MOOT COURT FINALS

JUDGE WEINFELD RECEIVES 1984 FORDHAM-STEIN PRIZE

By Mark S. Kosak

Edward Weinfeld, United States Judge for the Southern District of New York, was the recipient of the 1984 Fordham-Stein Prize. The award was presented at a dinner in Judge Weinfeld’s honor on Thursday, November 1, 1984 at the Hotel Pierre.

Judge Weinfeld is not a stranger to New York. He was born on the Lower East Side in 1901 and attended the City’s public schools and New York University Law School at night. Upon his admission to the Bar in 1923, he practiced law as a solo practitioner. Later in 1938, he was elected a delegate to the New York State Constitutional Convention. Subsequently, he became a pioneer in the field of public housing, serving as New York State Commissioner of Housing; Vice-President and Director of the Citizens’ Housing and Planning Council; Director of War Housing and the War Housing Council; President, National Association of House

The Advocate congratulates the editors and staff of the Moot Court Board for successfully holding this fall’s I. Maurice Wormser Moot Court Competition. The Wormser Competition, along with the Mulligan Competition during the summer, is an intramural Moot Court Competition sponsored annually by the Moot Court Board of the Moot Court in which all upperclass students are encouraged to participate.

This year’s Competition culminated on October 31st when Robin Shanai, Robert Farrell, Margaret O’Brien and Deborah Sheehan argued the final round. The panel for this final round of oral argument included Judge Lawrence Cooke of the New York State Court of Appeals, who wrote the dissenting opinion in the seminal case on which the problem was based. Robert Farrell and Deborah Sheehan captured the awards for Best Speakers for the Wormser Competition in the final round. Robert Farrell also took one of the two awards for Best Brief submitted in the Wormser Competition. Michael Graham is the other Best Brief winner.

The issue selected by Mary Dunn, the Moot Court Board Editor for the Wormser Competition, centered on the business judgment rule. The business judgment rule is a long standing judicially created doctrine that protects corporate directors for their decisions in managing the corporation’s internal affairs. The two issues presented in the Wormser competition concern the scope of the business judgment rule’s insulation from liability when shareholders, who are at least in theory the owners of the corporation, challenge a board of directors’ decision. The scope of the business judgment rule’s protection of corporate directors against liability is a hotly contested issue that currently causes corporate litigation in the context of a shareholder derivative suit. The corporate law issues argued in the Mulligan competition which deal with more emotional constitutional law issues headlined in the Baby Jane Doe case.

Students deciding whether to participate in future Moot Court competitions should be encouraged by the tremendous support of this year’s Wormser Competition from Fordham alumni. These alumni eager to serve as judges for the preliminary rounds of oral argument turned up in such great numbers that on some nights extra chairs had to be brought in to accommodate them on the bench.

For your undeniable professionalism and fairness on the bench and for your completely unfailingly dedication and support to the legal profession, THE ADVOCATE salutes you, Judge Weinfeld, for being the 1984 recipient of the Fordham-Stein Prize.

It should also be noted, that the following were past recipients of the Prize: Chief Justice Warren Burger, Edward H. Levi, former U.S. Attorney General; Archibald Cox, former U.S. Solicitor General; William H. Webster, Director of the Federal Bureau of Investigation, Warren M. Christopher, the negotiator of the release of the American hostages in Iran; Potter Stewart, former Associate Justice of the United States Supreme Court; and Judge Henry Friendly, a member of the Court of Appeals for the Second Circuit and a former Chief Judge of that Court.

INSIDE

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EDITOR'S MESSAGE

These last two months have been especially eventful for the Law School and the University as a whole. At the outset, Fordham University was the proud recipient of a $3.5 million grant from the Federal government, to be applied to the Lincoln Center and Rose Hill student housing project. Later in the month, Fordham Law School was fortunate to have Chief Judge Wilfred Feinberg as the principal speaker at the prestigious Sonnet Lecture Series. On October 24, 1984, the formal ceremonies commemorating the dedication of the new wing of the law school were held. On this memorable occasion, we had the distinct honor of having Supreme Court Justice Sandra Day O'Connor deliver the Keynote Address, in addition to hearing thought provoking remarks from Governor Mario Cuomo, Senator Alphonse D'Amato, Dean John D. Feerick, Mayor Edward I. Koch, Judge Joseph McLaughlin and Judge William Hughes Mulligan. Finally, Judge Edward Weinfeld was presented with the coveted Stein Prize at a reception held at the Hotel Pierre. To say the very least, Fordham had a star-studded array of events, seconded only by the participants themselves.

In retrospect, what does each of these events have in common; what do they signify in terms of the future of the law school? I would suggest to you that the events represent the product of unfettered dedication and cooperation to an institution worth investing one's time and energy in. An institution, founded and guided by its Jesuit heritage, with a purpose to enlighten and inform the legal profession as a whole. It is because of this underlying good, that the law school fosters, forms and more importantly maintains fraternal ties with its student body, faculty and alumni.

In terms of the future significance of these events, (particularly in terms of the Dedication Ceremonies), I would suggest that based on remarks made by Justice Sandra Day O'Connor and Senator Alphonse D'Amato that Fordham Law School will in the near term transcend its regional reputation and henceforth be referred to as a National Law School. This will not only have a positive impact, based on increased notoriety, on those who are presently attending the school, but will also have a similar effect on alumni as well.

As for the present, be patient with your school, since it is still in a period of growth. Utilize the new facilities which are available, but remember the toil and sacrifice involved in bringing the $8.0 million Capital Development Program to fruition.

The underlying message, therefore, is to appreciate what is currently available, but be willing to make your own individual contribution of time to activities and organizations, now as a student and later as an alumnu. Join the Advocate, help the SBA, argue on a Moot Court team, write for a Journal, or become apart of the Alumni Association upon graduation. Your investment of time will make a difference, it will serve to maintain the quality of life at the law school now and improve its reputation in the future.

At this point, I would like to personally thank the following individuals for their valuable contribution to Volume 16 of the ADVOCATE. The Faculty Headnotes column was made possible by Dr. Ernest Van den Haag, Associate Dean Joseph Crowely and Prof. Peter O'Connor. Reverend Edward G. Zogby was responsible for writing the inspiring series In The Jesuit Tradition, while Eileen Rose Pollock FLS '84 authored the column entitled State of the Arts. Special thanks should also go to Prof. Mary Daly, Dean John D. Feerick, Assistant Dean Robert Hanlon, Prof. Catherine Harris, Assistant Dean William Moore, Assistant Dean Robert Reilly, Prof. Georgene Vairo and Assistant Dean Linda Young for their individual articles and/or assistance in assembling the paper. I would also like to thank the entire staff for devoting their time and effort in making the ADVOCATE a success.
In New York, civil actions must be commenced within certain periods of time after their accrual. The time periods depend upon the particular type of claim involved. For example, an action for personal injury must be commenced within one year of accrual; for breach of contract for the sale of goods within four years, and one for breach of other contracts of similar nature, within six years. CPLR 213(2), 214(4), 215(3).

A dismissal of a claim as time barred means that the claim will not be given a hearing on its merits. Several theories have been advanced to support the statute of limitations. 1 Weis­tein, Korn & Miller, New York Civil Practice, par. 201.01 (1984). One theory is that, after the passage of a reasonable time, a debtor or tortfeasor should be able to go about his or her affairs without fear of a lawsuit on an aged claim. A second theory is that, after the passage of time, it becomes more difficult for a prospec­tive defendant to defend because witnesses' memories fade and evidence is lost. Another theory rests upon the assumption that persons with meritorious claims are reasonably quick to seek judicial redress and, consequently, a long delayed claim admits of no merit.

The occasional defeat of a meritorious claim in the interest of judicial economy is usually justified in the personal injury negligence action which has traditionally served as the model for the New York judicial system. In a typical case of the genre, for example, when a plaintiff is struck by an automobile and is injured as a result, the three year statute of limitations begins running when the plaintiff is injured in the collision. Merchants Hospitall and Transportation Co., 270 N.Y. 287 (1936). Such a plaintiff is aware of the wrong and has ample time to sue. If he or she fails to sue within three years of the wrong, it is not usually harsh to dismiss plaintiff's claim for unreasonableness there­fore freeing the court to devote more time to considera­tion of timely claims on the merits.

An increasing number of cases in the New York courts involve toxic torts. A toxic case typically involves a plaintiff who has been ex­posed to asbestos dust or radiation while work­ing in a defendant's work place. In many of these cases, a plaintiff, exposed to a toxic substance, does not become aware of his or her injury until more than three years after exposure - the statute of limitations for personal injury negligence claims. Unfortunately, under New York law, such a plaintiff's claim is extinguished and will not be tried before a jury on the merits.

