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Legal Aid Program At Fordham

by Joan Paik

Thanks to the energetic effort of Mike McIntosh and Peter Jakab, assisted by Ina Matesky, public interest is growing at Fordham Law.

While summer associates at Skadden, Arps, Slate, Meagher & Flom, Mike and Peter did some work as Participating Attorneys (PA) through a Legal Aid volunteer service. Legal Aid conducts numerous volunteer programs throughout the city, enlisting volunteer attorneys from law firms and other legal institutions. When their summer was over, Mike and Pete decided it was time for a volunteer program to be initiated at Fordham.

The Legal Aid volunteer service at Fordham, which is a pioneer program to enlist third year and fourth year evening students from within the law school, gives students invaluable legal experience while they provide legal services to needy clients. A third year who wishes to become a PA submits a form to Pete or Mike. They screen applicants and assign cases in one of three areas: housing, SSI disability or unemployment. Case assignments are limited to these areas because such cases are brought in administrative bodies, before which unadmitted students may handle cases.

However, a third year law student is far more capable of handling the matter for the client. Even if the client has a strong case, it is likely that he won't understand the substantive issues and proper procedure. A client has a 60% greater chance of winning it if accompanied by a PA rather than proceeding pro se.

There is ample supervision for the PA. Administering the entire Legal Aid program is a Ms. Paula Williams, who worked extensively with Pete and Mike to get the program going at Fordham. Each case will have a Legal Aid attorney assigned to it as an advisor, strategist and someone on whom the PA can call for advice. Several professors, including Professors Martin, Batts, Hawk, Cohen, Daly, Vairo and Sims, have volunteered their time and advice. Then there are the student advisors, Pete, Mike and Ina, all of whom have had hands on experience as active PAS.

For the volunteer PA, the primary benefits are satisfaction and experience. The PA works alone for most of the case, and at his/her first hearing, a supervising attorney may or may not accompany as a back-up. For the client, whether his concern involves housing, SSI or unemployment benefits, the matter often represents his daily subsistence.

Pete and Mike are optimistic about the future of the program. So far, 20 volunteers have signed up for case assignment, which is about the capacity for a pioneer program. The first cases have already been assigned. (On Feb. 3 they won their first case.) The Legal Aid volunteer program is off to a strong start; but its continued existence depends upon all of us at Fordham. Contact the Legal Aid student advisors and find out what can be done for Legal Aid.

Calimari To Receive Honor

Professor John D. Calimari has been selected to receive the Fordham Law Alumni Medal of Achievement—the highest honor conferred by the Association. This is the first time an active member of the faculty will receive the medal. The medal will be presented at the Annual Alumni Luncheon scheduled for Saturday, March 7, 1987 at the Waldorf Astoria.

Professor Calimari, a noted authority on Contracts, has been a member of the faculty since 1952. He has authored a number of law review articles and, with Professor Perillo, has authored Contracts (1st ed., 1970, 2d ed. 1977), Contracts: Cases and Problems (1978) and Contracts, Black Letter Series (1983) (all West Publishing Co.). He presently occupies the Agnes and Ignatius M. Wilkinson Chair of Law.
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We The People Living A Fantasy?

by James Cecchi

A billboard in Fascist Italy once proclaimed "Mussolini Ha Sempre Ragione." That is, Mussolini is always right. Ronald Reagan has never erected such billboards along the highways of America, but he does have many other political characteristics in common with Il Duce. Primary among them is a failure to distinguish between rhetoric, ideology and reality.

In 1980 the perceived weakness of Jimmy Carter was an important factor leading to Reagan's election. On the campaign trail Reagan was to be a strong leader restoring America's power, dignity and pride. He communicated with simple, folksy imagery that evoked memories of a mythical past filled with virtue and decency. The people welcomed this wholesome message and elected Reagan by a landslide. For six years the American people tolerated Reagan's obvious flaws and detached style. America continued to listen to his familiar speeches filled with familiar myths and familiar promises. He remained our most popular leader ever, seemingly always right. But just as the Italian people eventually grew tired of his lies and brutishness, so too, the American people have grown tired of Reagan's pleasant fantasy world.

