

THE DISSENT

PUBLISHED BY THE S.B.A. AT THE U OF O LAW SCHOOL

LAW SCHOOL CENTENNIAL

WELCOME CLASS OF 1986

Marilyn Bradetich
Admissions Director

There are 486 students in the law school this year of whom 168 are first-year students. The Admissions Office received 1,055 applications - an increase of four percent over 1982, but approximately the same as 1981. In the second-year class there are four transfer students and one visiting student in the third-year class.

In this year's entering class, 34% (57) are women - an increase of two percent over the 1981 and 1982 entering classes. Eight percent (14) are minorities - the same percent as the two previous entering classes. There are 44% residents in the class and the non-residents come from 24 states. The average age is 26.

The average undergraduate GPA is 3.22 which is comparable to the 1981 and 1982 entering classes; the average LSAT score is 36. The average LSAR score for the 1981 entering class was 640; for the 1982 entering class, 652.

The first-year students graduated from 80 different institutions throughout the country. Political Science and History majors represent 27% of the class with 76 different majors in total. Nine percent have Masters degrees.

Overall, the credentials of the graduating class of 1986 are excellent - obviously another unique class!



FIRST YEAR REPS RYNE JACKSON & CRAIG NAKAMOTO



AS EXPECTED...
see page 8
SPORTS

BOB'S GOT THE JOB

Bob Schrank pulled off a stunning upset over his opponent, Dave Zwick, in a special election for second year class representative on Thursday, Oct. 20th.

Schrank, the newest member of the SBA council, garnered 44 votes, to the 24 cast for Zwick. Steve Brown and the ever-popular Zippy the Pinhead each collected a single vote.

Two enterprising voters had difficulty choosing between the candidates. One solved the problem by voting for neither, and the other voted for both (suggesting that one be in charge of beer; the other, in charge of music).

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THE DEAN'S COLUMN

by Derrick Bell

If there is no existing Latin phrase, someone should write one that translates: "new law does not easily alter long-settled custom."

I needed some such impressive response for the student who complained to me that the law school's efforts to get the University Financial Aid Office to increase the budget guidelines for student loans had made the task of gaining loan approval under existing guidelines harder. Making waves always creates resentment and resistance, but it is the only way to gain real reform.

Reform is clearly needed if Oregon law students are to participate fully in the new Law School Assured Access Program (LSAAP). As most of you know by now, there is a newly-created loan program designed to insure that law students have sufficient funds for their legal education. This three-year, \$300,000,000 project is sponsored by the Law School Admissions Council (a non-profit corporation which administers the L.S.A.T. and provides other law school-related services). The program was developed in conjunction with Sallie Mae (Student Loan Marketing Association), the Higher Education Assistance Foundation (HEAF), and the First American Bank, N.A., Washington, D.C. It is available to law students in good standing at over 170 law schools nation wide.

The LSAAP offers both GSL and ALAS (PLUS) loans. Law students thus have another avenue to secure federally guaranteed loans in addition to the loan program established by state guarantee agencies and others. This program offers one lending source and a streamlined loan application process with more favorable terms for the ALAS (PLUS) loans.

Up to now, students trying to borrow money with which to finance their law school educations have gained some sense of how a welfare recipient is made to feel. First, there is the onerous tangle of administrative red tape. Except for very limited funds under the National Direct Student Loan Program (NDSL), students must find their own banks willing to make loans under two programs: the Guaranteed Student Loans (GSL) or the Parent Loans for Undergraduate Students (PLUS).

The resulting search is particularly burdensome for out-of-state law students since they are no longer attending an institution in their own state, and they have not yet established a banking relationship with an Oregon lender. Lenders often have additional paperwork and a lengthy loan process. These virtues virtually guarantee that much time and conservation will occur in the application procedure.

The new Law School Assured Access Program addresses and resolves these problems. Under the program there is a single lender for both out-of state and in-state law students. Students do not have to find their own bank or establish a customer relationship with a particular institution in order to apply for a loan. There is no problem with residency, since it is a national program. There are no additional bank-imposed requirements or a lengthy burdensome application process.

Students seeking aid need only fill out a one-page application and sign a joint payee authorization form. The application is then processed through the educational institution's financial aid office and sent to the Law School Admissions Service, which handles the rest of the procedure for the loan. The student need not do anything else. The entire process is streamlined and made simple, saving students' financial aid officers' time, energy and money.

Furthermore, there are no application deadlines, no bank-imposed loan limits, or no minimum quotas. Oregon law students need not pay the 1% processing fee required by the Oregon State Scholarship Commission. And under the ALAS (PLUS) loan students have the option of letting the interest capitalize while they are in school, instead of being forced to make monthly interest payments.

The Law School Assured Access Program could be of great benefit to our law students. But a serious obstacle remains. Financial need for those seeking loans is determined by subtracting the student's (and in some cases the family's) financial contribution from the estimated cost of attendance at the law school. The difference between these figures is the student's financial need. The amount of a loan cannot exceed the student's estimated cost of attendance less the estimated financial

assistance.

The obstacle occurs because the University-imposed figure for the cost of attendance is, I believe, unrealistically low for several reasons: there is no differential in the budget guidelines for undergraduate and graduate students; the budget is set, at least in part, to balance the expected loan requests against the available funds; and special expenses faced by law students are not considered.

The University standard student budget includes tuition and fees, books and supplies, room and board and miscellaneous personal expenses. The amounts for every item except tuition and fees (which naturally are different) are the same for undergraduates as well as graduate students. And the amounts budgeted for each category have not changed for several years. The standard student budget for single students is \$453 and for married, off campus students, \$963.

The amounts for room and board, books and supplies and miscellaneous personal expenses underestimate the need many students reported on a recent law school survey. And we know from our experience that some students have needs in excess of the above budgets. And although the financial aid office may allow additional expense, the amounts used above are for the standard budget. Transportation costs for most students are supposed to be taken from the \$10.00 a month allocated for personal expenses. Insurance premiums for cars may be allowed as an additional expense only if the student shows he/she was unable to earn the funds for insurance in the summer. In addition to transportation costs law students are supposed to use the \$10.00 miscellaneous personal expenses for clothing, expenses incident to job hunting, traveling for job interviews, subscriptions to magazines, utilities and entertainment.

Typically law students are older than undergraduates. The average age of a law student is 26. This often means that the law student has been in the job market, has monthly payments on credit cards, or cars or other expenses which are not taken into consideration in the student's cost of attending school. This could be done by increasing the amount of miscellaneous personal

expenses or by including other appropriate categories like clothing or transportation.

The law school is trying to convince the University Financial Aid Office that the budget standards for law students, and perhaps all graduate students, should be increased. To this end, Asst. Dean Peggy Nagae and I met with all interested students and urged all on financial aid to complete a questionnaire on the financial need that might help us prove that law students need more money than the budget provides. Unless we succeed, I fear that our students won't be eligible for loan money they need and which they could get if the budget amounts were scaled upward.

About 70 students have completed the questionnaire and we are processing their responses, but there must be many more students on financial aid from whom we have not heard. If we are to succeed, we need to hear from those students. In addition, individual students must press the Financial Aid Office to insure entitlement is obtained to budget increases under special provisions of existing rules.

Both the University administration and the Financial Aid Office are sympathetic to our position. But it is up to us to make the case. If you have not completed a financial aid survey, get one at the Administration Office.

PEARLS FROM DOM

"They opened a Pandora's box, only to find a Trojan horse."

--Torts A, 10/19/83

* * * * *

"The Supreme Court had another quiver in its bow."

--Fed Courts, 10/20/83



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UNIVERSITY TRAVEL

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MLSA MINORITY LAW STUDENTS ASSOCIATION

The MLSA was formed to serve the needs of minority law students. We are students of diverse backgrounds and interests who share a common goal of providing a supportive environment through which the ultimate goal of becoming competent socially responsible attorneys may be attained. Membership is open to both minority and non-minority law students.

Officers:

Russ Aoki President
Doug Barker Vice President
Russ Winer Secretary-Treasurer
Roy Catalani First Year Representative
Judith Ross Second Year Representative
Star Fuji Third Year Representative

The entire law school community, women and men, is invited to attend an upcoming conference, Parenting & Lawyering: Striking the Balance. If you are, intend to be, or are expected to be both parent and lawyer, this conference should be a valuable experience. Child care will be provided in a separate playroom with babysitters.

When: Friday, Nov. 4, 1983

Where: Amazon Community Center (Amazon Park on Hilyard)

Program: Potluck and Informal Exchange 6:30-7:30

Please bring your own plates and silverware

Panel Discussion 7:30-9:00

The panelists will be attorneys employed in a variety of situations. Topics include:

Employment conditions

Handling the interview

Limiting workloads

Inevitable emergencies

Full or part-time work; job sharing

Parental responsibilities

Child care arrangements

Sponsors:

Women's Law Forum
Student Bar Association
Lane County Women Lawyers
University of Oregon School of Law

The Women's Law Forum (aka WLF) will be sponsoring several more speakers this term to follow up the smashing success of our season's opening speaker -- Leslie Harris.

Our activities have included informal get-togethers with faculty members and administrators, an outlining seminar for first year students, several "Chili Day" fundraisers and a "Casino Night". This year we've started a "big brother/big sister" program where an upperclassman is paired with a first year student to provide assistance whenever possible. The MLSA is also co-sponsoring The Future of Justice conference on prison reform Oct. 19-21.

In addition, we actively participate in the recruitment of minorities interested in attending law school. On Saturday Oct. 22, the MLSA in conjunction with the Oregon State Bar's Affirmative Action Committee is presenting "Minority Law Day". The free program begins at 9:45 am and includes discussions on admissions, financial aid, the law school experience, and the current job market.

Keynote speaker is attorney Minoru Yasui, a University of Oregon Law School graduate, who defied the WWII curfew directed at Japanese-Americans. He is currently challenging his conviction which resulted in 9 months of solitary confinement in the Multnomah county jail. We strongly urge all students to attend this presentation at 1:30 in room 129.

WOMEN'S LAW FORUM CONFERENCE: PARENTING AND LAWYERING: STRIKING THE BALANCE

On Friday, October 21st (yes that may be today), Claire Thomas will speak in Room 129 at Noon. Ms. Thomas' lecture "From Barnyards to Barristers" will be an historical survey of the Supreme Court's decisions on sex discrimination, concluding with an analysis of the Court's most recent decisions and a forecast of future trends. Claire Thomas is an authority in the field of sex discrimination. She has taught the subject for several years at the University of Washington; she wrote the *Nutshell* on Sex Discrimination; and she lectures and conducts research on a regular basis. The Women's Law Forum strongly encourages everyone to attend.

Jan Acker will speak on November 18th, at 1:00 pm in Room 123. Ms. Acker is a Professor at the University of Oregon Center for the Study of Women in Society. She will follow up Ms. Thomas' discussion on the sociological indicators and measurements of sex inequality in the United States.

Finally, on December 1st, a speaker we all have been waiting for: Susan Glaser, a Professor at the University of Oregon Speech Department, will discuss "Overcoming Speech Anxiety" and, "Speech Patterns that Reduce Effectiveness". The first topic will concern teaching yourself to speak out in public -- without fear. The second topic will concern teaching yourself to quit saying "you know" and "don't you think so?" throughout each sentence.

Please attend all of these events. Spend an hour learning about something a little more exciting than proximate cause and

Penoyer v. Neff. If you have any suggestions for additional speakers, any questions, or offers of organizational help, please contact Ann Lyons, Susan Randall or Alice Fent.

The Women's Law Forum is a Marxist influenced association which advocates the immediate castration of all... Just kidding.

The Women's Law Forum is a student sponsored group which advocates and supports an increased female involvement in various legal fields. Its goals are varied, however, as a student group it attempts to support any attempt at a humanitarian approach to the legal profession. We view with hope and excitement the advance of women in law. Such advances as Sandra Day O'Connor's appointment to the Supreme Court are viewed with mingled admiration and trepidation.

Accused itself of being discriminatory in the past (who, us??), the Women's Law Forum would like to point out that its activities (especially T-shirt sales) are open to all students. While our speaker program is geared towards issues affecting women, it does cover topics that are of interest to many students.

Upcoming events include: Professor Claire Thomas from the University of Washington Law School. Professor Thomas (besides being Elaine's mom) is an expert on sex discrimination. She has not only written a book, but has lectured throughout the Northwest on the history of

and advances in the area. She will be speaking on Friday, October 21 at 12:00 in room 129. As it is highly doubtful that the planned course on sex discrimination will ever be taught here, this may be your only chance to learn about the topic.

