New Assistant Dean To Be Named Soon

By David Black

As we begin the school year, we see a lot of new faces. Soon, one of those faces will be that of the new Assistant Dean of Students.

Dean Feerick has announced that a new assistant dean for the Law School could be named as early as this week. Over 400 people applied for the new position, and the number of candidates was narrowed to 30 as a result of a faculty search conducted this summer. The Dean said that he interviewed a few finalists and that he is "currently involved in a discussion with one candidate" regarding the acceptance of the position.

The new Assistant Dean will serve as the coordinator of all student-related activities. Under this new administrative plan, Assistant Dean Reilly will now focus on expanding student-alumni relations. Dean Feerick stressed the importance of alumni relations at Fordham since "graduates not only open doors for our students, but 90% of our outside support comes from alumni." Currently, there are over 13,000 graduates of Fordham Law and 20 alumni chapters located throughout the United States.

Dean Reilly will still be involved with student life, especially in programs where current students interact with alumni. He also will be responsible for communications, such as publications, as well as for concentrating on development and fund raising.

The naming of the new assistant dean is part of what Dean Feerick termed "the planned enhancement of student services." For example, Alice Phillips, Fordham '91, has been named as the new Assistant of Alumni Relations and will work with Dean Reilly in fostering external relations. In addition, said Dean Feerick, "what is contemplated are a lot of staff additions, including an expansion of the career planning and placement office."

The coordination of the career planning expansion is yet another task which the new dean will oversee. The new dean will also work on academic advisement for students, dealing with issues such as how to switch from evening to day and how to resolve scheduling problems.

Emphasis will also be placed on improving administrative services for evening students. "There's already an effort to keep things open at the end of the day, but we hope to do a better job of servicing our evening students as well as the day students who take some classes at night," Feerick said. The new dean will also handle administration for support programs, such as ensuring disabled student accommodations. "The net result [of these changes] should be a wonderful evolution of administrative services, both to the students of the school, as well as to the faculty."

Most importantly, the new dean will be a person who can deal with student concerns. Dean Feerick recalled that he met last week with student leaders and the recurring theme was that "students wanted to know who to go to." In the past, this role has largely fallen to Associate Dean Vairo. Last year, Dean Vairo did not teach classes and the hiring of a new assistant dean enables her to resume teaching and to turn towards what Dean Feerick described as "the other areas which need her talents."

Dean Vairo will remain as the number two person in the administration and will lead the faculty in looking at the clinical administration of the school, evaluating such options as a smaller class size. She also will be largely involved with curriculum development. "She will remain heavily in the academic life of the school," Feerick said.

Dean Vairo's stature in the Law School was further established by her recent appointment to the Leonard F. Manning Professorship. The late Professor Manning was on the Fordham Law faculty from 1948 to 1983 and he served as moderator of the Law Review for 28 of those years. "In the life of a professor, there are few greater recognitions than being appointed to a Chair," Feerick said. The Chair is designed to promote the academic work of the professor and will help fund her research. Dean Vairo is the first woman ever named to an endowed Chair at Fordham. There are now five professors who hold Chairs, the other four being Professors Perillo, Fogelman, Quinn, and Katsoris.

This view down the corridor bears little resemblance to the one that appeared in our last issue. See the centerfold for a look at the new Fordham Law... and what's to come.

Reminder: NO CLASSES
THURSDAY, SEPT. 15

Inside: LIFE AND DEATH
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The Death Penalty and Abortion - p. 9
New Focus for Minority-Assistance Group

By Earl Wilson

The Fordham Academic Enrichment Program, which has been assisting minority students to excel in law school, has now opened its doors to all disadvantaged students.

The AEP is a two-week intensive program involving lectures by Fordham professors and skills based Workshops facilitated by Fordham law students hired as Teaching Assistants (TAs). TAs give instructional workshops on how to properly outline, brief cases, write legal documents, etc. Hired based on academic record, TAs also bring lots of enthusiasm & creativity to their position. Not only do they assist students while the program is in progress, TAs also serve as mentors throughout the program and for the entire first year. About four students are assigned to each TA. Lectures are contributed by Fordham professors like newly appointed Second Circuit Justice Deborah Batts on Domestic Relations among others. Fordham’s AEP is not unlike other programs reportedly sponsored by other law schools in the New York area.

