Fordham and the Law

BEYOND NATURAL LAW: AN IDENTITY FOR FORDHAM LAW SCHOOL.

By Jerry Choe

Fordham Law School has been criticized for lacking some sort of principle or overarching theme which distinguishes it from other law schools. Chicago Law School, for example, has law and economics and New York University has civil liberties. As a result, many of the students who attend Fordham adhere to the principles of the Critical Legal Studies movement, which embodies certain nihilistic beliefs about the nature of law. Each of these approaches assumes an analysis of the law that goes beyond a mere study of the positive law as we see it in our cases and statutes.

In the early part of this century, Fordham Law School had an identity as a Jesuit institution, adhering to Catholic principles. The Law School, however, has left behind much of its identity as a Jesuit institution. This is perhaps due to an increasing number of minorities entering higher education and the growing influence of liberalism in our society.

Although the administration would like the school to be viewed as “the friendly school,” as it currently stands, Fordham Law School has a reputation as a practically oriented school—a place to go to obtain a good job. In general, Fordham provides an education in the positive law. Fordham can and should go beyond the mere prerequisites of providing an adequate education for its students. It should have an identity grounded in a principle higher than “the friendly place to go to get a good job.”

In the October issue of The Advocate, Jay Aragones, a second year student at Fordham, urged the School to incorporate Traditional Natural Law principles into the curriculum. According to Aragones, if any school is equipped to teach Traditional Natural Law, it is a Catholic school like Fordham.

What is Natural Law?

Natural Law is a moral and legal principle. The founder of the Western Natural Law tradition, St. Thomas Aquinas, and his disciples believe that justice and morality are ideas that are derived from the “human reason’s” grasp of fundamental truths about humankind and the universe. A necessary precept of Natural Law theory is that if the law does not conform to what universal justice and morality dictates, it is not, strictly speaking, “true law.” In other words, “correct” or true law is inextricably bound to fundamental truths about justice and morality.

The cornerstone of Traditional Natural Law, as a product of Christian and Aristotelian thought, is that these fundamental truths are eternal and immutable, the same for all people at all times. As such, once specific moral truths are laid down as precepts for Natural Law, these precepts cannot tolerate conflicting beliefs because there is only one correct truth.

Continued on page 8

G. Gordon Liddy: A Warm Homecoming?

by David A. Javad

On Monday, October 29, 1990, G. Gordon Liddy accomplished a feat that no other distinguished speakers could not do—he filled the McNally Amphitheatre. In the most well-attended lecture of the year, G. Gordon Liddy, as a guest of the Fordham Federalist Society, spoke for approximately two hours on a variety of topics ranging from his from his experiences as General Counsel for Nixon’s Committee to Re-Elect the President (CREEP) to his philosophy on criminal justice which he refined while incarcerated in nine different prisons throughout the country.

While Liddy is the most famous for his leading role as the strongman in Nixon’s Republican party who implemented the Watergate break-in which ultimately led to the resignation of President Nixon, his career outside the Watergate scandal has been no less interesting. After graduating Fordham College in 1952 he served for a year and a half in the Army during the Korean War before returning to Fordham in 1954, this time at the Law School. After graduating in 1957 as a member of the Law Review, Liddy joined the FBI. Liddy’s personal style was well suited for Hoover’s FBI and by the age of 29 he was appointed the youngest field Captain in FBI history. After a four-year stint in the FBI, Liddy entered private corporate law practice with his father, Sylvestor Liddy, (FLC’26) but soon left because, as he put it, “We Liddys take up a lot of space. There wasn’t even enough room for the two of us in all of Manhattan let alone the same office.” And so he went north, to become an Assistant District Attorney in Dutchess County. Regardless, Liddy used this position as a platform from which to run for the House of Representatives. He lost the race by one and a half points in the Republican primary to Hamilton Fish, Jr., a popular Congressman who still holds the office today. After the election, Liddy moved to Washington to become a Special Assistant to the Treasury, and then in 1970 he became a member of Nixon’s White House staff. Ever mobile.

Continued on page 5

Fordham Takes a First Step Towards Joining the Public Interest Movement

by Miriam Buhl

After a decade characterized by some as an era of greed and insensitivity to the poor and the environment on the part of citizens and government alike, more and more lawyers are returning to the public interest ideals of the sixties and early seventies. The movement to public interest and pro bono work is considered by some to be an effort to heal the spiritual vacuum of the 80s. It is also seen as an urgent and necessary response to problems such as homelessness engendered by the Reagan administration’s severe cutbacks in social programs and the Legal Services Corporation.

Clearly, the issue of public interest law is here to stay. The American Bar Association, often cited as the barometer of legal trends, recently undertook a study which showed that nine out of ten legal needs of the poor go unmet. In addition, the ABA code of ethics mandates that attorneys should do pro bono work, (the Student ABA also recommends a mandatory pro bono requirement). The American Lawyer covers the topic regularly, and its July cover story revealed widely varied results (Wilmer, Cutler & Pickering averaged 134 hours per attorney per year with 50% of attorneys working more than 20 hours on pro bono matters; Cleary, Gottlieb put in 56 hours per attorney with 32%; and Mudge Rose clocked 400 hours per attorney per year with 4%).

The national trend towards increased commitment to public interest law and pro bono work is slowly taking root at Fordham. Long regarded as a bastion of corporate law and a steady supplier to high-paying Wall Street firms, the Law School is realizing that its tuition costs— and resulting debt often incurred by students—may prohibit graduates from pursuing public interest law. Moreover, the Law School’s ability to attract high-quality students may depend on increasing its public interest programs at the school. As a result, there are new programs in many of the country’s leading law schools in the effort to improve financial support for students and graduates who pursue public service.

Two major developments over the last six months are aimed at providing public interest-oriented students the support they may need during and after law school. In October, Dean Feerick announced that a $1 million Public Service Law Fund had been created, and last spring the Fordham Law School Loan Forgiveness Program accepted its first applications.

Public Service Law Fund of $1 Million

The Public Service Law Fund represents the first pledges in a fundraising effort by Dean Feerick as part of a larger capital gift campaign, which will start officially in April, 1991. Fordham University intends to raise $150 million in gifts over a five-year period. $20 to $30 million will go to the Law School to supplement

Continued on page 3

Overheard in a Commercial Transactions Class. In response to Professor Chiang’s rhetorical: “Suppose I offer to sell you my copy of the U.C.C., which is missing page 98, for $10?” A student asks: “Professor, will the material on page 98 be on the exam?”

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Milena Martinez
The Digital Sampling Dilemma

by Mark Seiffinger

The title of the song came from a Shotts hit by the Trogs. The guitar riff and drum fills were snatched from an early song by rock-and-roll's ultimate party band, Van Halen. However, only Tone-Loc gets credit for "Wild Thing," the second best selling single in the history of popular music after "We Are the World." More recently, M.C. Hammer turned Rick James' 1981 hit "Super Freak" into "U Can't Touch This." Despite criticism from the music industry as to the limited musical imagination on Hammer's record, "Please Hammer Don't Hurt 'Em," his "recycled" song was the smash hit of 1990. When the average music listener is asked if she recognizes pieces of the old songs in the new ones, the response invariably sounds something like this: "Yeah, I know that's 'Super Freak,' but M.C. Hammer must have been required to pay royalties to use the old sound or words before he could release his hit, that's why it's a giant misconception!"

Digital sampling, a recording technique that has revolutionized the entertainment industry, has been the cause of bickering among musicians and recording industry executives, has begun to change the way music is made. In short, digital sampling is the process of recording a sound through the use of a digital sampler (a type of keyboard/computer), which turns sounds into strings of numbers and can play back those sounds at the touch of a key. With their built-in computers, samplers can also manipulate those strings of numbers, so that the timbres (pitch) of any sound can be returned to any note in a scale, or stretched out, or reversed, or adapted to a new setting. Moreover, the sampler allows musicians to reproduce their actual sounds with stunning clarity.

Sampling can be compared to cloning an entire organism from a single cell. A digital sampler can generate a rhythm, or even an entire ensemble, from a single note sample. With a digital sampler and a few record albums, a keyboardist could easily fabricate a "performance" from the sounds and motifs sampled from sources like Richard's "trumpet," Jaco Pastorius' "bass," Thelonious Monk's "piano," and Eric Clapton's "guitar"—combined in a piece that they never played before.

