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The Advocate

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### The Advocate

The Advocate, Fordham Law School

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# THE ADVOCATE

The Student Newspaper of Fordham Law School

## Funding Started For Visiting Professorship

by Rob Rifkin and Linda Aylesworth

In a move designed to attract visiting professors of national stature, the Law School has revealed plans to establish a rotating, endowed chair within two years.

The chair will be named to honor George Bacon and Judge Victor Kilkenny, both of whom served as distinguished professors of law at Fordham, and who both died in 1975.

Fordham University had received two bequests totaling \$650,000, and, on the recommendations of the Law School, the Board of Trustees has used the money to establish the endowment for the Bacon/Kilkenny Chair of Law.

Another \$350,000 is needed to complete the \$1 million endowment.

Last year, the school was able to raise several thousand dollars toward the completion of the endowment through general fund-raising, and this year's efforts are expected to be more successful. A committee has been organized to solicit contributions from alumni in New Jersey, and, with the regular fund-raising program, will help complete funding for the chair within two years.

Interest from the endowment fund will be used to pay the salary of the professor who occupies the chair in any year. The principal itself is not paid out.

In his annual report to the school last December, Dean Joseph McLaughlin stressed the importance of the chair and

his hopes that the needed funds would be provided.

Professor Robert Byrn, who has been involved with general fund-raising here, said that as of this time no candidate has been selected to be the first to occupy the chair. He added that he hoped the chair will enable distinguished litigators and professors to visit Fordham and lecture here for a full year.

The ultimate choice of lecturers will rest with a committee to be established when the funding is complete.

## Jaworski, at Lowenstein, Discusses Failure to Indict

by Michael C.H. Barnas

Praising the American legal system as "unexcelled both in fairness and justice," former Watergate Special Prosecutor Leon Jaworski turned his discussion of Watergate experiences into a statement of support for American jurisprudence.

Jaworski spoke Tuesday night before a capacity crowd in Lowenstein Center's Pope Auditorium. His address was sponsored by the Law School Alumni Association in its series of annual John F. Sonnett Memorial Lectures.

Jaworski defended his decision not to indict then-president Richard Nixon on both constitutional and practical grounds.

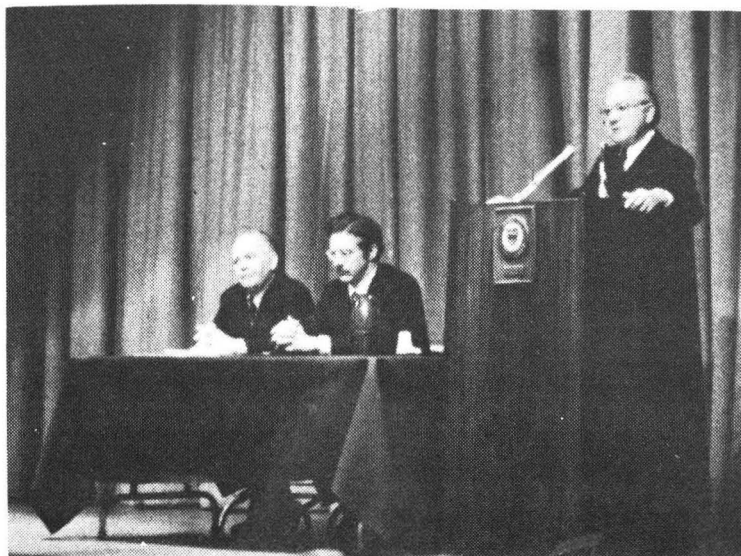
"There is some doubt whether a sitting president of the United States is indictable for obstruction of justice," Jaworski said.

"In my judgement," he added, "had an indictment been returned, the President would not have resigned."

Citing the urgency of replacing a suspected President, Jaworski explained his decision to turn over the evidence his office possessed to the House Committee on the Judiciary.

"The significance of this strategem has been overlooked," he said. "Without the grand jury data furnished to the House Committee, the latter would have been powerless to act."