The decision responsible for such a result is that of New York Court of Appeals in Schmidt v. Merchants Despatch Co., 270 N.Y. 287 (1936). In that case, plaintiff inhal­ed dust while in defendant's employment, and, as a consequence, contracted pneumoconiosis, a disease of the lungs. More than three years after termination of his employment, plaintiff discovered the long injury and sued defendant for negligence. Plaintiff claimed that his injuries resulted from defendant's negligent failure to properly ventilate the work place. The Court of Appeals unanimously dismissed plaintiff's negligence claim because it had not been brought with three years of accrual. The Court held that:

"...in actions of negligence damage is the very gist and essence of plaintiff's cause". The injury occurs when there is a wrongful inva­sion of personal or property rights and then the cause of action accrues... The in­jury to plaintiff was complete when the alleged negligence of the defendant caused the plaintiff to be inhale the deleterious dust. For that injury, including all resulting damage the defendant was liable... No suc­cessful challenge could have been interpos­ed on the ground that the action was prematurely brought because at the time it was commenced no serious damage to the plaintiff had yet developed. In that action the plaintiff could recover all damages which he could show had resulted or would result from past injury.

Since its 1936 decision in Schmidt, the New York Court of Appeals, despite vigorous dissents, has several times refused to overrule that decision. See, for example, Schwartz v. Hayden, 12 N.Y.2d 212 (1965); Thornton v. Roosevelt Hotel, 47 N.Y.2d 780 (1979); Steinshreiber v. John-Manville Corporation, 54 N.Y.2d 1008 (1981); Fleischman v. Eli Lily, 62 N.Y.2d 888 (1984). In each of these cases, a majority of the Court has rested its adherence to Schmidt on stare decisis grounds and stated that any change in the rule must be made by the legislature. The dissenters have argued, that since the Schmidt rule is a type of policy sui generis, the Court can change it in the interest of justice, and that, in toxic tort cases, the statute of limitations should start running from the time a plaintiff discovered or should have discovered the injury.

The decision responsible for such a result is that of New York Court of Appeals in Power v. United States, 270 N.Y. 287 (1936). In that case, plaintiff inhal­ed dust while serving in Indo-China. CPLR 213(2), 214(4), 215(3), 216(3). Dissent by a unanimous Court of Appeals held that a plaintiff is injured when he or she is exposed to the injurious dust. The Court of Appeals has created an accrual rule of law that has outlived its efficacy in achieving justice, stare decisis has not stood as an obstacle to a Common Law Court's discarding or modifying the outmoded rule. For example, a claim for malpractice accrues and the statute of limitations starts running when the malprac­tice is committed. Gilbert v. Millstein, 40 A.D.2d 100 (4th Dept. 1979), aff'd 33 N.Y.2d 857 (1973). The Court of Appeals has created exceptions to this judicially created accrual rule; for example, the so-called foreign objects exception in medical malpractice cases. In Flanagan v. Mount Eden General Hospital, 24 N.Y.2d 427 (1969), plaintiff underwent ab­dominal surgery. During the procedure, the surgeon placed surgical clamps in the plaintiff's abdomen but failed to remove them. Eight years after the surgery, upon plaintiff's complaining of abdominal pains, the clamps were discovered in her abdomen. Plaintiff filed a medical malpractice suit. Despite the fact that plaintiff had sued long after the statute of limitations had run on her claim, the Court of Appeals held the action was timely because she had used within a reasonable time after discovery of the foreign object in her body. The Court held that the foreign objects-discovery rule is consistent with the policy of the statute of limitations. In a foreign objects case, the Court observed, there is no danger of the claim being frivolous because the foreign object-a clamp only could have remained in a patient's body through medical malpractice. The foreign object's discovery rule has been now codified to the ef­fect that a plaintiff, in such a case, has the longer of the following two periods to sue: two years and six months from the date the malprac­tice was committed or one year from its discovery. CPLR 214-a.

The refusal by the Court of Appeals to adopt a discovery rule for toxic tort cases is, perhaps, explainable. The adoption of such a rule would expose many more defendants and their insurers to liability for money damages than is presently the case. The Court of Ap­peals, however, has neither the means nor the time, which the Legislature has, to assess the full economic impact which adoption of a discovery rule would entail. The Court's inabili­ty to assess the economic consequences of a discovery rule, perhaps, explains its position that adoption of such a rule is a matter for the Legislature.

A discovery rule should be adopted. Such rule would not do violence to the purposes of the statute of limitation. A claim by a cancer victim of a toxic tort can hardly be characterized as frivolous. Such a victim, or his or her estate, usually5 uses quickly upon discovery of the in­jury. Of course, with a discovery rule, a toxic torts defendant might never be certain when he or she would be free-from suit. Such uncertainty on the part of the toxic torts defen­dant is of minimal consequence when compared to the injuries inflicted by such a defendant on the victim. It is true that a discovery rule might mean that a toxic torts defendant could be re­quired to defend a claim many years after the commission of the tort with consequent diffi­culties in obtaining evidence for purposes of defense. By the same token, however, the plain­tiff would have similar difficulties in obtaining evidence for the prosecution of the claim. The problem of evidence gathering would be more significant for a plaintiff because of the burden of proof rests upon the plaintiff.

The Legislature has enacted a discovery rule with respect to claims of numbers of the armed forces, who were exposed to "agent orange" while serving in Indo-China. CPLR 214-b. The statute provides that such plaintiffs may bring suit within two years of their discovery of their injuries. This beneficial statute should apply to the claims of all toxic torts plaintiffs.
SECURITIES INDUSTRY CHANGES: A MIXED BAG OF BENEFITS AND BURDENS

By Mark S. Kosak

The purpose of the interview was to explore implications which the Tax Reform Act of 1984 (P.L. No. 98-369; "the Act") had on the securities industry as a whole. Mr. DeStefano agreed to relate his own experience at the Gabelli Group, Inc. to provide illustrations where provisions of the Act specifically affected his firm.

Overview of the Act

Mr. DeStefano believed that the Act represented "a mixed bag of benefits and burdens to the securities industry." He also felt that the piece of legislation was "an economic accrual formula based on yield to maturity and corporate sector." He stated that the effect of this provision would be to increase the adjusted basis of the bond only by this accrued discount (instead of the large amount obtainable under the straight line method) and impose a significant new reporting task on the holder's determination of taxable gain or loss upon disposition of the bond. Ultimately, he believed that the tax impetus to the generation of short term loss on the disposition of a tax exempt bond prior to its maturity.

Mark-to-Market Rule Extensions

Mark-to-market treatment has been extended to individuals beyond the corporate sector. Mr. DeStefano concluded that the Act had an adverse impact on the corporate sector.

Burdens: Dividends Received Deduction (DRD)

To begin with, Mr. DeStefano remarked, if a corporation borrows money to acquire or carry a stock interest in another corporation and receives dividends from the other corporation subject to the 85% dividend received deduction, (effective tax rate of 6.9% based a 15%-dividend inclusion at a 46% corporate tax rate), the dividends received deduction will be reduced. The amount of the reduction is based on a formula that emphasized the relationship of the amount of the debt to the stock's basis and in the amount of any interest payment allocable to the dividend.

In addition, the Act increases the amount of debt that can qualify as debt for this purpose equal to 50% of the stock's basis.

Compliance

Mr. DeStefano stated that the objectives of the Act were to be achieved through a combination of greater information reporting requirements and more stringent penalties. With respect to stock ownership, Mr. DeStefano stated that the Act modified the definition of a RIC to permit a Personal Holding Company (PHC) to be a RIC. However, if a PHC, it would be taxed at a higher corporate tax rate (46% marginal rate).

Another provision that effects RIC's, and REIT's, involves capital gains distributions. Specifically, if a shareholder of a RIC or REIT holds stock for less than six months, any loss recognized on the sale of such stock will be treated as long term capital loss to the extent of any distribution on the stock which was treated as long term capital gain. The provision is in effect for a thirty day holding period, (or the preexisting 31 day requirement), was in Mr. DeStefano's opinion, designed to add economic risk to the hedging transaction.

Tax Exempt Bonds

In terms of these obligations, Mr. DeStefano mentioned that any OID will now have to be accrued under an economic accrual formula based on yield to maturity and corporate sector (based on the new applicable Federal rates which vary with the term of the bond). He stated that the effect of this provision will be to increase the adjusted basis of the bond only by this accrued discount (instead of the large amount obtainable under the straight line method) and impose a significant new reporting task on the holder's determination of taxable gain or loss upon disposition of the bond. Ultimately, he believed that the tax impetus to the generation of short term loss on the disposition of a tax exempt bond prior to its maturity.