WLF urges you to attend not only our speakers (though they're probably the most interesting) but also speakers of other student groups. These events are a good chance to learn something (and not be tested on it), as well as meet a few people and drink some free beer. Don't lock yourself in the library only to emerge in three years with a pale face and out-of-date clothes.

Speaking of out-of-date clothes, a perfect chance to spruce up that drab fall wardrobe awaits you. You can still order WLF t-shirts now through Nov. 10th, a mere 6:30 will make you the envy of all your friends. A sweatshirt (13.50 for crewneck, 14.50 for hooded) will keep you warm and cozy in the library, as well as block out the sound of the undergraduate hordes tromping through. Information on sizes and colors is on the WLF bulletin board (by the phone). If any of you real men are hesitant about getting one, just remember: Chris Quinn and Steve Drown have one. Need I say more??

THE MID-OCTOBER BLUES

by Peggy Nagae

Looking back on my first year of law school, I remember feeling depressed around mid-October. Several months had passed since the start of school, and I thought I knew how to study and what to study. But I wasn't sure. A lot of "what ifs" rattled around in my mind. What if I didn't do well. What if I couldn't learn all the material. What if I flunked out. What if my energy didn't last until December. Maybe you have similar questions about yourself or your abilities. Maybe you've noticed a strain in your relationships with your spouse or living partner. Maybe you are anxious, can't concentrate, and really aren't studying with the same quality and in the same quantity that you think you should be studying.

Doubts are normal. They happen around this time, but don't let them compound. Do something about them. Come in and see me, and take advantage of the University Counseling Center.

Jeffrey A. Morre, O.D.

David A. Wolf, O.D.

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ALTERNATIVES



This is in fulfillment of an assignment given me by Mike King. He had the idea that my work as a Ranger-Naturalist related nicely to my interest in environmental law. This, thought the desperate editor, would provide inspiration and human interest to the heretofore wholly insouciant (big word) *Dissent*. You, gentle reader, need but read further to understand the bitter disappointment of this lonely, driven, shell of a man. The fact is, I'm not so sure my interests dovetail quite so well. But there is a common thread.

For perspective, my interest in environmental education long preceded any in environmental litigation. I've been an interpreter of nature in Yellowstone National Park for parts of the past seven years: for one season as a bus guide, for the next two as the trainer of the bus guides, and for the last four as a ranger.

I am really no big deal — just a lowly GS-5 seasonal. The job seems to exude a certain glamour which it hardly deserves. Must be the uniform. Nevertheless, one shouldn't complain about the opportunity to live and work in the world's first and finest national park. The opportunities for communion with nature (not to mention intense partying) are immense. The work has its rewards as well.

The sort of interpreter I am doesn't translate words; rather, I interpret the place. My job is to provide the visitors with a special experience; to help them toward an appreciation and understanding of the place and of the environment as a whole.

Different interpreters approach this job differently. Some come from a particular background, such as botany or geology, which dictates their approach. My background is more broad than specialized, so my walks and talks are wider in scope.

I prefer it that way. Rather than focus on some single aspect, my programs present the whole of Yellowstone. I try to show how things in the natural world fit together, and how without care they could as easily fall apart.



My favorite activity this summer was an all morning walk to discover bears. Actually, we saw weasels, deer, moose, buffalo, but never bears; still, we'd discover a lot about how bears relate to their world. I'd have the visitors, many of whom would be kids, visualize themselves as grizzlies. We'd then explore various habitats, imagining them at different seasons, they as cubs learning survival techniques, me as the "sow." I'd teach them how to fish for spring-spawning trout — "You pounce with your paws and bite with your jaws." For a summer activity, we'd sharpen our claws on trees scratched by other bears, then dig up a few edible bulbs of wildflowers (only legal if you eat them). On to a meadow where we'd grub in the dirt for pocket gophers. Properly filthy and itchy, I'd

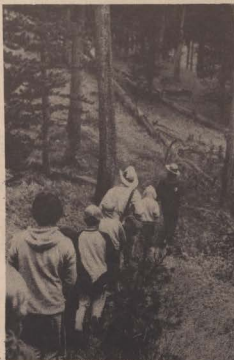
teach them to scratch their bellies bear-fashion by walking on all fours over and gyrating on small pine trees. By now, "fall" had arrived. We'd search along along a rocky ridge, and not so coincidentally come upon four caves formerly used by real bears as winter dens. These dens, I'd tell them, are no longer used because human development had come too close. As the walk ended I'd ask the visitors not to forget the perspective of the bears, for without empathizing humans, the bears will survive in our imaginations only.

My second favorite activity dealt with the human component of the Yellowstone country. One evening a week I put on buckskins, armed myself with a Hawken rifle, and leaped into a waiting crowd with the warning, "Freeze, or I'll make buzzard

feed of your meat!" In the role of an early 19th century fur trapper, I told tall tales of the "Yallerstone" — of spouting springs, mountains of pure glass, and trees "putrified" to stone. I also looked about, hopeful that the "Yallerstone" would always be wild enough for animals, and me!

I did other programs, but you get the point. These sorts of activities provide a vehicle for people to gain knowledge and value for their historical and natural heritage. Certainly the environment can use all the constituents it can get.

What I didn't like about the summer was that it ended and I had to come back here. But there is the common thread I'm following. Here, I hope to learn how to be a different sort of advocate for the environment. That failing, there are always the law "skool" parties.



by David Knotts

SOMETHING LESS THAN LEGAL



ILLUSIONS OF REALITY

Have you ever fantasized about setting sail for far off places? Have you dreamed of white, sandy beaches, waterfalls, tropical rain forests, fresh fruits? Eating lobster four times a day? This is the story of one such illusion of reality.

I was among the wild Indians of the Darien region. A nice downwind, nightsail on a 38-foot sailboat had transported me to the Darien, a region in Panama and Columbia where the terrain, Indians and river are so wild that the Pan American highway has not reached.

Our anchor was set in an ancient volcano crater surrounded by virgin rain forest. The water was clear and warm.

That day I had already been swimming and had caught lobsters and picked limpets off rocks for my breakfast. A few days before, I had seen a ten-foot hammerhead shark while swimming. It had come within inches of me. On this particular day, however, nothing had threatened me.

In the same waters I had also seen huge rays with wing spans of 12 feet. Rays are curious creatures. They will come up to your boat and flip over to expose their white bellies. One time a whole family of rays swam near. There were two large rays. One carried two small rays on its slender tail.

On the shore, the trees were immense, the rest of the greenery dense. Fan palms were the size of a house. The forest was in bloom. I heard and saw exotic birds, monkeys and surf.

This was a paradise of no television, no telephones, no Seven Eleven stores and few people. The only people I met were Indians.

The Indian men wore only bright red loin cloths. The women were topless and sported beads and nose rings.

A group of Indians in canoes made from hollowed out tree trunks rowed out and surrounded our sailboat. They were puzzled by our vessel's fiberglass construction and radar unit.

The Indians speak a dialect that includes only a few Spanish words. I was frightened of them at first. I made peaceful gestures. I offered them sweets, needles and fishing hooks. They responded by introducing me to seed pods that tasted like candy and other new fruits. They also gave me coconuts and plantain, which looks like a large banana, but, when fried, tastes like potatoes.

They welcomed me on shore into thatched and stilted huts and offered up a feast of sea food in coconuts carved into bowls and baskets made from reeds.

The sun was hot and I wore little. My new friends showed me where to get fresh water from a waterfall and I bathed in some nearby pools. I thought to myself, "Where I am is paradise." But then I remembered what I was taught - that utopia is within us all.

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TREATING THE COURSE OF JUSTICE

by Peggy Nagae

DEAN NAGAE'S
DESK

Minoru Yasui was 25 and a lawyer in Portland when he tested the constitutionality of the military-imposed curfew order of 1942. He challenged the United States government in a landmark case, not as a lawyer representing a client, but as the defendant facing potential imprisonment. Yasui put his personal reputation, career and liberty on the line. *United States of America v. Minoru Yasui*, 48 F. Supp. 40 (D. Or. 1942), 320 U.S. 115 (1943).

Minoru Yasui was born on October 19, 1916, in Hood River, Oregon. His parents were both immigrants from Japan. Yasui's father, Masuo, had immigrated to the United States in 1903, at the age of 16. Physically unsuited for manual labor, the elder Yasui found work as a houseboy in Portland, but dreamed of becoming a lawyer. His dreams, however, were never to be realized. At that time only United States citizens could become lawyers, and the courts had held that only persons of Caucasian or African ancestry were eligible for citizenship. (It would not be until 1952 that persons of Japanese ancestry were eligible for naturalization.)

Minoru Yasui pursued his father's dream of becoming a lawyer. He attended the University of Oregon where he graduated Phi Beta Kappa in 1937 with a Bachelor of Arts degree. He also served as a second lieutenant in the Officers Reserve Corps. In 1939, Yasui graduated with an LL.B. from the University of Oregon School of Law and was admitted to the Oregon State Bar in September of that same year. In March of 1940 Yasui obtained employment with the Consul General of Japan in Chicago.

On December 7, 1941, Minoru Yasui was outraged that Pearl Harbor had been bombed. He immediately quit his job with the Consul General and decided to return to Hood River to await orders to report for active duty.

After Pearl Harbor, Yasui followed with interest the government's response to the war effort. In Hawaii, martial law was declared. On the mainland there was a period of calm, after which tension and agitation against Japanese-Americans mounted. The FBI arrested several thousand Issei (Japanese domiciled in the U.S., but born in Japan). Buddhist priests, Japanese language teachers, martial art instructors, leaders or community organizations and other persons of Japanese birth were deemed "suspicious" and summarily arrested. These arrests occurred without any charges of espionage, sabotage, or any other crime lodged against the individuals.

Politicians and political parties soon called for the removal of all persons of Japanese ancestry from the West Coast. The Attorney General Earl Warren of California declared there was no possible way of separating the loyal from the disloyal then it came to Japanese-Americans. This same view was echoed by the military. The Commander of the Western Defense Command, Lieutenant General John L. DeWitt, recommended that all persons of Japanese ancestry should be evacuated from the Pacific Coast because, according to DeWitt, the Japanese race was an enemy race and racial affinities had not been severed by migration. The fact that no sabotage had yet taken place convinced DeWitt that something disastrous was in the offing.

These sentiments, expressed by military, political and economic leaders, were embodied in President Roosevelt's Executive Order 9066, which stated that the Secretary of War could prescribe "military areas" and either exclude "all persons coming from such areas, or establish the conditions under which persons might enter, remain

in, or leave such areas. General DeWitt was ordered to carry out the policy of the Executive Order.

More than fourteen weeks after the bombing of Pearl Harbor, Public Proclamations were issued against German and Italian aliens and "all persons" of Japanese ancestry. The first of these had to do with a curfew. On March 24, 1942, General DeWitt ordered all German and Italian aliens and all persons of Japanese ancestry, aliens and citizens, to remain in their homes between the hours of 8 p.m. and 6 a.m. Neither German American citizens, nor Italian American citizens were subjected to this curfew. Congress, three days prior to this directive, had approved a law providing that any person who knowingly violated a military proclamation would be guilty of a misdemeanor punishable by up to a year in jail and a fine of \$5,000.

Disappointed by both the President and the Congress, Minoru Yasui still believed that the judicial branch of the government would not sanction a military order that discriminated against American citizens solely on the basis of their race. So, determined to secure a judicial ruling, Minoru Yasui deliberately violated the curfew order. He walked the streets of Portland, Oregon waiting to be arrested. No police officer would arrest him, and he finally went into the Portland police station on Third Avenue and demanded to be arrested.

On April 22, 1942, Yasui was indicted in the Federal District of Oregon for violating the curfew order. He pleaded not guilty, waived a jury and presented his case to the court. Yasui admitted the violation, but asserted that the military order itself was unconstitutional and void as to United States citizens. See *United States v. Yasui*, supra, 48 F. Supp. 40.