The former prosecutor also noted the difficulty in assuring that Nixon's constitutional rights could have been protected had an indictment



Leon Jaworski Speaking at Lowenstein

been handed down after his resignation.

"Where does the prosecutor go after indictment if there cannot be had fair trial under the constitution?"

Jaworski said that following Nixon's resignation, an indictment could not have been obtained until juries had been

chosen and sequestered for two other trials then pending. Before that happened, President Gerald Ford pardoned Nixon.

"I have not and will not now take a position on whether President Ford should have granted a pardon," Jaworski

*Continued on Page 4*

## 90 Rounds Planned In First Year Moot Court

by Marianne McKeon

About 90 rounds of argument are planned in this year's first-year moot court competition. The contests, part of the Legal Writing curriculum, will take place between February 26 and March 11.

Schedules for the competition will be posted on February 17. Each first-year student will be matched with a partner, and the team will argue before a bench consisting of one faculty member and two upperclass students.

Only the professor's evaluation will count toward the student's grade, however.

Thirty appeals will be argued by evening students on two Saturdays, February 26 and March 5. Day students will make sixty appearances during the weeks of February 28 to March 4, and March 7 to 11.

Students this year will argue one of four problems. Evening students will confront a "respondeat superior" master-servant case. Three other problems have been assigned to day students. One involves impossibility of performance of a contract; another is a "wrongful life" problem; and the third is a constitutional problem involving the right of privacy.

## Lombardi Open To Law School

The Lombardi Gym on the Rose Hill campus will be available free of charge to all students from February 28 to March 11.

The SBA requests that all students who would consider joining the gym use it during this time. Our participation will reflect on future costs and may lead to a reduction in the graduate students' annual fee.

Any students with further questions should contact their class officers.

## Two Win In Client Counseling

Vincent Toarna 2B and Judy Joseph 2B have won the Client Counseling competition. The competition, held on January 29, was conducted by Professor Elliot Evans and the Moot Court Board. Toarna and Joseph will represent Fordham at the regional competition which is to be held at NYU on March 5. The finals, sponsored by the American Bar Association, will be held in South Bend, Indiana in April.

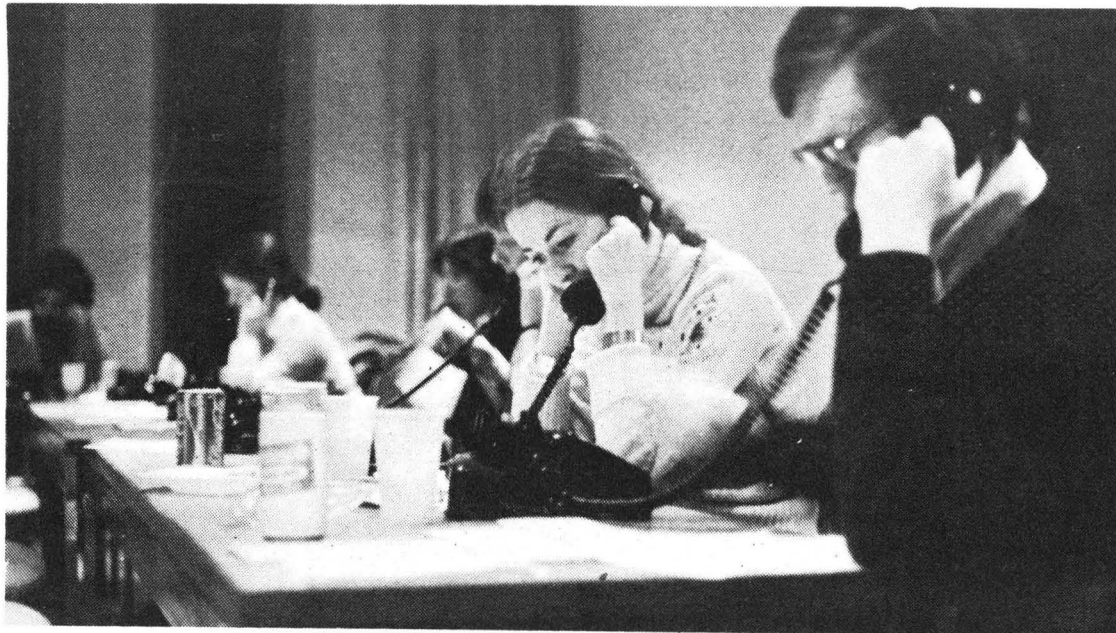
The 14 contestants were given a landlord-tenant problem. Each contestant had ten minutes in which to question a client and five minutes in which to advise the client.