Stock Warrants

Stock warrants are now receive capital stock treatment upon their expiration. In addition, there shall be no gain or losses consequences to issuers of warrants. This latter procedural guidance remove the uncertainty associated with how to treat these instruments.

Tax Surplus

The definition of Tax Surplus for corporations has been redefined and will increase the same and make dividends and other distributions taxable events, rather than returns of capital under the narrower definition of pre-84 Act law.

Regulated Investment Companies (RICs) Real Estate Investment Trusts (REITs)

Regulated Investment Companies (RICs) Real Estate Investment Trusts (REITs)

Nicholas E. DeStefano is presently the Managing Director of the Gabelli Group, Inc., and also serves as the Director and Chairman of the Board of Directors of the Gabelli Group of companies is engaged in investment banking, securities, brokerage and portfolio management. Mr. DeStefano, is responsible for strategic planning, financial consulting with respect to investment venture capital, mergers and acquisitions, management and corporate structuring. In addition, he is involved in the creation, development and structuring of domestic and international investment banking activities. Before entering the Gabelli Group in 1984, Mr. DeStefano was the Managing Director of Tax Practice at Arthur Andersen for both the United States and Canada during 1979-1984. In this capacity, he reported directly to the Managing Partner, who was in overall charge of the firm's worldwide tax practice. His primary responsibility was to ensure quality control and assure quality client service throughout the firm's "tax practice." He was also the tax engagement and advisory partner for several major corporate clients. From 1976-1979, he was the Partner in Charge of the Metropolitan New York Tax Practice and was responsible for the firm's New York area. From 1971-1976, as a Tax Partner, he served as engagement partner on a number of significant accounts, in addition to being Partner in Charge of the Industrial, Natural Resources and Small Business Division in the New York office. During his eleven year affiliation with the firm, he served on various structures in the tax planning, litigation firm and management committees, as well as, specialized task forces.

Mr. DeStefano began his education at Bernard Baruch School of Public Administration, where he obtained his BBA in Public Accounting in 1955, later received his JD at Brooklyn Law School in 1961 and finally in 1963 received an LL.M in Taxation at New York University Graduate Law School, at which time he was a Kenyonian Fellow.

Mr. DeStefano has also had extensive involvement with professional and fraternal organizations throughout his career. He is a Certified Public Accountant in New York, a member of the New York Bar, a United States Member of the International Fiscal Association. In addition, he is a member of the American Institute of Certified Public Accountants, New York State Society of Public Accountants, American Bar Association and the American Society of University Accountants on Federal Taxation.

The following sections focus on specific changes made in the Act involving individuals and corporate taxpayers involved in the securities industry. As an overall caution, Mr. DeStefano suggested that a taxpayer should consult the specific grandfathering clauses, transitional rules and effective dates in the Act before approaching any specific problem.

Individual Benefits: Reduced Long Term Capital Gain Holding Period

The reduction of the holding period from more than one year to more than six months, by far, represents the biggest benefit that the Act has given to the industry. Specifically, if long term capital gains are allowed to the taxpayer will only have to include 40% of taxable gains, as opposed to 100% of short term capital gains. No additional gain on capital gains is in Federal taxes the benefit is approximately 30% tax savings (assuming a 50% marginal tax rate).

Corporate Benefits: Greater attention and also serves as the Director and Chairman of the Board of Directors of the Gabelli Group of companies is engaged in investment banking, securities, brokerage and portfolio management. Mr. DeStefano is responsible for strategic planning, financial consulting with respect to investment venture capital, mergers and acquisitions, management and corporate structuring. In addition, he is involved in the creation, development and structuring of domestic and international investment banking activities. Before entering the Gabelli Group in 1984, Mr. DeStefano was the Managing Director of Tax Practice at Arthur Andersen for both the United States and Canada during 1979-1984. In this capacity, he reported directly to the Managing Partner, who was in overall charge of the firm's worldwide tax practice. His primary responsibility was to ensure quality control and assure quality client service throughout the firm's "tax practice." He was also the tax engagement and advisory partner for several major corporate clients. From 1976-1979, he was the Partner in Charge of the Metropolitan New York Tax Practice and was responsible for the firm's New York area. From 1971-1976, as a Tax Partner, he served as engagement partner on a number of significant accounts, in addition to being Partner in Charge of the Industrial, Natural Resources and Small Business Division in the New York office. During his eleven year affiliation with the firm, he served on various structures in the tax planning, litigation firm and management committees, as well as, specialized task forces.

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The investor must use this number on his/her return. To ensure compliance, penalties for non-compliance were placed both at the promoter and investor level.

He also mentioned reporting requirements and corresponding penalties in the following areas: disposition of partnership interests, mortgage interest reporting, original issue discount reporting and broker reporting on lieu of dividend payments. He believed that the more comprehensive information that the IRS would receive from information reporting at all levels would motivate compliance since taxpayers would now be more vulnerable in terms of the audit lottery.

Industry Reaction to the Act

Mr. DeStefano, responding to the question of how the industry reacted to the Act stated "Because of the myriad of effective dates, grandfather clauses, transitional rules and the complexity of the Act itself, the initial reaction has been to attempt to digest the provisions and make planning decisions accordingly." He believed "The financial burden associated with complying with the increased reporting requirements will have a negative impact on the industry and could cause additional layoffs." From a planning perspective, he felt "The industry must structure its transactions in a manner that makes economic sense and provides greater certainty of results." He suggested that real property would be a likely substitute, especially those programs which utilize investment credits, rehabilitation credits and low income housing options to fuel their deals and produce legislatively high returns on one's investment.

Gabelli Group Strategy

When asked how the Gabelli Group has reacted to the Act, Mr. DeStefano commented "The firm has not modified its fundamental approach to market analysis which involves targeting a pool of companies which have certain special features. First, before a company is recommended there must be at least a 50% discrepancy between the company's private market value, (based on an asset valuation test), and its current public market price when reviewed. Second, either a management change has taken place (or is impending), or a buy back of the company's shares is likely. Third, the 50% discrepancy in value must be realizable within a period of between 18 to 24 months." Mr. DeStefano stated the "Metco" situation was a classic example of such a strategy. The catalyst was the death of the Chief Executive Officer, in conjunction with the discrepancy in the stock's public market value and its inherent value based on an asset valuation test. This was precisely the reason that Mr. DeStefano gave for Mario J. Gabelli's decision (President of GAMCO Investors, Inc., and Chairman of Gabelli & Company, Inc.) to assign a buy recommendation to the stock and to slowly acquire interests for the firm's clients. Ultimately, he commented that Kobert, Kravis & Robert (KKR) recognized the discrepancy in value and acquired the company (on the behalf of the management of the company and drove the price up, so that the private and public value were approximately equal. A similar situation was MGM Grand. Mr. DeStefano noted, "Except in MGM, a massive fire was responsible for the value discrepancy, and the principle player in this scenario was Chairman of the Board Mr. Kirk Kerkorian. He was ultimately behind the buy back of the shares and the subsequent rise in the company's stock price...."

Mr. DeStefano, in summary, stated "The Act has had very little impact on the firm, since the Gabelli Group has always searched for equity situations which utilize tax advantages, and its inherent value based on an asset valuation test, in conjunction with the overall market price for the company's stock."

Mr. DeStefano was very guarded when asked his opinion concerning the future direction of tax legislation, but felt "The direction of legislation will depend, in part, on which political party is successful in the November Presidential election. If a Democrat is elected, we are almost certain of some degree of tax increase. If a Republican is victorious on the other hand, increased taxes will depend upon whether a balanced budget can be achieved and what the current status of the Federal deficit is. Therefore, only time will tell in this regard."
During a news briefing held on Thursday, October 25th, it was announced that Fordham University would be seeking $80 million housing loan to Fundham University by the federal government, the Reverend Joseph A. O'Hare, S.J., announced that the funds would be used to expand housing facilities at the Lincoln Center and also to help fund a new residence hall, which would be named in honor of the late Senator Daniel Patrick Moynihan. O'Hare also announced that the University has adopted an expanded housing policy, which would require all incoming students to live on campus for at least two years. The federal grant, he said, is a significant step along the way to the University's student housing plan. The University is currently in the process of securing a $3.5 million grant, which will be used to help fund the construction of a new residence hall. Additionally, the University is seeking a federal grant of $80 million, which would be used to fund the construction of a new residence hall, as well as other student housing projects. The University is also seeking funding from the New York State Higher Education Reinvestment Program, which would provide funding for the construction of a new residence hall. The University is also seeking funding from the New York State Higher Education Reinvestment Program, which would provide funding for the construction of a new residence hall. The University is also seeking funding from the New York State Higher Education Reinvestment Program, which would provide funding for the construction of a new residence hall. The University is also seeking funding from the New York State Higher Education Reinvestment Program, which would provide funding for the construction of a new residence hall.
Justice Sandra Day O'Connor's Address Highlights Dedication Ceremonies

By David Heires

On the morning of Wednesday, October 24 the unassuming Dedication Ceremonies for Fordham Law School's new building wing took place at the Vivian Beaumont Theatre in Lincoln Center. The Honorable William Hughes Mulligan, Dean of the Law School from 1956-71, served as Master of Ceremonies.