The Iranian arms scandal reveals a government in chaos. Reagan's image as a tough moral leader presiding over a principled foreign policy is now constructed. The campaign shared images and phrases rang hollow. Because the speech was so devoid of honest concern and serious proposals for the future, Reagan revealed that his administration is at a dead end. Americans have always demanded that their foreign policy reflect a higher concern than self interest. Our actions have often been infected with a missionary zeal. Properly controlled, this passion to fight for justice can benefit America as well as the rest of the world. However, when our actions, deemed moral, are indistinguishable from those actions we deem evil, we compromise the integrity of our lofty ideals. Similarly when we use different ethical standards to guide our relations with other nations, from those we use to guide our own relations, we tread perilously close to moral schizophrenia.

Iran is such a case. By dealing arms to an outlaw nation Reagan has made a mockery of our role as champion of international justice. He has confused our friends, particularly in the Middle East, and has denigrated the sacrifice of American servicemen he sent to battle terrorism.

Further, his failure to accept responsibility for the consequences of his initiatives betrays a pragmatic callousness irreconcilable with his principled image.

The Iranian issue will not fade away because Reagan can no longer govern by gesture. The picture of the Iranian speaker holding a Bible, sent by President Reagan, would be laughable if it were not such a sorry example of how American foreign policy is now conducted. It is like a key, and the Bible, represent the triumph of policy by gesture, rather than by study. They demonstrate the failure of the Reagan administration to develop rational policy to reach sensible goals. They reveal an administration lost in a fog of rhetoric, contradictions and deceptions.

In the State of the Union address Reagan sounded more like a broken eight track than a concerned statesman. He attempted to do what he has done so often in the past—divert public attention from substantive issues through the use of pleasant and inspiring rhetoric. He invoked all the old themes, ideas and heroes. He spoke of his concern for the deficit and his admiration for the three words "We the people." But when spoken by a man who doubled the national debt, and, by way of "Irancon," flouted Constitution, it is now concocted.

The Founding Fathers held no such illusions. To them America was not a divinely blessed nation with a mission to enlighten the world. It was, and still is, a precarious experiment in self government. The structure of the Constitution is testament to the Founding Fathers' distrust of human nature and the exercise of unchecked power. America can be a force for justice in the world but only if our leaders are cognizant of our own human weaknesses. Only if the President remains committed to government by Constitutional Law can our policies reflect or noblest impulses. Had Reagan adhered to a Constitutional method of policy discussion and implementation it is unlikely that the Iranian scandal would ever have developed.

But it is unlikely that a man incapable of understanding the specifics of his own agenda would be able to distinguish between government by law and government by rhetoric. There is no doubt that in a complex world covert action is often necessary. This action must, however, be guided by a process of discussion to insure that it reflects a concern for the principles of justice rather than political pragmatism. Reagan was elected by a people who preferred to listen to heart-warming stories of freedom and pride rather than serious debates concerning a troubled world. And eventually this rhetoric became like an opiate, masking reality behind a fog of dulled senses. The complete lack of substantive debate in 1984 revealed that America's capacity for thought had been reduced to a 30 second television commercial. But now, like the junkie rumaging through an alleyway in search of a dirty needle, America has reached an important juncture. We can continue to get our fix of rhetoric, and mortgage the future, or we can confront our failures today. The chaotic state of our arms policy, deficit policy and terrorist policy demand that in the future we reject government by myth.

The lesson to be learned from the Reagan Presidency is that a people who are not vigilant in the exercise of power endanger the vitality of the Republic. The Reagan presidency is thus a perfect mirror of the apathetic state of our civic concerns. For a people solely obsessed with private wealth can not expect their leaders to be motivated by higher ideals. Further, when a nation chooses to ignore the substance of political debate, it should not be surprised to find its President using cakes, Bibles and revolvers as the primary method of exporting the ideals of American democracy.

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Friday, March 6-7 - - - National Jewish Students Conference
Thursday, March 12 - - - - - - Kaufman Competition
Thursday, March 26-7 - - - - - - Child Abuse Conference
Friday, March 27 - - - - - - - I.L.L.J. dinner
Tuesday, March 31 - - - - - - Harlem Real Estate Conference
Wednesday, April 8-9 - - - - - - Fordham Follies
March 14-22 - - - - - - Spring Recess

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Embarrassment

By now many of you have probably seen or heard of the fraudulent First Judicial Department Disciplinary Committee memorandum regarding alleged recent decisions. Copies of the memo and a disclaimer have been distributed throughout the school. The particulars needn't be repeated here.