The Federal District Court Judge, James Alger Fee, made an interesting ruling in Yasui's case. Judge Fee held that as long as the civil courts remained open, any acts by military commanders must conform to the guarantees and limitations of the United States Constitution and the laws of Congress. Without martial law, a military commander had no power to pass laws, especially those which treated United States citizens differently because of their race. Therefore, Judge Fee ruled, the proclamations of General DeWitt were void as applied to citizens. They were not void, however, when applied to aliens. Then, the Judge found that although Yasui had been

born in the United States, he had abdicated his citizenship and elected to pledge his allegiance to the Emperor of Japan. Judge Fee based his ruling on the fact that Yasui had been employed as an attaché with the Consul General of Japan and while in that position, had followed that Consul General's orders and had given speeches in Japan. Also, he had twice registered as a propaganda agent for a foreign power and had remained as a propaganda agent until after the declaration of war by the United States against Japan. Minoru Yasui was sentenced to one year in jail and a \$5,000 fine. That was November 16, 1942. Yasui spent the next nine months in solitary confinement at the Multnomah County Jail, awaiting the outcome of his appeal.

His case first went to the Ninth Circuit Court of Appeals, along with the cases of Gordon Hirabayashi and Fred Korematsu. Hirabayashi had violated the same curfew order as Yasui and a civilian exclusion order. Korematsu had also violated a civilian exclusion order. The ninth circuit, instead of issuing an opinion, certified the cases to the United States Supreme Court. On June 21, 1943, the Supreme Court rendered its decisions in the cases of *Yasui and Hirabayashi*, (Korematsu was remanded for further proceedings.)

The Supreme Court affirmed their convictions for violating the curfew order. The Court asked whether there was any substantial basis for the curfew as a protective measure to meet the threat of sabotage and espionage. Without requiring the government to show factual basis of military necessity the Court answered yes.

Judicial notice was taken on many observations about racial characteristics and affinities. The Court found that residents having ethnic ties with the invading enemy may be a greater source of danger than those of a different ancestry. And the Court relied upon the judgment of military authorities and members of Congress that there were disloyal members of the Japanese American population, whose number and strength could not be precisely and quickly ascertained, who could not be readily isolated and separately dealt with and who constituted a menace to the national defense. *Hirabayashi v. United States*, 320 U.S. 80, 89.

These conclusions were drawn without factual data and with the government admitting that no espionage or sabotage on the part of Japanese-Americans had occurred. The constitutionality of a military order imposed upon a civilian racial minority was confirmed.

The Court did rule that Yasui had not forfeited his citizenship. His case was remanded for resentencing. At the hearing, Judge Fee found that Yasui's nine months in jail was sufficient punishment for the crime. The \$5,000 fine was suspended, and on August 19, 1943, Minoru Yasui, walked out of the Multnomah County Jail, only to be driven immediately to the Minidoka Relocation Center. Minidoka was one of ten relocation centers built to house the over 120,000 persons of Japanese ancestry. Now, Yasui was behind barred wire, instead of steel bars.

Yasui remained at Minidoka until the summer of 1944, whereupon he was granted permission to join other family members in Denver, Colorado. In Colorado, Yasui sat for and passed the Colorado bar exam, receiving the highest test score. The Bar Committee on Ethics and Qualifications, however, ruled that because of his criminal conviction, Yasui did not have high enough moral character to practice law in Colorado. It took an appeal to the Colorado Supreme Court before

Yasui was granted admission to the Bar Association.

Yasui practiced law in Denver from 1946 to 1967. During this time he remained active in issues of concern to Japanese-Americans. He worked on the passage of the Japanese Evacuation Claims Act which was approved by Congress in 1948. This statute allowed payment to Japanese ancestry to file damage claims for loss of real and personal property resulting from the evacuation (There have been estimates that there was over 400 million of property loss at 1941 prices.) 137 million worth of claims were allowed. Under the Evacuation Claims Act, 26,568 claims totaling \$148 million dollars were filed.

Yasui also worked on obtaining Congressional approval for the Walter-McCarran Act, passed in 1952. This statute granted Issei immigrants the privilege of becoming naturalized citizens. Yasui's father, Masuo, became a United States citizen in 1957, 49 years after his immigration to this country.

In 1979, Minoru Yasui was appointed chairperson of the National Japanese American Citizens League Committee on Redress. In 1981 alone, Yasui traveled more than 39,000 miles, speaking across the nation on redress for Japanese-Americans who had been incarcerated during World War II.

Throughout these years, Yasui's desire for personal and group vindication continues unabated. He believed that his Supreme Court case endangered the liberty of all Americans. He petitioned the Supreme Court, on February 1, 1983 at the age of 66, Yasui filed a Petition for Writ of Error Coram Nobis in the Federal District Court of Oregon. His petition requested vacation of his 1943 conviction, alleging that General DeWitt, the Navy, the FBI, the FCC, the War Department and the Department of Justice had evidence that refuted any claim of military necessity or disloyalty. The petition alleges there was destruction, suppression and fabrication of evidence critically material to Yasui's constitutional challenges.

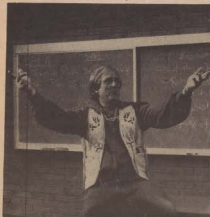
No hearing has been held on Yasui's petition. Similar petitions were filed on behalf of Gordon Hirabayashi in Seattle, Washington and Fred Korematsu in San Francisco, California. In the case of Fred Korematsu, the Justice Department finally responded to his petition, by moving to vacate the conviction and dismiss the indictment against him. The government further requested that the Court issue no findings or conclusions, but simply vacate the conviction and dismiss the petition. Judge Marshall did rule that Yasui had not forfeited his citizenship. His case was remanded for resentencing. At the hearing, Judge Fee found that Yasui's nine months in jail was sufficient punishment for the crime. The \$5,000 fine was suspended, and on August 19, 1943, Minoru Yasui, walked out of the Multnomah County Jail, only to be driven immediately to the Minidoka Relocation Center. Minidoka was one of ten relocation centers built to house the over 120,000 persons of Japanese ancestry. Now, Yasui was behind barred wire, instead of steel bars.

Yasui remained at Minidoka until the summer of 1944, whereupon he was granted permission to join other family members in Denver, Colorado. In Colorado, Yasui sat for and passed the Colorado bar exam, receiving the highest test score. The Bar Committee on Ethics and Qualifications, however, ruled that because of his criminal conviction, Yasui did not have high enough moral character to practice law in Colorado. It took an appeal to the Colorado Supreme Court before

Yasui was granted admission to the Bar Association. Yasui practiced law in Denver from 1946 to 1967. During this time he remained active in issues of concern to Japanese-Americans. He worked on the passage of the Japanese Evacuation Claims Act which was approved by Congress in 1948. This statute allowed payment to Japanese ancestry to file damage claims for loss of real and personal property resulting from the evacuation (There have been estimates that there was over 400 million of property loss at 1941 prices.) 137 million worth of claims were allowed. Under the Evacuation Claims Act, 26,568 claims totaling \$148 million dollars were filed.

Yasui also worked on obtaining Congressional approval for the Walter-McCarran Act, passed in 1952. This statute granted Issei immigrants the privilege of becoming naturalized citizens.

Gerry Spence



"Big justice for
big people,
Small justice for
small people."

Cautioning that most of his legendary settlements were eventually pared to nothing or overturned, Gerry Spence educated and entertained on September 22. Sponsored by L.A.W., Spence

discussed the Penthouse, Silkwood and Collins Catch Bear cases, as well as stressing proper jury presentation, use of demonstrative evidence and cross examination.



"Truth, Beauty,
And be yourself."

"Learning Aids" Abandoned

If you think reading a law book is difficult, you should try writing one. Professors Dominick Vetri and Fredrick Merrill are hard at work on their own contribution to every law student's library.

The second edition of *Problems and Materials on Federal Courts and Civil Procedure* has been in the process of creation since the two authors, with the help of West Publishing Company, published the first edition in 1974. Designed to supplement courses on federal courts, the book includes a complete set of problems which test the student's knowledge by applying it to specific facts and circumstances. Many of the problems provide a glimpse of actual legal practice and some include real documents. As a benefit to the student who becomes confused and lost or merely desires more information, each question is followed by appropriate citations.

While the professors do not ignore theoretical implications, the book stresses the problematic approach. The theory is learned in class; the problems in the book show the practical applications. As Professor Vetri points out, many law students grow tired of the casebook method by their third year.

Work on the Second Edition is different from the effort that went into the First. Professor Merrill described the work as a little easier due to gained experience. Each problem has been revised with the significant help of students and in consideration of the increased promulgation of new law by the Supreme Court. The focus of the new edition has shifted away from the procedural aspects of its predecessor to a constitutional law emphasis. It is fifty percent new, according to Vetri, and abandons the "Learning Aids" section. The use of ethnic names, a realistic approach that was unique in 1974, has been continued.

The First Edition was the result of five years of work by the then new U.O. Professors, both of whom bring a wealth of experience in both legal practice and teaching to the new edition and to this school.

law review

by Heather Grahame
Editor-in-Chief

The Oregon Law Review has the ambitious goal of publishing two of the previous staff's four volumes, and three if not all four of our

The University of Oregon School of Law Board of Visitors makes its semi-annual visit today, October 21.

The Board will present a program for all law students on a variety of topics ranging from what private practice is like, to the work of corporate counsel, to public and government service.

There will also be a very interesting discussion on "getting that first job!"

The program is scheduled to run from 1:00 to 4:15, in Room 221.

The Board of Visitors is composed of distinguished legal professionals who, despite their extremely busy schedules, have donated their time and energy to helping the law school improve. Some

members are name partners in their own firms, others are involved in public service, or are on the bench. Their service to the law school is without pay. And yet, we are fortunate to have some of the finest people in the profession serving on the board.

Saturday, October 22, the Board of Visitors will meet with faculty, students and administration, in order to discuss the state of the law school.

Student concerns regarding curriculum and financial aid will be discussed. There will also be some discussion of the school's needs in terms of its library and facilities.

A report on this visit will be made available to students by the SBA.

JUST WHEN YOU THOUGHT IT WAS SAFE TO GO
BACK TO SCHOOL AGAIN...

LAP II

WITH 3-D VENN
DIAGRAMS

HE'S BACK, IT'S A FOUR-HOUR CLASS, AND IT'S

REQUIRED!

own by next July. Meeting this schedule involves approximately 106 deadlines (sounds pretty sick). If we meet our goal, the 1984-85 Law Review staff will start its "law review tenure" with a clean (publishing) slate.

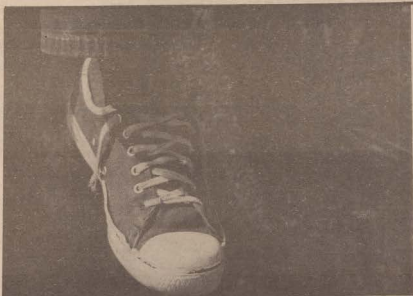
Upcoming issues will include articles on the Law of the Sea Treaty, international antitrust, sex discrimination, forest planning, hearsay testimony before grand juries and Oregon civil procedure.

In the meantime, the Law Review staff congratulates the law review candidates for their hard work during the casenote competition. Results of the competition will be announced Monday, Nov. 7, at 8:00 AM.

BOARD OF VISITORS HERE OCTOBER 21, 22

SPORTS NEWS

race judicata



the not serious Page

YOU ARE HERE



INSERT



CASENOTE HOSTAGES FREED



DON'T MISS

Behind the **GLASS** Door

NEXT ISSUE'S

Shocking Expose

of the OREGON LAW

REVIEW

BORDERLINE INSANITY

LACY'S
CROSSWORD PUZZLE

ACROSS

- 1 Orville and Wilbur
3 More than one law faculty member
17 Actor's assignment
18 Doctorow novel
19 First person singular
20 Temperance org.
21 Tidal phase
22 Dismiss from employment
23 Good _____ boy
24 Emcee (var.)
26 _____ or M
27 w/o delay
29 Bay area metrop.
30 Merrill's baby
34 Ad _____
36 Suits me to a _____
37 Lawrence's forte
41 Eggs, to Ovid
42 _____ place I hang my hat is home
42 One way to prove negligence
47 Auxiliary verb
48 1,000 to Tacitus
49 Useful for making plurals
50 Depressed? Add a B. Confused? Add a C.
51 Not for Bayse
54 Shines
58 Yes, to Andropov
59 In order to assault one must put _____
61 Make of bicycle
62 Compensate for
65 Bone or mouth
66 International agreement
68 Danish-American journalist
69 Very important set of reports
70 Mid-Atlantic state
71 Kind of assumpit
73 Most common letter
74 Ecclesiastical bench
76 What Clara Bow had
77 See 49 across
78 Distal portions of small intestines
79 T-shirt size
80 32 feet per sec. per sec.
82 First degree
84 Twenty-third letter
85 See 36 across
86 Never turn one down
87 Yielded

- 90 First name of adult cygnet
92 Hospital dept.
94 Add two vowels and get a teenager's despair
95 Hillbilly's affirmative or possessive
96 Exclamation (var.)
97 Hoi _____
98 Roses, to Virgil
100 Big _____
102 Predecessor of owl B
103 See 36 across
104 D.H. Lawrence's last resort
105 A.G.'s prod.
107 Concur
109 Feminine pronoun
111 See 49 across
112 Plaintiff in case that went to Supreme Court from Oregon in 1877
113 Coronations, inaugurations, weddings, etc.

