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Wm. Mitchell College of Law
875 Summit Ave.
St. Paul, Minn. 551 05
Phone: 225-6753

STATEMENT OF POLICY

The William Mitchell Opinion is published by the Student Bar Association of the William Mitchell College of Law for the purpose of educating and informing Mitchell students and alumni of current issues and affairs of law and the law school. In furtherance of that purpose, the Opinion will present the views of any student, faculty member, alumni, or the administration. Because of space limitations in a tabloid newspaper, and because the Opinion strives for factually and accurate and stylistically uniform copy, all contributions are subject to editorial review and possible abridgment, although every effort is made to maintain a writer's original style.

The Opinion will endeavor to consider fully and thoughtfully all material to determine its relevance and appropriateness before publication Such consideration will be made with the assumption that freedom of the press within the law school is no less a fundamental right than outside the law school; and in view of the Opinion's recognized responsibility to the members of the student bar. practicing attorneys, and faculty and administration at the law school. Editorials represent only the opinion of their writers.

LSD SPONSORS GOVERNMENT INFORMATION CONFERENCE AND TRI-SCHOOL PARTY

"Accessibility and Protection of Government Information" is the topic of the 1978 Eighth Circuit Law Student Division Spring Conference set for March 31 at the Ramada Inn, Bloomington.

Sponsored jointly by Advanced Legal Education of Hamline University School of Law and the American Bar Association/Law Student Divisions (LSD) of William Mitchell College of Law, Hamline University School of Law and the University of Minnesota Law School, the program should be "outstanding," according to Mitchell's LSD representative Patti Bartlett.

Topics to be discussed include the Freedom of Information Act, Federal Sunshine/Privacy Act, data privacy and open meeting laws, and criminal justice records.

Faculty for the one-day seminar will include William J. Keppel (course moderator and lecturer, and attorney with Dorsey, Windhorst, Hannaford, Whitney and Halladay, Minneapolis), Sheila S. Fishman (special assistant attorney general for the State of Minnesota), Paul J. Tschida (superintendent of Minnesota's Bureau of Criminal -Apprehension) and Jack D. Novik (national staff council of the American Civil Liberties Union).

The spring conference will also include Eight Circuit business meetings, a banquet and a convention party sponsored by the three Twin Cities' law schools.

Student rate for the seminar and banquet (not including book) is $15. Admission to the party is free. A subsidy of $300 from the Mitchell administration has made the first thirty student tickets available for $5. These will be sold to Mitchell students on a first come basis. Registration is being held in the Used Bookstore. Additional dinner banquet tickets are also available for $10. Hamline School of Law has allocated $200 for similar use.

Practicing lawyers can receive 6.25 hours of credit by the Minnesota State Board of Continuing Legal Education. The cost is $60 for the seminar (including book) or $75 for the seminar and banquet.

"Due to the enhanced appeal to the law community, attendance is expected to be very good," according to Bartlett. "This will afford students in attendance the unique opportunity to meet the practicing attorney in a setting conducive to informal and beneficial communication. In addition to encouraging good relations between the practicing bar and the law student, the conference offers an ideal situation to gain practical knowledge about a particular area of the law."

During the evening banquet, the new LSD governor of the Eight Circuit will be presented and awards will be given. A speaker is also scheduled.

The annual three-school party, which will also be held at the Ramada Inn, will feature music by the 'd'gadband, a four-piece band. There will be free beer and a Cash bar.

Free transportation to the Ramada Inn can be arranged through the Used Bookstore. Parking is available at the Ramada Inn.

Also being held during the LSD spring conference will be the National Appellate Advocacy Competition at the University of Minnesota Law School. Although Mitchell did not prepare a team, there are several competition entries which will be judged in a four-round competition. Included in the reviewing panel are several Minnesota judges.

Also, interviews for LSD liaison position will be held March 31 and April I. Candidates who have submitted their application should check with Bartlett or watch the Mitchell Docket for further details.

The Law Student Division is a division of the American Bar Association, offering students law-related activities on a national level as well as "close to home" activities for the working law student, according to Bartlett.

Several organizations and people have donated time and money to the spring conference, including MAPS and the Minnesota Mutual Life Insurance Company. The Young Lawyers Division of the ABA has provided space in its newsletter.

IMAGE

Black and white, candid photograph captioned Patti Bartlett (Photo by Mike Weiner)

REGIONAL AWARD ONCE AGAIN OURS

For the second year in a row, William Mitchell has taken the Midwestern 'Regional Client Counseling Competition. Third year students Ruth McCaleb and Betsy Hoene out-counseled nine other teams at. the regional meet on March 10 at the University of Iowa Law School, Iowa City. Their performance has won them a spot in the national competition which will be held in San Diego on March 31/April 1.