The Dedication was highlighted by the principal address delivered by U.S. Supreme Court Justice Sandra Day O'Connor, who spoke on the importance of the dual focus of social and ethical responsibility within the legal profession. After her remarks, she was awarded the degree of Doctor of Laws, honoris causa by the Reverend Joseph A. O'Hare, S.J., President of Fordham University.

It was an event graced also by the presence of many other dignitaries, including the Reverend Laurence J. McGinley, S.J., President of Fordham from 1949-63, Governor Cuomo, Mayor Koch, Senator D'Amato, the Honorable Joseph M. McLaughlin, Dean of the Law School from 1972-81, and Archbishop lakavos, the Greek Orthodox Primate for North and South America. Each shared his feelings about the significance of the occasion with those in attendance.

Not to be outdone by anyone was the ever effusive James "Ned" Doyle '30, one of Fordham Law School's biggest benefactors and the founder of the Doyle, Dane & Bernbach Advertising Agency. The new building has been designated "The Ned Doyle Wing" in honor of his loyalty and generous support. Students, faculty, alumni and guests gathered in the theater at 10:00 A.M., as the ceremonies commenced with an academic procession. They were set for a day that will remain imprinted in their minds, and in the annals of Fordham University, for a long time to come.

Above all, it was a day for Dean John Feerick, without whom the Dedication would not have been possible. As Father O'Hare declared, Dean Feerick is genuinely "a Man for All Seasons," a man of the entire Fordham Law School community, those of whom in the audience responded with both jubilation and the day's most resounding ovation.

Credit must also be given to the Dedication Committee, which organized the day's events over a period of many months. Daniel J. McNamara served as the Committee Chairman, and Professor Constantine Katsoris was the Vice Chairman. Other faculty members on the Committee included Associate Dean Joseph J. Crowley, Assistant Dean Robert J. Reilly, and Professor Joseph M. Perillo.

In her address, Justice O'Connor told the audience, "We as lawyers and judges hold in our possession the keys to justice under the rule of law, and we hold those keys in trust for those seeking to obtain justice within our legal system. Lawyers who are sensitive to their role in society will surely view their responsibility to the public as transcending the purely technical skills of the profession."

Justice O'Connor believes Chief Justice Arthur Vanderbilt of New Jersey expressed well the five functions of a good lawyer: "Being a wise, a skilled advocate, a contributor to the improvement of the legal system, an unselfish and courageous leader of public opinion, and a professional willing to answer the call for public service."

Citing generally the areas of pro bono work and the representation of paying clients, Justice O'Connor urged those in the law school community to be aware of the growing gap between the costs of legal services and the means of many people to pay for them, and statistics showing an increase in the public discipline of lawyers. Law schools, she said, can respond to these specific problems.

"Classes in clinical practice, coupled with opportunities to provide supervised services to people who are unable to pay for them, can be enjoyable and interesting, and indeed a kind of inspiration for the students who participate," she said.

With regard to the standard representation of clients by some lawyers, she added: "Law schools must respond to this problem by strengthening their emphasis on the lawyer's moral and ethical obligations. The golden opportunity to teach those concepts is in law school."

In the concluding portion of her remarks, the first woman to serve on our nation's highest court reiterated her belief that Fordham Law School "stands very high in the ranks of law schools trying to instill and encourage high personal and professional standards." She told the audience: "You have a magnificent new house, within which to continue to improve the law as well as the lawyers, and I wish you every success. Thank you.

After she had finished speaking, Judge Mulligan indicated to the audience that an unannounced part of the ceremonies was in the making. He then introduced Dr. Paul J. Reiss, the Executive Vice President of Fordham University, who read a citation acknowledging her as the recipient of an honorary degree.

"I didn't have the slightest idea this was about," she said. "I am very honored indeed to be awarded the honorary degree from Fordham."

Normally, the degree of Doctor of Laws, honoris causa is awarded only at the Universi

ty's Commencement. At the recent inauguration of Father O'Hare, Archibishop O'Connor became the first person in twenty three years to receive it on another occasion. Previous to that time the last individual to be awarded the honorary degree outside commencement was the late U.S. Senator Robert F. Kennedy. It was Warren E. Burger, who on his first day on the Court on December 2, 1961 delivered his famous "first day" address.

For those fortunate to be present, it was an event graced also by the presence of Justice O'Connor as the recipient of an honorary degree. Shortly after 11:30 the recessional began, following which a champagne reception was held in the new wing. Twenty students trained on the history and architecture of the building served as tour guides for all of the friends of the law school.

As Mr. John Feerick Sr., Dean Feerick's father, pointed out afterwards, "It was a wonderful ceremony, a wonderful day for all of us."

During a visit after the ceremonies, Justice O'Connor told Mark Kosak and me that the new building will provide a significant boost for the law school, and noted the advantages offered by its location in Lincoln Center.

"The school is situated in a community where the students can participate more easily in the kinds of programs that I think of as being the hallmark of a Fordham education," she said. "It's a wonderful ceremony, a wonderful day for all of us."

As Mr. John Feerick Sr., Dean Feerick's father, pointed out afterwards, "It was a wonderful ceremony, a wonderful day for all of us."

Justice O'Connor considered Fordham to be a "national" law school - "well known and well respected" - and said that the new building will help it continue to improve its status. She added that having residences on or near the campus is a good idea, and would provide the students an opportunity to obtain a more diverse student body.

As she had during the ceremonies, Justice O'Connor maintained that the honorary degree was "a complete surprise" to her. "If I had occurred in Washington, I would have known all about it," she joked, "but I guess, in New York, it's still possible to keep a secret."

The law school owes its thanks to all those who played a part in enabling Justice O'Connor to honor us with her presence at the Dedication, particularly the Honorable Robert Corcoran, Judge Corcoran succeeded Justice O'Connor on the Arizona Court of Appeals after her appointment to the Supreme Court, and helped persuade her to participate in the ceremonies.
The War Memorial: A Fordham Time Capsule

By David Heires

Many memories concerning the history of the Lincoln Center campus are being evolved as the law school’s building construction reaches its final stages. One of particular interest is offered by the War Memorial, a familiar site to students who crossed the hall between the Reading Room and the cafeteria.

Recently, an interesting discovery was made in the area covered by the memorial. Unearthed were two items which had been implanted when the memorial was dedicated in 1966. The first was a picture of the armory reaching its final stages.

Between the Reading Room and the cafeteria, a familiar site to students who crossed the hall between the Reading Room and the cafeteria, the War Memorial is evoked.

The armory had housed the 12th Infantry National Guard from 1887 to 1958, at which time it was removed in favor of the Lincoln Center campus before its construction. The picture above reflects a view of the armory from 61st Street looking northwest, presently the vista of Sims Delicatessen.

The commemorating document is dated April 18, 1966, and signed by Lt. Col. William E. Daly and Captain Joseph V. Falke. It contains this language:

"The following are the names of those who through their donations assured the erection of our War Memorial in the study hall of Fordham University Law School, 120 West 62nd St. New York City, on the site which stood the 12th Infantry National Guard Site of New York. Erected 1887 to 1958."

The wall section in which the memorial was previously implanted is now part of the room set to be the Advocate’s new office. The memorial has been removed, and is now located in the hall for the new building wing on the 1st floor. As Dean Reilly commented, "Fordham has its own time capsule."

For history buffs, Dean Reilly added that there are plans to have an updated history of the law school to be distributed to the students and others on Dedication Day. Biblio Juris is providing the funding.
Official groundbreaking ceremonies for the new wing being added to Fordham Law School's existing structure were held on Wednesday, September 28 at the construction site adjacent to the Law School at Columbus Avenue and 62nd Street. Rex E. Lee, United Solicitor General, was the principal speaker.

Lee emphasized a need to foster the present format of legal education by a transgression back to a purely theoretical method of teaching.