Sampling has already begun to have a major impact in the music business on various fronts. Artistically, sampling offers a new and unprecedented flexibility. It puts virtually any sound, live or recorded, at a performer's fingertips, thereby allowing musicians to repackage borrowed sound and new context in economically sampling threats the employment of studio and concert musicians. Since realistic sounds of strings, winds, orchestras, and percussion sampled once and easily sampled, there is less need to hire musicians on individual instruments. In addition, there exists a growing black market of digital sound samples owned by both musicians and recording engineers alike. Up to this point, musicians' unions have been unsuccessful in bringing about a uniform system of payment for the use of sound samples in their industry, and therefore have looked to forward copyright lawyers for protection.

Can a performer's sound, as embodied in a sample consisting of a fragment of a song, be copyrighted? The present copyright laws in regard to musical compositions and sound recordings do not directly address this issue. To this date, all the suits that have been brought contend that sampling constitutes a copyright infringement have been settled. In fact, most record labels (who usually own the copyright to the sound recordings) have been reluctant to sue. The explanation lies in the fact that record companies do as much sampling of other companies' recordings as they can without getting caught. To avoid legal hassles, a growing number of artists have begun paying flat fees or a percentage of their royalties to the original artists, or to their labels and producers for the material being sampled. Infringements through digital sampling differ from routine infringement of a sound recording. Since the sampler might have been, providing an economic incentive not to marry.

Infringements through digital sampling are the only arise from transactions engaged in by the partnership under its authority.

Even though a general partner may acquire tax liability by the acts of another partner, that other partner could only have generated such liability when duly authorized by the partnership agreement. In a marriage, one individual can act without any authorization from the other individual, yet the act of one individual can generate virtually unlimited liability for the other individual if a joint return is filed.

Ninety-nine percent of married couples who file returns make the election to file jointly. Each spouse thereby inures personal liability for not only their own taxes, but also the other spouse's income taxes. The present state structure provides a distinct monetary incentive for such a joint return.

Continued on page 13
AIDS and the FDA

Assaulting the Scientific Citadel

by Alan Forsythe

We all count on the FDA to ensure that our drug (medicine) supply is safe and pure. Recent revisions extend this charge to include effectiveness. That is, the FDA is not supposed to approve a drug for sale until there is sufficient evidence to satisfy the FDA that it is both safe and effective. The FDA also approves and inspects the manufacturing and distribution process.

Except for those grumbling from the pharmaceutical industry and a few academics, there has been little controversy about the FDA's methods and procedures for drug approval. That was before the AIDS crisis. In recent years, there have been demonstrations and confrontations by AIDS activists who are frustrated by the delays inherent in FDA procedures. There have been end runs to distribute drugs outside the guidelines set by FDA. The sacred cow of science is under attack with bludgeons and sharp knives.

study designs developed to meet FDA requirements have been called inhuman, and the FDA medical staff has been likened to Nazi scientists. The FDA maintains that they have been working faster than ever on AIDS drugs. They point to shortened time lines and approvals granted in record time. At the same time, the FDA does not want to abandon its obligation to protect the drug supply based on rational scientific evidence and expert judgment. Critics maintain that we have a cumbersome, over-complicated system that is bureaucratic and dominated by a scientific in-group.

Improving the system requires some understanding. New drug development can be divided into three stages: pre-clinical (test tube and animal) research and development, clinical (human) testing, and the final review at the FDA. This scientific and regulatory maze takes an average of 100 months (8 1/3 years). It is easy to see the flaws of the controversy between the person with AIDS (PWA) and the FDA. A PWA would not live long enough for a drug that might save his or her life to be approved.

In the pre-clinical stage, in which many people as possible are protected as safety and effectiveness are determined, about 80% of the drugs which enter human testing fail in Phase I. The evidence for efficacy is rather tentative as a drug enters the one-to-two-year Phase II testing in hundreds of patients. In Phase II Phase II end patients are evaluated to get an indication of efficacy and side effects. The odds are 50:50 that a drug entering Phase II will pass the test or failure use. A few years are then needed during Phase III, to verify a drug's effectiveness to monitor adverse reactions over the long term in thousands of patients. Only 15% fail this last phase. Because so few drugs are weed out at this point, one obvious reform was implemented in October 1989 called "Expected Referred" in which medicines for serious and life-threatening diseases have Phase II and III combined into a single, shortened step.

At the conclusion of clinical testing, the drug company completes the enormous amount of documentation for its request to market the drug. This is called a New Drug Application (NDA). Typically, FDA review takes two to three years for each drug. About 75% of the drugs requesting an NDA pass the review. All in all, only one in five drugs that enter human testing will be found to be safe and effective.

The first proposal for making medicines available more rapidly in response to the AIDS crisis was aimed at the late Phase III and FDA review period. This new regulation, started in May, 1987 is called the "Treat me IND.. Under this rule the FDA commissioner can permit the controlled marketing of a drug while Phase III and the FDA review period. This proposal claim that the Treatment IND has been used so sparingly and too late.

Drug companies estimate that it costs somewhere from $100 to $200 million and takes several years to place a new prescription drug in your medicine cabinet, and the patent clock is ticking during most of the development time. This means that a company in the risky and expensive drug development business does not reap the full benefit of seven years commercial protection afforded under patent law. Pharmaceutical companies point to this as a substantial factor in the high price of many drugs. AIDS activists and other attribute the high prices to opportunism and greed.

Some underground groups bypass both the FDA and pharmaceutical companies by importing drugs not approved for AIDS. Other mix and matchery components

in their homes. The resulting drugs are used and evaluated simultaneously, a departure from the classical orientation that focuses on evaluation, with treatment as a positive spinoff.

Since four out of five drugs are classified as either unsafe or ineffective, one can see the concern about underground testing of AIDS drugs. Fortunately, most underground testing has been done after some human safety data becomes available. The underground groups claim that the medical establishment does not have a monopoly on safety monitoring and patient care. Some insist that the bureaucratic mentality is overly concerned with precedents that might be set if the FDA took an open-minded and creative approach to drug evaluation and wider distribution of promising, albeit unproven, drugs.

The AIDS crisis has changed the formal drug approval process. Whether it is due to political pressure on the FDA or humane rationality by the agency is uncertain. There can be little debate that additional changes will be demanded and some will be made. For better or worse, these changes will apply to AIDS, cancer, Alzheimer's and other diseases.

Dr. Forsythe is a Vice President of ICN Pharmaceuticals and an adjunct professor at the U.C.L.A. School of Medicine.

Minority Recruitment

by Deneen Donnley

Fordham Law School held an Open House on Saturday, October 27, to introduce minority college students to Fordham Law School. The Open House was attended by approximately 155 college students in addition to Fordham Law School students representing the various minority organizations. The students represented schools as far away as Shanghai International Business Institute and Northwestern University, and as close as Hunter College and New York University.

The Open House, which was coordinated by Associate Professor Marjorie Martin, included presentations by faculty and minority organizations in addition to a luncheon where the college students had a chance to interact with current law students. The program included presentations by: Associate Dean Vario on applying to law school; Adjunct Professor Heidi Hamilton on the Minority Enrichment Program, Assistant Dean Reilly on student affairs and programs; Financial Aid Director James McGough on financial aid assistance and information, and Career Planning Center Director Kathleen Brady on career planning.

According to Lisa D. Hayes, Chairperson of BLSA, "The Open House was an excellent way to meet potential students and share experiences with them. The Dean's office has been supportive in efforts to recruit minorities and dispel perceptions that Fordham is not a fair and open place for minorities." Ms. Hayes continued, "This year, was our biggest turnout, and we anticipate that future years will be just as successful.
THOMAS A. MOORE
Fourth Speaker in the Dean’s Sesquicentennial

by William Bruno

The Fourth Sesquicentennial Lecture featured Thomas A. Moore, a 1972 graduate of the Fordham University School of Law and one of the nation’s leading personal injury lawyers. His presentation lent a new sense of urgency to an area of the legal profession normally associated with ambulance chasing and ads on matchbook covers.

After graduating from the evening division of Fordham Law School, Moore worked for an insurance company representing defendants in personal injury suits for two years. He said he then had a change of heart, believing that it is the plaintiffs who are most often the victims.

Moore began representing plaintiffs in personal injury suits. This career has resulted in millions of dollars being awarded to clients. He has been called a “nonsense,” “pop-pycock,” and “false.” Moore claimed that since 1965, there has been no increase in medical malpractice premiums but there has been an increase in medical costs.