The Advocate’s own Jeffrey Jackson, Commentary Editor and TA indicated that “the AEP went well... Students seemed to gain a lot of knowledge of the first year from the program.” Jackson stated that the AEP “should be available to all students that show a history of disadvantage - economic or otherwise.”

The program’s “history does not necessarily fall along racial and ethnic lines, though some groups may show a pattern of being disadvantaged,” the TA continued...

When combined with the study group observation and exam writing workshop, the AEP represents “another form of Fordham Law Community service.”

“I speak to my mentees at least once a week, Jackson declared. “I touch base with them on class problems and answer any questions they have.”

New Category

For the first time in 1994, the program has opened up to include not only minorities but those who consider themselves to be "disadvantaged" either academically or economically. “This means that the program is open to both the majority and minority students,” stated Professor Heidi Hamilton, the Coordinator of the AEP. “Fordham recognizes a four way disadvantage.” Professor Hamilton pointed out - "the socially, economically, ethnically, and physically challenged." In order for a prospective first year student to qualify for any one of the above categories, she must indicate on the admissions application. Standard on all applications for admission are "ethnic boxes," those boxes that require information as to the ethnic background of the applicant.

Now there is an additional box that inquires as to whether the applicant considers himself to be "disadvantaged." "The ethnic boxes need to be checked and if you feel disadvantaged socially & economically, you check the box. Anyone checking the ethnic or disadvantaged box will receive an invitation to participate in the program,” stated Kevin Downey, Fordham Law School’s Director of Admissions. There is no explanation on the application as to the result if an applicant checks the box. However, on the back of the application, regardless of academic background, the applicant is requested to provide “explanatory information” as to why she considers herself to be disadvantaged, i.e., economic discrimination, sexual preference, etc.

The explanatory information is largely irrelevant, however. “We don’t use responses to questions to determine eligibility. Anyone, including minorities and learning disabled, can be eligible” by virtue of simply checking the box.

Programs for the Whole School

Beginning last year, the AEP offered 2 other programs that were open to the first year student body at large: 1) Study group Workshop where students signed up in Dean Rivera’s office and have a TA observe their study group in action. The TA would assess the group and offer advice if necessary; and 2) an Exam Drafting Workshop - with Nerissa Skillman, exam preparation consultant.

Anyone interested in participating in these programs please keep your eyes on the bulletin boards or contact Dean Rivera’s office for more information.

Fordham Not Alone

Fordham is one of supposedly many schools that have taken the step to have a pre-first year academic program designed for minorities and others. According to a reliable source, Touro College of Long Island sponsors a program called “LEAP.” “The LEAP Program is designed to help minorities adjust and give them what is needed for their first year,” our source indicated.

LEAP, which has been in existence about “three or four years,” is a four week program that boasts solid participation by all ethnic groups. Our source, who happens to be a first-year Touro student, declared that “the program is still growing” with each passing year.

Reading The Advocate increases your knowledge of the Fordham experience!

WELCOME BACK!

The first BAR/BRI table of the semester will be on Tues., Sept. 13

Stop by and pick up information regarding the MPRE, the bar review course and the bar exam.

First Year review information also available.

BAR/BRI BAR REVIEW
Hope you have a great year!
In Depth

THE HISTORY OF THE ELECTRIC CHAIR: A NEW YORK STORY

By Deborah W. Denno

Parts of this essay were excerpted from Professor Denno's recent article, "Is Electrocution an Unconstitutional Method of Execution? The Engineering of Death Over the Century," 33 William & Mary L. Rev. 155 (1992).

On May 4, 1990, at 7:13 a.m., Jesse Joseph Tafero became the 219th person to die in Florida's electric chair. His execution was "gruesome." For four minutes, the hooded executioner applied three 2,000-volt jolts of electricity to Tafero's body. Until the last jolt Tafero "continued to clench his fists, nod, convulse and appear to breathe deeply ... as if he were alive." Tafero's execution was particularly controversial because, at the polls, there was a fire on his head with six- to twelve-inch flames that filled the execution chamber with smoke. The fire also caused the smoke to fly from Tafero's bobbing head during each of the three surges, while "his throat produced gurgling sounds."