Along with Evans, Moot Court Board members, Peter Gordon and Robert Green, judged the competition. They found that the contestants felt a need to take a position immediately, and that their advice to the clients was heavily laced with "legalese" and with citations to cases and statutes.

The contestants were given high marks for their ability to relate to and to empathize with their clients and for their grasp of the law.

## Tang Planned

Seven—count 'em, seven—kegs of beer will be the guests of honor as the second-semester Tang season rolls off to a belated start next week. The time has yet to be announced, but sudsmasters Jack Hicks and Peter Fallon assure the drinking public that Blackacre will be the place. No teetotalers need apply.



"I TOLD YOU NEVER TO CALL ME HERE." Students volunteered during the first week of February to phone Fordham graduates across the country in an effort to raise money for the Fordham Law School Fund. Proceeds from the Phonathon are used to support the Law Review and the Urban Law Journal, as well as other activities.

# THE ADVOCATE

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## Presidential Corner

### Starting Fresh

By Laura Ward

The election is behind us and the time has come to fulfill our campaign promises. I urge all students to come to me or any member of the executive board with suggestions and criticisms throughout the coming SBA year. I want this board to be responsive to your needs. If you are interested in getting involved with placement, security, cafeteria service, curriculum planning or faculty tenure please contact the SBA.

Our initial objective is to establish a working relationship with the Rose Hill Campus. I plan to arrange several meetings with administrators uptown to discuss Student concerns, as well as meetings with our own Law school administrators. It is time we start working together.

Students must get involved in the search for a

new placement director. This is our chance to establish a placement office to cater to our needs. No one knows the problems of looking for a job better than those currently searching.

The SBA recently passed a number of resolutions on security improvements. These must now be implemented.

The second floor bulletin board will be kept up-to-date regarding activities in the law school, i.e. speakers, moot court competitions, social events, etc. We will also keep you informed about activities at Lowenstein.

The first few weeks will be hectic as are all transitions. I promise to do my best to serve the student body. Brian Sullivan and his executive board left the SBA in better shape than they found it and I intend to do the same.

## Fordham Profs Teach, Publish Research, Edit And Then S

by Walter K. Donat

In addition to their teaching duties, many Fordham Law School professors engage in a variety of writing, committee or service activities.

The sampling of activities below is far from a complete list. It will, however, help students to find professors whose work may be of assistance or interest in developing their own expertise.

Dean Joseph M. McLaughlin has an endless activity list but one of his priorities is serving as Chairman of the New York Law Revision Committee. The major goal of the committee is to produce a New York code of evidence similar to the Federal Rules of Evidence.

He is also beginning revisionary work on his casebook on *New York Practice* which will be published again by Foundation Press. This year's first year students can expect to use the book in their third year.

Professor Earl Phillips has been researching in the area of parental rights and child adoption under the auspices of the Children's Rights Committee of the Association of the Bar of the City of New York. Phillips obtained a University grant to assist him with his research.

Some of his observations have been that an adoption can take so long that it sometimes forces the child into a "temporary limbo." The results of his research may eventually be published as a Special Report for the Bar Association.

In addition Phillips authors the monthly "Consumer Credit & Truth-in-Lending Compliance Report" as well as the Truth-in-Lending Review for the "U.C.C. Law Letter."

Professor Edward Yorio has just completed an article tentatively entitled "Policy Considerations In The Taxation of Damages" that will appear in the April issue of the Cornell Law Review. The article will

discuss "the taxing policies and non-taxing policies and their relationship with regard to certain recoveries in the damages area." Two main questions are explored—how should the recovery be taxed and how should the damages be computed before taxation knowing that there will be a tax. This article is an attempt to pioneer an area of the law that has remained virtually underdeveloped.