Moore defended the use of contingency fees. He claimed that at least 80% of his clients could not have afforded adequate representation without contingency fees. He would like to reform efforts to concentrate on eliminating abuses in the system without eliminating the system itself.

Advising law students, Moore stressed the importance of legal writing. He also suggested Legal Aid and the District Attorney’s office for graduates who want early exposure to trial work.

Moore writes a column in the New York Law Journal on medical malpractice and has written two books, Medical Malpractice and Evidence in Negligence Cases, both published by the Practicing Law Institute.

Continued on page 7

Liddy
Continued from page 1

Liddy soon left to serve as General Counsel to CREEP and the National Republican party. While in his position as GC, Liddy performed various services for the party. One of which eventually led to his greatest claim to fame and in January of 1973 he was incarcerated in Federal prison for his part in Watergate.

Liddy has since become an accomplished orator. His energetic speaking style left an impression on an area of the legislative halls. He lectured without notes, and before speaking had the stage cleared of everything except himself and his microphone, which he spoke into while speaking. Liddy paced back and forth like a televangelist. And Liddy pulled no punches. After being introduced by his son, Thomas, (FLC '92), Liddy’s first comment was, “What a wonderful introduction. Usually all I get before speaking is “Will the defendant please rise.””

During the course of the lecture, Liddy’s rather unique political philosophies often visibly disgusted some members of the audience, several of whom left the auditorium during the course of the speech. For the most part, however, Liddy captivated his audience and held their attention for the full length of his discourse despite its unusual length. He accomplished this rather well by presenting a speech that was basically a string of jokes and humorous anecdotes fundamentally devoid of political philosophical in-dulgences. This judicious use of humor served to relieve much of the tension created by the politically explosive nature of his comments.

Continued on page 7

Public Interest

Continued from page 1

its modest endowment of $9 million. The money will be used primarily for academic enrichment and student financial assistance. The first $1 million, however, was raised by Feerick for an endowment to Fordham Law School enrichment and student financial assistance.

In February 1988, Thomas Linguanti '87 proposed the Fordham Law Assistance Program (FLAP) to "help the most needy and the most dedicated [Fordham Law] graduates" meet their financial responsibilities. "The options for a graduating student are no longer primarily determined by [his or her] talents or achievements, but by his or her financial burden and... starting salary," explained Linguanti. A program such as FLAP, he said, would be able to relieve some of that burden, thereby easing a student's course of study.

The following fall, Linguanti and Director of Financial Aid Jim McGough explained the proposal to the Fordham Law School Board of Visitors. The board unanimously recommended instituting some form of loan forgiveness program. Dean Feerick created the Financial Aid Committee, considered the proposal for loan forgiveness programs as well as scholarships.

The result—after twenty months, two faculty votes, and many insurmountable conflicts—is the Fordham Law School Loan Forgiveness Program. Fordham joins the law schools of Columbia, CUNY, and NYU, which have had loan forgiveness programs for several years.

Under the program's guidelines, a graduate who earns less than $35,000 in either of two principal areas, government service (including prosecutors and defense attorneys) and public interest (including public interest law and public service projects), could see us using the fellowship.

A "first step..." Professor Donald Sharpe.

Although the mechanics of the fund are still uncertain, Dean Feerick said he would like to invite the donors to help with its administration and "receive ideas from students on what to do with it."

Tom Schoenherr, the Career Planning Center's public interest specialist, feels strongly that Fordham should use some of the money to hire a full-time Public Interest Law Coordinator, as NYU has done with considerable success. Given the burgeoning student involvement in public service both during school and after graduation, Schoenherr feels that a coordinator could facilitate the development of a solid and successful public interest program at the Law School, thereby providing institutional support for students to investigate careers in public service.

The coordinator, who would be an attorney with a background in public interest law and student organizing, would be in charge of all student public interest activities and career planning. "Fordham would be able to keep the coordinator more than busy," said Schoenherr, who is by virtue of his work with CPC probably more familiar with student interest in this area than anyone at the school. Schoenherr also noted that the coordinator would generate a substantial return on the investment in his or her salary by significantly increasing donations for the FSSF. This way, Schoenherr explained, "Fordham would be able to get extra mileage out of the Public Service Law Fund."

Schoenherr’s other suggestions for stretching the endowment include the establishment of scholarships and fellowship funds. The scholarship would aid incoming students dedicated to public interest law. "By recognizing the financial pressure that his a student from the very beginning," explained Schoenherr, "the scholarship would demonstrate Fordham’s concern for public interest in the form of financial commitment." The fellowship would be for a graduate, could be modeled on the Skadden Fellowship (available through the firm Skadden, Arps, Slate, Meagher & Flom) and would forgive all of a student’s loan burden and pay the student’s salary for the period of time covered by the fellowship award.

Fordham Law School Loan Forgiveness Program

In February 1988, Thomas Linguanti '87 proposed the Fordham Law Assistance Program (FLAP) to "help the most needy and the most dedicated [Fordham Law] graduates" meet their financial responsibilities. "The options for a graduating student are no longer primarily determined by [his or her] talents or achievements, but by his or her financial burden and... starting salary," explained Linguanti. A program such as FLAP, he said, would be able to relieve some of that burden, thereby easing a student's course of study.

Continued on page 8
A lot of campus rapes start here.

Whenever there's drinking or drugs, things can get out of hand. So it's no surprise that many campus rapes involve alcohol. But you should know that under any circumstances, sex without the other person's consent is considered rape. A felony, punishable by prison. And drinking is no excuse.

That's why, when you party, it's good to know what your limits are. You see, a little sobering thought now can save you from a big problem later.
Getting the Subway Back on Track

by Steven A. Budin

While standing on the subway platform at 72nd Street the other day, I overheard a conversation between a traveler and a Transit Authority employee who was re-painting a broken bench. "It's about time you fixed that bench," he said in a bitter tone of voice. The repairman did not respond. "It's been that way for two weeks." Now I see why the subway system is going to the dogs," he added further.

The repairman, with an angered and unappreciated employee, replied in a voice that everyone on the platform, including the police officer, could hear: "If you would have paid for your token instead of hopping the turnstile like I saw you do, maybe you would have enough guys to repair these things in one week instead of two." The police officer proceeded over to escort the farebeater out of the subway station.

It is no secret that the New York City subway system is at a crossroads: ridership is down, farebeating and crime is up. The system, with its 6,000 cars, 700 miles of track, and 3.5 million riders per day, is the largest in the world. It serves more people in one day than live in either Los Angeles or Chicago. For many, it is the only mode of affordable transportation. For others, it is the fastest and most convenient way of getting to work or school. The reason one has for riding the system, the one thing is for certain: it is essential to the survival of New York City as a business and cultural center to return the subway system to the level of performance it used to enjoy.

The Transit Authority is quick to point out its accomplishments over the past few years: 95% of the cars are now air-conditioned (when they are working), and 100% of the cars will be replaced or fully overhauled by 1992. The graffiti has also been removed from the subway system; its restoration was funded by riders who are running smoothly and which ones are not. The communication systems on the trains themselves must also be upgraded. Riders want to be told which stations the train is arriving at, before it gets there and they have to make a mad dash toward the door. An improved communication system will also allow riders to know why the trains stop between stations. Providing this information to the riders will prevent the anxiety that arises when they are left motionless in the dark for extended periods of time.

As the subway system might appear to a visitor, it is one of the most beautiful and clean stations of the way is a useful way to gauge which routes are running smoothly and which ones are not. The communication systems on the trains themselves must also be upgraded. Riders want to be told which stations the train is arriving at, before it gets there and they have to make a mad dash toward the door. An improved communication system will also allow riders to know why the trains stop between stations. Providing this information to the riders will prevent the anxiety that arises when they are left motionless in the dark for extended periods of time.

The Transit Authority must do more to improve the quality of the stations. People will not go to the subway if they are afraid of or disgusted by the station's appearance. For this the TA should turn to private businesses to help pay some of the bill. The Franklin Street stop on the 1/9 route is one of the most beautiful and clean stations of the entire system. Its restoration was funded by 6,000 corporations and businesses around the station. A similar plan should be adopted for all of the stations that are near businesses. Each business could be encouraged, through tax incentives, to contribute money towards station refurbishing. This also needs to be expanded to two or security guards to be placed at the station. The TA should also help the businesses in the long run. Businesses will be able to attract employees by ensuring that they can arrive to work from a clean and safe subway station. Ultimately, this will free up TA funds to repair stations located in purely residential neighborhoods.