Witnesses and reporters were shocked by the incident, which created statewide headlines the next day. There were varying explanations for why the fire occurred, and why the first jolt failed to kill as intended. Some experts said that the synthetic sponge in Tafero's head was likely to conduct electricity and burst into flames with each jolt. Another expert testified that the head and leg electrodes were in "questionable" condition because Florida's superintendent of prisons had rejected new equipment considered to be too costly. The expert declined the suggestion that he create a leg electrode from an old army boot and a copper strip. Some others suggested that an impaired electrode resulted in the 2,000 to 100 volts, "low enough ... to keep a person alive and in great pain." The medical examiner who conducted Tafero's post-mortem examination could not determine whether Tafero survived the first two jolts or died instantly, as a prison doctor had contended.

Tafero's execution was not unique. It paralleled the "botched" electrocution of William Kemmler, who, a century earlier in New York State, was the first person ever to be electrocuted. In 1890, in Kemmler, 136 U.S. 436 (1890), the United States Supreme Court refused to decide Kemmler's claim that the use of electrocution to inflict death was cruel and unusual punishment under the Eighth Amendment. It held that the Eighth Amendment did not apply to the states and therefore left unexamined the New York State legislature's conclusion that electrocution produced " instantaneous, and, therefore, inhuman " death. Electrocution has been used in the great majority of executions in this century. Today, it is second only to lethal injection as a method of execution. Even though Kemmler never decided whether electrocution was cruel and unusual punishment, and the Court subsequently held that the Eighth Amendment applies to the states, courts have been inclined to look to Kemmler for the proposition that a wide range of capital punishments, most particularly electrocution, are permissible. Consequently, electrocution never has been scrutinized under modern Eighth Amendment standards. This circumstance persists despite substantial evidence that death by electrocution may inflict "unnecessary pain," "physical violence," and "mutilation," rather than the "mere extinguishment of life" referred to in Kemmler.

A focus on execution is timely. In 1993, three Supreme Court Justices indicated their interest in deciding the issue of the constitutionality of electrocution. Moreover, these Justices concluded that Kemmler is not dispositive of the philosophical, financial, and political forces precluding Kemmler as a back­drop for explaining how New York became the first state to use electrocution. Although New York no longer has a death penalty, its impact on the creation and interpretation of one of most powerful methods of execution must not be forgotten.

The Electrocution Act and the "Battle of the Currents"

In 1865, the Governor of New York announced in his annual message to the legislature that "the present mode of executing criminals by electrocution may inflict "unnecessary pain" from the dark ages, and it may well be questioned whether scientific advancement in the present day cannot provide a means for taking the life of such as are deemed to die in a less barbarous manner.

A year later he appointed a Commission ("Commission" or "New York Commission") of three "well-known citizens" to "investigate and report to the Legislature ... the most humane and practical method known to modern science of carrying into effect the sentence of death in capital cases" (the "Commission Report"). The Commission consisted of its Chair, Elbridge T. Gerry, a prominent attorney and counsel for the Society for the Prevention of Cruelty to Animals, Dr. Alfred P. Southwick, a dentist from Buffalo, and Matthew Hale, an attorney from Albany. The legislature extended the due date for the Commission Report by two years, "on the ground that it would be most wholesome."

For a variety of reasons described below, the Commission ultimately recommended using electricity as the most humane method of effecting death. How this choice came into play, how it has influenced the professionals' reputation and commercial interests as opposed to any sophisticated scientific knowledge of electrocution.

The AC-DC Controversy

The Commission's recommendation to use electricity was prompted by commercial enterprises during what has been termed the "Age of Electricity," which ranged in the United States industries from 1880-1930. The attempts to create this electrical age occurred in September 1882, when Thomas Edison introduced a new energy of capital incandescent and the electrical systems, creating a direct current (DC) in approximately square mile of the commercial and financial district of New York.

How the battle between Thomas Edison and George Westinghouse over household current ushered in the age of electrotechnology in the United States.

City. Although the DC systems that Edison created were considered safe, their low transmission voltages limited their range to just a mile beyond their generators. This drawback and the industrial advantages of the AC systems, created by transmitting electric energy over long distances by promoting experiments and installation that produced a system of incandescent lighting based on alternating current (AC).