What does bear stating and repeating is that we of the Fordham Community will not accept this kind of irresponsible, foolish behavior. All of us have a duty to ourselves and the legal profession. The conduct displayed in the publication of that trash is of the lowest order.

We hope that the person(s) who created and distributed the memo will consider, without perversity satisfaction, the negative impact the hoax had on a great number of people. In addition to causing the inconvenience and harassment of law school students, faculty and administrators, and prominent members of the legal profession, this idiocy demonstrates their commitment to the fair distribution of justice in our society.

Registration for the all-day affair begins at 9 am; admission is $12.50, which includes a luncheon buffet and a wine and cheese reception. Admission is free for Fordham students, faculty and staff, not including lunch. For information, contact Ralph Valente, outreach coordinator, at (212) 841-5375.

"War and Peace in Medieval Society," a conference sponsored by the Center for Medieval Studies, will be held on Friday, February 27, and Saturday, February 28, in the faculty lounge of the Leon Lowenstein Center, 113 West 66th Street. Conference hours on Friday will be 3 to 5 pm, and Saturday 10 am to 5 pm. Registration fee is $15, $10 for students. For more information, contact Thelma Fenster, director, medieval studies, at (212) 841-2041.

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Absurdity of Urban Living

by Henry Fairlie

Between 3 a.m. and 6 a.m. the life of the city is civil. The natural inhabitants of the city come out from damp basements and cellars. With their pink ears and paws, sleek, well-groomed, their whiskers combed, rats are true city dwellers. Urban life, during the hours when they reign, is mundane.

Rats are social creatures. But after 6 a.m., the two-legged, daytime creatures of the city begin to stir; and it is they, not the rats, who bring the rat race. You might think that human beings congregate in large cities because they are gregarious. The opposite is true. Urban life today is aggressively individualistic and atomized. Cities are not social places.

The lunacy of modern city life lies first in the fact that most city dwellers try to live outside the city boundaries. Disdaining rural life, they try to create simulations of it. No effort is spared to let city dwellers imagine they are living anywhere but in a city: patches of grass in the more modest suburbs, broader spreads in the richer ones farther out, grim new trees planted along the streets.

Professional people buy second homes in the country as soon as they can afford them, and as early as possible on Friday head out of the city they have created. New York intellectuals and artists quaintly say they are "going to the country" for the weekend or summer, but in fact they have created a little Manhattan-by-the-Sea around the Hamptons. City dwellers take the city with them, for they will not live without its pamperings. The main streets of America's small towns are now strips of boutiques.

In the old industrial cities, people lived near their places of work. The mill hands lived around the cotton mill, and the mill owner lived close, at hand, in the big house on the hill, looking down on the chimney stacks belching out the smoke that was the evidence they were producing and giving employment.

City churches had congregations that were representative of both the resident population and the local working population. It wasn't so much that work gave meaning to life as that it created a community that extended into and enriched the residential community, and sustained a solidarity among the workers. Automakers realized that their own product enabled them to build factories far from the dispersed homes of the workers, and not unconsciously they appreciated that a dispersed work force would be docile.

In the city today work and home, family and church, are separated. What office workers do for a living is not part of their home life. At the same time they maintain the pointless frenzy of their work hours in their hours off. They rush from the office to jog, to the gym or the YMCA pool, to work at their play with the same joylessness.

As the farmer walks down to his farm in the morning, the city dweller is dressing for the first idiocy of his day, which he not only accepts but even seeks—the journey to work.

This takes two forms: solitary confinement in one's own car, or the discomfort of extreme overcrowding on public transport. Both produce angst. There are no more grim faces than those of the single drivers we pedestrians can glimpse at the stoplights during the rush hour. It is hard to know why they are so impatient in the morning to get to their useless and wearisome employments; but then in the evening, when one would have thought they would be relaxed, they are even more frenetic.

On the bus or subway each morning and evening other urban dwellers endure the indignity of being crushed into unwelcome proximity with strangers whom they have no wish to communicate with except in terms of abuse, racism, and sometimes violent hostility. The wonder is not that there is an occasional shooting on public transit, but that shootings are not daily occurrences.

But whether they have come by car or public transit, the urban workers must continue their journey even after they have gotten to the city. They then must travel in one of the banks of elevators that often run the height of three city blocks or more. City people are so used to moving in herds that they even fight to cram themselves into the elevators, as if it mattered that they might get to their pointless occupations a minute later.