The ten teams participating in the Iowa competition were divided into two sections of three teams each and one four-team section for the morning round. (Twelve teams had originally entered but Hamline and North Dakota failed to make the meet.) The same judges watched an ten teams who interviewed the same client. Following the morning round, one team from each of the three sections advanced to the afternoon finals. When the final vote was in, Ruth and Betsy were the winners.

This year's topic is Legal Malpractice. Preceding each interview, the team is given a very brief summary of the client's complaint. A thirty minute interview follows. The client then leaves and the team members have 15 minutes in which to discuss the issues and possible courses of action and to set out what they will do with regard to the particular client. They also have to simulate a dictation of a memo to the file within the 15 minute time period. The judges observe the total process.

The judges look for the following skills: setting the client at ease, controlling the interview and the client, eliciting all relevant facts, discussing both legal and nonlegal aspects with the client, determining fees and obtaining a retainer agreement.

Mel Goldberg is faculty advisor for the Client Counseling program. He worked with all the Mitchell teams in preparing for the school competition and accompanied McCaleb and Hoene to the regional meet. "He was absolutely invaluable especially when we were at the competition. He gave us helpful advice and was always confident even when we weren't," said McCaleb. McCaleb also acknowledged the guidance and advice of Barb Gislason, Mitchell's Client Counseling board representative, who was a member of the team which won last year's regional meet. Hoene and McCaleb both received support from the administration, faculty members, and, in particular, Ms. Joan Holland, secretary to the Client Counseling Competition.

Image

Black and white photograph of two women taking notes captioned: Betsy Hoene and Ruth McCaleb (Photo by Nancy Cavey)

CONVENTION SCHEDULE

Schedule of Events

8 a.m. Registration

8:45 a.m. Freedom of Information Act-Jack Novik; Overview (history, coverage, procedures for requests); Exceptions; Litigating FOIA

11:15 a.m. Coffee Break

11:30 a.m. Federal Sunshine/Privacy Act-William Keppel; Privacy (exceptions, interplay with FOIA); Sunshine Act

12:30 p.m. Lunch (on your own)

1:30 p.m.: State Data Privacy/Open Meeting; Data Privacy with Sheila Fishman; Open Meeting

3:00 p.m. Coffee Break

3:15 p.m. Criminal Justice Records-Paul Tschida

4:15 p.m. Question and answer session

4:30 p.m. LSD business meeting-election

6 p.m. Banquet

7:30 p.m. Three School Convention Party live band)

DEAN BURTON RESIGNS

Dean Bruce W. Burton hopes to stay in the academic field when he leaves his post in the spring of 1980 after five years as the school's top administrator. Burton, in a letter to the William Mitchell College of Law Board of Trustees earlier this month, announced that he will not continue to serve as dean beyond the expiration of his present contract.

When queried about his plans, Burton said he will "probably not" go back into private law practice and would like to stay in the academic field, although he is not prepared to make a decision at this time. Burton did add that he is working on a book "for use in legal education" which he wants to finish.

In a prepared statement issued earlier this month, Burton expressed high personal regard for the board of trustees, faculty, alumni and student body of Mitchell.

I believe the future of [Mitchell] is very bright indeed," he said in his letter of notice.

"It is very gratifying to me that a new campus has been acquired, renovated and paid for in such a short time. During the past few years, gifts and pledges and promises of testamentary dispositions of nearly $4 million have been generated," he stated.

Judge Ronald E. Hachey, president of the board of trustees, expressed his personal appreciation for the dedicated leadership Dean Burton has given the school during the transition to the new building and the start of the school's first major fund-raising effort in its 79-year history.

Formerly located across Summit Avenue from the College of St. Thomas, Mitchell acquired the former Our Lady of Peace High School and Convent on Summit Avenue and Victoria in 1975.

EDITORIAL | WHAT HAPPENED

This issue of the Opinion will be the last one mailed out to Mitchell alumni this year unless there is a change in policy by either the administration or the SBA.

In the past, the Opinion has been supported by money from advertising revenue, the SBA, and the administration. The administration has also contributed partial tuition waivers for the editors, office space and use of their mailing permit. Last year the administration gave the Opinion about $2000 in cash to help cover production expenses. For this school year they have contributed about $250 in cash.