The ancient tokens must be replaced by the magnetic farecard. Nothing is more frustrating than waiting in a token line while your train pulls up and out of the subway without you on it. By allowing riders to purchase pre-paid fares when the card is placed in the magazine reader, countless hours of waiting in lines will be avoided. Riders will be able to add funds to their cards at their own convenience, which will contribute to reducing the farebeating that goes on by riders who do not want to wait on long lines to buy tokens. In addition, the magnetic cards will be less "jammedable" because vandals will not be able to put in slugs or other pieces of metal that ruin the typical token turnstile. Adoption of the farecard system will also be cost-effective; it will allow the TA an immediate windfall from riders who will put $5 and $10 minimum deposits on their cards, leading to long-term revenue increases by reducing the number of riders that skip the fares.

The money that the TA immediately receives from the farecard system should be put towards improving train performance. Assuming the rider comes into the station and feels safe, he wants to know that the train will get him to his destination without delay. The TA must allocate a larger portion of its budget for its communication system. Communication systems on the platforms must be upgraded so the riders can be informed of delays before they get on a train. This will lead to better traffic flow on the platforms, as riders will immediately know which trains are running smoothly and which ones are not. The communication systems on the trains themselves must also be upgraded. Riders want to be told which stations the train is arriving at, before it gets there and they have to make a mad dash toward the door. An improved communication system will also allow riders to know why the trains stop between stations. Providing this information to the riders will prevent the anxiety that arises when they are left motionless in the dark for extended periods of time.

The TA must run trains more efficiently. The survey that is currently underway is a useful way to gauge which routes are used most frequently and at what times. Eventually, this information should be used to determine how best to provide adequate service.

Capital from businesses can help foot the bill for most of these initial improvements. windfalls from the initiation of the farecard system could also contribute if installed. With such an influx of money, the TA should be able to work quickly and efficiently to upgrade its system. With a little patience and perseverance, the New York City subway can regain its prominence.
Natural Law
Continued from page 5

According to Aragones, a divergence from Traditional Natural Law principles began with Machiavelli, was developed from Traditional Natural Law, What we have now is what can be termed "Neo-Natural Law"—the law as it is stated by Congress and our judges. We may not be expressly denying a connection between law and justice or assuming that one does not exist. Limiting ourselves to the facts we are presented,

...the problem with Aragones' approach is clear. Fordham students are not all "Westerners" in consultation with the theories of Western thought and culture. The assumption, of course, is that if we were to engage in such a study we would most likely share Mr. Aragones' sentiments about justice and morality.

The solution to this problem is clear. Fordham students are not all "Westerners," and the "unity" which forms Western thought and culture, the "truth," is a proposition that justice and morality are irrelevant for our purposes. Perhaps, we could do this because we are a professional school and it will not be useful in our career, or because it is a waste of time in general.

To provide a little more depth in analyzing a rule of law, Aragones would have us return to Traditional Natural Law, which coincidentally was the basis of orthodox Catholic teaching. Although Aragones has not shown what studying Traditional Natural Law would teach us, it would indeed entail methods of interpreting...
Taking Advantage of the Moot Court Experience

by Michele DePass

Perhaps one of the most rigorous, as well as rewarding, experiences available at Fordham Law School can be derived from participation in the various moot court competitions which take place throughout the year. Moot Court offers students the opportunity to get acquainted with the intensity of the litigation process, from the oftentimes frustrating stage of researching and writing briefs, to the exciting stages of preparing for and delivering oral arguments.

Many students become familiar with the William Hughes Mulligan and the I. Maurice Wormser moot court competitions, held in the summer and fall respectively, during their first year at Fordham. It is from these two intra-school competitions that the Moot Court Board is selected. Current Board members include Curtis C. Dowd, Editor-in-Chief; William Dahill, Managing Editor; and Linda J. Schechter, Inter-School Editor.

Until the final round of the Mulligan and Wormser competitions, proceeding are presided over by attorneys, usually Fordham Moot Court Board alumni. “Judges are not required to be litigators,” remarked Dowd. “Appellate advocacy is a persuasive discussion of law or what the law should be and litigators do not have a monopoly on that process.”

The final round of the competitions are judged by a panel of distinguished judges. For example, the final round of the Wormser competition held this fall was judged by Vice-Chancellor Jacobs of the Delaware Chancery Court, and Judges Sprizzo, Edelstein and Keenan, of the S.D.N.Y. “The judges are always favorably impressed by the finalists and comment that they are better than many of the attorneys that are before them,” said Dowd.

Lynn Duffy, ‘92, a member of the Moot Court Board, commented that the moot court experience is a great deal of fun. “The best part about being on the Board is that you get to learn about current legal issues while working on problems and briefs, and the judges’ comments on technique, substance, and style during the competitions are invaluable. Most people think that when they are being grilled by a judge, that they are doing poorly, but actually they are probably doing very well,” added Duffy.

Fordham’s 1990 National Moot Court Tournament team, made up of Mary Ellen Donnelly, Captain, Anne Britt, and Suzanne O’Leary, competed in the national competition sponsored by the American Bar Association. They practiced two to three hours a day with coach Professor Maria L. Marcus, Assistant Attorney General of New York State 1967-78 and Chief of the Litigation Bureau 1976-1978. The intense preparation has paid off in the past with several National Competition awards. At press time, they had won the regional finals to advance to the nationals in February.

Years representing Fordham will also compete in the Philip C. Jessup Moot Court Competition, sponsored by the International Law Student Association, the Robert F. Wagner Sr. Memorial Moot Court Competition, New York Law School’s Labor Law Competition; The J. Braxton Craven, Jr. Memorial Moot Court Competition, a constitutional law competition, sponsored by the University of North Carolina, at Chapel Hill; and the Cardozo-BMI National Entertainment and Communications Law Moot Court Competition.

The Moot Court Board, of course, sponsors Fordham’s own inter-school competition, known as The Irving R. Kaufman Securities Law Moot Court Competition. It is a spring competition that is limited to 32 teams nationwide. The Board has announced that Justice Antonin Scalia of the United States Supreme Court will be judging the final round with Judges Oakes, Pierce and McLaughlin of the Court of Appeals, Second Circuit.

This year the Fordham Moot Court Board sponsored an additional competition. Known as New York’s Mentor Moot Court Competition, it was held at Fordham and began on November 14th. The Mentor program pairs New York City law firms with high schools. Attorneys from the firms provide lectures at the schools and serve as coaches for moot court teams. The Fordham Moot Court Board developed and wrote the problem and the bench brief, and arranged for judges.

Because of its commitment to sponsoring quality competitions, the Fordham Moot Court Board is considered by the faculty and the administration to be a tremendous asset to the school. Through the various competitions, the board is able to pull the entire legal community together to provide Fordham students with the chance to develop necessary writing and advocacy skills. The Board strongly encourages all first, second and third year students to participate in the Moot Court experience.
Sobriety One Day at a Time—A Woman's Experience with Al-Anon—Second in a Series

Anonymous

I went away for the weekend to visit friends for three nights. I enjoyed myself. I made certain to call Joe every night to check on him and tell him I love him. Thursday night I called him, and told him. He never responded. I missed him. Joe said he missed me too, and sounded fine. Early Friday morning, he called me from work to say he loved me. Friday night into mid-Saturday, I couldn't reach him. Each time I called and he failed to answer, my heart sank. I knew something was wrong. I knew he was no longer sober. Late Saturday afternoon, I finally reached him. He was evasive, but not drunk and I felt relieved. When we hung up, I chastised myself for doubting him and thanked God for watching over us.

Sunday, Joe was an hour late picking me up from the train station. Each and every minute of that hour was hell. My stomach was tight with fear as I envisioned Joe drunk. I started to cry, and at last he admitted he was drinking more than usual. I had stolen from me this time to buy his habits. He came back into the kitchen and said I was a failure at Al-Anon, and I couldn't even practice the First Step successfully. They were very understanding and warm, and even laughed about the situation. I felt all the anger building up in me. I couldn't believe it. How could he do this? I was so furious, I felt myself for doubting him and thanking him. He was evasive, but not drunk and I felt relieved. When we hung up, I chastised myself for doubting him and thanked him. He was evasive, but not drunk and I felt relieved. When we hung up, I chastised myself for doubting him and thanked him. It was a failure at Al-Anon, and I couldn't even practice the First Step successfully. They were very understanding and warm, and even laughed about the situation. I felt all the anger building up in me. I couldn't believe it. How could he do this? I was so furious, I felt myself for doubting him and thanking him. He was evasive, but not drunk and I felt relieved. When we hung up, I chastised myself for doubting him and thanked him.

