Advocate Interview

Professor O’Connor Discusses Recent 44th Amendment Decisions

by George Hawaya

Peter J. O’Connor is an ad-junct associate professor at Fordham. He graduated from the Law School in 1966 and received an LL.M. from Harvard the next year. Since that time he has been in private practice, an A.D.A. in New York County, Chief of Appeals in Queens County, and more recently, Special Attorney General on Nadja’s staff. This semester he teaches New York Criminal Procedure and will be at Fordham full time beginning in the spring.

ADVOCATE: On December 11, 1973, the Supreme Court handed down decisions in United States v. Robinson, 936, and Gustafson v. Florida, 71.1639. In Robinson the Court found the search to be within the limitations of the 4th Amendment, whereas in Gustafson there was a probable cause, full custody arrest for driving under the influence. In the Washington, D.C. Police Regulations, the officer made a thorough search and seized a crumpled cigarette package which was proven to have contained heroin. What is your opinion of these cases? How does O’CONNOR: Let me pref ace my answer by reviewing the per curiam to the police search. This power is regulated by the 4th Amendment. The Supreme Court has held that the per curiam directed to the police in search. This power is regulated by the 4th Amendment. The Supreme Court has held that the preferred method of search is a warrant issued pursuant to a warrant. One of the exceptions to the warrant requirement is where the police make a probable cause arrest pursuant to a lawful arrest. I think that in the case of Robinson, the officer saw a suspicious package in the car and arrested him but a search would be demeaning. On the other hand, the pragmatic argument could be made that when the police arrest such an offender, he is in custody and could pose a threat to the officers’ safety; in Robinson it was pointed out that some of the officers killed during traffic accidents were involved in traffic cases at the time of the incident.

The problem, as I see it, is this, and what disturbs me. In New York, for example, the police officer has a choice in a traffic situation of arresting the individual or giving him a summons. If he issues a summons, it’s not an arrest and there is no search. If he arrests, he has the right to search the person he is arresting. This raises the problem of the pretext arrest. The police officer, for one reason or another, want to search a particular individual. For example, they may dislike his political views or suspect the individual of being involved in criminality without having probable cause to make an arrest. What they can do then, if they see him speeding is to arrest him but a search, not because they fear for their safety, but in order to obtain evidence of the criminal activity they are really interested in, is the disturbing situation.

Other courts in the U. S. have spoken of pretext arrests. In New York, we never had that problem because of our view that traffic arrests do not justify a search. The dispute seems to be whether or not a search can be deemed as necessary because it is a different Court from the great Court of the 60’s.

Once the charge has gone out of briefing cases and learning Latin phrases, the fog clears and you see that the Fordham School of Law is a drab building of poor design and great heat. Some invisible shroud prevents the excitement of much of Lincoln Center from penetrating the Javit’s Halls.

Then Martin Luther was here to hang his thesis among the marks on the reading room window to gain attention, and even then many would only complain because they were late. The problem is one of perspective. Law school consists of classes, assignments, and professors. All of these are essential and all of these are offered in sufficient quality and quantity that the Fordham Law School can be assured of as to the reliability of his case book knowledge. But most classes are a passive experience. Upon graduation nobody is going to fall from the clouds and search them to see what they are doing.

Placement Office Releases Statistics

As of mid-February, 361 out of 354 students in the Class of 1974 responded to the Placement questionnaire.

Of these 361 students, 111 have accepted positions:

56 with private law firms
18 have accepted clerkships, nine of which are on the federal level
17 with corporations

The rest are with various government agencies, banks, accounting firms, public interest/legal aid, etc. A number of other students who have not yet accepted positions did indicate that they had received offers but were interested in exploring other possibilities.

Most of the government agencies are still interviewing, and a number of our students should be receiving offers from the various federal agencies and local District Attorneys within the next few weeks.

We have found that the job market is tighter this year than last year. Those students who are waiting to see what will happen in the next few months before taking a job are more likely to have had offers that have not been accepted.