In conclusion, Lee emphasized the importance of the expansion.

Also attending the groundbreaking, among others were University President Rev. James Finlay, S.J., Rev. Lawrence McGinley, S.J., President Emeritus, under whose tenure the law school was built, William Hughes Mulligan, former Dean of the law school, and Paul Curran, President of the Fordham Law Alumni Association.

CONSTRUCTION... A PAINFUL PHASE
Procession to Vivian Beaumont Theatre

A Jurisprudential Crowd...

Judge William Hughes Mulligan
Judge Joseph McGloughlin
Dean John D. Feerick

Governor Mario Cuomo
Mayor Edward I. Koch

Text of the Citation Read by Dr. Paul J. Reiss, Executive Vice President of Fordham University, Acknowledging the Presentation to Justice O'Connor of the Degree of Doctor of Laws, Honoris Causa

"WHO SHALL FIND A VALIANT WOMAN? FAR AND FROM THE UTTERMOST COASTS IS THE VALUE OF HER... SHE HATH PUT OUT HER HAND TO STRONG THINGS... SHE HATH OPENED HER HAND TO THE NEEDY AND STRETCHED OUT HER HANDS TO THE POOR... SHE HATH OPENED HER MOUTH TO WISDOM AND THE LAW OF CLEMENCY IS ON HER TONGUE." WELL MIGHT THE AUTHOR OF THE BOOK OF PROVERBS HAVE HAD IN MIND THE LIFE AND CAREER OF JUSTICE SANDRA DAY O'CONNOR WHOM FORDHAM HONORS THIS DAY. TEXAS BORN, CALIFORNIA, EDUCATED AND TRAINED, PRACTITIONER IN GERMANY, AND JUDGE IN ARIZONA, SHE HAS COME FROM THE "UTTERMOST COASTS." STANFORD UNIVERSITY HONED HER MIND, AND A CAREER IN PUBLIC SERVICE - JUVENILE COURT REFEREE, CHAIRMAN OF THE VISITING BOARD OF THE MARICOPA COUNTY JUVENILE DETENTION HOME, ASSISTANT ATTORNEY GENERAL OF ARIZONA, MAJORITY LEADER OF THE ARIZONA STATE SENATE - TAUGHT HER "TO OPEN HER MOUTH... FOR THE CAUSE OF ALL THE CHILDREN THAT PASS" HER JUDICIAL CAREER BEGAN ON THE MARICOPA COUNTY SUPERIOR COURT, PROGRESS-ED TO THE ARIZONA COURT OF APPEALS, AND CULMINATED IN HER APPOINTMENT AS THE FIRST WOMAN JUSTICE OF THE SUPREME COURT OF THE UNITED STATES. TRULY HAS SHE "OPENED HER MOUTH TO WISDOM" AND KEPT "THE LAW OF CLEMENCY ON HER TONGUE." SHE HAS DECLARED "THAT WHICH IS JUST" AND DONE "JUSTICE TO THE NEEDY AND POOR." ON THIS DAY OF JUBILATION, FORDHAM UNIVERSITY WELCOME HER HUSBAND, JOHN, AND HER CHILDREN, SCOTT, BRIAN, AND JAY, AND REJOICES THAT SHE HAD COME FROM "THE UTTERMOST COASTS" TO GRACE THE MAJESTY OF OUR HIGHEST COURT WITH HER LEARNING, WISDOM AND CLEMENCY.

TODAY, ALMA MATER FORDHAM SALUTES THIS "VALIANT WOMAN" AND GATHERS THIS NEW DAUGHTER TO HERSELF TO PRAISE THE FRUIT OF HER LEARNING AND TO "LET HER WORKS PRAISE HER IN THE GATES" AS SHE IS AWARDED THE DEGREE OF DOCTOR OF LAWS HONORIS CAUSA.

Justice O'Connor Receives Honorary Degree

Rev. O'Hare Presents Justice O'Connor with Fordham Law School Robes
Receptions After The Dedication Ceremony

Leonard F. Manning Remembered

Dean John D. Feerick, Mrs. Leonard Manning, Prof. John Calamari

By Assistant Dean Robert Hanlon

A highlight of the Dedication Ceremony was the presentation of the Iramed Faculty Resolution commemorating Leonard F. Manning's life and career to his wife, Mrs. Leonard F. Manning.

Professor Manning was a member of the Law School Faculty from the 1940's to his death on September 15, 1983. For thirty of those years he was Moderator of the Fordham Law Review.

A brilliant and gifted teacher, Professor Manning was the Alpin J. Caisron Professor of Law. He was an expert on the Constitution and was the author of numerous articles and books on a variety of subjects, particularly in the field of Church and State.

Professor Manning was born in Jersey City, New Jersey, and attended St. Peter's College. He attended Fordham Law School for two years. World War II interrupted his studies.

Upon his discharge, he entered Harvard Law School graduating with highest honors in 1946. After a brief career in the practice of the Law, he answered Dean Ignatius M. Wilkinson's summons to join the Fordham Faculty.

His great love was teaching and he modeled generations of Fordham Law Students with the incisiveness of his mind, the brilliance of his probing mind. He was a devoted husband to his beloved wife, Coll, and father to his sons, Robert and John. Peter, a prominent businessman in Texas, and Robert, a member of the New York City Police Department.

At his death, he was also the proud grandfather of two - Erin and Brian Manning.

The words of the Resolution of Recognition were one of the finest human beings ever to walk this earth. We shall not see his like again.
PERSPECTIVES ON THE NEW FLS
UNIVERSITY PRESIDENT'S VIEWPOINT

By Joseph A. O’Keefe, S.J.

There were many impressive moments in the splendid ceremony that marked the dedication of the new wing of the Fordham’s School of Law on October 24. Each of them captured in a certain way something of the distinctive character of the School. I am thinking, for example, of Mayor Koch’s affirmation of public service as a worthy commitment for young lawyers; Senator D’Amato’s praise of Fordham’s tradition of offering access to the legal profession to students who must work by day; and Governor Cuomo’s eulogy of the Jesuit tradition at the School of Law, which encouraged students to think through the ‘complexities and contradictions’ that surround questions of church and state today.

But I found the most impressive moment of all to be, fittingly enough, the address of Associate Justice Sandra Day O’Connor, who spoke with unusual honesty of the need for lawyers and law school to be concerned with the moral and social responsibilities of the profession. Lawyers, Justice O’Connor reminded us, must be more than simply ‘experienced technicians.’

What was unusual about Justice O’Connor’s reflections on what is, after all, a conventional theme was her candor in recognizing that there was disturbing evidence, reflected in a growing number of cases where lawyers faced public discipline, that too many lawyers manifested ‘a lack of moral and ethical judgment rather than a lack of legal skill.’ Perhaps even more striking was her direct admission that legal education tended to emphasize merely ‘logical analyses’ because of an understandable reluctance to engage in what many lawyers would see as the ‘quagmire of moral inquiry.’

Law is not morality, we are often told. The proposition is certainly true, and it is often useful to recall its implications in debates over public policy. Not every thing sinful is necessarily frightening, nor should everything sinful be necessarily declared criminal. But there is an inescapable link between law and morality, and it is ignored only at the risk of diminishing entirely the notion of a public morality that must bind a society together. Defining such a public morality in a pluralistic society is not easy. It involves a public debate, which often engages conflicting values that are deeply held by its adherents. But it is not an impossible task, as long as we respect the condition of its possibility: a respect for rationality and civility.

Unfortunately, there are strong currents at work in contemporary American society that would sweep past any concern for rationality and civility on the grounds that these qualities are too often invoked as excuses for the fault-line, who are willing to accept moral compromises that crushers, whether of the right or the left, righteously reject. As I noted in my Inaugural Address on September 30 at Rose Hill, ours is ‘a time when religion is too easily identified with fundamentalism and critical inquiry with moral skepticism.’ One consequence of this temper of the times is that the social and ethical responsibilities of a lawyer.” Justice O’Connor then chose to identify certain very concrete instances of what these responsibilities could entail: legal assistance for those unable to pay and an improvement in the often substandard quality of the representation given to paying clients.

But the larger question that Justice O’Connor raised demands further attention. How do we, in a disciplined and searching fashion, about the profound moral values that underlie our system of laws and that are the content of public debate about what our laws should be? At the Louis Stein Award Dinner on November 1, I had occasion to express again my confidence that a concern for the moral and social responsibilities of lawyers continues to be at the heart of Fordham’s School of Law. Dean John Feerick, Louis Stein and Judge Ed- ward Weinfeld, this year’s honoree, all gave witness, I suggested, to a deep sense of public responsibility that found its expression in the patient meditation of the law. I also suggested that whether we were Democrats or Republicans, we could not be very happy with the quality of the debate over public issues that took place during the recently concluded Presidential campaign. A respect for rationality and civility were not overly conspicuous in that debate. But I hope that, as we continue to ponder the implications of Justice O’Connor’s address, we will recognize ever more clearly how such respect is a necessary condition of the possibility of what must be a continuing debate about the law and public morality in these United States.