In addition Yorio is editing the third volume of the noteworthy *Fordham Corporate Law Institute* dealing with the tax aspects of international pricing across international boundaries. Past editors have been Professors Joseph Sweeney and Barry Hawk. The publisher is Matthew Bender.

Professor David Richards, who refers to himself as "a civil libertarian politically and constitutionally," has just finished a book entitled *The Moral Criticism of Law* which will be published by Dickinson Press this spring. Richards views his work as "developing a constructive theory involving strong ideas of human rights" and as a "critical moral reflecting of the Constitution."

Some controversial constitutional topics include free speech and the Supreme Court obscenity decisions, the right of privacy, equal protection and the funding for schools, race and sex discrimination, the constitutional rights of the insane, and an analysis of just punishment as seen in the death penalty and in the Eighth Amendment. The thrust of the book is directed particularly to the legal profession.

Professor Henry Putzel has been active as a Team Teaching Assistant in the Practising Law Institute's "Extensive Trial Advocacy" course. This course is unique because it enables practicing lawyers to learn how to actually try a case," Putzel observed. The techniques used in Fordham really do work on the

outside."

He is also Secretary of the New York State Bar Association Special Committee Courts and the Community. The committee is chaired by De McLaughlin.

Putzel is also on the Committee on Criminal Courts, Law & Procedure of the Bar Association of New York City, and is also on the select panel of attorneys who take Court appointments to represent indigent defendants in criminal cases before the U.S. district Court. He does this "to stay sharp." He adds, "You can't teach advocacy effectively unless you remind yourself how it's done."

The dynamic duo, Wilkinson Professor of Law John Calamari and Professor Joseph M. Perillo, are at it again. They have just updated their Hornbook which will be published in June.

Three new chapters have been added covering topics covered

## New Faces Old Ideas?

Though it is much too soon for a final judgement on the issue, the new SBA may become much like the old. The faces are new, but the input and output may well remain unchanged.

There can be no doubt that an organization which traditionally argues over petty points of budget requests which have been thoroughly discussed in committee cannot succeed in dealing with the real problems faced by the student body.

Only time will tell whether this can be remedied during the next year. But there are some steps which can be taken now which would tend to ease the situation.

Firstly, the SBA should pass a resolution limiting discussion in meetings to five minutes per topic, unless it is extended by a two thirds vote of the body.

Secondly, the committees should be required to submit written rather than oral reports to the Board, at least two days prior to the meetings.

Lastly, the SBA should only pass on concepts rather than full plans, and allow the committees to work out the details and the implementation.

These suggestions are by no means the panacea for all of the SBA's ills, but they are measures which will allow the SBA to deal with more of the student's problems, until the entire governance system can be revised.

## Shepard And Oth

O People. Look around you. The signs are everywhere. The freshman brief is about to become due again.

I could never understand why the course was called Legal Writing, when legal research seemed more like it. I remember hours in the library trying to find the ultimate dispositive decision even if it was handed down by the Rhode Island Small Claims Court. Despite repeated, and don't doubt now, sincere admonitions from concerned faculty not to get all haywire over this exercise, I still got caught up in the avalanche.

There's something about walking into a frenetic library early on a Saturday morning that makes the mind irrational. Yes,

**Letter:  
Who Needs OTB?**

Dear Advocate:  
There is a reason behind the facts that:

- 1) The coffee machine only serves black coffee
- 2) The Pepsi and Coke machines don't work
- 3) Yogurt comes without a spoon
- 4) The ice cream machine gives odds

The reason is that the concessionaire has just been granted tenure by Rose Hill, or else this concessionaire has a "Las Vegas Night" license.

Yours truly,  
"Hamilton"

P.S. An evening student wondered if the Blackacre tables came with the trash, or if Blackacre is ever cleaned.

