spring when an effort was made to check library holdings against the Association of American Law Schools' lists of recommended books. The check showed "the library's holdings to be substantially less than fifty percent for many subjects," and indicated that "older materials and treatises are extremely deficient."

Limitations on state funding were, however, "largely offset by substantial donations to the library and by the transfer of more than 20,000 volumes from the Eighth Judicial District Law Library." Mr. Wenger himself selected approximately 25,000 volumes for which the Eighth Judicial District Law Library had no room downtown. Other substantial additions resulted from the transfer of John Lord O'Brien's personal papers to the library, and book donations from alumni, firms, and law faculty.

The law library was assigned four additional staff lines in the initial budget allocation last year, Wenger pointed out, two professional and two civil service. For 1974-75, the library will receive a permanent cataloging line and lines for a head of public services and a night circulation clerk, bringing total staff lines to 26.45.

"Documents Department operations continued to expand during the year," the librarian also observed, "with an estimated 12,000 additional items received in 1973-74 over 1972-73." He cited a definite trend towards increased faculty and student use of documents developing early in 1974.

As to library use, Mr. Wenger said that although higher levels of use were expected with a 16% increase in student body size last fall, actual use far exceeded his estimates, as reserve circulation increased 62% and regular circulation jumped 230% over the previous year. "Use of materials within the library increased even more, and the inability to keep shelving current was very likely the major deficiency in library operations during the year."

Wenger Notes Library Problems

Having just completed his Annual Report on library operations last year, Law Librarian Larry Wenger noted, in an interview with *Opinion*, his perspective on library problems and promises for the coming year.

The faculty last spring showed concern over indications that the University's Head Librarian, Eldred Smith, was pursuing policies which would result in a diminution of the Law School's control over important areas of the law library. After attempts to reach a compromise with Smith failed last spring, the faculty voted to seek outside advice on the issue of the law library's relative autonomy.

Mr. Wenger noted that the faculty Library Committee has

arranged for Harvard Law Librarian Morris Cohen and University of Washington Law Librarian Marian Gallagher, whom he described as "the two best in the country," to visit the Law School in December to advise the faculty on matters of collection planning and library administration.

Members of the Library Committee have expressed the hope that outside evaluations would strengthen the Law School's hand against the policies of Mr. Smith, or possibly serve as the basis for subsequent appeals to the ABA and AALS in the dispute over administrative autonomy.

Acknowledging the receipt of law student complaints as to overcrowding, Mr. Wenger

Homburger Waiver Pursued

In response to students at the law school petitioning Provost Schwartz for the waiver of Professor Adolf Homburger's mandatory retirement at the end of this school year, Provost Schwartz has replied, assuring the students that efforts are being made to effectuate that goal. Both Schwartz and Assoc. Dean Robert B. Fleming have indicated that they are hopeful that the waiver will be approved by the SUNY Trustees.

Prof. Homburger, who has been teaching at the Buffalo Law School for twenty-five years, is also a graduate of this law school.

The spontaneous petitioners have been supported by other groups and individuals, who are also urging the Trustees to waive the retirement rule. Among these are Chief Justice Charles Breitel, Phi Alpha Delta, *Opinion*, Puerto Rican Law Students Association, the Student Bar Association, the Chairman of Moot Court, and the editor-in-chief of the *Law Review*.

Provost Schwartz described Homburger's chances as "very good," due to Homburger's "marvelously effective methods of teaching and scholarship." Schwartz has sent a recommendation for the waiver of the retirement to the Chancellor. If the Chancellor recommends waiver, he said, normally the Trustees would accept that recommendation. Assoc. Dean Fleming felt that Homburger's chances were "excellent" due to the need for Procedure teachers and the fact that many people had urged his being kept on.

The current policy on waiver of retirement stems from a 1972 memo from the Chancellor. The memo, citing the dearth of employment opportunities in higher education and the necessity for creating as many positions as possible, requested that reductions be made in the applications for waiver of mandatory retirement except for "absolutely compelling circumstances" in which a "unique and essential contribution" could be made.

Pursuant to that memo, the Academic Affairs



Professor Adolf Homburger

Council of SUNY Buffalo created criteria under which waiver applications would be considered. These criteria include unanticipated departmental needs arising from "non-projectable personnel losses, e.g., death, resignation, illness, or short notice by another faculty member of his intention to retire prior to age 70," and require a showing that the need "cannot be filled except by waiver of the mandatory retirement rule."

This policy, which is "very strict" according to Provost Schwartz, has been waived only two times for professors at SUNY/Bufalo. Any waiver that is granted by the Trustees will be in accordance with this policy, said Schwartz.

Provost Issues Statement

The following statement was released on November 6 by Provost Richard D. Schwartz:

"Several student petitions have recently reached me which strongly support a waiver of retirement for Professor Adolf Homburger. The sentiments expressed there accord with those of the faculty, virtually all of whom have signed a similar statement.

I am happy to report that the matter, while not

yet decided, seems to be progressing well. I understand that the waiver has been recommended by President Ketter to SUNY Central, where it is now under consideration in the Chancellor's Office.

Your petitions have been transmitted to the Academic Vice President and they will be used to add weight to the strong case for Dr. Homburger's continuation as a professor at this Law School.

Thank you very much for your concern."

ABA Liaisonship Available

ABA COMMISSION ON THE MENTALLY DISABLED —

This liaisonship is one of exceptional significance and responsibility. The commission is composed of a distinguished group of attorneys, judges, educators, and health professionals. All have vast experience and intense interest in

the problems of the mentally disabled. Their charge from the American Bar Association is to recommend and implement programs to reform the deficiencies in the mental disability system.

The commission is now seeking a Law Student Division member as a student liaison to serve on the Commission for the next year and a half. As is the case for all of the over thirty LSD liaisonships, the appointment is made by the President of the Division. Factors to be

weighed in the selection are the applicant's background in the substantive area addressed and that person's demonstrated capacity and motivation to involve additional Division members in the very significant work of the Commission.

Letters of interest with resumes should be mailed by November 20 to David W. Erdman, President, Law Student Division, 1155 E. 60th Street, Chicago, Ill., 60637.



Citing increasing undergraduate use of the Library, Library users have been lodging complaints about overcrowding, noise, smoking and eating in Library facilities.