I am one. I am thinking, for example, of the American College of Legal Writing. It is a remarkable accomplishment. My only regret is that I shudder to think of next year’s tuition bill due to the convenience of the construction is over but it was refereed at the dedication. To be honest, I wish you all well in your new facilities and I’m especially glad it was done in time for the coming holiday season!

Mark Selden

Mark Selden ‘85: I am highly impressed with both our new structure and the dedication ceremonies honoring it. As a spring of 1985 graduate I should certainly be able to reap long term benefits from our new facility without thinking to incur any of the inconveniences associated with any construction project.

Don Fraser ‘85: That the structure itself is very impressive, but no amount of architectural diversion can alleviate the boredom produced by the lectures held therein.

Danny Etna ‘87: I am glad that the inconvenience of the construction is over but it was handled very well considering that there was a deadline due to the dedication. To be honest, I was surprised at Justice Sandra Day O’Connor’s reluctance to promise me a dedication.

Isabel Barcelo ‘85: It’s a relief to have the construction over with, and I was amazed with how they were able to make the building look presentable by October 24th. The new wing looks so impressive that I almost wish I had the time to graduate.

Christopher Dowicz

Mladen Kresic ‘85: If the building were done real quickly the delay wouldn’t be so prickly the cost of that over-time would be worth every single time because we know that dragging out money cost more without doubt.

Isabel Barcelo

Christopher Dowicz ‘85: I think both the new facilities and Sandra Day O’Connor are very nice I especially like the shiny new stalls in the men’s bathroom on the third floor.

Mladen Kresic

Doug Pollock-Labor Foreman: I really felt bad for students during the construction but they worked together to make this project a success. I wish you all well in your new facilities and I hope you all eventually find your way around the new classrooms.
By Paul G. Calamari and Robert V. Fonte

Q. What factors did you take into consideration in making your decision to accept the position as dean of Fordham Law School?
A. As I have said in the past, I really never left Fordham, and when Dean McGlaughlin decided to move on to the federal bench I received a lot of encouragement to consider making the change. I found the whole process of making the decision a difficult one. I love my firm but at the same time I was challenged by the opportunity to do something different at this point in my life, and Fordham has always been an emotional involvement of mine and I reached the conclusion that this was something I would find very fulfilling. I think what made this decision appealing to me is that there are a lot of factors that come into play like your values. One is on a lot of different planes, a corporate plane, and a subconscions plane. I know at the time that I was considering this particular position that the school was facing a lot of challenges, the expansion, and I had been involved in the conception of this project serving on the Board of Trustees at that time. This also was an opportunity to give something back to my school.

Q. Relatively speaking which position do you find the most challenging?
A. I find being Dean far more difficult. It calls for a lot more managerial and administrative skills than I ever had to exercise in my past endeavors. When one is dean of a law school is it somewhat akin to a chief executive of an enterprise. There is a lot of responsibility that goes with the fiscal side of the enterprise, the long range planning, the financial corps of those who work for the enterprise, and there is certainly an expectation that the dean of a school be a catalyst in some areas. That brings into play creativity as well. Although the job is difficult, it is fulfilling in many ways. There is no end to the kinds of things one can do to be helpful—not only for the student but for institution as an entity.

Q. Do you miss the practice of law?
A. I miss a lot of friends and stimulation that I dealt with during my days as a practicing attorney. I miss the contacts I have with the clients but I feel now, as I did then, that this was the right decision to have made at this point in my challenge, the expansion, and I had been involved in the conception of this project serving on the Board of Trustees at that time. This also was an opportunity to give something back to my school.

Q. What goals did you set upon accepting your position as dean of Fordham Law School?
A. I have many goals. For example, one of the most important objectives for me was to help the Fordham Law School become one of the finest Law Schools in the United States. This goal has been pursued for many years. I think when we look at the progress that has taken place during my tenure as dean, I feel that we have made tremendous progress in this area. I feel that we have made tremendous progress in this area.

Q. What are the most important objectives of a law school as an academic institution?
A. I think that the most important objectives of a law school are to provide a high quality legal education, to provide students with an understanding of the legal system, and to prepare them for careers in law. I think that these objectives are very important and that they should be pursued with a sense of urgency.

Q. What do you regard as the most important priorities and values of a lawyer in today’s society?
A. I think that the most important priorities and values of a lawyer in today’s society are to have a strong commitment to the legal profession, to be able to think critically, to be able to communicate effectively, and to be able to work collaboratively.

Q. What are the key elements of a successful legal education?
A. I think that the key elements of a successful legal education are to have a strong legal curriculum, to provide students with opportunities to gain practical experience, and to encourage students to think critically.

Q. Do you believe that a law school graduate should be aware of the legal system and its impact on society?
A. Yes, I believe that a law school graduate should be aware of the legal system and its impact on society. I think that it is important for graduates to understand the role that lawyers play in society and to be able to think critically about the legal system.

A DEAN FOR ALL SEASONS
By Paul G. Calamari and Robert V. Fonte

A. There are two areas that crossed with each other that were very important (i) one was trying to contribute to an atmosphere within the university of caring; this was one of my primary goals to contribute to the environment and community within the school and whatever success we had in that area is because of the various administrators, faculty, and assistant deans. (ii) My second major objective was the development of the curriculum of the school, and I have been proud of the pride of the alumni in the school. My general goals upon coming to Fordham Law School are now run in largely philosophical areas... nothing concrete.

Q. Are there any other objectives that you would like to share with us?
A. At this point let me say that the faculty is the core of the school. One of the reputations that we have had throughout the history and social fabric of the school is that of an outstanding teaching faculty, and much of the real work that goes on at the school is done by the faculty. Not only in the classroom but by way of committees. There are a number of faculty committees in operation right now that contribute significantly to the continued growth of the school—for example, we have a curriculum committee that is chaired this year by Professor Martin and in past years by Professor Ferglaman. That committee meets regularly away from the glare of day-to-day activity, and consistently reviews the curriculum and curriculum and makes recommendations accordingly. For instance, it recommended the addition of the mini-section in the day and evening divisions. While its work may not be as dramatic and obvious to everyone, as the new full time faculty, in my judgement it is far more important because it is dealing with the continued excellence of our academic program.

A. At any rate, we would lose a lot more than having an inadequate facility. As I said, we have a number of other committees that are functioning, such as the Clinical Legal Education Committee, which Prof. Har-
A DEAN FOR ALL SEASONS

Q. Do you foresee any specific changes in the curriculum in the near future?
A. We are constantly reviewing and revising the curriculum. For instance, in the area of corporate law, there was only one course offered in the area twenty years ago while today we have a number of offerings. Specifically, I anticipate further development in terms of our International Law offerings.

Q. Do you foresee the student body changing with respect to number of students accepted or the quality of the students accepted?
A. In terms of the number of students we are pretty much committed to the present enrollment which might fluctuate ten or twenty on either side of a given year. With respect to the quality of the student, I would like to see us continue the quality of student we have today.

I think we have an excellent quality of student and to the extent that I am involved I hope we can continue to maintain this level.

Q. What is your view with regard to the idea of housing for FLS students?
A. Without question student housing would add tremendously to our school in several ways. I have a sense that a number of our students are pretty much committed to the present enrollment which might fluctuate ten or twenty on either side in a given year. With respect to the constituencies we have now and have had in previous years. I think we can better do that by add tremendously to our school in several ways.

Q. Do you see an increase in housing will contribute to your goal of creating a more congenial atmosphere at the law school?
A. Absolutely. This would be another advantage of housing here at the law school.

Q. What is your view of the difference between day and night divisions of Fordham Law School?
A. I feel that both divisions, day and night, are on a par with each other and I personally have a total commitment to our evening program.

Frankly, I am very proud of our evening program. As Senator D'Amato said in his speech at the Dedication Ceremony, the evening division is one of the features of Fordham Law School that has made us great. As you may be aware, some of our highly regarded faculty such as Professor Byrn and Dean Crowley have graduated from the evening division. We have been able to provide a legal education to a lot of people who are unable to go to law school during the day. We are now planning a celebration for the 75th anniversary of the evening program in 1986.