By the time the New York Commission was appointed, it appeared that Westinghouse's AC system was even better to have significant findings and advantages over Edison's DC system because of AC's lower transmission costs. Although Edison attempted to create cost reductions with the DC system, the savings were not considerable. As a result, an intense marketing competition developed between the two companies, and their electrical systems, creating what has been termed the "battle of the currents." This battle over the advantages and disadvantages of the two systems involved not only engineers and scientists, but also lawyers and the public, in a number of areas important to the future scientific and technological development of the electrical industry. One of the most important areas concerned diverging opinions on whether AC was considerably more dangerous than DC.

New York State incorporated the battle of the currents into the realm of capital punishment. Edison's financial success and professional reputation as a scientist were instrumental in getting the New York State legislature to adopt electrocution as an execution method. Edison's legislation would assist the New York's electrical industry. Indeed, Edison was already an "American hero" during an era when professional ambition rapidly was becoming the highest goal an individual could achieve and one of the greatest sources of public acceptance.

Initially, Edison was disinterested in Southwick's request, noting that he opposed capital punishment. Southwick, however, convinced Edison to support a second letter in December in which he explained that, because capital punishment would always exist, the sole matter of debate was how we could make it less barbarous. Edison's legislation would assist the New York legislature in selecting a punishment that was more humane than hanging, "a relic of barbarism."

Edison finally agreed to help Southwick, it appears, for two primary reasons. First, Edison realized that the New York legislature might reject his proposal if he were to recommend it and death could diminish considerably consumers' use of AC in their homes and thereby endangering his electrical utility enterprise. Second, Edison genuinely believed that AC was potentially less lethal and, therefore, criticized its use even though he had supported its development during an era when professional ambition rapidly was becoming the highest goal an individual could achieve and one of the greatest sources of public acceptance.

In order to convince his fellow legislators, Edison presented a circular to interested parties requesting their views on the "most humane and practical" method of execution, and listing a number of supposed advantages of electrocution. These efforts included the justices of the New York Supreme Court, county judges, district attorneys, sheriffs, and members of the medical profession. These letters were distributed throughout the state. The listed alternatives included electrocution, the administration of prussic acid or other methods of poisoning death by the garrote. Of the two hundred replies to the circular, eighty-one (40.5%) favored the retention of hanging and Continued on Next Page
Dean Feerick Honored by Cardinal

The Lawyers Division of Cardinal John O'Connor's Committee of the Laity has awarded John D. Feerick, dean of the Fordham University School of Law, the St. Thomas More Award.

The award will be presented at a luncheon on Sept. 20 at the Grand Hyatt New York. Funds raised at the event provide scholarships to inner-city youths who attend parochial schools.

Death Penalty (Continued from previous page)

In its January 1888 Report to the New York Legislature, the Commission recommended the use of electrocution over hanging as a method of execution without, however, specifying the type of current to be applied. On June 4, 1888, with little opposition, the Legislature enacted New York's Electrical Execution Act ("Electrocution Act" or the "Act"). Under the Electrocution Act, anyone convicted of a capital crime after January 1, 1889, would be electrocuted rather than hanged. "The punishment of death must, in every case, be inflicted by causing to pass through the body of the convict a current of electricity of sufficient intensity to cause death, and the application of such current must be continued until such convict is dead."

Because the Electrocution Act had not specified the type of current to be applied or in what form, the legislature gave the Medico-Legal Society of New York the responsibility for handling the details of carrying out the new law. The Medico-Legal Society was in turn ultimately influenced by the changing focus of the AC-DC controversy.

When by mid-1888 it appeared that the AC proponents were winning the battle of the currents, the DC proponents began emphasizing one distinguishing feature between the systems: AC's greater lethality. The accusations of Harold P. Brown, an obscure, self-trained lawyer, were particularly significant in making this distinction.

On June 5, 1888, one day after the Electrocution Act was enacted, Brown contended in a letter to the editor of the New York Evening Post that Westinghouse's high-voltage AC system could be potentially fatal and that the New York Board of Electrical Control should forbid its use. In order to substantiate his claims which were attacked by critics, Brown asked Edison if he would support a number of electrical experiments on animals so that Brown could gather evidence proving that AC was more dangerous than DC.

