The honorable Joseph M. McLaughlin, United States District Court Judge of the Eastern District of New York, is the 1986 recipient of the Catholic Lawyers Guild's Charles Carroll Award. The award was presented by the Guild's president Gregory De Sousa, Esq., at the annual cocktail party held at the Netherlands Club on June 10.

An eighteen inch inscribed Revere Bowl is offered to honor distinguished jurists of the Catholic faith. As he presented the award, Mr. De Sousa commented that Judge McLaughlin's long and distinguished career in public service and academia make him an especially worthy recipient.

After graduating from Fordham Law School in 1959, Judge McLaughlin worked for the firm of Cahill, Gordon and Reinsfeld until 1961 when he joined the faculty of Fordham Law School. Judge McLaughlin became Dean of the Law School in 1971 and remained in that position until he was appointed to the federal bench on October 13, 1981.

An authority on New York Civil Practice and Evidence, the Judge has authored a number of books, including McKinney's Practice Commentaries to the CPLR. During his years as Dean, he wrote a monthly column for the New York Law Journal entitled "New York Trial Practice: Trends, Developments."

Throughout his career, Judge McLaughlin has served in a variety of advisory committees and boards and Law Revisory Commission. Judge McLaughlin is currently an adjunct professor at Fordham and St. John's Law Schools.

On Monday, July 21, Andrew J. Maloney was formally sworn in as U.S. Attorney for the Eastern District of New York. Mr. Maloney's primary concerns are investigations into narcotics, organized crime, defense contract fraud and municipal corruption.

MCLAUUGHLIN HONORED

MALONEY SWORN

CRACO TAKES MULLIGAN

A record 150 second and third year students participated in the 1986 William Hughes Mulligan Moot Court Competition. Louis Craco was selected by the distinguished finals bench as best speaker. Mark Sidoti and Joseph McLaughlin were honored as best brief writers.

This year's problem was an appeal and cross-appeal before the Supreme Court of the State of Fordham in The People v. Wisedale, a murder prosecution. The first disputed issue was the application of statutory and constitutional wiretap standards to the intercepted cordless telephone conversations between the defendant and his brother. The second issue involved the application of a psychotherapist-patient privilege to defendant's conversations with his sex therapist.

Of the 108 teams who signed up, 77 teams submitted briefs. Each of the 150 students who participated argued twice in the preliminary rounds, and the top twenty-four advocates advanced to the quarterfinals. The quarterfinal cutoff mark was 85.67.

Eight quarterfinalists advanced to argue in the semifinals before New York Supreme Court Justice George Bundy Smith, United States Magistrate Kathleen Roberts, and Executive Director of the Legal Aid Society Archibald Murray.

In the finals on July 24, Sandra Cranshaw and Nancy Delaney argued for the people, and Louis Craco and Patricia Matzke argued for the defendant before the following distinguished jurists:

Justice Raymond J. Dearie, Judge of the United States District Court of the Southern District of New York.

Additionally, the following students placed as semifinalists—Greg Harris, Phil Hirschorn, Barbara Flynn and Mark Schirmer; and quarterfinalists—Derek Adler, Lynn Desenberg, Elliot Bracher, Joe McLaughlin, David Sanderson, Jim Stronski, Catherine Botticelli, Carol Witschel, Rosanne Pennella, Stephen Fitzgerald, Judith Archer, Paul Carter, Michael Sullivan, Margaret Giordano, Mark Weeks, and Andrew Fishkin.

RIDE THE WAVE SEPT. 19
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EARLY REGISTRATION DISCOUNT TO DECEMBER 1, 1986

SEE YOUR FORDHAM REPRESENTATIVE
By Hendrik Hertzberg

Guess what, Miss Liberty. Ed Meese has a birthday present for you. On July 3, a few hours before President Reagan flew north to officiate at the centennial celebration of the world’s biggest female statue, his attorney general released the final report of his pornography commission.

The Attorney General’s Commission on Pornography is designed to be the antithesis of its ancestor, the 1970 federal Commission on Obscenity and Pornography. If the old commission was the federal equivalent of Hustler—low-budget, weak on fact checking, unsuble and fascinaded by the perverse.

The 1970 commission had a budget of $2 million to study the effects of pornography, under a Congressional mandate. It sponsored a wide range of original research by reputable scholars, and, in the end, called for repeal of laws against the sale and exhibition of sexual materials to consenting adults.