Q. What stage is the rumored LLM program at?
A. We have a faculty committee which is chaired by Professor Hawk dealing with the whole question of the graduate law program and its feasibility at FLS. It is still in the discussion stage, and the committee is considering a number of ideas right now, particularly in the area of international law. I can't say much more about it at this point, because it is still in its incipient stage. I do not rule this out as a possible development in the future of Fordham Law School. On the contrary, this may well be a development one would find here before the end of the 1980s.

Q. What is your view on the clinical education process?
A. I personally favor more experimentation and expansion in the area of clinical education. The clinical area does not only involve the representation of clients in terms of a law office setting, but also involved the use of simulations and seminars. Thanks are due to Professor Hoof in this regard. He has also been successful in obtaining funds for FLS to offer courses enabling students to work in various governmental agencies and receive course credits.

We look forward to the results of the recently instituted program with the Corporation Counsel of the City of New York. The advent of advertising in the legal profession has brought about a number of "legal clinics" such as Jacoby and Meyers. How do you view such "legal clinics"?

A. I am not satisfied with the state of my own knowledge of the various groups. There are vast legal needs of consumers of legal service in this country not being met, and since this is the goal of these groups, I am in favor of continued experimentation with this kind of development. In terms of law firms locating their offices in department stores, there comes a point where the way one does it can be dangerous to the whole professionalism associated with the practice of law. However, I am not in a position to single out any group that may not be doing a good job.

Q. Does the placement office sufficiently meet the needs of student body?
A. We are very fortunate to have Maureen Provost as our Placement Director. I was part of the search committee which selected her for this position. She has developed an outstanding staff. In the placement area you never reach a point where you have done enough. In each of the years that I have been here, acting on recommendations from Maureen Provost, we have increased the staff of the placement office. I know these people are not easily satisfied and are constantly seeking new opportunities for the students. At this time I know Maureen is working diligently to attract a greater number of small firms. This year we had more employers come to the school to interview our students than any other year in the history of the school.

Q. What advice would you give a student in searching for employment opportunities?
A. I try to deal with basics. One should take full advantage of the academic programs we offer. Do not be content with your performance in first year. Second year, may, in the long run, be more important than first year. As you look ahead in your career you are not always in the same situation. Opportunities may come to your attention. I urge students to take advantage of opportunities to write on any of the publications or in conjunction with a professor. I also urge students to consult with members of the faculty and alumni and seek out their advice.

Q. Do you see any weaknesses at FLS that are in need of improvement?
A. Yes. In the enrollment area we are weak. We have been through all the years of our existence a school that's been tuition dependent. However, as the school grows, we are looking at possible ways to become more self-sufficient. We would like to see an improvement in the area of endowment. We are reaching a point where it is not possible to be so tuition dependent. The greatness of our law school in years to come will depend on its ability to attract revenue from non-tuition sources. One of my dreams and hopes is that we will be able to attract major gifts and contributions such as the gift we received last year from the Norman and Rosisha Winston Foundation to establish a chair in law in the name of Sidney C. No. I am glad that will enable us to help our students in the area of financial aid will be very important in the years ahead as well. In any event it appears we are on our way to a period of continued generous giving by our alumni and friends.

Q. Where does FLS stand with respect to the other law schools across the country?
A. I put Fordham in the top ten percent of American law schools and we anticipate constant improvement over the coming years. Today students of our school practice law in every state of the country and in every setting. In years to come there will be an even larger percent of our graduates in every state in the country. This as much as anything else makes a statement about the school and its reputation throughout the country.

Q. Do you desire to take a more active role in teaching at FLS?
A. I do. Unfortunately my time is greatly restricted and I don't feel that it would be correct for me to teach a course if I could not prepare for a course as a teacher needs to prepare for a particular course. While I do a seminar in the employment discrimination area at the present time, I would like to teach a course in the area of constitutional law, which is of considerable interest to me. I hope to do more teaching and I hope to do more writing. I used to love to write and was pleased to have had the opportunity to write a number of articles for the Fordham Law Review.

Q. What did you find to be your most challenging role while you were attending law school?
A. I found most of my courses difficult. If I recall one course was more of a challenge than all the others it was the course in contracts taught by Professor Calamari, but at the same time I could not have had a better teacher for that course.

Q. What are your plans for the future?
A. I have no plans. I recognize that my predecessors have become federal judges after they served as dean, but as I have said I do not have any plans or agenda to become a judge or not to become a judge. I frankly have not crossed this bridge. I enjoy what I am presently doing.

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COMMENTARY

1984, THE DAWN OF A NEW ERA

Ronald Reagan won and Walter Mondale lost. That’s pretty easy summary of the 1984 election, but it fails to capture the essence of what is a turning point year in the history of American politics. Out of the Republican Party’s greatest triumph will come its greatest defeat. Out of the Democratic Party’s ashes shall rise a glorious phoenix.

Anyone who has read Stanley Kelley’s masterful book Interpreting Elections knows that there are two types of landslides - solid ones and those built on sand. Ronald Reagan’s landslide, like Nixon’s in 1972, was a landslide built on sand. While the foundation no longer matters to Ronald Reagan, it does to the Republicans, things will soon go from President No-Stick to Candidate Gleue. No one else in the Republican Party can act like Ronald Reagan (Jack Kemp is a joke for an imitation). All the “actrors” are in the Democratic Party and that bats well for Democratic politics.

Why was 1984 a turning point? First and foremost, 1984 killed the idea that issues win elections. The perceived state of a country that one is able to project, true or false. The economy is headed for a recession unless Paul Volcker raises the money supply (which would rekindle inflation). Yet, people believe the economy is on a solid foundation. We don’t have arms negotiations with the Russians, we have an arms race and no negotiations. Yet, people please believe we are closer to an arms control agreement. We don’t have a policy which helps the poor, we have a policy which tells the poor “find for yourself.” Yet, people believe we have a safety net when over 7 in Americans live below the poverty line. We don’t have a policy of protecting civil liberties, we have a policy of violating liberties (the Republican Party, formerly a horse for libertarianism, has decided that only corporations are entitled to “liberty”). Yet, people believe that we’re more free now. We don’t have a policy which encourages long-term growth, we have a policy which encourages short-term greed. Yet, people think the recovery will last. With all these problems, still people voted for Reagan. Why? Personality Politics! It made people believe the untruth by making them not think. 1984 represented the ultimate triumph of Personality Politics. Brought to the forefront in the Age of Kennedy, Personality Politics is now the ultimate weapon in Presidential Politics. Don’t worry about where you stand on the issues just make sure people like you. Polls show people who disagreed with the President on the issues voted for him anyway. Why? Because they liked him and were indifferent to Walter Mondale. People didn’t vote on issues, they voted on instinct. They didn’t think, they just did what Reagan’s “Catch that Ronnie spirit” advertising told them to do. (Did you know that the Pepsi ad people did Reagan’s commercials?) In the end, Personality Politics do what it wants. At this point no. I’m all for it. In 1988 all the personality politicians are Democrats (Hart, Cuomo, Kennedy and Bradley). The Republican’s Kemp is literally a joke. Howard Baker is a Republican Henry Jackson (i.e. he has “Fritz Mondale” Syndrome). Bob Dole is too much like Al D’Amato (negative campaigns don’t win in national elections, witness Mondale’s campaign). Bush can be impressive, but too many people don’t care for him (i.e. most of those at this year’s Republican convention wouldn’t touch him with a ten foot pole.).

1984 also proved once again that a certain part of the population is most influenced by Personality Politics and that part is youth. How many young people who voted for Reagan would vote for Cuomo instead? Every young voter I know who is not an ideologue (i.e. not like me or Bill Di Costa) chose Cuomo over Reagan in a hypothetical election. And it had nothing to do with Reagan. Why the switch? Afterall, the two are at opposite ends of the political spectrum! Hitler’s Gesheit shows youth be ing persuaded heavily by Personality Politics. Witness Jerry Brown in 1976, John Anderson in 1980 and Gary Hart in 1984. Youth will switch in 1988 to the Democratic Party because the Democratic Party will have the personalities.

Most significantly (and I discuss this with less disgust because I really don’t care for Personality Politics) the 1984 election marked the end of the old liberals in the Democratic Party. The new liberals (Hart, Cuomo, Bradley and to some extent Kennedy) are more fiscally prudent and more concerned with economic growth and the interaction of government with industry. They still have a deep concern for the lower levels of society, but realize that help comes through thinking government not reaction government. (Republicans still believe those who are starving will be saved by trickle-downism and thus government should ignore them). People will react to the new liberals because they will unite the country not divide it into the two factions of wealth and poverty. The new liberals are exciting and dynamic. By 1988, the Moral Majority and the Republicans By 1988, the Democratic’s dark hour will become its greatest victory.
"Tonight is the end of nothing, it is the beginning of everything... America's best days lie ahead."