In January the administration informed us that we could no longer use the school's mailing permit number to mail out the Opinion. In addition, we were told that they would not contribute any further money this year to the paper.

These actions were taken by the administration because of the controversy surrounding the Hearsay column in the October issue. Following publication of that issue we printed a retraction that appeared in a reprint of the same issue. At 4hat time the Opinion, the SBA and the school were threatened with a lawsuit. The Opinion and the school took action by consulting different lawyers.

Because of this experience, the administration sought to avoid the possibility of any legal liability to the college arising out of future issues of the Opinion. They took steps to minimize ties between the two organizations. One step was that Dean Burton stopped writing his column for the paper.

An additional reason why funds were cut off, according to a letter from the administration to us, was because they had overspent the money budgeted for the Opinion. (Perhaps this was spent on attorney's fees to protect themselves from possible legal action which we believe amount to over $1000.)

Because of the loss of the mailing permit number as well as loss of further financial support from the administration, we decided not to mail out our February issue to the alumni. Without access to a cheaper mailing permit the cost of mailing out one issue would be about $300, triple what we were paying before. Without this financial support we had to make cutbacks. The SBA discussed this situation at its March 10th meeting and voted to have the current March issue mailed out to the alumni with an explanation as to why the February issue and future issues will not be sent out. The SBA also voted to give the Opinion enough money to publish its March and April issues.

We don't like cutting off the alumni like this but we feel that without the financial support of the administration it is

a decision that we must make. We would appreciate any comments from the alumni about this decision. It is hard for us to judge how much interest there is among the alumni in receiving the Opinion. We will continue to send out the Opinion to those alumni who write us a letter requesting it. But for 1hose we do not hear from, this is your last Opinion this year.

The school's lawyer is currently preparing a written contract which will clarify the legal relationship between the administration and the SBA; The contract will also deal with the legal relationship between the Opinion and the school. We do not know what the contract will say but we support the idea. Such a contract will hopefully insulate the school from any legal liability arising out of publication of the Opinion and provide for future financial support for the paper as well.

We think it is in the best interests of the entire William Mitchell community: the administration, faculty, students, alumni, and board of trustees, for the school to continue to share in funding the Opinion.

The trustees are due to review the proposed contract at their June meeting. T.C.

SOME THOUGHTS ON LEGAL WRITING

by Carol Jacobson

Legal writing is, or should be, essentially a composition course teaching writing as it is to be used in legal work. It should be taught as a specialist form with a specialist function. The form is evinced in all its various aspects in briefs, opinions, memoranda, etc. The function is to express, in as concise, brief, clear, persuasive, and self-explanatory a form as possible, what the lawyer means. It can, perhaps, be most easily compared to journalistic writing in which the sacred five interrogatory "W's" (Who, What, When, Where, Why-speculative) are to be clearly set forth. in much the same manner, but more complicatedly, legal writing is to set forth the pertinent facts, the relevant law, the overriding policy, and the desired conclusion. It is seldom, if ever, a style with which a law student arrives at law school naturally equipped therefore, it must be taught.

There are, I think, two distinct parts that need to be incorporated in a legal writing course. First, such a course should be teaching the students the fine points of this specialist form of composition. There should be practice in sentence structure, vocabulary choice, logical sequence, paragraphs, and the various complete styles of briefs, motions., and other legal papers. Students should be given examples of both good and bad legal expository writing to study, and to discuss in class, so that they learn to recognize what makes up good legal writing. They must be encouraged to emulate the good, and admonished from following the bad. Then, they should be given some tightly constructed and narrowly limited writing assignments for practice in the parts that make up a good legal composition.

Second, such a course would finish with a problem, or problems, freeing the students to pursue their own style of writing but necessarily providing them with most, or all, of the requisite background research. Research of cites and law takes time -especially for first-year students with their in expertise in researching and their limited amount of time. The course must not be allowed to degenerate into one in which 75 percent of the students' time is spent prowling through digests, encyclopedias, and reporters. This defeats the basic purpose of the course, which is to learn to write.

As for the organization of the, course, there are some basic absolutes. Classes will be small to give students the benefit of individual instruction. They should meet every week, with an assignment geared to fit the students' time schedule and class load. A student will learn nothing from an assignment which, because it is too long and complicated, has been written hastily and in panic during odd scraps of time. Assignments must be returned to the students, corrected and with comments, promptly. With no knowledge of results about what he has done, the student cannot improve.

