Fordham Welcomes New Faculty

by Sharyn Stein

In its continuing effort to achieve national recognition, Fordham Law School is proud to welcome five new professors this year. Keeping with its efforts to enrich the school's curriculum, thereby improving its reputation, Fordham introduces Deborah W. Denno, James E. Fleming, William M. Treanor, Eric E. Bergstein—the Bacon-Kilkeny Distinguished Visiting Professor, and Victor Brudney—the John M. Olin Visiting Professor in Law and Economics. These professors bring with them diverse perspectives, innovative techniques and varied expertise.

Deborah W. Denno, who will teach criminal law classes, comes to Fordham with an impressive set of credentials. Denno has a B.A. from the University of Toronto (Criminology), and a Ph.D. from Warton (Sociology) in addition to her J.D. from the University of Pennsylvania system. She has published prolifically on the criminal justice system and on the biosocial factors related to delinquency and crime. She is excited to bring her unique multidisciplinary perspective to her students and looks forward to teaching the "Social Science and the Law" seminar next semester.

James E. Fleming also rests his legal philosophy in a discipline other than the law. In addition to graduating Harvard Law School magna cum laude, he received his B.A. from the University of Missouri and both an M.A. and Ph.D. from Princeton University all in political science. Fleming believes that law school occupies a precarious position between being a trade school on the one hand and, on the other hand being akin to an arts and science department at a University. He feels that law schools are torn between commitments to professionalism and intellectual aspirations. He asserts, "I practiced litigation at Cravath, Swaine & Moore for several years and wrote a Ph.D. dissertation on Constitutional Theory and so I hope I can help fulfill both aspects of the law school's mission as well as contribute to the reconciliation of these conflicting pulls." Fleming, who has co-authored a casebook on constitutional law, explains, "It's my research in constitutional theory I'm especially interested in exploring political philosophy and the foundations of constitutional rights. Questions in constitutional law are not merely questions of doctrine but also, and more fundamentally, questions of interpretation or justification." Fleming will be teaching Constitutional Law, Constitutional Theory and Remedies.

From left to right: Professors Denno, Brudney and Treanor.

William M. Treanor is an historical scholar. At present he is working on his Ph.D. in American history at Harvard University while teaching History, here, at Fordham. The historical work he has done has been in the evolution of property and its role in the constitutional system. He is excited to bring this element, of what might otherwise be a dry subject, into the classroom.

CPC Addresses Market Conditions

An interview with Career Planning Director Kathleen Brady

by Steven A. Budin

Q. How bad is the job market?

A. I don't think the market is as bad as people think it is. But it is not as good as it was during the boom years of the 80s. A lot of firms are cutting back. The number of schedule one-on-campus interviews are down. There are a lot of ugly rumors floating around, however. I've heard students saying that it is down over 50%, or only one-third of the class of '91 found jobs. These rumors are simply not true. The reality is that we are working harder to maintain our levels. Employers who have come here before are filling their needs through their summer programs and others simply have not gotten the interest from our students that brings them back. The good news is that it is only the more visible firms that are cutting back. There are plenty of opportunities in other places. The difficulty here is that people have to go looking for these opportunities because smaller firms don't have large recruiting offices. Smaller firms supposed to have was no longer available. This year all of the firms are more realistic of hiring needs, so there will not be any surprises.

Q. How would you recommend a job search given that the traditional methods have become much more difficult?

A. Students have to realize that they cannot depend totally on the high paying job. It is about looking at yourself and realizing your talents and finding where you will be happiest. People are saying "maybe the big firms aren't as secure as they used to be, maybe you don't have to start there. People are now taking their career choices more seriously. People are also starting to learn how to find a job. The average lawyer changes jobs 5-7 times during his career. It is not always going to be putting a resume in a folder and showing up for an interview. This will teach the skills needed to find a job. The bad thing about this whole thing is the anxiety that is created. I wish people would relax.

Q. When do the firms that do not come on campus normally hire?

A. Things go in waves. The big firms tend to want to do everything before the December 15th deadline.
The Sanitization of Clarence Thomas

The confirmation hearings of Judge Clarence Thomas serve as an example of the sanitization of a potential man for all seasons (We hesitate to use a phrase applied to St. Thomas More, for his was an example that Judge Thomas has not heeded). The Advocate supports President Bush's nomination of Judge Clarence Thomas to the Supreme Court of the United States. We have, however, found his testimony to be less than forthright and very disappointing.