The 1976 commission, by contrast, had a budget of $400,000—around $150,000 in 1970 dollars. Its mission, as defined by Ed Meese, was to recommend “more effective ways in which the spread of pornography could be contained.” The commission sponsored no original research, and its consultants were mostly policemen and anti-porn activists.

Of its 11 members, six have well-established public records of supporting government action against sexy books and films. One is a Franciscan priest who has condemned Dr. Ruth Westheimer, the chirpy radio sex adviser, for advocating orgasms in premarital sex. Another is a religious broadcaster whose best-selling book, “Dare to Discipline”—a title that would not be out of place in the bondage section of an adult bookstore—advocates corporal punishment of children. The commission lacked the financial resources of its predecessor, but since its conclusions were preordained, it didn’t really need them.

The Meese report recommends a long list of stern measures. They include chang­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­­
Hello, Class of '89 and to all of you who are rejoining us. We hope that the summer has been prosperous, productive and, most importantly, FUN. This year promises to be better than ever. Our expanded facilities, the atrium, library and amphitheater are monuments to the spirit of Fordham Law School. Leo T. Kissam, a 1923 graduate of the law school who founded the law firm of Kissam, Halpin and Genovese left his entire estate to the school. He was vice president of the alumni association and we are forever in his gratitude for helping to make Fordham what it is today. The library is named in his memory. Ned Doyle is also to be remembered for his generosity. Mr. Doyle (31) founded the Doyle, Dake and Bernbach advertising agency and remained active in law school affairs. The new semi-circular wing is named in his honor. Ruth Whitehead Whaley graduated cum laude in 1927. She was the first black woman to practice law in the State of New York. An elementary school located at West 113 Street is named in her memory, and the Fordham BALSAL chapter presents an award in her memory each year. These people and those featured in this month's edition epitomize the community spirit of Fordham Law School. That spirit that has taken her from a thirteen-student institution meeting in Collins Auditorium in the Bronx in 1905 to one of the foremost legal education institutions in the country. The examples of these great men and women can help guide us through the long and difficult years ahead. Take advantage of all Fordham has to offer academically, socially and professionally. And have a great year.

AMPITHEATRE DEDICATED

The James B. N. McNally Amphitheater was dedicated, on May 21, in memory of the late Justice to honor his sixty years of brilliance in the profession.

Speaking at the ceremonies John D. Feerick, Dean of Fordham Law School, enumerated Justice McNally's long list of professional accomplishments. Justice McNally graduated Fordham Law School in 1920, created the Fordham Law Alumni Association in 1950 and served as its first president. He was a justice of the New York State Supreme Court and of the Appellate Division, First Department for more than thirty years; a delegate to the New York Constitutional Convention of 1938; the U.S. Attorney for the Southern District of New York by appointment of President Franklin Roosevelt and a member of the armed forces during both World Wars I and II.

The honorable Francis T. Murphy, Justice of the New York Supreme Court Appellate Division, characterized Justice McNally as "one of the greatest legal minds of our century" and his career as "a brilliant and eventful one." His contributions to law extended beyond the courtroom and into the classroom as a member of the original faculty of St. John's Law School from 1925 to 1938, and as a professor at the National College of State Judiciary from 1964 to 1972. The Reverend Joseph A. O'Hare, President of Fordham University, Justice Murphy and other guests noted Justice McNally's dedicated service as a lawyer, public servant, educator and humanitarian as Dean Feerick commented that "this amphitheater is but a modest recognition of our debt to him."

Now that the Supreme Court's term is over, it is appropriate for a law professor to submit his grades on its performance in the various subjects.

First, a brief travelogue over some of the terrain covered by the court affecting liberty, equality and due process. It is fitting to begin the grading process with a case involving high school students. The court ruled that a school could properly discipline a student for making a sexually suggestive display at a high school football game. Both the speech and the Supreme Court's decision were pretty adolescent.

From the auditorium, we move to the bedroom, into which the Supreme Court stuck its collective nose in order that to rule that the states have the power to enforce anachronistic sodomy laws against consenting adult homosexuals. A perverse decision.

From the bedroom we move to the Army barracks, where the brass can now require a soldier to remove his yarmulke or other religious symbol that is not part of the regulation uniform. I wonder if the Brethren will soon make Justice Sandra O'Connor wear pants under her robe.