I made certain to call Joe every night to I knew it right away and yet I didn't check on him and tell him I love him. I want to believe it. How could he do this? I was so furious, I felt myself for doubting him and thanking him. He was evasive, but not drunk and I felt relieved. When we hung up, I chastised myself for doubting him and thanking him.

I went to my Al-Anon meeting the next night. We focused on the First Step again. We admitted we were powerless over alcohol—that our lives had become unmanageable. I listened more closely than I ever had before. Each person said something that I identified with. When it was my turn, I couldn't speak. I just cried and they let me. I told them I had tears that I had hit Joe when I found out he had failed in his sobriety. I told them I was a failure at Al-Anon, and I couldn't even practice the First Step successfully. They were very understanding and warm, and even laughed about the situation. I felt all the anger building up in me.

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Continued from page 7

Computer Glossary

Floppy Disk: A floppy disk is a plastic disk that can store information. It is one of the basic storage mediums for PCs. They come in two sizes: 514 inch and 314 inch and two densities: double and high. The question of what density to use is often a source of confusion and frustration for novice computer users, because a disk that is formatted high density will not work in an XT-class machine with a floppy drive that can only read double density. (see Formatting)

Formatting: To format a disk is to make the computer record a pattern of reference marks on it so that it can store information. A brand new diskette must always be formatted before it is used, and formatting a disk completely erases any information saved previously stored on it. Diskettes can be either formatted double or high density. A 514 double density diskette holds 600 bytes of information; a 514 high density diskette holds 1.2 megabytes of information; a 314 inch double density diskette holds 720 bytes of information, where its high density holds 1.44 megabytes of information.

If you need to use a diskette on both an XT machine and a 286 machine or better, make sure that you format the disk double density, which can be read by both machines. Be aware, however, that the format a command, when used on a 286 or 386 machine, will automatically format high density. If you want to format a disk double density on these machines use the following command: format a:/4.

Hard Disk Drive: A hard disk is a stor­age medium with much greater storage capacity than floppy disks, ranging in size from 10 megabytes to over 600 megabytes. A marvel of engineering; the rigid platters rotate at speeds of up to 3000 rpm. This allows the read-write heads to travel across the disk on a thin cushion of air without ever actually touching the disk. For this reason, a computer with a hard disk should never be moved while the computer is on. If moved, the read-write heads can touch the surface of the disk, causing serious damage to the disk.

Hard Drives work in conjunction with a harddrive controller, generally a separate card that plugs into an expansion slot. The newest drives are called IDE drives, and they have the controller built into the drive itself. When buying a drive, pay attention to its speed, which is measured in millionths of seconds. I know it may sound strange to say that there is a noticeable performance difference between a drive that operates at 19 millionths of a second versus a drive that operates at 65 millionths, but it's the truth so help me God. Basically, the faster the better, depending on the capabilities of your machine. If you have an XT, 65 is in fine. A 286 should have at least 28 ms drive and 386 machines cry out for a diskdrive that operates at 19 ms or faster.

Because they are the most complicated asters strikes. Do yourself a favor and don't learn this lesson the hard way.

2. Defragmentation: A disk becomes fragmented when many files are created and erased on it over a period of time. DOS does not find continuous space on the hard drive for a file. In other words, parts of the file can be scattered all over the disk, causing the head to skip over the disk and mak­ing access to the file slow. There are many utilities on the market that correct this condition by rearranging the files on the disk with contiguous, among them Norton Utilities, PC Tools and Disk Optimizer. Regular defragmenta­tion of the hard drive will prolong its life and prevent data errors.

Continued on page 17

The Advocate November 30, 1990

Page 10

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WE HAVE THE LISTS
Take in “Other People’s Money,” and Enjoy it!

by Renee Frohock

“Other People’s Money,” the new play by Jerry Sterner, is a wonderful, witty comedy about the slimy, debauched world of finance and corporate law. Sterner gives us a satirical look at the all-too-idealistic elders to the under-handed, money-oriented, cold-hearted modern day businessmen/women.

The play is driven by the character of Garfinkle, played by Dennis Predovic. Sterner is the standby for Steven Keats. An overweight, aggressive, manipulative, unprincipled financier, Garfinkle has set his sights on the New England Wire and Cable Company. The company, owned by Andrew Jorgenson (Arch Johnson), is one of those family hand-me-downs that Jorgenson runs with pride. Even though the wire and cable division of the company loses money each year, Jorgenson believes his 7,200 employees deserve the security of continuous work, despite the financial downturns. William Coles (James Murtagh) is the company’s manager, seemingly truthful to Jorgenson, yet really motivated by Jorgenson’s promise that in another two years he will sell the company and the company will be handed to him.

Coles is responsible for diverting the company beyond the wire and cable division, thus keeping it alive for at least another seven years. He is also the only one to see the trouble coming when Garfinkle makes his first visit. It is soon obvious that Garfinkle is not acquiring thousands of shares of the company’s stock to simply be the premiere stockholder.

Garfinkle aims to take over the company, dismantle it, and then sell it for profit. Jorgenson’s loyal secretary Bea (Jacqueline Brooks) must soon call upon her daughter Kate (Priscilla Lopez), a lawyer for Morgan Stanley, to come to the company’s aid. Jorgenson is not thrilled at the idea of a New York City lawyer coming into his little Rhode Island town. He disfavors both New York City and lawyers. “Lawyers are like taxi drivers,” he says, “they sit there and do nothing, and their meters are always running.”

Kate helps, not so much for the benefit of her mother or the company, but for her own career motives. Taking down Garfinkle is the opportunity of a lifetime. The antagonistic relationship that develops between Garfinkle and Kate provides the play with its most intense and sarcastic humor.

“Are you a—ing lawyer?” Garfinkle asks Kate. “Depends on who I’m with,” she replies.

The play is a downright dirty look at the moralistic, often unrealistic characters, contrasted with the hard reality of the company’s situation. Garfinkle’s desire to continuously make money at the expense of so many others is matched with the genuine alarm we feel for Coles, a man who has been robbed of his company, and the nurses and other employees who are also the perfect model of a man fighting Garfinkle at his own moralistic, often unrealistic standards.

We admire Kate, who may be driven by her own ambitions, but who is also the perfect opponent for a slime like Garfinkle. And finally, we feel for Coles, a man who has devoted many years of his life for the company, only to see it all go to waste. Jorgenson is much too idealistic to fight Garfinkle at his level. The play provides a satirical look at the high-powered world of Wall Street, contrasted with the small town ideals of a man like Andrew Jorgenson. All the actors portray their characters to perfection. We despise Garfinkle’s desire to continuously make money at the expense of so many others. We sympathy with Jorgenson’s desire to keep the company alive for the nurses and other employees who are also the perfect model of a man fighting Garfinkle at his own moralistic, often unrealistic standards.
Only our name has been changed to protect the innocent.

There's been a change at the Clients' Security Fund. It's in our name. We're now the New York Lawyers' Fund for Client Protection. What hasn't changed is our mission to protect law clients from the misuse of their money in the practice of law. While rare, theft by a lawyer erodes public trust in a profession that's proud of its good name and its high standards. Our fund—financed by lawyers—reimburses law clients who have suffered these losses, promptly and without cost. It's another way for lawyers to say that honesty in the practice of law is just as important to them as it is to their clients. Because protecting the innocent is more than just a privilege. It's our responsibility.
Public Interest Concluded

Continued from page 8

conservative law students at several schools. At Harvard, the Federalist Soci-
ety mounted a substantial campaign against the requirement prior to the student
refereendum. Lane Forseyte, a Fordham Federalist Society member, agreed
with Harvard’s group: "I certainly don’t like the idea of mandatory volunteerism.
I think people should do it, but I don’t think it ought to be mandatory."

If people "should" do it, they do not, say the pro-bono proponents. "The legal
profession is grossly failing to deliver," said consumer advocate Ralph Nader.
"Most lawyers are working for polluters and not the environment, for landlords
and not tenants, for management and not workers, for the wealthy and not the poor.
Under this campaign...law students around the country are working to change
that."

Do Fordham Students Really Care?

As Ed Wolfe noted, the increased activ-
ity in pro-bono and public interest law at
Fordham may attract a more diverse stu-
dent body in the future. But will it affect
the students currently enrolled at the
school?