The odd thing about elevators is that there are no fares for distances often longer than those between two bus stops. Office elevators are public transit, free to anyone who needs to use them—but there's no such thing as a free elevator ride, as the president will tell you. Banks of elevators occupy large areas of valuable city land on every floor. This and the cost of running and maintaining them is written into the rents paid by the employers. If the urban workers had not been reduced to a docile herd, they would demand that the employers who expect them to get to work subsidize all the public transport into the city.

In the modern city office building, there are windows that don't open. This is perhaps the most symbolic lunacy of all. Outdoors is something you can look at through glass but not touch or hear. These windows are a scandal because they endanger the lives of office workers in case of fire. But no less grievous, even on the fairest spring or fall day the workers cannot put their heads outside.

The employers do not mind this, many have even conspired with the developers to dream up such an infliction, because the call of spring or fall would distract employees. Thus it's not surprising that the urban worker has no knowledge of the seasons. He is aware simply that in some months there is air conditioning, and in others, frigid central heating.

The city dweller reels from unreality to unreality through each day, always trying to recover the rural life that has been surrendered for the city lights. No city dweller, even in the suburbs, knows the wonder of a pitch-dark country lane at night. Nor does he naturally get any exercise from his work. When jogging and other childish pursuits began to exercise the unused bodies of city dwellers, two sensible doctors (a breed that has almost died with the general practitioner) said that city workers could get their exercise better in more natural ways. They could begin by walking upstairs to their office floors instead of using the elevators.

Dieting is an urban obsession. Country dwellers eat what they please, and work it off in useful physical employment, and in the open air, cold or hot, raining or sunny. Mailmen are the healthiest city workers. When was your mailman last ill for a day?

Everything in urban life is an effort to simulate rural life or to compensate for its loss by artificial means. The greatest robbery from the countryside in recent years has of course been Levis, which any self-respecting farmer or farm worker is almost ashamed to wear nowadays. It was when Saks Fifth Avenue began advocating designer jeans years ago that the ultimate urban parody of rural life was reached. The chic foods of the city have to be called health foods, which would seem a tautology in the country. And insofar as there used to be entertainments in the city that enticed, these can now be enjoyed more than sufficiently on VCRs and stereos.

It is from this day-to-day existence or unreality, pretense and idiocy that the city people, slumping along their streets even when scurrying, never looking up at their buildings, far less the sky, have the insolence to disdain and mock the useful and rewarding life of the country people who support them.

(Henry Fairlie is a contributing editor to The New Republic)

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(Henry Fairlie is a contributing editor to The New Republic)

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Repeal Wicks

by Mayor Edward I. Koch

At 1 p.m. on Nov. 23, 1986 skaters were again gliding across the ice at Wollman Memorial Rink in Central Park. Beneath an almost cloudless sky with temperatures just above freezing, smiles beamed from faces both young and old.

"Just like velvet," said Olympic champion Dick Button of the ice, which after six years, again covered the world's largest outdoor skating rink. "Very smooth," opined a 10-year-old girl who may one day be a champion herself. But Donald Trump—billionaire developer who's not always received the applause of champions—was again gliding across the ice at the Trump's work at Wollman Rink suggested even more remarkable success. We're putting them in place. And, who knows, if the Wicks Law is ever repealed, managing a capital construction project may turn out to be easier than learning how to ice skate.

Ford Foundation, the New York Conference of Mayors, the Daily News, the Post, and the Times agree. Mayhor Wagner and Mayor Lindsay supported repeal. So have Gov. Cuomo and I. But for years the Legislature has paid more attention to contractors than to those of us who oppose the law. I hope the Legislature will one day repeal it. Until then, public projects will take longer and cost more than they should.

Until then, we're also taking other steps to control costs and keep projects on schedule. We've instituted new contractor and consultant performance procedures and created a default process to ban poor contractors from doing business with us for up to three years. We've also used construction managers in a few critical projects at Shea Stadium, the Central Park Zoo, the Brooklyn Botanical Garden and Rikers Island. But wider use requires a change in state law. Given the power of contractors in Albany, it won't be easy to obtain.