Even though the two had never met, Edison granted Brown's request to use his laboratory and equipment that could not be obtained elsewhere. Edison also asked one of his assistants, Arthur E. Kennelly, to help Brown with his experiments.

During these experiments in mid-July of 1888, Brown was able to demonstrate that dogs would die instantly with an application of less than 300 volts of AC but tolerate more than 1,000 volts of DC. Satisfied that his assertions had support, Brown provided a public demonstration of his results in the lecture hall of Columbia College's School of Mines on July 30, 1888. Aided by Dr. Frederick Peterson, a member of New York's Medico-Legal Society, Brown demonstrated (with Edison's equipment) the dangers of AC by using a seventy-six pound dog that "withstood" the DC but was then put to death with one application of the AC. In response to critics claiming that the dog's resistance had been lowered by DC shocks prior to the fatal application of AC, Brown conducted further experiments several days later by fatally electrocuting three different dogs with only AC.

By the fall of 1888, the Medico-Legal Society requested that Peterson chair its committee appointed to recommend the details for administering electrocution. At this time, Peterson and Brown conducted further experiments with AC on two calves and a horse in response to claims that experiments with smaller animals could not be compared directly with the effect that electricity might have on a human being. Members of the Medico-Legal Society, Gerry, and Edison were included among the witnesses. As a result of the "success" of these experiments, the Medico-Legal Society's Committee issued a report recommending the use of AC to be disseminated through a chair; this method, the committee maintained, would ensure death in fifteen to thirty seconds. With a
From the Editors

A Little Song, A Little Dance...

MUSIC SOOTHESTHE SAVAGE BEAST. THAT WELL-KNOWN VERSE SHOULD RESONATE WELL IN THE Hallowed halls of Fordham Law School. The savage beasts within us would no doubt benefit not only from hearing good music, but playing it as well. That is why we think a Talent Show, in addition to the yearly Follies, is a fine idea. While there has been some sort of talent show each year, it’s been harder and harder to find a sponsoring party. In years past, the Follies producers have sponsored such shows. Last year, The Advocate presented an “Unplugged” night in the Spring semester. Though it was sparsely attended, it continued the streak of a talent show every year since at least 1990. We’re ready to do it again this year, but we’d like to invite other student organizations to join us in putting together a special event.

Why a talent show? To prove that wannabe lawyers who wanna be performers have no real talent, of course (Only kidding!) The truth is there is a wealth of talent here at Fordham. We ask that all you budding artists dust off the guitars and clear the throats because we want you to take the stage. That goes double for all you Jerry Seinfelds and Martin Lawrences cutting up in the back of Room 312. Stay tuned in the upcoming issues for more information. Until then, keep it hummin’.

Hearsay

It was beer and bagels Saturday as the SBA’s Annual Fall Softball Tournament roared onto the Great Lawn in Central Park. Rumor has it the SBA team took top honors, after picking up players along the way. The Advocate could not confirm this at press time, as it left after reaching its beer limit shortly after noon ... Speaking of things SBA, the crowd went wild at Lee Mazzilli’s last Thursday, enjoying the first of many Thursday Night Football events sponsored by SBA and featuring half-price drinks for all Fordham Law students ... And if that’s not enough, the Booze Cruise is almost upon us! This year’s voyage happens Thursday, September 22 at 8:30 pm, when the Circle Line Special leaves from 42nd Street and 12th Avenue. Tickets go on sale today ($22 or so, says the SBA Update 2) ... The Italian-American Law Students Association held their first dinner / meeting of the year over at John’s Pizzeria on 65th.

Even if you missed yesterday’s meeting, you can still sign up for The Follies, Fordham’s annual send up of law school life. Call Sarena at 721-4669 or Trey at 636-7744 for more info ... There’s still time to enter the Wormser Moot Court Competition and maybe get on Moot Court ... The Fordham Federalist Society presents The Hon. James L. Buckley, D.C. Circuit judge and former U.S. Senator from New York, speaking on the subject of “The Catholic Public Servant,” next Wednesday (Sept. 21) at 6 pm in the McNally Amphitheater.
The Work

In our last issue, we showed you what Fordham Law looked like over the summer, while most of the construction was taking place. Now, we offer some of the finished product, with the caveat that the project is still a work-in-progress.