To some degree, the public service fund
and the loan forgiveness program are re-
sults of student pressure on the administra-
tion to strengthen its commitment to com-
munity service. But the number of stu-
dents who actually voice these concerns
is only a small fraction of the total enroll-
ment.

While most students wrote about com-
mittance to public interest in their law
school applications (as corroborated by
Kathy Brady, Director of the Career Plan-
ning Center), for many those ideals either
faded or were never genuine to begin with,
as the jobs upon graduation indicate. Some
of these students cite overwhelming debt
as their reason for the change of heart.
However, many attorneys who have purs-
ced careers in public interest feel this is a
cop-out. "If you really want to do it, you’ll do it, no matter what," said one
Legal Services attorney with outstanding
loans from undergraduate, graduate, and
dlaw schools.

An informal survey indicated that even
students who continue to be vaguely com-
mitted to public interest law are not per-
suaded to pursue it wholeheartedly by the
new economic incentives at Fordham. Pro-

fessor Sharpe feels "students would probably never be satis-
fied" with increased financial support for
public interest unless the aid could
match the considerable salaries they will
earn at law firms.

Does the Law School Really Care? Some members of the Law School com-

munity feel strongly that one reason why
students abandon their ideas is in whole or
in part because an education at Fordham
rarely ever exposes the law student to
anything but corporate issues and cases
involving middle-class—and upper-class par-
ties. To the incoming law student, public
interest work appears to be fascinating,
challenging, and satisfying. But it is never
taught, and an academic process over-
haul's the student's values to the point
where he or she considers public interest
work to be repetitious and of little value.

Even though the public interest legal
field is vast, required courses include
almost no information that relates to pov-
erty, civil rights, and the economically
disadvantaged," said one frustrated
administer. "If we could just suggest to
professors that they incorporate examples about public interest law to
achieve parity, students wouldn’t be so
apt to accept the myth that public in-
terest law isn’t worthy of the intellectual
rigors of the classroom."

This cultural and economic bias is rein-
forced by the faculty, which is largely
white, upper-middle class, and male, as
well as by other students. "The majority
of peers in law school are from upper-middle
class families who have never been
exposed to the issues in public interest
law," said the administrator, "and the de-
mands of law school require that students
remain in a sort of "ivory tower."
Physi-
cally and intellectually, then, there is no
room for public interest."

In Making It and Breaking It, Robert
V. Butzer, a sociologist who enrolled in
law school, examined some of these issues
and found a high correlation between pub-
lic interest work during and after law
school. Students who worked at three jobs
in the public interest field during the
school were extremely likely to take public
interest jobs after graduating, while those
who had such two jobs during school were
less likely, and so on.

Fordham’s recent developments may be
changing the nature of a law school edu-
cation at this university. Students, faculty,
and administrators credit Dean Feinberg
with leading the way. His fundraising ef-
fort for the Public Service Law Fund is
quietly fized sections of the Code.

The frequency of the problem can be
estimated by reference to the number of
divorces and deaths of one spouse which
occur in any year. In each of these events,
it is likely that the other spouse will be
subject to some liability by reason of hav-
ing filed a joint return.

In many instances either the responsible
party or the estate of the responsible
spouse may satisfy the liability. However,

there are numerous instances when the re-
sponsible spouse cannot or will not satisfy
the liability. The normal response of an
attorney representing a client in a divorce
is to seek an indemnity agreement from
the opposing spouse for each year in which
a joint return was filed and the statute of
limitations is not yet exceeded. This, how-
ever, does not shift the burden from the
point of view of the IRS. They will still
pursue the remaining spouse if they cannot
collect the full amount from the other
spouse. For collection purposes, both
spouses remain fully jointly and severally
liable.

Under the tax rate schedule im-
plemented by the 1986 Tax Reform Act,
two unmarried individuals who each had
taxable incomes of $30,000 would pay a
total of $6559, or $3279.50 each. If the
two people were married and filed a joint
return, they would incur a tax bill total of
$7332.50 or $3666.25 each, 11.8 % more
than if they were unmarried. This extra
tax is referred to as "the marriage penalty
tax." If this same couple was married and
filed separately, their joint tax bill would
be the same as if they filed jointly.

Criminal Liability in a Joint Filing

An individual will only be criminally
liable for their own acts in filing a return.
However, if there is a violation of criminal
law on the return, the other spouse is cer-
tainly subject to investigation as to the
extent, if any of his or her contribution in such
filing. Essentially, if a fraudulent return is
filed and signed by both taxpayers, each
one of them must prove separately their
innocence: The specific issue and ultimate
liability will be determined by the concept
of "willfulness." Willfulness has vari-
obviously been defined as requiring an "evil
motive," "bad faith," "deliberate and not
accidental" or act done with "specific intent."

Significant consideration of the tax con-
sequences must accompany any decision
to marry. And even more significant
though must be given to filing a joint re-
turn with a spouse. There is no vow to
share joint tax liabilities.
DARE to DECLARE

As we head into the holiday season, we as a nation find ourselves in a not so merry predicament. The new world order that looked so promising last spring is facing its first challenge. Several hundred thousand of our fellow citizens are far from home, under arms and facing a pow- erful enemy; The Congress and the Execu- tion.

Saddam Hussein is attempting to shape the post cold war era. We have seen this shape before. The heavy hand is being used to "settle" a border dispute thousands of miles from Persia. Control of Kuwait has been wrested from the al-Sabah monarchy. The current Emir has had scores of wives (though never more than four at a time) and hundreds of children, not exactly a Yankee-doodle democrat. There is something in our collective gut that tells us not to trade American blood for Arab oil. The only reason we like Arab oil better than untapped American oil is that it is cheaper. If we have to send our brothers (and quite possibly our sisters) to their deaths, it is not much of a bargain. One would be correct to claim he is from Texas would trouble figuring out that at $45 a barrel, American oil is better for the economy than foreign oil we have to die for. When Secretary of State James Baker, another Texan, tells us the reason we have 400,000 troops in the Persian Gulf is "jobs" we know in our heart of hearts that the man who by now must have frequent flyer mileage to the moon and back, has just been working too hard and needs a vacation.

President Bush, now back from his hol- iday with the troops, should come before the nation and spell out a few things. The Iraqi invasion of Kuwait and the disruption in the oil markets are not the problem, but symptoms of the problem. The problem is Saddam Hussein and his expanding power, of mass destruction and willingness to use it. This megabolism has chemical and biological weapons with the ability to deliver them 400 miles from his border. He has 27.6 pounds of enriched uranium-235 and is within two to five years of perfect- ing an atomic bomb with a ballistic deliv- ery system with a range of 1200 miles. Sanctions will take at least another eight months to begin to weaken his war machine. Children and hostages will suf- fer immeasurably in that period of time. The political coalition Bush has so ardently built will crumble. This is a pay-me-now-or-pay-later deal and right now the price is relatively cheap. Bush should re- mind the nation that there are 900 Ameri- can ships being held hostage and an embassy under siege. Most importantly, the Presi- dent must go to the Congress and request a declaration of war. Constitutionally, it is the President's responsibility to set the foreign policy of the nation and the Con- gress to declare war. Accordingly, should the war declaration fail to pass, Bush should resign. To be sure, when he asks for the declaration he should have Dan Quayle stand right next to him saying: "Gee, George is that button on your desk just like Nintendo?" He will get his declara- tion, will be rid of Hussein and the Con- stitutional crisis over the war powers, which has been going on since Korea, will be resolved.

To the Editor:
The October 31st edition of The Advocate carried an article reporting my ap- pearance as the first speaker in the Dean's Lecture series.

It quoted me as saying: "If money had been spent on the war machine, and not for the war machine, the whole problem of the Middle East would have been solved."

I am not implying that I would have done anything illegal or even improper to resolve my son's case so that he would not have a felony conviction. I have many friends in Vermont but the only help I ever asked for was on the night of his arrest and it was to get the name of an attorney to rep- resent him.

As far as buying influence ... again not illegally. If I thought that having a courtroom packed with college students supporting John (we see it daily in New York City high profile cases) would have countered the impact of the national press presence, I would have brought them in. If I thought having Alan Dershowitz argue his appeal would have influenced the court, I would have hired him. If I thought that taking ads in the Burlington Free Press would have helped him, I would have bought the ads.

Like any other mother, I wish the whole thing had never happened. And like any other mother I wanted to help my son.

Like any other lawyer I explored every legal avenue available. I wish I could have been more successful.