**Is It Hot? Is It Stuffy?  
Is It Running Late?  
It Must Be the 6:00 to Brewster**

by Linda Aylesworth

I am subject to a recurring nightmare. I'm late. I'm rushing. My coat is unbuttoned. My scarf flails wildly behind me. My gloveless hands desperately clutch an array of loose papers and books; all around me there is dim uproar and confusion—and just as I dare think I've made it (the clock benignly gives me sixteen seconds to spare), I turn a corner and am confronted with the inevitable mass of people, thick and motionless as a wall, gathered dismally about Gate 33 with the resigned and spiritless look of men trapped by insufferable odors. And the inevitable voice drones . . . "the 6:00 to Brewster will be indefinitely delayed due to late equipment coming off the rail."

I wish I could say that at this point I wake up. But, sadly, this is no dream, although it surely is a nightmare. It is, in fact, the Metropolitan Transit Authority's answer to going to school (or work) in the City, and living in Northern Westchester.

How can I describe the quickening dread in my heart as I approach historic Grand Central each evening? Who can say what new and interesting small talk I'll make, while waiting with another bedraggled commuter?

I have long since stopped wondering when and if the inevitable drone will at least fabricate a new excuse (does anybody really know what "late equipment coming off the rail" means?), or perhaps—God forbid—inject a little humor into an otherwise most uninspiring scene (how about twenty questions?).

There is, admittedly, a curious and somewhat morbid element of chance to this lifestyle: will my train be on time today? Will it show up at all? Will there be a place to sit? And surely there



Changing Trains at North White Plains

must be one or two stations between Grand Central and my home that I haven't, as yet, had the pleasure of viewing from the aisle, while I stand waiting, *ad nauseum*, for the train to be fixed. I ask you—would such odds inspire Jimmy the Greek??

More than once it has occurred to me that the human animal will put up with an awful lot in his lifetime. That man is the most adaptable of creatures is a proposition whose full philosophical import I never truly embraced until I started commuting.

Just last night my train found itself stranded in Mr. Vernon. The doors of the train are of the sliding, automatic open-and-shut-type, and for a full twenty-five minutes, myself and a train-full of others sat in feigned indifference while the doors of each car opened and shut, opened and shut, over and over again like a giant, unthinking Veg-o-Matic. There was no other sound except an occasional cough and rustling of paper, and those doors,

opening and closing every few seconds.

I was about to give in to my urge to laugh hysterically, when another train, on a parallel track, pulled up alongside us. The doors, at this fortuitous moment, remained open; and without a word everyone was up, grabbing coats and briefcases, and stampeding off to catch this other train. It didn't seem to matter that no one quite knew where, or for that matter whether, the train was going. One learns not to question these things.

Needless to say, I was borne, and not unwillingly, on the crest of the enthusiastic wave, only to find myself pinioned between a large and feisty woman with two uncompromising shopping bags, and a gentleman in manifest need of a bath. It is at such moments that I first curse myself out, and then reflect upon the marvelous study a sociologist might do were such similar opportunity ever to present itself. My problem is that I am not a sociologist either by profession or temperament: the

scientific fascination of people under stress somehow eludes me (probably because I'm too busy being under stress).

But what bothers me more than anything else is that in recent weeks I've been feeling a little paranoid. I'm growing certain that all of this relentless havoc is being purposely visited upon me by some Great Conductor in the sky who's got my number. Have you ever noticed how trains are never late when you want them to be? I'm forever missing trains by thirty seconds or a minute-and-a-half, or something equally as infuriating. Those are invariably the trains that are so punctual you could set your watch by them.

Be that as it may, however, the trains do, and will, go on; or at least we can hope. My advice to a newly-admitted Fordham student who will be commuting from Northern Westchester next fall, is first to see if he or she can transfer.

At North White Plains. Across the platform.

**ish,  
ome**

some, but not all, contracts courses. These chapters include "Equitable Enforcement," dealing with specific performance and restraining orders. Another new chapter is "Avoidance or Reformation for Misconduct or Mistake" which deals with duress, undue influence, misrepresentation, mistake, reformation, unconscionability and "duty to read." A consumer protection chapter has been added discussing contract-related legislation enacted in response to the consumer movement. Each of the other chapters has been updated and revised.