The teacher is of central importance to the above. He or she must be dedicated to his/her class, have a good grasp of the skills involved. and be accessible. He/she must be a professional, not only in law but also in teaching. He/she will be a motivator, influencer, facilitator, and the single, most important person in the students' legal education. Writing is basic.

Carroll Jacobson is a first year student.

LETTER

Important Bananas

To the Editor:

There is a word used too often in this school and in this profession. It has carried more than its fair share of the load and deserves retirement.

From the moment a person enters law school, he or she must deal with "issues". A person must "locate the issues", "discuss the issues", "deal with the issues" and not be waylaid by "frivolous issues". There always seems to be a "main" issue and numerous other "ancillary" issues, not to mention issues which are contingent upon each other.

Publications at this school only aggravate this problem. The law review and newspaper publish so many "issues" a year, all the while raising ~issues", examining "issues" and focusing on "issues".

The administration provides little help. They "issue" exam numbers and student numbers and often deal with student-teacher "issues" or parking "issues", even ''issues" involving missing "issues" in the library. And, of course, the Student Bar Association is constantly embroiled in them.

Graduation provides no relief. The bar exam is literally filled with "issues" and an admitted member of the bar can plan on dealing with "issues" the rest of his or her life, just to make a buck. No wonder so many attorneys turn to drink, which is a perplexing issue in itself.

My proposal is modest. I suggest we leave the verb alone, so as to avoid disagreements with nouns. Rather, in the spirit of Economist Alfred Kahn, substitute the word "bananas" for the noun "issue". I would like nothing better than to read this last sentence in an exam: "Discuss all legal bananas involved."

Sincerely,

Tim Hassett
2nd year student

SBA PRESIDENT AL BONIN

Thanks Bob

In the past two years the SBA has made great strides both internally and in its impact on the college community. The many accomplishments of the SBA are a result of the cooperative effort of student representatives who have donated their time and energy in order to better the lot of some 1000 students at the college. While each student on the Board deserves special recognition for their efforts, one student whom I feel has done more for his fellow students than any other is Robert Gjorvad.

Bob's perfect attendance record on the Board of Governors of the SBA over the past two years, his position as treasurer of the SBA, and the countless number of major projects he has worked on and initiated are reason enough to earn him special recognition.

However, in my mind, he deserves special recognition for a far greater reason. Over the years, Bob took the responsibility for those things which no one else would undertake due to the tremendous time and effort involved. In undertaking activities such as the sports program at the college, which includes both softball and football, the semi-annual blood drives, and lending invaluable assistance to the speaker's programs, smokers and other major activities, he has served as the backbone of the SBA.

Bob's leadership, and advice was invaluable on numerous occasions where difficult decisions had to be made. He served as a model and inspiration to all those students who were fortunate enough to work closely with him. It is through his efforts as well as the efforts of so many other students on and off the board that we have been able to accomplish so much over the past two years.

IMAGE

Informal black and white photographic portrait captioned Bob Gjovad

NEW SBA ELECTED

The SBA board will hold its final meeting on Saturday, March 24 at 10 a.m. At the end of the meeting, the new SBA board will be seated.

William Mitchell students elected members of the new board during the week of March 12. The representatives for next year are:

Second Year: Robert Birnbaum, Brian Bolkcom, Keith Kerfeld, and Richard Ruvelson;

Third Year: Susan Bates, Dennis Brown, Mary Giuliani, and Joseph Pingatore;

Fourth Year: Nathaniel Alexander, Jody Bettenburg, Robert Groth, and Robert Plunkett.

Also elected were LSD Liaison Representative Patti Bartlett and Opinion Editor Jennifer Bloom.

First year representatives will be elected next fall.

The new SBA board will meet during the summer and throughout the next school year.

IMAGES

Five images grouped within the article; four informal “head shots” and one group photo of three young men captioned respectively, Robert Groth, Richard Ruvelson, Robert Plunkett, Dennis Brown, Brian Bolkcom, Robert Birnbaum, Keith Kerfeld. Photos by Nancy Cavey

NOTICE

Dear alumni,

You may have noticed that you didn't receive the February issue of the Opinion. You will also not be receiving the April issue. We regret to inform you that due to unforeseen expenses by the administration and the SBA we are forced to make this cutback. If you want to receive the April issue (or the February issue) write the Opinion and we will mail it out. We regret this interruption in service. We hope that we can resume regular delivery next fall. Once again, sorry for the inconvenience.