Now, we go to the lawyer's office, where a client used to be able to confide in his attorney. But during this past term the Supreme Court praised was asked to threaten to squeal on their clients. Will lawyers who turn in their clients have to add the following warning to their business cards: "Caution—this lawyer may be hazardous to your freedom?"

From the lawyer's office, we move to the jury room in capital cases, which, even in the guilt-innocence phase of a death penalty case, will no longer contain citizens who strongly oppose capital punishment. A hanging court has increased the likelihood of hanging juries.

From the jury room, we go to the death house, where the Supreme Court ruled that in order to be executed, a prisoner must be sane. He need not have a reason for his resignation is to add his innocence—while awaiting execution, but he cannot be executed while insane. Imagine the incentive that death-row inmates now have to return to sanity.

Off to the library, where radical feminists are trying to restrict our reading by enacting a statute that would have empowered any woman to prevent the publication of any sexually explicit book, magazine or other expression that submerged women. The Supreme Court struck down this Big Sister statute, thus allowing us to read Lady Chatterley's Lover and appreciate a Renoir painting. A victory of sense over censorship.

But if censorship lost in the library, it won in theaters and bookstores. The court ruled that cities and towns can zone adult theaters into the swamps and close down bookstores if they constitute public nuisances. The upshot is that smut still will be available for home use but will be harder to find.

See p.6

BURGER ADDRESSES A.B.A.

The Hon. Chief Justice of the U.S. Supreme Court Warren E. Burger was guest of honor and principle speaker at breakfast at the Waldorf-Astoria on August 10. The breakfast, sponsored by the Guild of Catholic Lawyers of the Archdiocese of New York in conjunction with the American Bar Association, followed a Red Mass at St. Patrick's Cathedral which was celebrated by His Excellency Bishop Edward M. Egan.

Chief Justice Burger, who has resigned from the Supreme Court effective this fall, spoke of the importance of this nation's history of religious freedom. He drew attention to the contemporary religious violence in Lebanon to illustrate the point that while he and Justice Brennan, who was also in attendance, may disagree on construction, they do agree that the Constitution forms the basis of a system of healthy disagreement and peaceful resolution of differences.

The Chief Justice, who's stated reason for his resignation is to take greater part in the upcoming bicentennial commemoration of the ratification of the U.S. Constitution, said that this should be an opportunity to remind people, and especially lawyers, of the "freedom flowing from the Constitution."
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BRENNAN INTERVIEW

By Kathryn Kahler—Newhouse News Service

Washington—The U.S. Supreme Court’s foremost liberal, Associate Justice William J. Brennan Jr., remains confident that the death penalty eventually will be ruled unconstitutional as cruel and unusual punishment under the eighth amendment. The 80-year-old jurist believes capital punishment violates America’s evolving standards of decency.

“The fact that the death penalty was an accepted form of punishment at the time the Eighth Amendment was added to the Constitution does not mean that in time it may not be regarded as violating the standards of decency that the society follows today,” Brennan said in an interview with Newhouse News Service. “My view is that it already has reached that point. The government ought not to be doing God’s work.”

Only Brennan and Associate Justice Thurgood Marshall, the court’s other liberal, would oppose an unqualified ban on capital punishment.

The oldest and most senior member of the Supreme Court, Brennan said:

—He sees the erosion of Fourth Amendment protections as “unfortunate.”
—He prays for the day when affirmative action plans may no longer be needed to correct past discrimination.
—He believes lawyers should always have at least one public interest project under way.
—He praised the growing reliance of state courts on state constitutions to give citizens broader civil liberties protections than the Supreme Court has under similarly worded federal provisions. “I think it’s hard to deny that that’s the most important development in constitutional jurisprudence,” he said.

Brennan was appointed to the Supreme Court in 1956 by Republican President Dwight D. Eisenhower, who viewed him as a moderate. At the time he was a member of the New Jersey Supreme Court.

During his 30-year tenure, Brennan has played a major role in the explanations of basic rights to blacks, women and other minorities as well as the expansion of the First Amendment guarantees to the press.

He became a pivotal figure in the liberal majority under Chief Justice Earl Warren and wrote many of the decisions that became the hallmark of the country’s social agenda.

“The Bill of Rights expresses the Fundamentals that mark this society for what it is . . . they really count for remarkable progress and for equality without regard for station in life,” Brennan said.

Court observers say perhaps his most important ruling was Baker vs. Carr, the one man, one vote decision he wrote in 1962. In that ruling, the court held it could invalidate a state legislature’s apportionment.