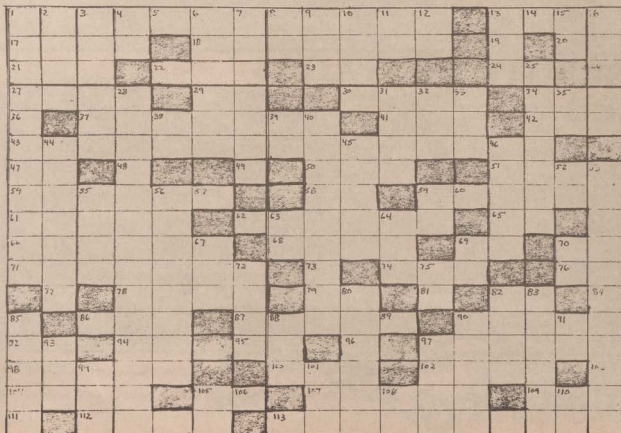
DOWN

1. Due process of law, freedom of speech, equal protection, etc.
2. Violates ORS 164.395.
3. Jostles rudely
4. All of an Irish and part of an English poet
5. See 36 across
6. Connect handbones to arm bones
7. Palm fibers
8. Inspector general
9. Model of Pontiac
10. City on the big Island
11. _____ Reg. U.S. Pat. Off.
12. Compass point
13. See 13 across
14. Nada, rien, zilch
15. Wry comment
16. See 13 across
25. See 13 across
28. Sine qua non for plaintiff's counsel
32. LXXI plus XXXV
33. Merrill's wife
35. Preposition
38. Middle rank official?
39. Freq. wins all star game
40. Bonanza for Law Review
44. Would Wolfgang have said "effrisst"?
45. _____ in rem

46. His lawyer did his best, but oh! what he got sent
52. Major airline's monogram
53. Prerequisites for good reads
55. E plus 86 across
56. Muesel-like
57. See 49 across
59. Neuter pronoun
60. See 26 across
62. See 14 down
63. It's only worth about 15 cts. today
64. Sixth sense (abbr.)
67. Add an L and get a Harvard man's horror
69. Ouch!
70. 3.14159
72. Like some valentines
75. Footnote signal
80. See 13 across
82. _____ book and candle
83. Finally
85. Forell and Vetri specialty
88. Aurora, to Agamemnon
89. Poor grade
90. Ultimate source of law, according to positivists
91. _____ hippus
93. Large snake
97. T.S. Eliot, for one
99. Male offspring
101. Egypt's real name (abbr.)
105. King _____ Hearts
108. Apollo, in Alexandria
110. Masculine pronoun

COSMIC HOLIDAY GIFTS

Glow-in-the-dark star maps, showing the heavens over the U.S. and elsewhere, fit above anyone's bed. They are available from the map's designer, Larry Deckman, for \$7 each. (Locker 383) Leave a note or call 343-7166.



cont.

IN SEARCH OF LA NUOVA CUCINA

In a small town in Eastern Oregon the meeting of law and technology is now prohibited. Further, it is punishable by a clearly unconstitutional combination of fine and imprisonment. Things were not always so.

Joe Savage graduated from law school on a football bet with the dean, passed the bar due to an exam number foul-up, and opened an office in the quiet town of Reklaw, Oregon.

Everyone knows that it takes at least two lawyers to get anything done, so, needless to say, Bill Hackler, the town's only other lawyer was tickled pink to have some company. On his way over to greet Joe, Hackler stopped by the courthouse and filed forty-three lawsuits. By week's end the whole town was in a frenzy, dragging up old property disputes, contested wills and such, all seeking (mostly on credit) the justice that had so long evaded them.

Joe Savage, contrary to what his transcript indicated, was no fool. Being up against an older lime Hackler was going to take more than some dog-eared Gilberts and a bootleg outline. He needed a miracle.

Quickly reviewing his law school career, Joe recalled a class he once took entitled "Office Management and Computers." A computer, he was told, is the backbone of any successful law practice. Tapping his newly opened trust fund, Joe was able to purchase a reconditioned MANGO II computer from a company based somewhere near Maui. For fifty bucks more, the salesman threw in a program called "The Civil Trial" which was guaranteed to "do everything but buy the jury."

MANGO II and floppy disk in hand, Joe entered the courtroom.

The first case on the docket went without a hitch. Joe typed in Hackler's arguments; the MANGO II printed a counter-argument complete with citations, told Joe when to stand, sit and clear his throat, and Joe won decisively. While MANGO II's memory banks hummed, Joe daydreamed of black robes and a scholarly opinion in Fed. 2d. Early afternoon brought the case of Farley v. Camden. Joe represented Camden, a tenant in Farley's apartment complex. Camden sought protection under a little-known Reklaw City Ordinance

which allows renters to deduct from their rent payment amounts lost in wagering on the local football team. The Reklaw Rangers, 6-0 for the season, had been mercilessly slaughtered by an unheard of 2-A school from the coast, an event which left Camden about \$200 in the red. When Farley stopped in for the rent money, Camden gave him a handful of small change and invoked the statute.

In court, Hackler pointed out that the statute was passed in 1879, long before there was any rental property in Reklaw and at least seventy years before the town had a football team. Furthermore, Hackler argued, the statute had obviously been overlooked in the numerous revisions and to allow its application here would unjustly permit Camden to get free housing every time his bookie slipped up.

Sound reasoning, thought Joe. But, then he remembered how the Contracts class had laughed when he'd answered "justice demands it" in response to some insurance coverage issue. Furiously, he entered Hackler's words. Driven by some new found power, he propelled MANGO II's

cursor across the monitor, barely stopping to object.

Then came the big moment, "Your closing argument, Mr. Savage," demanded the obviously irritated judge. Joe jumped to his feet, nervously shuffled some papers, then reached for MANGO II's print button. At that instant the courtroom lights flickered. Joe, momentarily distracted, punched instead the "compulsory counterclaim" button causing MANGO II to shake uncontrollably on its rollaway cart. A blue spark leapt from one of the rear vents, igniting carpet by the jury box. In an attempt to recover, Joe began to madly hit buttons. Suddenly, MANGO II's violent shaking ceased, the blue smoke cleared and MANGO's monitor printed: "the large bird flies with fork in thigh."

by Mike King

For Lack of a Better Alternative

By Kinnon W. Williams

A large console T.V. dominated the small dark living room. The drapes were drawn shutting out the light of the outside world, making the air in the room seem musty and stagnant. A boy in an overstuffed recliner sat mesmerized, staring at the screen, reciting each line of dialogue silently to himself. The pop was the same, the shows were the same, the event was the same. Day after day he would come into the room and watch Leave It To Beaver reruns time and time again, drinking pop and eating chips until his gums ached and his stomach bloated.

He enjoyed watching the Beaver. That show was something he knew better than anyone else. He recalled the time that his elementary had an all school Leave It To Beaver trivia quiz and he began to laugh, remembering how he had totally cleaned up. No one had come close to his level of skill. None of those other idiots knew that Ward Cleaver worked with Fred Rutherford or that Wally went out with Mary Ellen Rodgers. Why, one kid he talked to didn't even know that Beaver's mom's name was June. God knows what they would have done if someone would have asked them who the principal of Mayfield Elementary was. What was her name anyway "Darnit." It bothered him that he didn't know, but wait a week and the episode would come up.

He took a sip of pop trying to wash down the salt of the stale potato chips which gunned his mouth, leaving it puckered and filmy. The T.V. began to drift from his mind. Running, reading, seeing people began to come to him. All of the other things which he could possibly do were filling his mind, but why? He hadn't thought about those things in a long time. He took a long slow sip of pop and thought some more - all of those other things.

Maybe it would be nice to do some of that other stuff, but it all took a lot of time and energy he didn't have. Too much time, too much trouble. He didn't really want to do those things anyway. He would rather sit and watch T.V. until something better came along.

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MIRRORS

by Mike King

I had always wondered what was said to those too few at their graduation ceremony; what inside information was whispered to them when presented with their diploma. For most of us it's just a smile and handshake, but for those elite few, some special secret surely passed, thereby ensuring their continued success. I was determined to break that inner circle.

Last May, I rented a very sensitive listening device which, when directed toward the platform, would allow me to hear all that was spoken. Anxiously, I waited in the shadows for the graduates to approach. First onto the stage was an intelligent young man, with fairly good grades and a bright future. I tensed, but no, just casual exchange. Same for the next few passersby.

Then suddenly, I knew paydirt was in sight, for onto the platform walked Mr. Numero Uno, himself. As he neared center stage, the dean's expression suddenly transformed into that of a man about to participate in a sacred ritual.

I fine-tuned the amp, started the recorder, and strained for the first words.

Slowly, No. 1's hand extended for the diploma, and even more slowly, the Dean leaned close for the transfer. As the Dean's lips moved, I was clearly able to hear: "Remember, it's all done with mirrors, son. It's all done with mirrors."

NONSERIOUS STUFF

Claiming to be tired of the "same old legal questions," the Supreme Court opened its new term with a host of deviant decisions. The reaction of the legal community was largely negative with several respected jurists describing the new trend as a "bad annoying." Justice O'Connor summed up the new Court revelry as putting the "la" back in "law." Another lawyer could not be reached for comment.

In its first action, the Court refused to enforce a contract which had clear consideration and even significant reliance since it dealt with the sale of a bowling alley. L. Roger Butch sought specific performance from Lester Spike who had flushed the signed and sealed contract down a public urinal. Stating that bowling was "a singularly ignorant thing to do," the Court felt the law of the land should not have to deal with such "wanton stupidity." The Court went on to say that the difficult task of getting the paper through the little holes in the urinal was "sort of tantamount to a revocation" in *Butch v. Spike*.

The Court also inaugurated a new form of long arm jurisdiction which it termed "parane pseudo quasi-in-rem" in *Weik v. Tommy-ton*. States would be allowed to exercise jurisdiction over nonresident owners of toy dumptrucks which bear "a rather striking resemblance to actual equipment" employed in the state attempting jurisdiction. The holding allowed Maryland to render a judgment by default against a 14 month old Kansas owner of a Tonka Mudmaster. The tort action resulted from a "rude bumping" allegedly rendered by the toddler against a former resident of Baltimore while flying in a

private plane over New Zealand. GMC Mudmaster trucks operate with "discernable frequency" in Maryland. The truck issue was seen as overriding any concern about the tot's "alleged legal incapacity." It is not clear if the decision extends beyond dumptrucks to all toys.

In a boon to the enforcement of legal ethics, the Court refused to prohibit the ABA from pursuing a new harsher method of punishing attorneys who grossly violate the Bar's ethical doctrines. The method involves changing the locks on the attorney's briefcase and is the strongest penalty the Bar allows. The dissent in *An Off-Off-Set Leather Briefcase v. The ABA* termed the majority decision "an extreme exercise in neo-Nazi infringement of every aspect of personal freedom, but an acceptable one."

In the final decision of the day, Chief Justice Burger ruled himself to be "neither a senile hypocrite nor a senile tyrant" in *Reality v. Burger*. The busy day of difficult decision making was followed by a dance.

by David S. Curcio

DISCLAIMER

The comments and opinions expressed herein are solely those of the writer and should not be construed as implying any belief, value or other guiding principle of life of anyone who may look like him.

Gift To 1st Years

If I was limited to buy one pearl of wisdom to share with you, it would be the following: "START STUDYING L.A.P. NOW, and FOR GOD'S SAKE BRUSH UP ON YOUR VENN DIAGRAM!"