Geraldine A. Ferraro

Editor's Note

My first year at Fordham Law School was challenging, and at times overwhelm- ing. In the midst of the hectic first-year schedule of preparing assignments, attend- ing classes and study-grouping, I came to know that I believe to be the typ- ical Fordham student, if such a creature exists. Generally speaking, Fordhamites are creative, disciplined and almost never at a loss for an opinion.

It is been and is the hope of The Ad- vocate to channel the talent and spirit of the Fordham student and the entire Law School community to promote the ex- change of ideas and, ultimately, the en- richment of our school. We have received tremendous support from the student body, faculty and the administration and look forward to your continued support. I would like to take this opportunity to thank the editors, staff writers and con- tributors for their hard work and dedica- tion to making The Advocate a quality publication.

On behalf of all of us at The Advocate, I wish students good luck on exams. We will return next semester with new and interesting features.

Marc-Philip Ferzan
Managing Editor

The Advocate

FORDHAM UNIVERSITY SCHOOL OF LAW

The Advocate is the official newspaper of Fordham Law School, published by the students of the school. The purpose of The Advocate is to report the news concerning the Fordham Law School community and developments in the legal profession, and to provide students with a medium for communication and expression of opinion. The Advocate does not necessarily concur with opinions expressed herein, and is not responsible for the opinions of individual authors or factual errors in contributions received.

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Specimens will be posted.

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Fordham: The Jesuit University of New York

by Daniel O'Toole

The Fordham University School of Law, despite its nominal ties to the Jesuit Order of the Society of Jesus, is almost entirely devoid of a Jesuit flavor. While Fordham Law has two Jesuit faculty members, the school itself lacks the spirit and feeling of a Jesuit institution. Jesuit schools are by design different from all other institutions of higher learning (including non-Jesuit, Catholic schools). It is the role and mission of a Jesuit institution to be distinctive. Fordham Law has failed to attain this goal.

Were an individual to enroll at Fordham Law without knowledge of its Jesuit roots or he or she could graduate without the slightest understanding of what differentiates a Jesuit school from its secular counterparts. As Fordham University celebrates its 150th anniversary, it is imperative that thought be given to the role of the Jesuit tradition in the legal education at Fordham.

Although an occasional Roman collar may be spotted in the Atrium, Fordham Law is essentially devoid of a Jesuit appearance. This no doubt has its advantages. One of the great strengths of Fordham law is the religious diversity of its student body. A recent questionnaire on discrimination conducted by The Advocate revealed the following religious affiliations at Fordham: 40.3% Catholic, 10.6% Protestant, 39.4% Jewish, and 9.1% other. While the precise accuracy of this questionnaire may be questioned, it nonetheless demonstrates that the religious composition of the student body at Fordham is comparable to that of other local law schools. It would appear that Fordham Law has fallen short of being the "Jesuit University of New York City" has succeeded in attracting members of non-Catholic faiths. This is a commendable achievement indeed as the quality of the student body at Fordham Law would undoubtedly suffer were Fordham known solely as a "Jesuit Law School."

Despite the benefits of religious diversity, Fordham Law appears to be indifferent to Jesuit values. Fordham Law School would be well advised to base its policies on its Jesuit roots. One Jesuit ideal is that the message of service be "induced" in Fordham Law philosophy: Fordham Law, however, should be distinguishable from its secular counterparts. It is possible for Fordham to retain a religiously unobtrusive atmosphere, deliver a top legal education, and remain true to its Jesuit ideals.

Though public service is no means deified at Fordham Law, it is far from thriving. One could argue that community service may very well begin to flourish in the wake of the recent $1 million gift by Joseph A. O'Hare, S.J., President of Fordham University, which has called service the "distinctive emblem" of the Jesuit tradition.

While by no means an exclusively Jesuit notion, the call to serve others has long been a hallmark of the Society of Jesus. As such, the ideal of service should be one of the cornerstones of legal education at Fordham. This is not to suggest that Fordham Law be "induced" in Fordham Law philosophy. Fordham Law, however, should be distinguishable from its secular counterparts. It is possible for Fordham to retain a religiously unobtrusive atmosphere, deliver a top legal education, and remain true to its Jesuit ideals.

One could argue that community service may very well begin to flourish in the wake of the recent $1 million gift by Joseph A. O'Hare, S.J., President of Fordham University, which has called service the "distinctive emblem" of the Jesuit tradition. Although an occasional Roman collar may be spotted in the Atrium, Fordham Law is comparable to that of other secular law schools.

In fact, the religious diversity of its student body at Fordham, Fordham Law serves to suggest that the Jesuit tradition has shaped Fordham University's first 150 years. For Fordham to continue to grow and prosper it must remember its roots and strive to remain true to its mission of service.

In addition to the pure virtue of public service, the positive public relations would also benefit the school. Fordham Law's national reputation would be enhanced if its devotion to public service was of a higher profile. A law school is not regarded by the legal community and the public at large solely on the basis of average LSAT's and GPA's; if that were the case Fordham would have faced much better in U.S. News & World Report's ranking of its law schools last year. While the survey was so flawed as to make it meaningless in scientific terms (the number of respondents was dismal low and the index for rating questionable) its significance should not be ignored as it was read by millions of people across the nation.

Service, a virtuous end in and of itself, can be "exploited" to better the reputation of Fordham. The tragic conditions under which many New Yorkers live, while deplorable, present great legal opportunities and challenges to Fordham. This occasion to once serve the community at large and the University should not be squandered.

Fordham should not be satisfied merely with placing its students with top law firms. The School of Law should be able to boast of much more than good job placement. A Fordham educated lawyer should be, per the Jesuit ideal, different from his or her peers. Fordham graduates should be known not solely for their exceptional legal skills, but also for their unswerving commitment to public service. This spirit is "true virtue" of public service and is a virtuous end in and of itself.

One could argue that community service may very well begin to flourish in the wake of the recent $1 million gift by Joseph A. O'Hare, S.J., President of Fordham University, which has called service the "distinctive emblem" of the Jesuit tradition. Though public service is no means deified at Fordham Law, it is far from thriving. One could argue that community service may very well begin to flourish in the wake of the recent $1 million gift by Joseph A. O'Hare, S.J., President of Fordham University, which has called service the "distinctive emblem" of the Jesuit tradition.

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New York Bar Review Course Summer 1990 Enrollments

Again this summer, BAR/BRI prepared more law school graduates for the New York Bar Exam than did all other bar review courses combined.

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There has been a universal appeal of environmental issues. Every one of us, after all, breathes the air, drinks the water and, at least occasionally, pondering the skies. We are all children and grandchildren. These issues have undeniably expanded far beyond the minds of the populace and into campaigns of politicians and the pocketbooks of industry.

Environmentalism clearly has entered the corporate mainstream. Was it a self-discipline, the increased awareness, increased legislative activity and a recent corporate awakening that has translated into a heightened need for environmental lawyers. This brave new breed of attorney will need to wear many hats in order to effectively promulgate the complex set of regulations mandated by Congress. The environmental criminal lawyer, the environmental labor lawyer, and the environmental civil rights lawyer are just a few of the roles which this new breed of attorney will play in an expanding and diverse area of law. To be an effective lawyer in this field will require not only a thorough knowledge of the substantive, but also a general understanding of the science, and economic and regulatory schemes.

In early November the Environmental Law Council and Report in conjunction with the Career Planning Center hosted an Environmental Law Career Dinner. The event focused on introducing Fordham Law students to diverse areas of environmental law through conversations with and presentations by attorneys who are currently practicing in the field. Over seventy students participated in the event. The turnout reflected the students' thirst for environmental career and substantive information. Ten attorneys representing a corporate executives and public awareness, increased legislation, and students ha.

The Greens of Fordham by Andrew Burke

The Advocate - November

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sometimes juvenile antics, however, must for its own self-interest, but the ideals of...

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The Fordham Law faculty also having tremendous support from the students in the journal's credo, Mr. Freedman refused to write forcefully about supposed laboratories of ideas, students should be to build upon the foundation of their education in a new elective to be offered at Fordham (which has a broad editor and several Jewish staffers) in identifying the culprits. Instead, he immediately rushed to condemn The Review in The New York Times. He also led a campus rally which led to death threats against members of The Review.