Thomas has qualified his views on natural law to the point of absurdity. He has dodged his prior statements rather unartfully (to paraphrase Senator Biden) and we dare say shamelessly. He has done so for a reason.

Judge Thomas, with the memory of Robert Bork fresh in his memory, realizes that the Senate Judiciary Committee is not interested (nor are most capable of understanding) a substantive discussion of the philosophical underpinnings of constitutional adjudication. The Committee does not seek to unravel the true meaning of natural law and the role such value system would play in Judge Thomas' decision-making.

Ultimately, the hearings are about politics. Those who support Thomas, seek to canonize him as the quintessential "pull yourself up by your bootstraps" individual. In their effort, they avoid all meaningful questioning of "their" candidate and project his opponents as "unfair" bullies who don't understand the proper scope of questioning. To an extent the Republican members of the Committee are absolutely justified in their handling of the process. They are correct in their conclusion that Judge Clarence Thomas would be a credit to the Court. They are right that his opponents do not respect the necessity that a judge remain impartial, and that such impartiality is compromised by issuing a stance on a particular issue prior to adjudication.

The entire Committee, however, and Judge Thomas himself, do the process and their nation a great disservice in allowing the important philosophical tenets at stake in his nomination to remain undisclosed and misunderstood. The integrity of the confirmation process and all those parties to it (including, not insignificantly, the American people) is compromised by the sanitization of Thomas' nomination. The hearings should be the philosophical equivalent of a drag-out brawl. Thomas should have the courage to express his beliefs in a complete and honest manner, thus educating the Committee and the nation. Committee members should be fair and thorough. Why is this not happening on Capitol Hill?

Judge Thomas and his supporters realize that the last Supreme Court nominee to testify honestly and substantially was crucified for his efforts. Robert Bork is not serving on the Supreme Court of the United States for one simple reason: He was true to his conscience and testified honestly. The process will never be the same.

Clarence Thomas, and Justice David Souter before him, learned the lesson of Robert Bork. Placate interrogators. Dilute potentially unpopular stances. Win confirmation at all costs. Such a simple clean equation. The problem with the Thomas/Souter equation is that both men sanitized themselves to stave off attack. In doing so they have compromised their integrity.

Of the three men: Robert Bork, Clarence Thomas, and David Souter, Bork may be the only true statesman of the lot. A statesman remains true to his beliefs in the face of adversity. A statesman remains true to his conscience. Clarence Thomas is anachronism for all seasons. He will win confirmation for his pliability; yet another mediocre man leading a nation of lambs.

A Call for Mature Dialogue

Last spring Dan O'Toole wrote a column for The Advocate discussing the relative merits of affirmative action and quotas. The basic thesis of the piece was that racism, although prevalent in the United States, often serves as an excuse mechanism for minorities and prevents them from achieving their full potential. O'Toole argued that affirmative action programs and quotas are entitlements which cripple the human spirit and serve to perpetuate the notion that minorities cannot compete on an even playing field.

Also last spring, Lane Forsythe, under the heading "Facts for the non-existent debate on affirmative action" noted that a study of ten leading law schools showed that the average grade of their black students was at the 8th percentile.

The reaction to O'Toole's and Forsythe's columns has been troubling. The Fordham University Black Law Students Association (BLSA) wrote an unsubstantiated ad hominem attack, implying that O'Toole and Forsythe are "latent" racists. Acknowledging that the issue of affirmative action is complicated, BLSA pledged to respond in full in the next issue of The Advocate: The Advocate has not yet received BLSA's promised response.

Racism is defined by the Oxford American Dictionary as: "1. belief in the superiority of a particular race. 2. antagonism between people of different races. 3. the theory that human abilities are determined by race." The Advocate respectfully requests BLSA to clarify their implication that the views expressed in the columns of last spring were "latently racist."

Racism is a vile and contemptible belief system. To insinuate that an individual is a racist, without substantiation is irresponsible, hurtful, and unproductive. It is our goal that The Advocate can provide a platform for Fordham students to freely express their views on their school community. It is our hope that this will be done in a thoughtful and mature manner.

New Faculty

Continued from page 1

New York State Commission on Government Integrity for a year and then in the Iran-Contra Special Prosecutor's Office for five years.