In order to assist you in this endeavor, I have designed a simple exercise to help refresh your memories about the Venn diagram.

EXERCISE

PART I: Draw a Venn diagram describing the relationship (if any) between the following two terms as described in Webster's New World Dictionary.

Attorney n. Any person legally entrusted to act for another. (p.48)

Lawyer n. A person whose profession is advising others in matters of law, or representing them in lawsuits. (p.428).

OK, that wasn't too bad; now go on to the next section.

PART II: Open your Black's Law Dictionary and look up: attorney general, U.S. attorney, house counsel, barrister, prosecuting attorney, and state's attorney.

Incorporate each of these subgroups into your Part I diagrams, paying particular attention to the subtle interrelationships of these groups. Be sure to consider the jurisdictional prerogatives of each subgroup, and feel free to use all relevant data in completing this exercise.

The most creative answer will be published in the next issue of *The Dissent*. Please place all entries in Professor John Bonin's mailbox (3rd floor).

by Jeff Stulberg

HORATIO'S HYPOTHETICALS

A and B are mountain climbers connected by a rope as they climb Mount Horatio. B falls and A cannot pull him up. Realizing that B will pull him to death A reasonably believes to be certain death. A pulls out his knife to cut the rope to let B, his best friend since childhood, become part of the rock formation 200 feet below by himself. B, rather disheartened by A's threatening actions, shoots A with a revolver he conveniently packed in his lunch pail the previous evening. The two fall. B miraculously survives with a bruised

thumb. A's heart beats for two hours but is regrettably 45 feet from his body.

B returns to town carrying the strategic remnants of A's body in his knapsack. At the funeral for A's head and thighs, one of the coffins falls out of the hearse and rolls over C, a six year old who thought the funeral procession was a parade and was looking down the street away from the hearse, waving a U.S. flag. The hearse driver, P, had been hired by B when B was drunk and thought he was renting stereo equipment.

QUESTIONS: 1) What remedy does C have against D's parents?

2) Can charges be brought against B for "knowingly concealing a dangerous instrumentality in a mobile food storage facility with intent to mislead?"

3) Can D be paid in lima beans because B was drunk when he contracted with D?

4) Will Batman arrive in time?

5) Can C sue in federal court since "waving a flag is Constitutionally protected right?"

"So, You Want to Maim an Infant..." by Petie "Killer" Throggs will not appear this week as promised. His series on how to avoid criminal prosecution will resume in five to ten years.

by David S. Curcio

CAUTION

Some contents of this newspaper may cause drowsiness. Do not operate heavy and expensive farm machinery while reading this rag without the expressed written consent of a doctor.

If you read, don't plover. And if you plover, don't read.

RECIPES

courtesy of

Cindy Hall

An Gratin Potatoes with Mushrooms

Peel and slice thin 5 potatoes. Slice 1/2 lbs of mushrooms. Rub baking dish with clove garlic and butter it well. Layer potatoes and mushrooms, ending with potatoes. Sprinkle over each layer part of 1 cup garlic, Swiss cheese, 1 chopped onion, chopped parsley, salt and pepper. Pour 1 pt. heavy cream over top (milk with 2 Tbl. flour will work). Sprinkle another layer cheese a few lumps of butter. Bake 45 minutes in 375 oven. Serves 6.

Noodle Casserole (serves 4-6)

cook 8 oz. egg noodles
Brown 1 lb. ground beef, with chopped onion (use tuna, if preferred - good with wheat chutney)
Stir in 1 can cream of mushroom soup (use celery soup, if preferred)
2 beaten eggs
1 pt. cream style cottage cheese.
add noodles. Pour into casserole dish. Top with grated cheddar cheese.
Bake at 350 - 30 minutes.

SERIOUS STUFF

Gazpacho (cold tomato soup)

1 cup finely chopped, peeled tomato
1/2 cup finely chopped celery
1/2 cup finely chopped cucumber
1/2 cup finely chopped green pepper
1/2 cup finely chopped green onion
2 tsp parsley
1 small minced clove garlic
2-3 Tbl. wine vinegar
1 Tsp. olive oil
1 Teaspoon salt
1/2 teaspoon pepper
2-2 1/2 cups tomato or V-8 juice
1 Tbl. paprika (optional)
combine all in stainless steel or glass bowl.
Cover and chill 4 hours. Serve in chilled bowls.

Cauliflower Soup

1 cauliflower (broken up)
2 onions (peeled and quartered)
4 ribs celery (cut 3")
3 cups water
4 Tbl. butter
3 Tbl. flour
1/2 tsp. salt
3 cups milk
3 cups chicken broth
garnishes: parsley, cheese, etc.
Simmer cauliflower, onions, celery, and water for 20 minutes, or until tender.
Remove water, save.
Put into blender until smooth. I usually add some reserved water.
In pan, melt butter, add flour, and spices, simmer for 1 minute.
Add milk and chicken broth to butter mixture until it thickens, and boils.
Add vegetables and heat. Add garnishes.
Note: If you don't have a blender, instead of smooth cream soup, you will end up with a vegetable soup. Makes big pot!

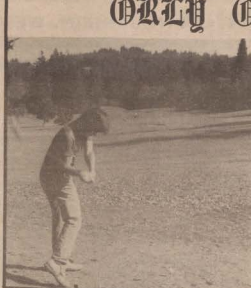
ORLY OPEN

Tim Coleman putted himself into the record book in taking the eleventh annual ORLY OPEN, on September 30th.

All-stars Jeff Mapes, Dana Stotsky, Eric Hall, and Dave Streicher won the scramble competition with a five-under par 30.

Coleman holed a clutch 35 foot putt on the last hole to edge Brian Thompson for the title.

Once again, the ORLY has lived up to its reputation for good golf and even better fun!



Rugby: A History

Anyone more familiar with the current movie "Risky Business" than they are with Rugby will appreciate the misquoted advice offered the erstwhile hero looking for an escape: "Sometimes ya just gotta say 'What's a Ruck?'"

Tradition has it that Rugby began in 1823 during a soccer match at Rugby University in England. There, frustrated by his apparent ineptitude in kicking the ball, a young lad by the name of William Webb Ellis, with a fine and utter disregard for the rules, picked up the ball and ran it into the goal area. Penalized, of course, but undaunted (of course), he attempted the same stratagem again later in the game. This time, however, an inspired opponent tackled him short of the goal area. Thus was born the game that took its name from that same school - RUGBY!

Some of the very early games were played with as many as 20 to 30 players on a side on a field up to a half mile long. In the 1870's, the basic present-day game developed with 15 players per side. The game was still played without the fine luxury of a referee until 1883. At that point, common sense and common injuries both bespoke the need for some objective arbitrator on the field.

As played today, Rugby is more flowing than football. The field or "pitch" is roughly 110 yds. by yds. with goal posts at each end. (Editor's note: That's 10 yds. longer than a football field and some wider.) From the opening kick-off the game is interrupted only by penalties or when the ball, or player with the ball, bounces out of bounds. Otherwise, the play moves up and down the field in a con-

tinuous movement. The ball is advanced by running or by kicking and chasing. A player may be tackled only when in possession of the ball - there is no blocking whatsoever. However, with the potential glory of scoring while in possession comes the more probable agony of being caught in possession by any or (or all) (or some combination thereof) of the opposing 15. The appearance is that of unorganized mayhem. Illusory! - the mayhem is quite organized!

In addition to the physical aspects of Rugby, another attraction is the camaraderie engendered. Hostilities are left on the field after the final whistle. The post-game party, the traditional "third half," is as much a part of the game as bumps and bruises. Spectators, as well as players, are encouraged to participate. All things considered, there may be some truth in the old sport adage that while soccer is a gentleman's game played by beasts, Rugby is a beastly game played by gentlemen. (Unfortunately, others would add that football is a beastly game played by beasts. Fortunately, there is no room for a malediction of that sort in an article of this tenor.)

More (perhaps) on the game itself in a later installment - in the hallowed tradition of all great cliffhangers. Til then, remember...

There once was a Rugger named Judy
Whose play was always quite moody
She'd zig and she'd zag
She'd wiggle and wag
(She knew they were after her booty!)



SUMMER VACATION: MANNHEIM, WEST GERMANY

IN THE ARMY!

by Karen Altman

I spent last summer working for the country's largest law firm. It wasn't Megabucks, Megabucks & Megabucks in New York City. It was the United States Army.

I didn't even work in the United States. I lived near Mannheim, West Germany, working for the Army's "public defender" agency - Trial Defense Services.

Each year, the Army hires 100 first- and second-year law students as summer interns. About 25 go to Europe. Interns work in various divisions of the Judge Advocate General's Corps, including criminal (prosecution or defense), legal assistance and International Law. Some work in the appellate division in Washington, D.C.

I discovered the program while rummaging around for something interesting in the Placement Office's files. What attracted me was (1) you don't have to JOIN the Army, and (2) the opportunity to go to Europe.

I missed the application deadline my first year. When second year rolled around, I made sure I mailed my application well ahead of the deadline (it's Dec. 9 this year). I even called the Army's recruiting office in Virginia to ask what the selection board looked for. I was told that they wanted outgoing students who were involved with their schools and weren't "library hermits." Law review or moot court work helped somewhat. Grades should be respectable but straight A's weren't needed.

It sounded perfect. I was certainly "outgoing" and involved and while my grades weren't great, they were respectable. I sent in the application, specifying Europe as my choice for assignment. And I waited. And waited. And waited.

The telephone call offering me the job didn't come until early March. By then, I'd already accepted an internship in California. I was given 48 hours to accept or decline. (Sounds like the Army, doesn't it?) I agonized all weekend, not wanting to weasel out of the California job. Finally, I called my boss-to-be and explained the situation.

"Tell you what," he said. "You come here, and I'll go to Europe."

That settled it. I accepted the Army's offer.

There's one big catch to this internship. Although the pay is quite good (\$7.95/hr for 2nd years, \$6.40 for 1st years), you have to pay your own way to your duty station and arrange for your own housing. I ended up having to stay in a rooming house for 20 days.

All overseas assignments are in Germany. I didn't find out exactly where I'd be until late April. I'd asked for Stuttgart and prosecution; I got Mannheim and defense.

After awhile I was very glad that I'd been assigned to defense rather than prosecution. Prosecutors in the military have very little discretion. They have to adhere to virtually all demands by commanders. Defense, on the other hand, is very autonomous and its attorneys can't be bullied by commanders.

The military defense function is unique: nowhere else can a defense attorney call up the complaining party and order him to have the adverse witnesses lined up and waiting for him to come interview them. My supervisor did this (successfully) numerous times.

I watched several court-martials during the summer, mostly "special" court-martials (heard by a junior judge; only limited confinement may be imposed). Most of our

clients were accused of drug-related offenses, mainly hash-hish. (There is almost no marijuana in Germany, just hash). Almost all our clients were guilty and almost all of them got convicted.

Minor charges never make it to the court-martial level. They're handled administratively ("Article 15" of the Uniform Code of Military Justice). Punishment includes extra duty, "busting" down a rank or two, loss of pay. Defense attorneys may only advise soldiers on these charges; the soldiers are not entitled to representation. To get an "Article 15" is very serious, however: it can bar reenlistment for someone who hopes to make the military a career. Article 15s were passed out for offenses as petty as failing to remove one's cap in the post exchange.

One Article 15 I worked on was the case of a major charged with "Conduct Unbecoming an Officer and a Gentleman." He'd gotten into a fight with an enlisted man during a baseball game. The brief we wrote for him argued that he was off-duty; everyone was out of uniform; it occurred on a baseball field and not in an office; and he did not start the fight. He managed to beat the rap.

I also worked on a sexual harassment case. Our client, a staff sergeant, was accused of harassing a female civilian worker. She'd complained to the commander, who ordered a hearing. When the worker found out she'd have to testify, she caved in. She admitted that he hadn't really said real bad things. He ended up getting just an oral reprimand. (If full charges had been brought, he could have been sentenced to federal prison and been dishonorably discharged.)

I also visited the local German prison housing six American prisoners. Germany has a "concurrent prosecution" agreement with the military. If the Germans want to prosecute an American servicemember who broke their laws (meaning it was not a purely military offense), they may. In practice, only "heavy-duty" cases involving German victims are tried in American courts. The servicemen done time in the German slammer had been convicted of murder, rape, and armed robbery. One was a civilian: the military has no jurisdiction over civilians overseas, including military dependents. If they are to be prosecuted at all, it must be by the foreign authorities. (If a dependent commits a crime that isn't prosecuted by the Germans, often the military will just send him home.)