Wollman Rink may be seen as a symbol of city projects that go wrong, but most city projects go right. We recently reviewed 6,000 city projects contracts completed since 1981. The average cost overrun was 7.2 percent. Fifty-eight percent had no overruns while 84 percent had overruns of 29 percent. That's more extraordinary success. We're putting them in place. And, who knows, if the Wicks Law is ever repealed, managing a capital construction project may turn out to be easier than learning how to ice skate.

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Torn Iron Curtain?

by Alan Dershowitz

Recently a group of 50 former Soviet citizens who had emigrated to the United States returned to the Soviet Union. Authorities in Moscow treated the return as a propaganda bonanza for the Soviet way of life.

The returnees—some Jews, some Armenians, some ethnic Russians—were greeted at the airport by high-ranking Soviet officials, including Sakharov, who is the Kremlin's chief spokesperson on Jewish emigration. Ziv says that the return of the 50 individuals proves that Jews in the Soviet Union do not wish to leave and that those who made the mistake of leaving now want to return.

But the real message is quite different. The personal message is familiar and poignant: Uprooting oneself from one's culture, heritage, family and familiar habits is very difficult. Every large-scale emigration—from the American colonists who moved West in covered wagons, to the Irish, Italian and Polish immigrants who arrived at our shores in the late 19th century, to the Asians and Latin Americans who seek refuge here today—has included a small proportion of nostalgic returnees who can't cope with change. Some go back. The majority suffer through the difficult transition.

The same is true of the hundreds of thousands of recent emigres from the Soviet Union. The vast majority have endured—indeed welcomed—the change. But a small percentage have gone back, citing the difficulties of adjusting to American life, the lack of job security, the crime, the permissiveness.

The right to emigrate has little to do with whether the United States is “better” or “worse” than the Soviet Union. It has everything to do with choice. Every human being should have the right to choose where he or she wants to live. Given that, some will prefer the regimented security of Soviet society, while others will prefer the risky freedom of America.

I welcome the news that a few emigres have chosen to return to the Soviet Union. The Kremlin's decision to allow them back enhances freedom of choice, even if that decision was made for propaganda reasons. No one should ever be forced to remain in a country—even a country as wonderful as our own—against his will. If they are happier with Soviet regimentation, so be it. The American lifestyle is not for everyone. But neither is the Soviet lifestyle, as evidenced by the fact that the vast majority of Soviet emigres have chosen not to return.

Perhaps this repatriation will give the Gorbachev regime the self-confidence to open both the “in” and “out” doors. Let it experiment with real choice, both for emigration and immigration. Indeed, the best news of all, from a human rights perspective, would be if an even larger number of Soviet expatriates chose to return because of an improvement in the quality of life and the degree of internal freedom within the Soviet Union.

There seem to be some tentative signs of change under the leadership of Mikhail Gorbachev, who appears to be wiser and more farsighted than his predecessors. The freeing of Anatoly Shcharansky, the return to Moscow of Andrei Sakharov and his wife Yelena Bonner, a slight increase in the number of medical patients allowed to seek treatment abroad, and a new, if uncertain, emigration law are all good omens.

It seems clear that the best policy for the Soviet Union over the long run is to join the rest of the civilized world in competing for the allegiance of its citizens. This will not be an easy task. The Russian people have never known real freedom—neither under the czars nor the commissars.

But there are stirrings of a growing appreciation for freedom there. With the growth of technology, it will become increasingly difficult for Soviet leaders to present their citizens with only one version of Pravda (“The Truth”). More of them listen to broadcasts from the West (most recently, President Reagan's new year's message over the Voice of America). More of them crave the right to practice religion. But many simply want to leave for personal or family reasons.

The return of 50 people to the Soviet Union demonstrates that one response to the challenge now facing Gorbachev is to open the doors both ways and let the chips fall where they may. Let's see how wise you really are, Mr. Gorbachev.
EDITOR'S NOTE: We apologize for omitting the following data regarding Michael R. Graham's Parody Fair Use Defense article published in the last issue.

Michael R. Graham (Fordham Law '86) is an Associate with William, Brinks, Olds, Hofer, Gibson & Leone Ltd., an Intellectual Property law firm in Chicago, Illinois. He is admitted to the Illinois State Bar. The article is adapted from the paper "Prometheus Rebound: Infringement Or Fair Use In The Wooster Groups' L.S.D. (...Just The High Points...)", which was awarded First Prize in the 1986 Nathan Burkan Memorial Competition sponsored by the American Society of Composers, Authors and Publishers at Fordham.

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