Student and Alumni Placement Committees and the Women’s Law Association are co-sponsoring a series of panel discussions concerned with preparing first and second year students for next fall’s interviewing season. These panel discussions will take place the week of March 18, 1974. The exact schedule will be completed within the next few days, and we hope that students will take advantage of this opportunity.
In the last issue of the Advocate we asked for nominations of people at the law school who have made contributions and sacrifices to the law school. Meetings are posted on the bulletin board in the main study area where interested students are welcome to attend. Items to be submitted for consideration of these nominations may be left in the Student Faculty box in the SBA office.

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LUKE CHARDE: Recently retired S.B.A. President, Luke has been fighting for student rights ever since Freshman Orientation.

BETTY JANE SANTANELLO: The list of activities "B.J." has been involved in would fill the rest of the editorial page. She has fought hard for co-ed and for women's rights in a world in which the level of consciousness towards student's and women's rights was indeed low.

JOSEPH KAESTNER: Joe has been involved in Orientation and the co-op bookstore, as well as being a moving force behind the success of the Urban Law Journal.

JERRY WEIN: Jerry is the closest thing Fordham has to a one man band. This year alone Jerry has single handedly organized the Advocato, the clothes for prisoners drive and is now involved with some help in commencement planning.

MARY KINNALLY: Mary is responsible for having prepared and typed the Student Directory as well as 2nd and 3rd year exams. Recently also appointed Secretary of the S.B.A. and we anticipate more of the same devoted service in the future.

NICHOLAS KUZMACK: Besides being Vice President of his class, Nick has spent most of his time working in an area close to a law student's heart - Placement. In addition to working on getting us a job, Nick is also working on getting us graduated through his involvement in the Commencement Committee.

MEMBERS OF LAW REVIEW: The Advocate salutes the members of law review who have spent a good deal of time and effort on the law school. We realize that there are others who deserve recognition and with the help of your nominations the list will be continued in our next issue.

The Student Faculty Committee, composed of the Presidents of each section, Dean Hanlon, and Professors Hawk, Crowe, Byrza, and Braswell (Professor Braswell's vassary has been filled by Professor Birenbaum) have been meeting regularly this year to discuss matters pertaining to the operation of the law school. Meetings are posted on the bulletin board in the main study area where interested students are welcome to attend. Items to be submitted for consideration of these nominations may be left in the Student Faculty box in the SBA office.

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Fordham and Traditional Courses

Recently, many Fordham Law Students were faced with some pretty major decisions: namely, what elective courses to sign up for this semester. For some, the choices may have seemed overwhelming. To gain some of the cornucopia of tasty morsels of courses available, simply piling hot and ready for digestion. For others, the options may have appeared decidedly underwhelming—chilled by the fact, for example, that, in the opinion of a good number of students, "...because a knowledge thereof is essential to practice law, not to mention the Bar Examination." (citation omitted)

What follows, in case you were wondering as you thought about electives this semester (or even if you weren't), how Fordham compares with other schools in the New York City area on curriculum and teaching of the elective opportunities at Fordham, Columbia, NYU, Brooklyn, the New York Law School, and the Law School of the City University of New York. Also, in formation provided from the Bulletins of the six schools, which do not necessarily contain complete information. No attempt is made. Changes in course offerings and tuition costs can take place anytime and without consultation. Bar Exams are well known. Also a request, transmitted telephonically, for a New York Law School Bulletin of equal (if it would simplify) the postal response of an application for admission—but no Bulletin. This necessitated the inauguration of contingency features of the Fordham Law Library copy of N.Y.U.'s 1972-1973 Bulletin, and we can only hope that this point in time it has not yet been rendered totally inoperative. Fortunately, Fordham would have wanted very much to participate in this survey, but no copies of the Lampoon, which is so popularly popular. Bulletin were available, due to an accidental mishap of the last remaining copies.