Respected even by his adversaries, Brennan’s decisions have been scorned by conservatives. A 1984 article in the National Review said: “There is no individual in this country, on or off the court, who has had a more profound impact upon public policy in the United States in the past 27 years.”

Perhaps the strongest constitutional principle that underlies his judicial philosophy has been the protection of minorities against overriding majorities.

“If you appreciate our responsibility of interpreting and applying the Constitution to include the protection of minorities against overriding majorities, then necessary decisions which do that may be quite unpopular with the majority,” he said.

“The framers purposely constituted the federal judiciary the way it did in order to be independent of the pressures of the majority.”

In the court term that just ended, he wrote the majority opinions in two decisions approving of affirmative action plans to correct past discrimination. But Brennan can foresee a time when affirmative action plans may no longer be needed.

“I hope and pray for a day when one can look at another human being and never see the color of his skin,” Brennan said.

Brennan often has been referred to as the consensus builder on the court, the justice who most often acted with colleagues in the center to establish a position that will gain the necessary five votes for a majority.

He shuns that description, calling it an “over appraisal.”

“You do the best you can and if the point of view commands agreement, well, you’re delighted,” he said. “If it doesn’t, you try again.”

Brennan views the Constitution as a document that must be interpreted in the context of modern times. That interpretation underlies his view that the death penalty will be found unconstitutional as the society’s standards change.

One example, he said, was the Brown vs. Bd. of Ed. decision which overruled the 1896 Plessy decision upholding separate but equal public facilities for blacks and whites. “The court found unconstitutional something that earlier had been sustained. That’s the nature of our constitution.”

The Fourteenth Amendment, which extended the Bill of Rights to the states and under which the right to privacy is given, is another evolving area of constitutional interpretation. During the first 100 years of the Amendment’s existence, as the nation was an emerging industrial power, it primarily was applied to the court to problems of business regulation.

After World War II, the Fourteenth Amendment became the tool for the advancement and protection of individuals and the rights of minorities through the due process and equal protection clauses. It has provided the constitutional basis for such decisions as the 1973 ruling legalizing abortion.

Brennan said he doubted that the Fourteenth Amendment would be applied to other areas.
Good Places To Get Beer

By Jordan Becker (graduate)

One of the most important things about going to school as opposed to working is that it is generally easier to drink. In fact many people believe that it is impossible to get through law school without alcoholic assistance. While I don’t personally think that it is necessary to drink, I will say that it is helpful. My favorite drink is beer. Good beer, especially—not the usual junk that passes for beer in this country, although it will do in a pinch. Anyway, this article will discuss some places that serve or make good beer.

The first stop on the beer parade is the Peculier Pub. It is on West 4th Street between Sixth and Seventh Avenues in the Village. Make the Peculier Pub a Good Place To Get Beer (GPTGB) is variety. Th menu includes over 200 different countries ranging from obvious, like Germany or Holland, to less obvious Leather, wood and fiber, clocks and through Mon., vital will be held on September 30.

Some 250 crafts from across the United States, including decorative and functional ceramics, jewelry, glass, leather, wood and fiber, clocks and cop­persmithing will be displayed throughout the two weekends. The festival will also feature live entertainment and refreshments.

Autumn Crafts Festival is sponsored by the American Concern for Art and Craftsmanship, a nonprofit organization. More information: contact Paul Wein­garten, festival coordinator, at (201) 746-4091.

The third annual Autumn Crafts Fer­vals will be held on Sat., August 30 through Mon., September 1 and on the following weekend, Sat., September 6 and Sun., September 7 from 11 am to 6 pm on the Robert Moses Plaza.

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3. Submission does not guarantee immediate publication. The editors reserve the right to reject or edit copy at their discretion.

EVENTS:

• FLW Reception, Sept. 5
• Upper Class Awards Assembly, Sept. 16
• Deans Day, Sept 27

By Jordan Becker (graduate)

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Some 250 crafts from across the United States, including decorative and functional ceramics, jewelry, glass, leather, wood and fiber, clocks and cop­persmithing will be displayed throughout the two weekends. The festival will also feature live entertainment and refreshments.

Autumn Crafts Festival is sponsored by the American Concern for Art and Craftsmanship, a nonprofit organization. More information: contact Paul Wein­garten, festival coordinator, at (201) 746-4091.
Last year, again, more than 4,300 people studying for the New York Bar Exam took BAR/BRI.

4,300 people can't be wrong.

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