These are the words with which Ronald Reagan accepted the call of the American people to continue as our leader and as leader of the most powerful free nation on Earth. The call was not a simple, quiet request; it was a resounding and unified mandate of historical proportions. Never before has such a clear signal been given to continue as our leader and as leader of the American people.

Ronald Reagan accepted the call of the American people with a tremendous popularity that he was constantly told us that the reason for the American people's tremendous popularity was that he was a showman, a politician, and a leader of the entire world community. People called the plays. . . .

It is the day after, and the press has gathered to question our fearless leader... What makes President Reagan such a great leader? Some of his finest qualities are those so very much absent in the Democratic Party: Ronald Reagan has not changed his views of America since he spoke on behalf of Barry Goldwater nearly 20 years ago. Mr. Reagan, a Californian, movie star, antigovernment "radical" has been consistent and honest about his vision of our country, America, having matured over the years, is just beginning to realize how right our President has been all along. The liberalism of America's adolescence is being transformed into the conservative, responsive realism of her future. We can no longer hope to solve problems by throwing money at them. We call the plays... We can no longer have prosperity by simply wishing for it. The Soviets and her agents were given a very strong message this past Tuesday, one which even they might be able to understand: "America approves of Ronald Reagan and the things in which he believes; we will never be weak again." The foundation for real peace has never been more solid. We no longer sign treaties limiting nuclear growth; rather, we look to an actual reduction in these weapons and will settle for nothing less.

By William A. DiCicco

THE REAGAN REVOLUTION ROLLS AHEAD

"No more appeasement at these conferences."

Governor... in 1988 when you try to become president, how are you going to deal with yesterday's results and your tie to Walter Mondale?"

"You Ain't Seen Nothing Yet!"
Are you nervous? Have you developed a tic or some other nervous habit? Do you get to bed within the last few weeks? If so, it may be because exams are just around the corner. Hopefully most of you have been keeping up with required reading and have been recording data for your term project. But for those who haven't, BEWARE! You cannot expect to cram an entire course or semester worth of material into your head or to do well in only a few days of study. The time to begin your exam preparation is now. Consider the following commandments as you prepare:

1. Thou Shalt Prepare Your Notes

There is no substitute for sitting down with your notes, textbook and other materials and meticulously preparing an outline.

2. Thou Shalt Read Before Thy Write

Read the whole exam before you write anything. As you go through the facts, underline the facts that catch your attention and make a note in the margin as to the legal issue or fact raised. Then, after you have gone through the whole exam give your perspective on the overall difficulty of the exam and the approximate time you should spend on each question. You may decide to answer question number three first because you're more comfortable with that question, rather than question number one, about which you haven't the faintest clue. Remember that you rarely have time to spare. Don't waste time agonizing on a difficult question. Get right down to answering one you can handle.

3. Thou Shalt Be Organized

The first commandment requires you to make copies of a class's old exams. Why? In the first place, it helps you figure out what the Professor emphasizes on exams. More importantly, however, it provides you with an excellent vehicle for practicing the fact identification and legal analysis. Take the old exam as if it were the real exam. Write out answers, or at least outline answers, in as many questions as you can. Once you've done that, critique your answers. Go over them with study-group mates. Think about them. Ask yourself: Did I just write down something in my notes that the Professor said? By Prof. Georgene Vairo

4. Thou Shalt Not Forget to Review the Readings

If you are sure your answers are accurate and complete, don't forget to review the cases and statutes you have studied. You'll be surprised how much you'll learn from a careful, out of a case on review. In fact, it may even begin to make sense to you. Lightbulbs will go on in your head, thereby removing the cobwebs. It's a great feeling. Try it. Oh, it may take time. But I have to remind you of what's at stake.

5. Outline, Outline, Outline

There is no substitute for sitting down with your notes, textbook and other materials and meticulously preparing an outline.

6. Practice, Practice, Practice

The first commandment requires you to make copies of a class's old exams. Why? In the first place, it helps you figure out what the Professor emphasizes on exams. More importantly, however, it provides you with an excellent vehicle for practicing the fact identification and legal analysis. Take the old exam as if it were the real exam. Write out answers, or at least outline answers, in as many questions as you can. Once you've done that, critique your answers. Go over them with study-group mates. Think about them. Ask yourself: Did I just write down something in my notes that the Professor said?

7. Thou Shalt Apply the Law to the Facts

The difference between an "A" exam or a "C" exam usually is explained by failure to obey this Commandment. Professors are not looking for vague general discussions of the law. They want you to demonstrate your ability to spot the legally relevant facts and to apply the law you have learned to those facts. Thus, in your answer, you should state what the issue is, whether A made B an offer, which A made an offer, etc. Make sure you interpret the facts

8. Thou Shalt Not Accept Objections

It is equally apparent that in our law school community, where reporter volumes coincidentally disappear during the weeks of a particular exam, you cannot do well on any exam if you are not doing good job of policing ourselves. What might this mean in the context of a profession which polices itself by a Code of Professional Responsibility? To be sure, these problems are by no means limited to Fordham Law School. Nevertheless, we have heard complaints raised last year about cheating on exams, it may well be time for the students at Fordham Law School to examine our code and see what changes can be made. Can we, over the next few years, establish a workable system within which we can take our exams without the watchful eyes of

EXAM TAKING . . . Preparation and Execution

By Prof. Georgene Vairo

In Law school, we depend upon each other to be honest. We live in a close community which depends for its survival on our ability to police ourselves individually. If that policing breaks down, so does our community, where reporter volumes coincidentally disappear during the weeks of a particular exam, you cannot do well on any exam if you are not doing good job of policing ourselves. What might this mean in the context of a profession which polices itself by a Code of Professional Responsibility? To be sure, these problems are by no means limited to Fordham Law School. Nevertheless, we have heard complaints raised last year about cheating on exams, it may well be time for the students at Fordham Law School to examine our code and see what changes can be made. Can we, over the next few years, establish a workable system within which we can take our exams without the watchful eyes of

HONOR CODE PROPOSAL

By Joseph A. Burke President 2-A

In college, we depend upon each other to be honest. We live in a close community which depends for its survival on our ability to police ourselves individually. If that policing breaks down, so does our community, where reporter volumes coincidentally disappear during the weeks of a particular exam, you cannot do well on any exam if you are not doing good job of policing ourselves. What might this mean in the context of a profession which polices itself by a Code of Professional Responsibility? To be sure, these problems are by no means limited to Fordham Law School. Nevertheless, we have heard complaints raised last year about cheating on exams, it may well be time for the students at Fordham Law School to examine our code and see what changes can be made. Can we, over the next few years, establish a workable system within which we can take our exams without the watchful eyes of

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## EXAM SCHEDULE

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## CALENDAR

**November 15**
Reception for Benefactors in the Atrium 5:30 p.m.

**November 16**
MPRE (Exam) Student Party for the Deans - 7:00 p.m.

**November 19**
Dean's Lecture Series presents Louis Lefkowitz - 4:30 p.m.

**November 22**
Thanksgiving

**November 23**
Holiday
Registration for Second Semester

**November 26**
Panel on Choosing Electives - 4:30 p.m.

**November 27**
Registration for Second Semester

**November 27**
National Moot Court Competition at the Bar Association

**November 30**
Last Day of Classes for Upper Classes

**December 1-4**
Reading Days

**December 4**
Career Planning Meeting for 1st Year Day and Evening and 2nd Year Evening Students

**December 5**
Upper Classes - Examinations Begin

**December 7**
Last Day of Classes for First Year
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.

MATTHEW ARKIN  MICHELLE CRUZ  FRANK LUBERTI  JOHN PARAUDA  P. ERICA WHITLOCK
PATRICIA BAVE  KAREN DEBENEDICTIS  LAUREN MCSPEDON  LAUREN PUGLIA  ANN ZUCKER
GAIL BERBUTI  PATRICK FOGARTY  BRIAN MURPHY  GLENN RIPA  GEORGE DURAN
JOSEPH BURKE  DAVID HENNESSEY  ARTHUR NEISS  KEVIN PRESTON  MAUREEN CRUSH
JOHN BUTLER  MARK KOSAK  KERRY O'CONNELL  MARY E. TOM  THOMAS BUNDOCK
JAMES CLEMENTE  JODY LESLIE  KEVIN O'NEILL  WILLIAM VALLEE  JAMES FINNEGAN

New York's Number One Bar Review.