Course Comparison

Columbia (NYU)/Fordham/Brooklyn/St. John's/WSU

Cost per semester 11900 1400 1300 1200 1300

Hours/credits needed for graduation 85 81 81 64 83 80

Hours/credits of graduation 27 21 43 46 46 71

Minimum hours/credits of electives necessary for graduation 56 50 35 36 22

Number of electives available 120 140 65 61 42 22

Clinical programs 6 8 3 3 3 1 "several"

Students entering prior to September, 1973 have 3 hours less of required courses and 4 hours less of minimum electives necessary for graduation.

(a)
(b)
(c)
(d)
(e)

Some interesting facts emerge from a comparison of specific courses required at Fordham with those required elsewhere.

One fact is that Fordham is the only school to require a course in Remedies, although at Brooklyn and New York, Civic Law and Equity, are required in which, presumably, these remedies not covered. Remedies and Property and Property courses are required at Columbia, but not at NYU, which requires neither Evidence nor Corporations and Partnerships. (the latter of which is required at Brooklyn, New York and St. John's under the alias "Business Organization." ) In addition to this, Fordham, only New York and St. John's require Professional Responsibility, and Columbia, alone, does not require Constitutional Law. All schools have some form of legal writing and most court requirements. At Columbia and NYU, all requirements are disposed of in writing requirements. At the other schools, required courses are opened up for the last three years. Of the courses required elsewhere, those required at Fordham, the most common is Conflict of Law, which Brooklyn, Columbia, Fordham, and New York, St. John's require in some form. The least controversial is Property, only strongly recommended at Fordham, Brooklyn, and New York, but still taught only at Fordham. For example, for Commercial Transactions, Income Tax, Trusts and Estates, and New York Practice (at New York one may take New Jersey instead). Space and time permit only of limited and admittedly personal look at the kinds of electives available at New York's five other Law Schools. Brooklyn's Bulletin reveals a list of electives remarkably similar to Fordham's in both size and emphasis. New York and St. John's have relatively limited elective offerings and Fordham compares quite favorably with them. One more surprise is a course offered at St. John's entitled "Law of People's Republic of China." Columbia also offers a course "in Chinese Communist Informative," "International, Transnational, and Foreign Law" Department, which it boasts, with apparent justification, offers "...probably the richest and most varied curriculum in the world..." in this area of the law (1973? C.U.B. Law, div. 4)? St. John's also gives a course in "Poverty Law," as do Brooklyn, Columbia and NYU. (Fordham does not, unless you count Bankruptcy.) Brooklyn, Columbia and NYU all have electives in "Military Law" and "Women and Law" as well.

Columbia and NYU, of course, have the size and money necessary to make available a vast array of electives. Both have courses related to the effect of computers on the law, for example, and both offer a course in literature that has law in it (such works as The Merchant of Venice and The First Circle are assigned). Columbia also offers seminars in "Journalism and the First Amendment: United Powers," and a course in "Consumer Protection" which, according to the catalogue, answers the question: "Who gets ripped off by merchants and other creditors, and how?" (1973? C.U.B. law div. 30) NYU will teach any of its students who are interested about "Bastard and American Law" and "The Great Rights in the New States." (The latter course looks at case law of emerging African and Asian nations to see what legal and procedural precedents have been adopted from legal systems such as ours, and why.) Back at Columbia, as if 120 electives were not enough to choose from, any law student may, with the Dean's permission, earn up to 10 of his credits (or points, as they call them) in courses related to his legal training which are offered elsewhere in the University.

A comparison of curricula leads to the conclusion that while Fordham offers a solid range of courses within the traditionally important areas of the law, perhaps it is ever reluctant to offer courses that might have only temporal relevance or entertainment value. One should that there should be room for new works in the curriculum for a wider, more flexible, range of electives necessary to make available more recently arisen, like those of no-fault insurance or law in the entertainment industry. Fordham's Law School should have the freedom to flesh out their legal courses, in some cases, and to offer from other sectors of the University that would be relevant to their own interests. Surely this could be accomplished without too great a risk of the danger of becoming a "trendy Law School"—a menace warned about so eloquently and so often by Dean Joseph M. McLaughlin (1973-74 F.U.B.A. Law, div. 8).