Eric E. Bergsten is the recipient of the Bacon-Kikleney Chair of Law, only the sixth incumbent of this distinguished Visiting Professorship since the chair was inaugurated in 1980. The Chair was named for two of Fordham's most revered professors: the late George W. Bacon, an authority on the law of sales and contracts, and the late Victor E. Kikleney, a noted proceduralist. Bergsten, another prolific author, has served on the United Nations Commission on International Trade Law (UNCITRAL) since 1975 and has acted as chief of the Office of Legal Affairs for the International Trade Law Branch since 1985. With this prestigious position comes singular experience, the benefits of which Bergsten intends to offer to his students. Bergsten, who holds a J.D. from the University of Michigan, an M.A. from Georgetown, an M.Compl. from the University of Chicago and a D.Compl. from the University of Chicago, believes his perspective is extremely "relevant to students who are at law school in a city like New York." Bergsten will be a Visiting International Commercial Law Professor.

Victor Bradley is this year's John M. Olin Visiting Professor in Law and Economics. He has been teaching law in America's most prestigious schools since 1965. A Columbia Law School graduate, Bradley has been a Harvard Law School professor since 1970 and has taught at Stanford, Columbia, and Boston University law schools. Bradley is an expert in Corporate Law, Corporate Finance, and Securities Regulation.

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3. Specifics will be posted.
4. Submissions do not guarantee publication.

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Polonius Speaks...

by Professor Marc M. Arkin

So... if you have played your cards right—or to be absolutely precise, if your cards have been played right on your behalf—you have just begun a series which will bring you into intimate acquaintances with Panemyn v. Neff, Piecson v. Post (aka "The Fox Case") and three others of that ilk. 

Not to mention about thirty-five other people who, everyone tells you, are about to become your thirty-five closest friends; except, as far as you can tell the only thing all of you have in common is the first letter of your last names and the next three years.

In fact, as far as you can tell, the only thing that your classes have in common is that all the cases were decided before your grandparents were born—(the case of Piecson v. Post, about a hundred years before your grandparents were born, so long ago that people are using one another over a fox hunt that took place in the Queens.

And, you've probably spent the entire summer filling up on classics like "One L. and "The Great Chase," neither of which look nearly as good as "L.A. Law." Come to think of it, "L.A. Law" doesn't look so good at close range either, at least not after everyone you have told you every lawyer joke he or she knows (What do you call thirty lawyers in a cafe? A good start...). So now you are beginning to wonder how this happen to you... Or, perhaps, why did this happen to you... And, not least of all, what is about to happen to you?

The answer, according to Professor Kingsfield, is that you are going to learn to think like a lawyer. Unfortunately, according to the latest wisdom, lawyers think like everybody else, except they do it about peculiarily boring stuff. But, the law professor who made that discovery has only about five hundred closely set pages—and now sits on the federal bench for his troubles—used to have a different view. When he was actually in front of a classroom, he thought the purpose of legal education was to teach you to think like an economist. Hence "Law and Economics."

Other law professors appear to think that the purpose of a legal education is to teach you to think like Jacques Devrada, which is kind of sad because no one except American academics wants to think like Jacques Derrida anymore and if you ever write like Derrida in a brief you'd be out of court on your ear. As a reaction, a lot of other legal academics appear to believe that their mission in life is to teach you how to be a practicing lawyer, but unfortunately, only in the eighteenth century. If you are very lucky, maybe it will be the sixteenth... (Beware any law school exam question that begins "For purposes of this question, the date is before 1536..." A lot of things happened in England in 1536, including the destruction of the monasteries and the Statute of Uses, but did you ever think you'd have to know that to pass the bar? You do.

Trust me.)

Grade Conversions for the Class of 1992

by Jerry Choe

For those third-year students who have not seen a recent printout of their transcripts, they may be in for a surprise. Towards the end of the summer, all number grades were converted into letter grades. 

Many third-year students were erroneously under the impression that while the class of 1993 would receive letter grades, the class of '92 would remain in a number system. The problem, however, with maintaining dual systems was that in the 1991-92 academic year, second- and third-year students will have classes in common. The Administration, therefore, decided it would be more prudent to convert the class of '92 to the letter system as well.

The main question the conversion raises is whether it will in any way substantively change each students' record. The computer has converted the grades based upon the conversion tables as they are posted outside the registrar's office (e.g., 87-90 = A). After all grades are converted, a cumulative average is calculated on a four-point-three scale. The cumulative average for the class of 1992 may be lower than that for the class of 1993, but according to Associate Dean Cargone Vairo, that should not affect an individual's class standing. Therefore if your cumulative average appears much lower than you would expect, Dean Vairo's suggestion is not to fret. According to Vairo, a memorandum will be issued explaining the conversion, but in the meantime if you need a transcript and do not like your transcript as converted, the registrar's office gives you the option of a hand-written version of your transcript with all your former number grades.

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