They are also beginning their long awaited work on a Contracts casebook which is expected to be completed in less than two years. West is the designated publisher.

They have also completed Contracts Bar Review materials for West to be used in the preparation of the multi-state bar exams.

Continued on Page 4

**zing St. Augustine  
er Brief Encounters**

is only two credits, and, yes, several other courses carry twice as much weight on the cumulative scale; but I guess that the legal writing course engenders, at least temporarily, a more high-energy response; that somehow there's a beginning, middle and end to all this that seems to follow a recognizable progression. Then again, maybe it's just nerves.

After the brief is written and submitted, you realize that you've only rounded third base, that there's still the slide home into the Moot Court Room: the oral argument. My own argument was scheduled for the next to last day of advocacy, which, believe me, had its drawbacks. Reports sifted down: it was horrible, it was exhilarating, it went so slow,

by Bob DiGiacomo

it went so fast.

My fatal undoing as it turned out was my own zealotry. I wrote out, word for word, my entire argument, which clocked in at about nine minutes. Maximum security. If I blanked out, which I figured would account for the tenth minute, I could look down, find the precise

place where my amnesia set in, and proceed without a hitch. Right?

False, fallacious and untrue. Now, I admire Professor Richards, thought he was a fine teacher and am sorry that he's made the decision to leave Fordham. But when he walked into that room as my faculty judge, I could have dropped. This guy wasn't about to get snowed, by me, or anyone else for that matter. But hell, it was all right here in front of me. So, I recollected myself, and settled in for whatever. I was arguing the substantive issue for the appellees, which translated that I went fourth, last. Another drawback.

The first three speakers did

admirably well, though I couldn't tell you now, or then, what anybody said. Then the kid got up.

I didn't even get a chance to please the court and introduce myself. While I was approaching the podium, Richards quoted St. Augustine, who was once overheard to have said something directly opposite to what I intended to argue, and what did I think about that. Now what can you say? That you looked it up in Sheppards and saw that St. Augustine was overruled by Justice Douglas? That St. Augustine was wrong? My God, at Fordham, can you imagine arguing that St. Augustine was wrong?

Well, enough. I think I got

through about one-third of my precious oration as it turned out. Afterwards, Richards told me that I should've just prepared an outline which would enable me to be more spontaneous in fielding the bench's questions. He's right, of course; but after so fastidiously accumulating the brief, it seemed like preparing merely an outline for the Grand Finale would be like wearing brown shoes with a tuxedo.

I betcha anything I should have learned a lesson from all this.

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P.S. It's been brought to my attention that the jukebox in Disco Lounge has been removed. I heard it through the grapevine that it's only undergoing repairs. I second that emotion.

# Professors Teach, Publish, Research, Edit And Then Some

Continued from Page 3

Calamari acts as an arbitrator for the N.Y. Stock Exchange while Perillo is on the United Nations Committee on International Trade Laws, which is trying to codify a uniform law of international sales by 1978. Perillo says, "That ought to be a lot of fun for our students because we will then have three views to discuss—the common law, the U.C.C., and the International Sales Law."

Professor Robert M. Byrn has been publishing articles on the topic of abortion for many years now. He has just published an article on the right to refuse medical treatment in the *Fordham Law Review* which has been reprinted, extracted, or digested in several

other publications.

He enjoys being on the lecture circuit and has addressed the annual conventions of the New York State and National Right-to-Life Committees and the American Society of Hospital Attorneys. His next two lectures are scheduled on February 22 at the General Theological Seminary, and on February 25 at the Catholic Hospitals Association. Byrn also serves as a director of the Catholic Lawyers Guild of N.Y.

Professor Gerald T. McLaughlin has just completed an article on the "Introduction to the Legal Systems of the Middle East" which he hopes may eventually become a legal philosophy course. Other scheduled articles are "Drug Problems in Egypt" which will discuss preventative and law enforcement policies concerning drugs, and "Investment Laws in Egypt." No publishers have been designated as of yet.

Professor John A. Humbach is beginning an article on possession in property law. He describes it as "a jurisprudential inquiry into the nature of property as conceived in the

common law, with emphasis on the key importance of possession in the definition of property and the circumstances under which it can be acquired and protected." The publisher of the article has not yet been determined.