SBA

ATTENTION MALE AND FEMALE PART-TIME LAWYERS:

Are you currently practicing law on a part-time or flexible time basis in a private-law firm, in a corporation, or in the public sector? Or do you know of anyone doing o? The Minnesota Women Lawyers' Association would like to speak with all such lawyers regarding their work arrangements. lf you are willing to discuss your arrangements, please call Karen (612) 339-4911 Ext. 269, or write to M.W.L.A., c/o 33 South Fifth Street, Minneapolis, Minnesota 55402, Attention Karen Dincau.

WHAT'S A STUDENT TO DO?

By Rob Plunkett

It is quite clear that attorneys have an ethical responsibility to render to their clients competent legal services. Should it not follow that law professors are ethically required to provide competent legal instruction to their students?

Law students, after all, pay tuition in order to obtain the services of pedagogical attorneys and instructor's salaries are substantially paid out of funds received as tuition. Why is it that students cannot obtain the same high standards of practice that the public is entitled to?

If the public is incompetently represented, they may bring malpractice actions. If law students are incompetently instructed, their recourse is, as one professor describes it, to push the "tough shit" button.

The administrators of William Mitchell are subject to the provisions of the Code of Professional Responsibility. This is so because they are lawyers as well as administrators. The Code does not distinguish between those who provide legal instruction and those who provide legal services. Ethical Consideration 1-1 provides that it is the ethical responsibility of every lawyer to maintain the integrity and improve the competence of the bar to meet the highest standards. It is hard to see how the competence of the bar is improved by the retention of incompetent instructors.

EC 1-2 states that the public should be protected from those who are not qualified to be lawyers by reason of a deficiency in education. It is the school's responsibility to provide a sufficient education.

Students in corporations and other classes have recurrently complained about the quality of instruction. It appears that the school's standard of competency is below that which its students find acceptable. It is ironic that a professional school that prides itself on inculcating on its student high standards for professional practice, would be so insensitive to the demands of its students that it provide competent instruction. The school's conduct runs counter to the precepts of EC 1-2. Such conduct ridicules the students' efforts to obtain effective instruction.

Instructing clients on the law clearly constitutes handling a legal matter. It should not be any different that the attorney is instructing students on the law. The professor's practice of law consists of his teaching the same. DR 6-101 prohibits a lawyer from handling a legal matter which he or she knows or should know he or she is not competent to handle. EC 6-1 states " ... the lawyer should accept employment only in matters which he or she is or intends to become competent to handle." "Competent," in a teaching contest, must mean providing adequate instruction.

Where school administrators retain incompetent professors it would appears that the only real alternatives left to the students would be a legal malpractice action against the professors or an educational malpractice action against the school. At William Mitchell such an action should be maintained by the Student Bar Association in order to prevent retributive action against any one individual. It is unfortunate that this drastic action might be required in order to finally satisfy students' legitimate needs, but in view of the substantial tuition and keeping in mind the professional standards students shall soon be measured against, the students can no longer afford to get stuck with a "lemon" for a professor.

BOOK REVIEW: MINNESOTA DISCOVERY PRACTICE

A new "handbook of tactics and techniques for the practicing lawyer" authored by Professor Roger S. Haydock of the William Mitchell College. of Law and David F. Herr, Minneapolis attorney, called "Minnesota Discovery Practice" appears to be the first handbook relating solely to discovery in Minnesota. It is written with a tongue in cheek discussion of discovery and even the most fledgling of lawyers will find it easy to understand.

It is an excellent quick reference reminder with case citations relating to the Rules, their purposes, what they should be and are not, and what they could accomplish with a few basic amendments!

The section dealing with "Demeanor of Attorneys" and the purpose of deposition conduct and/or the need to look at it, are interesting comments by the author which everyone should read. The "waiving of the reading and waving of the signing of the transcript" are areas that even the , most knowledgeable of trial counsel tend to let slide. as the author points out, along with the reasons as to why and who should make such waivers if at all.

From the written discovery section to the old discovery, together with drafting techniques through medical privilege and the enforcement of "discovery rights" the book is easy reading and recommended for your trial library and as required reading for all young associates and paralegals who assist in preparation of answers to interrogatories.

Fred Allen
Reprinted with permission of the Minnesota Trial Lawyers Association

CARTOON

Three panel, pen and ink, black and white illustrations.

Panel one: Two male characters speaking with each other. Person on left asking “What’s your specialty?”. Second character replies, “Incorporeal Hereditaments and drafting prefaces to admissions”

Panel two: Large angry man speaking with shorter man in suit (presumably his attorney). Shorter man saying, “I’m sorry but ‘In your ear with a bottle of beer’ is not an appropriate response”

Panel three: Attorney addressing a judge in a courtroom. Attorney is saying, “Your honor, the rules don’t allow more than two exclamation marks after each admission.”