Unfortunately, a great chunk of my summer was spent sweating on the top floor of the Max Plank Institute for International Law in Heidelberg, researching "The Effects of a Criminal Conviction" in all 50 states (such as right to vote, serve on a jury, and be licensed for various occupations). It was extremely tedious work. I did find out some interesting trivia; for instance, did you know that you can't become a professional soil classifier in North Dakota if you've been convicted of a crime that would "affect the applicant's ability to serve the public as a professional soil classifier"? Like throwing dirt clods, maybe?

Other than that, the summer was great. I visited seven countries (Paris, Amsterdam, London, Bern, Copenhagen, various parts of Northern Italy and all over Germany, including East and West Berlin). The trips were short (two to four days) but enough to get my first taste of Europe. I got all the time off I needed. I spent every dime I made. I even learned a little German. I

brought back a bunch of posters and a cuckoo clock from Heidelberg.

I often turned out for twice-weekly 6:30 a.m. "PT" (physical training). The lawyers went voluntarily and the enlisted staff people were required to participate. It wasn't a big deal; a few minutes of calisthenics and two miles around the track. The major in our office got a kick out of running behind me and chanting, "I wanna be a third-year student" or "I wanna be a legal intern."

As a civilian, I didn't wear a uniform. The JAG lawyers have to. Like everyone else, they wear the camouflage "duty uniform" at all times except in court. That took a little getting used to, seeing attorneys running around in GI Joe suits and Army boots.

The Army hasn't had too much trouble filling its lawyer ranks in recent years. It is recruiting women and minorities, however. The commitment is for three years and you start as a first lieutenant, moving up to captain in six months. Most attorneys work in all three divisions: legal assistance, prosecution and defense. All soldiers and their dependents are entitled to free legal assistance.

Although I doubt I'll join the Army (I look terrible in camouflage), it was a great summer. I worked in a unique legal environment and got to see Europe for the first time. Beats looking up tax cases for Megabucks, et al any day.



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"ASK ME."

MOOT COURT TEAM HIDES OUT

by Karen Altman

We started getting nervous around 12:30 a.m.

"The cop usually starts locking up around now," I informed my teammates. "So talk quietly."

We whispered as quietly as we could. It was obvious that we had a lot more editing to do on our brief.

We thought we'd done it: evaded the campus cops! But at 1 a.m. the door to our LRW room flung open and THE LAW confronted us.

"Omigod, we've been busted! Run for your lives!" yelled Doug.

"Ya gotta pass?" demanded the officer. "Pass? Pass?" we chorused. Don looked at Doug. "Did you bring the pass?" "The pass! Oh, gee, no," said Doug, looking at me.

The police officer rolled his eyes heavenward. "I could call Peggy Nagae and get her OK," Doug suggested helpfully. "Gotta be in writing," said the cop.

"I could write it and sign her name," Doug said.

The cop gave up. "How long you guys gonna be?"

"Oh, no more than 20 minutes," I promised.

"I'll give you an hour," he said. We thanked him profusely.

At 2:30 a.m. we finally finished editing the brief, ending our third marathon editing session. The brief-writing section of the National Moot Court Competition was drawing to a close.

In the next several days we made frequent trips to the third floor, pestering poor Carrie Blain and Marilyn Martin, who patiently tapped out our briefs on the word processor. Four revisions later, it was DONE!!

Everybody was hopelessly behind in schoolwork. Don Corson immediately began work on his law review casenote. I finally did my laundry.

Writing the brief was the worst part. The fun part — oral argument — was about to begin. We scheduled seven practice rounds

in front of faculty judges (for whose assistance we are very grateful).

On November 3-5 we'll participate in the Regional competition in Portland, competing against law schools in Oregon, Washington, Idaho and Montana. The winners at Regionals go on to Nationals in New York City in February. Sandra Day O'Connor will judge the final round.

This year's problem is a securities exchange — racketeering statute (RICO) issue. Appellant, a professional tennis player, sunk \$650,000 of his hard-earned tournament winnings into a prosperous (or so he thought!) computer business. But unbeknownst to him, the nefarious majority stockholders were scheming to unload the business so they could get into Florida orange juice. The business was not as prosperous as our poor tennis player was led to believe: the manager had taken ill and could no longer finagle great deals with the software boys. The business went belly-up and appellant was left holding the bag. Securities fraud? Yep. A racketeering offense? Maybe. That's what the argument's all about. (Can you guess that I helped write the appellant's brief?)

For the first-yearers who are wondering what I'm jabbering about: the Moot Court is composed of four third-years and two second-years. The third-years participated in the Wayne Morse Trial Advocacy competition during their second year, as part of the Advanced Appellate Advocacy class. The four top scorers were invited to be on the team. The second-years were the top oralists in the voluntary First Year Moot Court competition and held it late in spring.

This year's team members include Fred Ruby, Shelley Nelson and John Kieran (Respondent's brief) and Karen Altman, Doug Fong and Don Corson (appellant's brief). Advisor is Peggy Nagae.

There are simple answers. But the simple answers are very complex. Chuck O'Kelley 10/19/83

LAW LIBRARY HISTORY: A FRACTURED FAIRY TAIL

Anonymous

ONCE upon a time there was a law library with three main characteristics: it was underfunded, undersaffed, and overrun with undergraduates. Each night Muffy, Fluffy and Peter Rabbit hopped over to the law school in their alligator shirts, Big Gulps in hand. They knew the law school was the top drawer place to be from reading the campus newspaper which had advertised the free phone, free coffee and the superior ambience. Coincidentally, vandalism, theft, noise, overcrowding all seemed to follow.

Innocent and long suffering law students found they could not study. First, there was no place to sit. If they could find a place, the noise made it difficult to study. And they could not leave anything at their desk for fear that it would be gone when they came back. Some law students said "This is not right. We pay a special building use fee, a special library fee, and nearly \$1000 more in tuition than undergraduates. The law library, if truth be told, does not even meet the ABA accreditation standards on required number of seats or a few other things. But at least there should be an attempt to run a graduate study facility instead of a social club."

So they took their complaints to Library Jellyfish (so-called for a similarity in spine). He replied "My boss does not like law students and won't help you and I want to keep my cushy job, so I won't help you either."

The students next went to Asst. Dean

Piggy. She said "Closing the doors to Muffy might cause an equal protection problem (as if Muffy and Fluffy were a suspect class), so I can't help you." Battering her petrochemical eyelashes, she added "I want to be your friend, so don't give me any negative energy. And do remember the administrative powers I wield before you do anything rash." Next the students went to Dean Buzzer. He kindly said "I'll see what I can do." (Interpretation: "Buzz off, you fungible goods. You're here for only three years and we can wait you out.") And knowing that law students are the most helpless of consumers, he raised the special fees \$200.

The students had exhausted all their administrative remedies. They had complained, begged, petitioned and used self-help. After 8 months of futile effort, they took their complaints to the distinguished Board of Visitors. The Board said "We hear these same complaints every bloody year. When is it going to be fixed?" So 6 months later the school put up a new sign on the door, overlooking the fact that a previous sign had had no effect. The school promised to study the possibility of installing a lock on the doors with keys issued to law students (which Librarian Jellyfish thinks is a bad idea). It has been under study for 6 months so far and will likely take another 10 years. For now, the problem continues for each new generation of law students to suffer, especially when final exams coincide with undergraduates' finals, as part of "the law school experience."

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Phi Delta Phi

—by Karen Altman

On November 11, high on a hill in the city of Eugene, a group of U of O law students will join a 114-year-old legal fraternity.

Phi Delta Phi, founded in 1869, is the oldest and largest legal fraternity in the nation. Many prominent attorneys have come from the ranks of Phi Delta Phi, including many graduates of the U of O chapter.

The fraternity currently has about 26 active members. Recruitment is going on now and initiation will be held Nov. 11 at Professor Randolph's house.

In many law schools, Phi Delta Phi is the "elite" fraternity open to only those with high grade-point averages. U of O's chapter welcomes any and all law students, interested in a variety of activities designed to enhance the law school experience.

Education activities planned for this year include a speaker's program, tours of the state police crime lab and Lane County jail, and police ride-alongs. Social activities include a weekend trip to the coast, a ski trip, potlucks, and keggers.

The fraternity also provides bagels for sale on Tuesdays. Each year a "Teacher of the Year" award is given.

In addition to local activities, Phi Delta Phi members benefit from their affiliation with the national fraternity, including the opportunity to participate in a loan and scholarship program. Loans up to \$1,500 are available, with no interest accruing until graduation. Scholarships of \$500 each are also available.

All students interested in joining Phi Delta Phi or learning more about the fraternity should contact any officer or member. This year's officers are Laurie Abraham (magister); Beverly Penz and Jim Marshall (vice-magisters); Tess Brossier (exchequer); Laura Rackner (clerk) and Karen Altman (historian). Faculty members include Professors Randolph, Kirpatrick, Brodie, Fukumoto, Haldane, Mooney and Professor Emeritus Orlando John Hollis.

Student members include Pat Wade, Kurt Anderson, Gayle Brooks, Tim Coleman, Mark Watson, Jim Bennett, Mike Blaskowsky, Steve Holcomb, Steve Holmes, Valerie Singer, Lee Coleman, Steve Dingle, Deborah Dorman, Craig Erickson, Katie Georges, Gloria Gardiner, Kay McCurdy, Kurt Hansen, Karen Randolph and Claudette Yost.

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HEART OF DARKNESS

There is a heart in that heart of darkness. It is the heart of a culture, of an old man. He was the father of a student of mine and I met him when I travelled with that student, Matthew, to his village at the base of Mount Grand Gedeh (Gee-da). The mountain, jungle-covered, rose up gently from that little village, which itself was high up on some bare, rolling ground, above some swamps.

Then I was a Peace Corps volunteer in Zwedru (Za-way-dru), the county capital of Grand Gedeh County, Liberia, West Africa. Adventure was in my heart and had moved me to journey deep into the rain forest to Matthew's home and from there climb the mountain. As it turned out, Mount Grand Gedeh was no more challenging than Spencer's Butte. Yet before the turn of the century no members of Matthew's tribe, the Grebo (Grey-bo), had climbed it, for it was the feared home of their gods. Then white missionaries came exulting their God. "We have our gods already," explained the Grebo. "Your gods do not exist," argued the missionaries. And to prove their point, one of them went up Gedeh and returned. Now the gravestones of companions of that missionary, victims of the malaria, lie at Gedeh's base, the only tangible evidence of that great ideological triumph.

I had met Matthew's father, an elementary school principal, when he had visited Zwedru in the company of his teachers in order to beg the county Supervisor of Education for back pay. I recall the Supervisor told him the central government had not sent him the checks, just as he told me the central government had not sent promised books for the public high school where I taught. For me, teaching without books was an experience. One day, I knew. I would return to beautiful America with tales of hardship to tell. For Matthew's father, all he could do was return to his school - a daub and wattle tin-roofed room with dirt floors - and teach without books, chalk or pay.

His hope was vested in his children, in dreams of their doing so well in school that they could move on to the capital, Monrovia, and work as bureaucrats or accountants. Matthew, the eldest, was one of my star pupils. Jacob, the second, was a top student at Zwedru's Catholic mission high school. The rest of Matthew's siblings I met in the main room of his father's house before our climb. There were many of them and, although introduced to each one by their proud father, I remember none of their names. They are a black blur of ragged shirts and bare feet.

They did not speak English. Even so, a shortwave radio hanging from a beam blared news from the BBC. I sat in a chair at a wooden table. All the others stood, even though there was another chair, in a corner.

"That chair was made in 1947 by my grandfather," Matthew told me.

"Oh," I said.

I looked at the bare earth floor, at the white-washed daub and wattle walls. I felt a need to compliment, as if that was demanded of me. A small, cylindrical basket with a flared bottom hung from a beam across from the radio.

"That's an unusual basket, I like it plenty," I said, relieved.

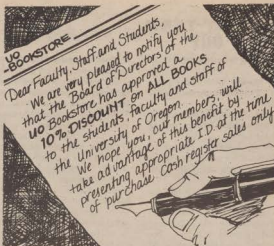
The proud look instantly left the face of Matthew's father. It was replaced with an expression of anguish, then just as suddenly by a determined look.