Photographs by David Bowen

The Library bathrooms will open shortly, and will be equipped with accessible fixtures, such as the faucet shown at right.

The finished Lobby, complete with hanging fixtures.
Next stop: cafeteria. After serving for the summer as a storage area for materials, the cafeteria is now the focus of the workers' efforts. Those of you wearying of the long walk to Lowenstein will be happy to hear that the cafeteria is expected to open by mid-October.
NO annual FEE, 
nationwide ACCEPTANCE 
and LOW rates. 
Because this is a ONCE in a lifetime trip.

IF YOU DON'T GOT IT, GET IT.
In Depth

Ben Chavis, Civil Rights Leader

by Jeffrey Jackson

Dr. Rev. Benjamin Franklin Chavis Jr. was the youngest man to serve as Executive Director of the NAACP, the nation's oldest civil rights organization. Enjoying only a short tenure, he was recently terminated from his position.

Chavis comes from a distinguished lineage, as his great-great-grandfather John Chavis was the first African-American to be ordained a Presbyterian minister. Ben Chavis graduated from the University of North Carolina at Charlotte were he was employed for the Southern Christian Leadership Conference and founded the Black Cultural Association. Later, he served four and one-half years in prison on a conspiracy charge. While in prison he earned his Master's degree in Divinity from Duke University. It was reported that he attended class shackled and in chains. After being paroled and having his convictions overturned, he received his Doctorate from Howard University. On April 9, 1993 Chavis was hired as leader of the NAACP.

Ben Chavis has displayed a true commitment to civil rights. He has fought for the right of homosexuals to serve in the military, much to the chagrin of more conservative NAACP members. He separates homosexuality from discrimination, arguing that homosexuality is a moral issue, while discrimination is a political issue. He was one of the first black leaders to denounce the infamous anti-Semitic tirade given at Kean College in New Jersey. He was also instrumental in the huge $1 billion "Fair Share Agreement" settlement against Denny's Restaurant. Under Chavis, NAACP membership has increased by over $150,000, and the average age has dropped from 50 to 38. He has remained a firm integrationist. He recently led a protest in Hemingway, South Carolina when Hemingway, which is 80% white, attempted to secede from Williamsburg County, a black majority of the people who were unhappy with Chavis. Michael Meyers, who is an NAACP member, claims that [Chavis] supports the black extremists, the radical black fringe. Others agree, citing Chavis's relationship with radical black leaders. Others claim that Chavis's payment of a settlement for alleged sexual harassment was an example of financial mismanagement. Some attribute excessive spending on the part of Chavis to the organization's estimated $3.3 million budget deficit. Ronald Waters chairman of the Political Science Department at Howard University says, "I think it is a legitimate criticism that there doesn't seem to be one programmatic philosophy to what he's doing."

Supporters of Chavis argue that Chavis does not legitimize or support radical black leaders by meeting with them. Rather, Chavis is putting aside his differences and working with these leaders for the good of the black community. The word 'differences' must be reevaluated, as any way sought to align himself with any radical or separatist policy. Just as Nelson Mandela must sit down with white Afrikanders, black leaders in America must meet together to solve problems.

Chavis was terminated from his position. Some breathe a sigh of relief, claiming a need to move on. Other show dismay and disapprove of his dismissal. Nonetheless, Benjamin Chavis's tenure as Executive Director of America's oldest civil rights organization will not soon be forgotten.

Many of the facts in this article were taken from Charles P. Pierce's article, In the Line of Fire, which appeared in Gentlemen's Quarterly, September 1994.

Ben Chavis, Civil Rights Leader

by Jeffrey Jackson

In his highly-readable biography of former Supreme Court Justice Lewis F. Powell, Jr., Professor John C. Jeffries, Jr. shed light on the Supreme Court's role in the issue of the death penalty's constitutionality. One of the authors of the Gregg v. Georgia opinion, who helped forge a viable center that restored a state's prerogative to enact discretionary death sentencing statutes, has reasserted his erstwhile belief in the supremacy of the constitution's constitutionality. A similar twilight change of heart overcame Justice Harry A. Blackmun, another tough-on-crime Nixon appointee who, in a peroration before stepping down from the august bench last term, declared, "I no longer shall tinker with the machinery of death." Moral obligation, we were told, compelled Justice Blackmun to the conclusion he finally reached.