Professor Michael R. Lanzarone, the moderator of the *Fordham Urban Law Journal*, authored a study on *Discipline In The Professions* which included recommendations for changes in relevant statutes, rules, and procedures. He is also Project Director of the N.Y.S. Charter Revision Commission for the City of New York, engaged in reorganizing and revising portions of the New York City Administrative Code.

# New SBA Administration Takes Reins Reviews Budget

by Michael Brofman

The new Board of Governors of the Student Bar Association, led by President Laura Ward, took the reins of the SBA on Wednesday, February 9.

In his last official act as SBA president, Brian Sullivan handed the gavel to Ward and told the new members that "the Executive Committee will only be as successful as the class officers."

The new committee immediately proceeded to the business at hand by voting on three proposed budgets. The *Advocate* budget, termed by Ward "our biggest expense by far," was passed unanimously.

The debate surrounding the request of the Fordham Law

Women was more spirited. In passing only part of the budget request, the SBA upheld its policy of paying for transportation costs to conventions but not for the registration fees.

The Board then approved the plan to duplicate old exams beginning February 15, for 45 days. This year, section 2B is in charge of duplicating for all the elective courses.

Ward then ordered the formation of a new Social Activities Committee (SAC) to coordinate social activities on campus. She also noted that committee assignments would be handed out at the next meeting.

## Jaworski Reviews Failure To Indict

Continued from Page 1

said, but added that he did consider it within the power of the President to do so.

Jaworski later asserted that to the best of his knowledge Nixon and Ford had not made an agreement that a pardon should be granted.

After citing the performance of the courts and the legal system in the face of Watergate and the coverup, Jaworski concluded by praising the strength of the American judiciary.

"With pride and reverence," Jaworski said, "I wish to refer to it as the most illustrious branch," paraphrasing the title of Alexander Bickel's *The Least Dangerous Branch*.

## Lincoln Lounge

38 W. 62nd STREET

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TILL 10 P.M.

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# STUDENT HEALTH INSURANCE

## Spring Enrollment Period Ends March 4th

Enrollment forms available at:  
**Student Bar Association Office**

## HOFSTRA LAW SCHOOL

Summer Program 1977

SUMMER SESSION I May 25 - July 5

NAME OF COURSE	NUMBER CREDITS	FACULTY
Legal Ethics	1	Dean Monroe Freedman
Conflict of Laws	3	Prof. Aaron Twerski
Evidence	4	Prof. Abraham Ordover
Family Law	3	Prof. John Gregory
Individual Income Tax	4	Prof. Stuart Filler
Legal Issues in Public Education	3	Prof. John Gregory
Real Estate Transactions	3	Prof. Herman Hillman
Remedies	3	Prof. Malachy Mahon
Secured Transactions	3	Prof. Malachy Mahon
Commercial Paper	3	Prof. Alan Resnick
Criminal Procedure I	3	Prof. Leon Friedman
Land Use Planning	3	Prof. Ronald Silverman
Business Organizations	4	Prof. Jan Deutsch Prof. of Law, Yale Law School
Constitutional Law I	3	Prof. Jan Deutsch
Legal Responsibility and the Corporation (seminar)	3	Prof. Jan Deutsch

SUMMER SESSION II July 7 - August 15

NAME OF COURSE	NUMBER CREDITS	FACULTY
Products Liability	3	Prof. Aaron Twerski
Labor Law	3	Prof. Eric Schmertz
Advanced Procedure	3	Prof. Eric Lane
Debtor - Creditor	3	Prof. Alan Resnick
Entertainment Law	3	Prof. Joseph Bianco
Seminar in Trial Advocacy	3	Prof. Lawrence Kessler
Constitutional Law II	3	Prof. Arthur Bonfield Prof. of Law, University of Iowa College of Law
Wills, Trusts and Estates	4	Prof. John Sciuillo, Prof. of Law, Duquesne University School of Law

FOR FURTHER INFORMATION:  
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