Why are administrators so afraid of their conservative critics that they feel the need to resort to fascist tactics? The answer is that they are threatened. They can't simply make minor (from their standpoint) concessions such as conceiving a special committee, special admissions policy, or special major to protect these few very privileges which the fledgling journals reject as invalid and unjust. The journals champion the cause of protecting western civilization and the college curricula. They write forcefully about the ineffectiveness and unfairness of affirmative action in admissions and hiring policies. How can the Establishment deal with a group that is not fighting for its own self-interest, but the ideals of fairness, justice and the integrity of the Western cultural and intellectual heritage?

Perhaps because they are losing in the market place of ideas, college administrators have tried to marginalize their opposition by labeling them as racists, homophobics, or whatever is most "politically incorrect" at the moment. So far, this labeling has effectively chilled open discussion on the campus. For example, are often too intimidated to openly question affirmative action for fear of being tagged racist. At universities, conservative critics that they feel the need about? They are afraid to publicly speak their minds.

Ultimately, the success of this name call-ling technique will depend on the courage and conviction of the students to stand and to speak their minds. They write forcefully about the ineffectiveness and unfairness of affirmative action in admissions and hiring policies. How can the Establishment deal with a group that is not fighting for its own self-interest, but the ideals of fairness, justice and the integrity of the Western cultural and intellectual heritage?

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The Dartmouth Review
Why I Hated College

by Caroline Marshall

The first time I was introduced to The Dartmouth Review was on my way into my first freshman class dinner at Dartmouth College. At the entrance to the dining hall a table was set up from which my first freshman class' dinner at a group of students were handing out free tee-shirts and newspapers. When the person in front of me reached the table the students asked for his name, found it on their list, checked it off and asked him what size he wore. They reached into the box behind them, pulled out a large and weekly supplement and asked him if he wanted a copy of their support group meeting.

At the meeting, unknown to the students, there was another group of students who attended the meeting. The meeting was a true story about an infant with a mohawk. When it was my turn I declined the tee-shirt and took the newspaper instead. Thus my first meal at my new school was spent reading why defective heart. In an effort to save her financial support from the university by Caroline Marshall

The Advocate

November 30, 1990

Page 17

Computer Glossary
Continued from page 10

3. Run the <Chkdsk /b> Command: After frequent use or when a program is interrupted during the creation of a file (i.e. you turn off the computer before properly exiting), lost clusters can result. Lost clusters are a group of disk sectors that are not marked as free but are not allocated to a file. They take up space and if left untreated, can cause serious damage to the drive. They can be periodically cleaned up by using the DOS <Chkdsk /b> command, or by using a utility program such as the Norton Disk Doctor.

RAM: RAM is an acronym for Random Access Memory, the computer's main memory for temporarily using and storing data. Be aware that data stored in RAM is temporary—it is gone forever when you turn off the PC or exit the application you are working in. For permanent storage, always save to a hard drive or floppy diskette. As you become more sophisticated with computers, you will undoubtedly discover one of the ironclad laws of computing: you can never have too much RAM. If you are buying a new PC, I strongly recommend that you get a minimum of 2 megabytes to start with, as this is the minimum required for multitasking.

I hope the following discussion has helped you sort out the various components of the IBM-compatible PC. If you have any questions about what I've just discussed, or any questions in general about PCs, please leave a note in my box or at the offices of the Advocate and I will respond to them as soon as possible. I also plan to answer commonly asked questions in my future columns. Until then, happy hacking.
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Natural Law Concluded

Continued from page 8

different problem. It is highly doubtful that we could all be forced to believe in the same ideas of justice and morality, not to mention Catholic orthodoxy.

Is it possible to avoid relativism? In order to teach Traditional Natural Law a someone will first have to articulate the principle of "objective" morality and justice as a step necessary because, as a fellow Fordham student pointed out, someone whose cultural background is non-Westen may not find "truths" to be the same as Aragonase. Because that person may not understand Traditional Natural Law on his or her own, he or she will have to receive explicit instruction on what the Traditional Natural Law is. This feat would entail posing objective and absolute truths, something on which even the Traditional Natural Law theorists could not come to perfect agreement. One of the only things that Traditional Natural Law theorists universally believe is, that their own picture of perfect society is objectively and absolutely correct.

When someone at Fordham, perhaps Mr. Aragonase, is pressed for the perfect account of justice or morality, it would stand to be criticized and discussed. The end result, after vigorous debate, would inevitably be "I respect your beliefs although I do not agree with them." The problem for Aragonase is that at some moment another view is tolerated as possibly true, the notion that morals are "absolute" is gone and relativism is in play; there is no getting around it.

Relativism is a tool essential to the Socratic Method. Dialectic, in the early Platonic dialogues, was the question and answer game whereby Socrates would approach a subject professing to know something with certainty and pose question after question to his pupil, eventually leading the student into self-contradiction and a state of utter confusion. This state of inability to answer was a fundamental part of Socrates' method. Socrates himself denied absolute knowledge of any kind.

Applying this principle to class discussions, there is nothing wrong with putting two ideas beside each other, going through an exhaustive discussion, and concluding that they are virtually irrefutable. Why must we believe that there is a reconciling answer? To come out of law school thinking that there is an answer to all questions of justice is naive at best. We, as lawyers, must be prepared for anything.

Our minds must be flexible enough to rebut unpredictable arguments that embrace unpredictable moral values. We cannot assume that a perfect and orderly structure which law really exists as we find them in our textbooks. Ask any practicing attorney and the will tell you that it is virtually impossible to predict how even a non-jury trial will come out. This is, in fact, what we are taught in law school: never be too certain about anything.

Is there anything wrong with a professor asking a student's question with: Well, scholar A says X, scholar B says Y, scholar C says Z, but who knows? To each a way in that students may perceive tradition and status quo, but it also creates students who do have fluidity of thought.

SOLUTION

Aragonase advocates an adoption of the Traditional Natural Law approach. Such a solution seems "natural" to Aragonase since Fordham is a Catholic school. But his logic is askew and does not reflect the demographic realities of the student populace.

On the other hand, a purely objective study would not meet the depth of the minds of our student body. While the "black letter" provides an adequate education for practical purposes, it does not provide a historical, philosophical, or moral background for the law. In short, it is not thought provoking. Instead, Fordham should adopt principles of the Neo-Natural Law, of the kind embraced by Justice Brennan and Judge Cardozo.

In terms of structure for our school, teaching Neo-Natural Law required exercises which allow a student to learn the philosophical and historical background of morally-bound words such as "reasonable" or "justice." In the classroom, Neo-Natural Law requires students to seriously consider their consciences. What it requires from professors is a serious commitment to the Dialectic and a respect for the views of students. The recurring questions would be: "What is the judge assuming about the nature of humankind and morality?"; "What are the moral consequences of such a rule?" While such a study would still require an education in the positive law, it would go beyond the "black letter" to inquire into the moral ramifications of each rule, much in the way that Law and Economics inquires into the economic consequences of a particular rule.

A recurring course objective would be to inquire into particular judge's view of morality and the nature of human beings.

It requires an analysis of the moral consensus at the time and place of a particular opinion or statute in order to discover why a case held the way it did.

Indeed, the Neo-Natural Law can be sued to explain the positive law much like Law and Economics attempts to explain the case law by way of economics. For example, one view of Neo-Natural Law could be that law is the result of the search for moral principles according to the perceived picture of human nature.

Strictly adhering to the existing positive law would not have resulted in a great deal of change. But because judges engaged in the exercise of Natural Law, the law changed with different "higher" moral principles depending on changing notions of human nature. Judge Cardozo and Justice Brennan are examples of those who embraced Natural Law principles. They consulted their moral conscience and their understanding of human nature in making judicial rulings. Often, this entailed departure from the strict legal text or strict precedent rooted in the positive law.

To give one example, Judge Cardozo, in Allegheny College, was confronted with the problem of precedent that, when applied to the facts at hand, was against his moral conscience. Defendant's deceased, Mary Yates Johnson, had made a solemn charitable pledge to Allegheny College for which there was no consideration. As Fordham Professor Edward orio points out in his Contracts course, Cardozo "turned the world upside down to find a bargain." The bargain theory for enforcing contracts was clearly not in play, but Cardozo's moral conscience was. Several decades later, the Second Restatement of Contracts adopted this moral principle and urged enforcement charitable pledges without requiring consideration or reliance.

In conclusion, Neo-Natural Law principles encourage students to: (1) engage in the Dialectic and (2) consult their moral conscience. Adopting these principles would give Fordham Law School a better sense of identity than "the friendly place to go to get a good job."
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BECAUSE WE’RE THE
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