"It is for you (yours)," he said. He instructed Matthew to take the basket down and give it to me.

He did not want to give it to me, Matthew told me later. But if a guest compliments an African on one of his possessions, the African is obligated to present the possession to his guest as a gift. The same kind of communal spirit moved my African neighbors to thank me when I did chores around the yard of my own house. That unselfish spirit also inspired my African friends to ask me more than once why white people have such cold hearts. When I was first asked that question I was hurt. After all, I thought, I was giving my African friends two years of my life. So, for a very long time, I was very jealous of my things.

Now I am in law school. I am jealous of my time. In this, our law school culture, there seems no reason for giving. Giving will not improve my GPA. At times I feel my heart growing cold. Then I remember friends like Matthew's father and I'm ashamed. It occurs to me it is not my ambitions that make the world worth living in. I swing the other way - I think that I can never possibly give enough. That of course is suicidal, it is surrender to what Gandhi called the subtlest temptation of all, the temptation to serve. Instead, I know there must be a balance. I must eventually give back to the world as much as I have taken from it. Let the saints and martyrs give totally of themselves, let the gluttonous and egocentric live only for their appetites. My heart is set on that high, rolling ground between those two extremes.

by **William Pattison**
Kogut



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I feel bad when I drive past hitchhikers,
but
My mother told me to stay away from
strange men because
They might drop their pants and wave
their penis at me, but
My mother also told me not to play
doctor with the girl down the
street
And she didn't have a penis

I feel bad when I drive past hitchhikers
I used to be one
I didn't like it when a person went by
with all that room in the car
While I froze my tail off
I used to give them the finger 'cause I
knew I was alright

I feel bad when I drive past hitchhikers,
but
Perhaps what I really feel is guilty
'Cause I have a car and they don't
It's only a Chevette, a real p.o.s., but
It's got A.M. and F.M. and the tape
player used to work

I feel bad when I drive past hitchhikers
But my mother told me they might be
muggers or rapists or insurance
salesmen
Still, when one looks me in the eyes . . .
But what do they see?
Do they feel bad for me 'cause I have to
pay insurance and wait at red
Lights and go to traffic court?

I feel bad when I drive past hitchhikers,
but
Perhaps their mothers warned them about
drivers.

by Dave Zwink

by Peter Swan

Historian

Alone and neglected it stands
Forsaken but for the visiting tides
Resolute but aging
In its watery sentinel post,
The last piling of a once-proud wharf
Its brethren long gone
Taxed by the winter's wrath
Victims of crashing waves and gnawing
currents
Powerful beyond guaging
Its top once crescented smooth
Now a stubble sun-bleached and brine-
starched
Golden in the dawn

Seaweed tendrils drape its murky footing
A barnacled vestment cloaks its sides
Intruder in the sea
Splendid barkentines no longer glide past
Only gulls on planks with eyes uncaring
Pass without salute
Sliding layers of emerald opacity
Crescendo to moon-driven fullness
Then retreat not yet free
The piling stays on, destitute but proud
Standing, greying, yet marking history
well
Omniscient and moot

Dylan for Lawyers

from "Shelter from the Forum"

'Twas in another lifetime
One of toil & blood
When justice was a virtue
And the court was full of mud.
I came in from the wilderness
A creature void of forum.
'Come in,' she said, 'I'll give you
Shelter from the storm.'

In a tiny hilltop courtroom
They gambled for my clothes.
I bargained for salvation
An' they gave me a legal dose.
I offered up my innocence
And got repaid with scorn.
'Come in,' she said, 'I'll give you
Shelter from the forum.'

Robert John

Diversion

The traveling players come no more
Their wagon of locked-up secrets
Is forever stayed along some forest lane
Dust-moted sunbeams
Still find the ancient route
But no wagon is silhouetted
No jingling horse bells
Call the children dancing
And bring the men to ask
What will ye be giving us?

The players would answer tersely as if
Saving themselves for the evening's
phantasy
Bumps under the weathered canvas
Hinted the nature of their properties
Could that be a knight's helmet?
Is that perhaps a headsman's axe?
Does a frolicking dwarf hide underneath?
Is there a tumbler this year?
Or a juggling jester draped in bells?
What will ye be giving us?

Today the masques are worn
Only on the proscenium arch
Flickering candles are forever snuffed
Mimes take curtain calls in old folks'
homes
But the wagon's characters play on
Greed extends a bloodless hand
Introduced to Original Sin
The dominated center bows gravely
To query the cadaverous Chiron
What will ye be giving us?

We laugh as our pastoral ancestors
To see pomposity deflated
We wince at human frailty
Secretly fearing inward revelation
Hate is swiftly condemned
Lest it recognize a face in the audience
Love is weepingly embalmed
For keeping 'til the day
The curtain falls and we supplicate
What will Ye be giving us?

Ode To Black's

Ipsa look at her.
Absolutely a priori
bona fide evasive
innendo.

Involuntary servitude
ipso facto
modus operandi of
legal legacy.

Irrevocable, culpable
reliable, liable,
Mors omnia solvit!
the mens rea
of unreasonable men.

Lisa Rycus

'Death solves all

Birds circling in a gray sky
Weaving patterns invisible to the eye
Winding circles on different levels
winding ever wider, a three dimensional
web.

Robert John

N.Y.C.

There's no accounting for a bed of nails.
Who'd be drawn to such a thing?
I listen for groans
To bubble and rise and moan.
(Tetanus home? Maybe
that's why everybody stares and
Nobody talks.
Their jaws are locked. And where
They sleep isn't all that's rusting.)

I look with an amblyopic left eye,
Yanked sideways like an orphan's
Arm, towards the N.Y.C. sky. And
Watch it be tricked
By asymmetrical marble and steel
Spikes.
I stretch my neck upwards and
Wave a pyrrhic good-bye.

You have to be born on one
To sleep on one.

I've found the missing link,
(Eyeball to eyeball and nobody
Blinks. Ever.)
Antus Erectus. Ten million pin
Striped vests and black slit dresses,
(But no guesses. They're a most
Self assured set.) threading through
Stone and glass over a 124 island
Mass and creaky transit.

But the dust and gray is less
When the sun at six can sque-
eze its red 'round rear
Down shafts of magenta air
That fills the narrow spaces between
Buildings. N.Y.C.'s behemoth flair:
The darts of Zeus.

Howard Lavine

GAFFE IN MOUTH DISEASE

by Mark Worden

James Watt is good at giving away oil, gas, and coal leases to industry. He knows how to put wilderness to good use by letting corporations bulldoze and pave it. But he is an inept speechifier, unlike his boss.

Reagan himself has a gifted speechwriter who knows how to insert seemingly impromptu, harmless wacky jests in a speech or press conference. The rest of Reagan's Cabinet seem to have capable writers—scholars who write solid, inoffensive stuff, the kind of material that goes effortlessly and forgetably on the rubber chicken circuit.

But Watt must have been last in line when they handed out the speech-writers. At the bottom of the barrel, there was a crabbed and cranky Don Rickles reject—a frustrated, paranoid bigot who's a prime contender for the Earl Butz Racial Sensitivity Award. A nerd whose idea of a good time is to push little baby ducks into empty fence-post holes.

But, the horrible thought strikes, what if... Watt doesn't have a speech-writer? What if the gaffes he makes are really his best efforts at communication?

Watt himself seems having a problem. The real problem, he suggests, is that his critics are themselves humorless: "If you can't joke about things, you shouldn't be in Washington."

However, a joke in Watt's mouth is no laughing matter. His is a savage jesting indeed.

"Watt lacks finesse," opines one columnist. To be sure. But what we see in James Watt is far more serious than a mere lack of finesse. It's a genuine disability. An impairment.

What if Watt's funniness ain't connected to the headline, but is fractured, chipped, and dislocated. What if Watt's funniness has a bad case of the shin splints?

Watt's former mentor, Wyoming senator, Alan Simpson seems to think this is the case. "It's his sense of humor," Simpson said. "Something happens...when he tries to be funny. His jokes misfire. He's constantly startled by the response to what he thinks is humor."

There you have it: Diagnosis—impaired sense of humor. As with any handicap or debilitating condition, we should not criticize—we should help the afflicted person get treatment. Accordingly, those closest to Watt should encourage him to

enter a Humor Treatment Center for jest detoxification and intensive treatment of warped quips.

Whether he remains in Washington or not, Watt has much to gain from rehabilitation. We shouldn't prejudice him simply because he's arrogant and lacks compassion. If Eldridge Cleaver and Charles Colson can make dramatic changes...well, anything is possible.

How would the rehabilitation of James Watt work?

First of all, he would be exposed to the wisdom of the past. It would not do simply to have him put pebbles in his mouth and declaim Dickinsonian rhetoric on the banks of the Potomac. An impaired sense of humor lies not on the tongue, but in the narrow and murky fissures of the neocortex. Left brain stuff. Watt, in other words, would require reprogramming.

Hypnotherapists would tell Watt's feisty conscious mind with the majestic words of Cicero: "The manner of jesting ought not to be extravagant or immoderate, but refined and witty..."

Even during sleep, Watt's left brain would be massaged by soothing tapes reminding, in the words of Cervantes, "Jests that give pain are no jests."

Watt would undergo didactic therapy and a refresher course in basic speech. He would learn much from author and talk show host Keith Spicer. Humor, Spicer counsels, can illuminate obscure and tedious points. But most important, humor can make anyone—even Watt—"an engaging and sympathetic teacher."

What other qualities can we expect to see in a rehabilitated James Watt? "panache," writes Spicer. "And that devilishly difficult-to-cultivate commodity, really convincing false modesty."

Other counselors advise about the many

pitfalls that await the speaker who tries to be witty when speaking about a serious topic. "You walk near quicksand when you try to be funny," warns former Whitehouse speech-writer Jack Valenti. It's especially hazardous, Valenti cautions, "for the speaker who is not by nature and inclination a humorous person."

The humor therapy of Valenti comes from hard-won experience, and it keenly strikes the heart of Watt's impairment: "Humor is a delicate animal. When it is trotted out by anyone who in social intercourse is not noted for it, it becomes a shaggy beast hunkered down in the pathway of an otherwise sensible talk."

The *Laughter Prescription* by Dr. Lawrence J. Peter and comedian Bill Dana would be required bibliotherapy for Watt during his humor treatment. Peter and Dana give special emphasis to playfulness and sincerity. But their most apt suggestions—with respect to Watt—are found in their "Prescription For Personalizing Jokes." Two main points:

1. Choose material that fits your personality.

2. Make yourself the butt of the joke. All this, and more, would be brought to bear on the rehabilitation—the transfiguration—of James Watt.

But before we get too excited about the prospects of turning Watt into an engaging and sympathetic teacher with panache and a convincing false modesty, we should keep in mind an important fact. There were some 200 Chamber of Commerce lobbyists at the breakfast where Watt delivered his latest inoffensive remarks. And they all laughed at the quip about the black, the woman, the two Jews and the cripple.

Yes, the lobbyists laughed right along with the puckish James Watt. And the shaggy beast hunkered down in the corner.

FEDERAL COURTS

A unanimous opinion announced August 1, 1983, by the Ninth Circuit is potentially one of its most far-reaching holdings. Simply stated, *Pacemaker* may result in a restructuring of the federal court system.

Pacemaker is a patent infringement case which was tried before United States Magistrate George Juba. Neither party raised the issue of his jurisdiction at trial or during the appeal. Judge Boechveer, however, asked the parties to brief the issue of the constitutionality of 28 U.S.C. §3636(e), the statute which empowers magistrates to try cases and enter judgments with the consent of the parties. Amicus briefs were submitted by the Oregon State Bar Association and the Department of Justice as well. A petition for review is presently being considered. The opinion is quite simple and direct. Borrowing from the recent Supreme Court case which held certain parts of the Bankruptcy Act unconstitutional, Judge Boechveer posed three questions:

1. Are magistrates judges within the purview of Article III of the United States Constitution?
2. Is the magistrate system a legislative court system authorized by Article I?
3. Do magistrates exercise their authority as an adjunct to the district courts which they serve?

Each of these questions was, of course, answered "no". Possible saving provisions of §3636 were next considered. Most serious consideration was given to whether the consent provision would render the section constitutional. The opinion concluded that, while due process rights were implicated, the provision of Article III vesting judicial power was thus jurisdictional and non-waivable.