The question remains, however, whether or not such personal matters of conscience are of any relevance when expounding on the constitutionality of the death penalty.

Clearly, the text of the Fifth Amendment presumes the imposition of the death penalty; unlike with Article I Imposts and Duties, no prohibition of capital punishment is laid upon the states, leading to the inference that the matter is up to the lawmakers elected by the people of the various states.

Yet the prohibitionist appeal from the bench is to the language of morality, a code superseding that of the constitution or other positive laws enacted by the legislatures. Even the ostensibly textualist argument against cruel and unusual punishment embroils, in the words of the honorable William J. Brennan, Jr., "moral principles that substantively restrain the punishments our civilized society may impose on those persons who have been convicted of crimes.

Morality may very well be on the side of the foes of state execution — utilitarian deterrence arguments depend on the majority of the people, through their elected representatives, impose their morality, except in areas clearly delineated by the constitution as being off-limits. Unelected, life-tenured judges should not foist their values preferences on the people by legislating from the bench.

Twentieth-century American society is pluralistic, and what once may have been a cultural consensus regarding right and wrong now varies with other voices in the public square. The genius of the American system was that the give-and-take of legislative compromise forced accommodation of opposing views, making civility a public virtue. But when moral issues which rightfully belong to the legislature dominate the people are imperiously decided by an elite handful and the democratic process derailed, the cistus can no longer function.

The shootings at Pensacola are a harbinger of not just a fraying, but a breakdown of republican society. Individuals must be held accountable for the consequences of their actions — including members of the imperial judiciary and their proponents who would impose utopia at the cost of democracy in these United States.

The Advocate welcomes submissions from writers of short stories and poems. Call 636-6964 for further information.
unanimous vote, the Medico-Legal Society adopted the committee's recommendation report. Following the publicity given the experiments, AC was tied publicly to death.

Westinghouse immediately challenged the report, claiming there was no proof that the AC would cause death to a human being. He also claimed that it was known that Brown's experiments were financed by Edison Electric Light Company, a Westinghouse competitor. Regardless, during the next year, Brown lobbied extensively to have the Electrocution Act carried out, and with Westinghouse equipment, referring to it as the "executioner's current."

In March 1889, three months after the Electrocution Act had become effective, state prison officials requested Westinghouse equipment, referring to it as the "Electric Chair."

The Kemmler case and its year-long appellate phases were influenced significantly by the "battle of the currents." Out of concern that the public might view AC as the more dangerous method, for example, Westinghouse reportedly financed Kemmler's appeal at a cost exceeding $100,000. Increased publicity given the experiments, AC was tied publicly to death.

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Kemmler had repeatedly beaten and cut his lover, Matilda Ziegler, with a hatchet, axe, and sharp instrument on March 29 in a fit of jealousy and rage over her relationship with another man. Ziegler died the next day. The four-day trial in the Erie County Court of Oyer and Terminer raised little doubt of Kemmler's guilt. He had confessed in jail, and several witnesses stated that he admitted to committing the crime. Moreover, the jury rejected Kemmler's principal defense of "mental irresponsibility" that was based on his history of alcoholism. On May 14, Kemmler was sentenced to death by electrocution under the Electrocution Act. His execution would be delayed "by one of the most stupendous legal fights ever made."

The Kemmler case and its year-long appellate phases were influenced significantly by the "battle of the currents." Out of concern that the public might view AC as the more dangerous method, for example, Westinghouse reportedly financed Kemmler's appeal at a cost exceeding $100,000. Increased publicity given the experiments, AC was tied publicly to death.