EXAMS BEFORE CHRISTMAS?

A recent S.B.A. meeting has demonstrated the need for a poll of student opinion concerning exams before Christmas. Please fill out the following form and slide it under the Advocate door (048A in the basement).

Name: __________

Division: Day ______ Evening ______

I would like exams before Christmas. Yes ______ No ______

George Brummer
One would not want to study in a "grove of academe." That is a summary judgment for the element of climate that a college provides. The climate which constitutes New York weather. Yet one would have hope of a sense of the sun, the complete architectural desert which is Fordham Law. It would have been built to shield itself.

It is inconceivable that the building housing an institution purposedly devoted to the study of law and the legal profession would have particular areas of knowledge which could have been so thoroughly constructed. Yet it is equally conceivable to entertain for a moment the question of why the thought was indeed utilized in its design.

"Benjamin J. Avital Hall of Law." That is a thought, perhaps, perceived. "Hall of Law," if it were more appropriate, is for here alone that the infrastructure was functional. One can walk along them, which is the point. But the question known somewhere in the planning of this building, could not some provision have been made for such exotic spaces as "classrooms of law" or a "library of law?"

True enough, a given amount of tertiary libraries, in our own confined space, and since they are called students, that space is called a classroom. But it is an empty term. The physical confinement enhances the mental aspect. One could easily believe that the interior decoration of the Fordham Law Center (Building Room 303) was inspired by the massive dining rooms of our older, less ornate prisons. (Considering the history of some of our graduates, perhaps a prison.)

The old wooden tables, "carved" only on the writing surface, the notebooks used by students, where notebooks come equipped with 100 pages, for nothing is significant as a buffer between one's pen and the time and the page. True, but the literally suffocating experience of Income Tax in Room 303 is not due to the effect of sitting on the floor in an upright fetal position, spiral notebook on spiral lap, awaits future developments.

As for the library, if ever there was a vacuum-packed room, this is it! First-year students will not have the fresh memory of studying for Torts and Contracts while food, while food, garage (if one can differentiate) etc. was transported through the library from Fordham Library to "Lakewalk." Now that our very own Ho Chi Minh trail has been closed, that treat is no longer available. What, however, we can all look forward to is the "Spanish Steps," and across the hall the "Spanish Steps," and across the hall.

Of the gold. The warehouse then makes a loan to a someone else by issuing another receipt against that same gold deposit. The government regulates the rate of inflation through its fractional reserve requirement which tells it the bank what portion of that checking account it may lend. The government then directly influences when it sells its bonds to the Federal Reserve System which in payment creates a checking account for the government in that amount. The government then writes checks on the account.

This inflation, of course, does not result in an automatic increase in goods and services. At the point that the inflated money is introduced into the economy through government spending or businesses, goods and services are the same. As a result, the price of whatever the inflated money is being used to buy goes up and demand for that product or service appears to increase. People and businesses start reacting to this demand—attempting to meet it. However, with their belief that gold and silver will remain the store of value, ranaway inflation supply, the government must either deflate (which would trigger a depression) or devalue the dollar.

To prevent yourself and to profit from the present and coming economic upheavals, read You Can Profit from a Monetary Crisis which gives a thorough discussion of inflation. By Ed Browne.

Browne's analysis starts with the base premise that people will work and trade only when they believe such activities will result in something they want. Initially, exchanges were made on a barter basis. In a barter system it becomes apparent that some items are more readily exchangeable. Perishables, such as food, must be used soon; cattle, machines are limited in use; and a receipt for gold to the owner of the gold and the receipt is circulated in place of the gold. The warehouse then makes a loan to someone else by issuing another receipt against that same gold deposit. The government regulates the rate of inflation through its fractional reserve requirement which tells the bank what portion of that checking account it may lend. The government then directly influences when it sells its bonds to the Federal Reserve System which in payment creates a checking account for the government in that amount. The government then writes checks on the account.

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