Two other possible saving provisions were analyzed. The court found that there existed potential threats to the independence of magistrates because of

legislative control over salaries and the positions. Also the potential threat from within the judicial branch by angry judges was recognized. Finally, the fact that full appellate review is possible was considered and rejected. The court cited that a similar argument was considered and rejected by the Supreme Court in *Marathon Pipe*.

What *Pacemaker* will mean to the structure of the federal courts depends, of course, upon whether it is reversed on review or later by the Supreme Court. Assuming that its holding is affirmed, Congress will be forced to take some rather immediate action. Last year, 825 trial cases and 1,627 non-trial cases were disposed of by magistrates. These figures from the Department of Justice do not state whether they include criminal cases. However, an additional 2,500 cases dumped on already over-stuffed district court judges is not acceptable.

Perhaps the time is near when Congress will have to make full-time magistrates into Article III judges or even create a new tier of federal trial courts to handle petty offenses, misdemeanors and minor civil cases. With rapidly expanding case filings, this might be worth considering, even if *Pacemaker* is reversed.

October 16, 1983

PACEMAKER DIAGNOSTIC CLINIC v. INTRUSTMEDIX

THE PACEMAKER ARTICLE WAS SUBMITTED BY HOLLIS MCILAN, FEDERAL PUBLIC DEFENDER, EUGENE, OREGON

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CENTENNIAL NEWS

February/March: Symposium on Legal History. This three-part program will include presentations by Prof. Morton Horowitz of Harvard Law School; Prof. Lawrence Friedman of Stanford Law School; and our own Prof. R. James Mooney. (Dates to be announced.)

May 19: Commencement. Giving the Commencement address will be the Hon. Harry Blackmun. The 3rd Year Student Commencement committee and an alumni commencement committee headed by Lane County Circuit Judge Ed Allen (former SBA President) will be joining forces to plan a great celebration.

Anyone who wishes to help on any of these events should see SBA President Ken Ford or Assistant Dean Sharon Gordon.

CENTENNIAL EVENTS PLANNED

A Centennial Kick-off Banquet in Portland in January, a legal history symposium, and a gala Commencement Weekend will celebrate the 194th Centennial of the founding of the School in 1844. Additionally, a special Centennial Yearbook is being prepared for distribution (see related article in this issue).

Students are welcome and will be invited to participate in all Centennial activities. Specific notices and invitations will be forthcoming for each event. Meanwhile, you may want to reserve the following dates on your calendars:

January 20: Kick-off Banquet in Portland, featuring Prof. James Casner of Harvard Law School as after-dinner speaker. Prof. Casner will also be giving a seminar for alumni and friends of the School the next day on tax aspects of charitable giving.



LAW SCHOOL HISTORY

"I wish to also add that the shaping of the circumstances that prevents me from being present was something over which I had no control." So wrote an 1896 graduate of the University of Oregon Law School, excusing himself from attending commencement exercises in Eugene. From its founding in 1884 until its move to the Eugene campus in 1915, the Law School was located in downtown Portland, in various buildings over those three decades, operating as a night school.

The story of the Law School's earliest decades in Portland - and of its subsequent seventy years in Eugene - is to be recorded and illustrated in a centennial yearbook set for publication in August / September 1984, as part of the Law School's Centennial celebration. The book will relate the formal history of the school in its various homes, as well as its curriculum, faculty and staff, alumni, programs, and teaching methodology. Additional chapters may devote attention to more specialized aspects of the Law School's history, such as the special role of women in its classes. The book will include many reproductions of early and recent photographs, records and catalogs.

The Law School has come a long way in these hundred years, from a night school with seven students in 1884-85, to its present status with some 170 students in the entering class. For comparison, consider the school's 1911 catalog: then, a first-year student paid \$60 in tuition, \$24.50 for texts (total), and studied criminal law, domestic relations, contracts, agency, partnerships, sales, and bailments and carriers. A second-year student paid \$75 in tuition, \$20.50 for texts, and studied real property, torts, negotiable instruments, equity jurisdiction and corporations. A third-year student paid \$75 in tuition, \$15 for texts, and studied pleading, practice, probate, constitutional law, justice court practice, brief writing, water law, banking, federal procedure and evidence. Think of those costs, and that prescribed curriculum, when you register for classes and pay for tuition and books next semester!

The centennial yearbook will be available to alumni, faculty and staff, students and all others interested in the Law School's first century. The cost is set at \$25.00; contact Assistant Dean Sharon Gordon for more information, or contact Scott Meisner, the compiler / writer for the yearbook and history.

Scott Meisner

SPEAKERS (AND READING LIST)

1984, appropriately, will be the Law School's centennial year. For me, the highlight of that year likely will be the three-part American Legal History Symposium we've scheduled for next spring. I write to urge everyone to attend and participate, and, yes, to prepare by reading a book or two.

In early February Harvard Law School's Morton Horwitz will present a paper entitled "The Politics of Legal History."

Perhaps our generation's finest American legal historian, Horwitz won the 1978 Bancroft Prize for his first book *The Transformation of American Law*. He also is one of the two or three most able lecturers and engaging conversationalists I've ever met. The best brief introduction to his thought is "The Conservative Tradition in the Writing of American Legal History," 17 *Am. J. Leg. Hist.* 275 (1973).

Three weeks later, I'll present my current research on "Matthew Deady and the Federal Judicial Response to Racism in the Early West." Deady was Oregon's leading lawyer for over 40 years, including the 34 he spent as its first federal judge (1859-93). A sometime proslavery Democrat in the 1850's, Deady emerged two decades later as an outspoken champion of racial justice in a very troubled era.

Finally, in mid-March, Stanford's Lawrence Friedman will present a paper, as yet untitled. Author of *Contract Law in America* (1965), *A History of American Law* (1973), *The Roots of Justice* (1981), and many journal articles, Friedman has long been an acknowledged leader among historians who seek to relate law and legal history in meaningful ways to politics, economy, and society. Watch *The Dissent* for your reading list for that session.

Horwitz and Friedman are among the most thoughtful, interesting speakers ever to visit our school. I hope that a great many faculty, students, and friends will find time to read some of their work before they arrive and attend and participate in the symposium sessions they will lead.

Jim Mooney



LAW LIBRARY NEWS

WESTLAW AND LEXIS USE

At the last Law Library Advisory Committee meeting it was reported that some second and third year students were unaware that the LEXIS and Westlaw terminals are available for use after completion of initial training sessions. Any student who has completed training may sign up for additional time at either terminal and do database searching without charge. The LEXIS and Westlaw contracts provide for flat service rates regardless of the actual use, and students are encouraged to use these computer-assisted research systems as much as possible. The contracts do limit use to those engaged in educational activities, such as law review, writing requirements, independent research, classroom preparation, and moot court. Someone inquired whether educational use includes research done in association with clinical courses on behalf of a client. This type of research is permissible under the contract terms.

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THE DISSENT is an independent student newspaper published quarterly by the University of Oregon Law School Student Bar Association. Opinions expressed herein are those of the respective authors. **THE DISSENT** welcomes articles and comment. All submissions must be signed. Names may be withheld upon request.

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JUDY WEISS

AD MANAGER:

MIKE KING

AD STAFF:

RYNE JACKSON

KATHIE OSBORN

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DEADLINE NEXT ISSUE - NOVEMBER 18

Free Coffee!

Contrary to what appears to be popular belief, free coffee is NOT provided in the student lounge. However, the coffee is almost free: it only costs 25 cents for a cup of it. While you may be able to find better coffee near campus, you won't find any that is cheaper!

As always seems to happen whenever a good deal is offered, a few do their best to ruin it for everyone else. A large percentage of coffee drinkers are not paying even the meager pittance of an asking price posted for a cup of coffee. Unless all of us exercise some professional responsibility, and pay for our coffee, we may all be reduced to vending machine swill as our only choice. If you see someone who has "forgotten" to pay for his or her coffee, please gently remind them. Eventually, everyone may just get back into the habit of paying for their daily cup of dark Colombian. (Editor's translation: Pay up, or else ... cheapskates!)

1st Year Notice

We need to start raising some money now for activities over the next three years...keggers, parties, speakers and graduation all require money!

Our planned T-shirt sale needs your talent for designing a class shirt that is uniquely our own. We will be selling T-shirts and sweat-shirts, and hope to start sales at the end of October. Get your designs in!

Thanks,

Your Class Reps

LETTERS TO THE EDITORS

To the students, faculty and administration of the University of Oregon School of Law:

Last spring Jane and I needed a lot of help from our friends. Because of the students, faculty and administration at the School of Law, our needs were not left wanting.

Due a large part to your support we were able to intrude upon our grief with love, gratitude and hope.

We were also able to get marvelous tans in Hawaii.

Thankyou very much
Jane and Scott McCleery

Dear Opie:

Your letter home was returned due to insufficient identification. We have policies, like the post office. We will "send" your letter next issue if you tell us your last name.

The Editors

ADS

POVERTY SALE

4 Sale - KitchenAid dishwasher - portable, butcherblock top - \$125 (U-Haul from Portland, it's cheaper); stereo - \$70; Ladies' Size 10 leather jacket - \$85; 6 small oak chairs - \$10 ea. Contact Judy Weiss, 344-0291 or *The Dissent* office. Prices negotiable.

Anyone wanting an occasional game of Ragueball can contact John Pries by leaving a note in his mailbox (first year).

Typewriter for Sale: Smith Corona Electra 220, in excellent condition, and just cleaned and adjusted. Best reasonable offer. Call 345-8170.

PLACEMENT NOTICE

The Placement Office has prepared a list of firms which will be interviewing on campus in October and November.

The schedule is available from the Placement Office.

Thirty firms are planning to interview students in October, alone. Be sure to check with Placement regularly.

SBA COMMENT by Ken Ford

The Student Bar Association has managed to settle into the new semester, and its officers have, for the most part, been able to prevent each other from jumping out of a first floor window, or perhaps even worse! The welcome addition of the two, new, first year class representatives has helped. Craig Nakamoto and Ryne Jackson certainly must be asking themselves just what have they gotten themselves into, anyway? All seriousness aside, however, I would like to commend the first year class for its enthusiasm and obvious commitment to the qualities of service, cooperation, and a spirit of fun. The pressure to change will be great, and I sincerely hope that they do not lose those attributes that makes this one of the finest groups of people to form a first year class at this law school!

Jeff Beaver is doing a fine job with the Speaker's Program. Already this semester, the SBA has sponsored appearances by Dr. William Brady, Oregon State Medical Examiner (speaking about the role of forensic medicine in the legal profession), and Robert Ackerman, the attorney who took on the giants of WPSPS and won, who spoke on preparing a case of this magnitude (for litigation). The SBA co-sponsored visits by Gerry Spence (with L.A.W.) and joint delegation from Nicaragua (with NLG and ASUO).

As you can see, a wide range of interests has already been met, and if you missed any of these speakers, you have really missed out. However, you can be sure that more speakers are being lined up, and even more topics of interest will be examined.

Student Directories are available now, listing all students who indicated a desire to be included. As you are probably aware, the directories are being sold, at cost, for twenty-five cents. This is required since last year's Incidental Fee Committee determined, erroneously, that law students had no need for a directory of their own. For some strange reasoning, known only to themselves, the IFC members last year felt that the general directory that is usually available in either December or early January was sufficient for law students, and that our directory represented a duplication of efforts. As you can see, the timing of the general directory is terrible for our program which starts a full month before the general university. Plus, the general directory is of little use to the law school community. Stop by the SBA office if you have never seen the general student directory! It has taken so long to produce because we were not allowed to use any IFC funds, including Work/Study assistance, to create it. As a result, I have

been putting it together in any spare time I had available. At least you know who to blame for any errors that exist in the directory, this way!

Lois Day, second year Class Representative, found that she had just too many demands on her time, and felt that she could not provide the level of service to her class that she thought the class deserved. Therefore, she submitted her resignation, and I regrettably accepted it. Elections for her replacement will be held on Thursday, October 20th. Results will be posted in the SBA office. Lois will continue in her role on the IFC this year. It should be noted that the IFC this year appears to be comprised of much more reasonable members than last year's committee. Is it a coincidence that some law students are on the committee this year? I believe that it is, since even the non-law students seem to have a renewed sense of fairness and responsibility to the general university community. I am inclined to think that the spirit of reason and open government introduced by ASUO President Mary Hotchkiss may have had something to do with it. I anticipate better days ahead for the law school and the rest of the University.