When asked whether he knew what would happen when electricity was applied to human muscles, Edison confessed that he didn't know much "about that part of it."
Cockran's questioning but that he would have to experiment about anything about the conductivity of the muscular tissue was the better conduction of the human body? Edison answered: "No, sir." Cockran continued: "You do not claim to understand anything about the structure of the human body?" Edison replied: "No, sir: only generally." Cockran then asked Edison if he knew whether blood or muscular tissue was the better conductor. Edison replied that he thought blood was a better conductor, but that he would have to experiment to be absolutely certain. "Do you know anything about the conductivity of the brain?" Cockran continued. Edison responded: "No, sir." In spite of the "confusing and conflicting" testimony that Edison and the other electrical experts and physicians presented, however, it appears that Edison's enormous reputation outweighed Cockran's revelation of his or any other expert's ignorance. The New York Supreme Court found that Kemmler did not satisfy the burden of proof that electrocution was cruel and unusual. The Court viewed the Electrocution Act as "a step forward ... based on grounds of mercy and humanity," and consistent "with the scientific progress of the age." The Court emphasized that electricity would produce "immediate and painless death," thereby preventing the "unsightly and horrifying spectacles which now not infrequently attend executions by hanging."

Yet, according to one commentator, [a] key factor in overwhelming opposition to electrocution was the authority of [Edison's] "confident claim that death would be instantaneous. This was combined with a shameless "dirty tricks" campaign, in which Westinghouse's alternating current, then competing with the direct current preferred by Edison, was to be denigrated. Whether or to what degree Edison was solely financially motivated may never be known. Regardless, the extent of his influence was demonstrated by the final decision of the United States Supreme Court to allow New York to use electrocution.

Next issue: KEMMLER'S AFTERMATH. AN "AWFUL BOTCH" of Transportation Selections by Catherine Manion

A Sonnet of Love

I love you today, I will love you tomorrow. If we should part And then meet again Ten thousand days hence Or a hundred thousand - or more I will love you even then. And when I die, And my life becomes naught But a puff of air Remember that I have loved you And I will love you Until my very soul Ceases to be.

"Seinfeld": Every episode an exam question!

By Robert Cinque So here we are, three weeks into the semester, and that can only mean one thing - time to put down the books. Certain professors, aghh to figure out where your classes are going, and you have plenty of time until finals... Oh, but wait! I forgot about you first-years, whose arms are probably already falling off from carrying hornbooks from here to the Lowenstein cafeteria and back! To you first years, I say put down the books before you hurt yourselves. Your professors will deny this, but I guarantee that you can learn everything you need to know about each of your courses just by watching television.

Of course, you can't just watch Beavis and Butthead day after day and expect to make Law Review. You must watch certain programs, and watch them closely. To make it easier for you, I have prepared the following viewing recommendations for each of the first-year courses.

Criminal Law -- Easy. Watch "NYPD Blue." Aside from the gratuitous nudity and foul language, each episode is guaranteed to have some character step right up to the line of illegal interrogation, illegal search and seizure, or just plain abuse. Sometimes they cross it, sometimes they don't. It's also good for keeping on top of Evidence questions (even though that's not required anymore).

If you're curious about what Hollywood thought was proper police procedure back in the days of Woodstock, flip on those "Dragnet" reruns on Nick at Nite. If Joe Friday's straightarrow lecture doesn't get your coercion antennae up, you're perfect D.A. material.

Torts -- Another ground ball. "Seinfeld" all the way. Every episode an exam question! Remember the one where the Russian author flings Elaine's pocket organizer out the limo window, and it conks Carol Kane on the head, who then calls Jerry, who then plots with Elaine to tape the author admitting he threw the thing out the window, meanwhile Kramer is hitting golfballs into the ocean, one of which gets stuck in a whale's blowhole... anyway, you get the idea. My own fantasy is to one day have a George Costanza as a client. Make that a rich George Costanza.

Constitutional Law -- It isn't on the fall schedule, but if ABC brings back "Dinosaurs," watch it. This sneakily subversive show must go right over network executives' heads. If they actually knew what was going on, they never would have let it on the air in the first place. As for constitutional issues, teenage dinosaur Robbie is always standing up for his rights against his old man Earl, the Council of Elders and the Wesayso Corporation. Whether it's a First Amendment issue, Due Process, or Equal Protection, it's in there.

Property -- Again, "Dinosaurs." Most everything you'll learn in property is prehistoric.

Contracts -- QVC or the Home Shopping Channel. They're always talking, "How can we afford to let this stuff go at these prices?" If you can figure that out, you can ace Contracts.

Civil Procedure -- Try C-Span. It's about as exciting.

Legal Writing -- For this course, load up on all that British stuff on PBS. It won't help your legal analysis, but at least you'll get used to hearing English spoken correctly.
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