MITCHELL GOES TO THEATER APRIL 7

Actor's Theatre of St! Paul presents "Two for the Seesaw", a play full of humor and compassion. The characters are Gittel, a dancer and Jerry, a down-on-his-luck lawyer. They join their lives and love in a struggle between the sexes. The play by William Gibson has charmed audiences for 20 years.

William Mitchell Night is Saturday, April 7 at 9:15 p.m. The professional theatre group is located on the St. Thomas campus.

SBA is sponsoring sales -tickets are $2.50 each -a very special rate! But tickets are limited. Inquire in the Used Book Store or ask your SBA rep.

Illustrations from Minnesota Discovery Practice

MARY LOUISE KLAS: BALANCING MULTIPLE ROLES

By Diane Dube

As a lawyer and mother of five children, Mary Louise Klas finds herself pulled in two directions: her children have emotional and psychological demands which have to be recognized and met, and she

herself has needs and abilities to be fulfilled'. Her response to this two-way split has been to “make accommodations and try to do the best I can in both areas. I recognize (the pull) in me and have accepted it. I deal with it day by day."

A 1960 graduate of William Mitchell College of Law (cum laude), Klas is now a partner in the firm Klas and Klas-her partner is husband Daniel Klas, also a Mitchell graduate. Her list of credentials includes half-time referee in Ramsey County District Court, Juvenile Division, active member of the Minnesota State Bar Association and Ramsey County Bar Association, member of the board of directors of Legal Assistance of Ramsey County and the advisory council of Minnesota Legal Services Corporation.

Throughout her years in the law (she married Daniel after their second year of law school, had their first child after their third year, and had their second child just after taking the state bar examination), Klas has meshed her interest in the law with her family. Her first few years out of law school, Klas practiced law out of her home, handling mostly real estate, probate and contract cases. In April 1963, when her second child was 16 months and her third on the way, Klas took on the duties of organizing the office of Governor Karl F. Rolvaag. The following year she was named to the Youth Conservation Commission, reviewing files and interviewing youths at juvenile and adult correctional institutions.

Then in 1973 when their youngest child was six years old, Daniel resigned from his position with the St. Paul city attorney's office and the couple opened their practice.

"It's worked out fairly well," Mary Louise Klas said of the husband and wife law firm. "We each have our own areas of expertise. We'd been married 15 years when we set up the joint office so there were no apprehensions [about conflicts]."

Her husband's role in their early child-rearing years was defined by two forces. First, for a young couple with two children, it made sense for one to have a steady income. Second, and more important in Klas' eyes, there were hang-ups" within her generation as to "what we expected of ourselves. I'm hopeful younger couples have more sensitivity to these roles." The Klas' decisions turned out "so _far so good" for their children, which Mary Louise credits to her and her husband's same point of view on goals in life and what they wanted for their children and themselves.

Asked about professors' attitudes towards female students (she was one of three women in class), Klas recalled three minor things: one professor never called on her during the first year and when asked about this midway in the second semester, his response was "I know you know the answer"; The professors cut out the jokes they normally told to all male classes; and some professors seemed to avoid or defer to women, but no attempt was made to make it harder on them.

"Since law school my sensitivities have been raised," Klas said when asked about the women's movement. "I've rebelled against differential treatment at times, but I wasn't faced with discrimination in employment, as I might have had I pounded the pavement after college."

She recalled, though, an incident on the Youth Conservation Commission when the governor appointed a second female to the traditionally all-male board. The board voted, in spite of her objection, to send only male board members to the male correctional facilities on the grounds that it would be devastating to those in mates to have two women on the parole board.

"But the board had no compunction about sending two males to the female institutions," Klas said. "The boxes our society puts us in are confining for all -men and women," she added.

Appointed a parttime referee in juvenile court in 1976, Klas initially handled all kinds of cases involving juveniles -delinquency petitions, traffic trials, dependency, neglect and child abuse hearings and trials. Only the termination and adoption proceedings were handled solely by the juvenile court judge. The 1978 legislature charged the procedure, limiting the types of cases heard by referees and requiring all actions to be counter-signed by the judge. Referees no longer hear dependency and neglect trials or delinquency petitions.

"In specialized areas of the law, especially family and juvenile court, where knowledge to make fair and equitable dispositions calls for more than just knowledge of the law, it's best if there is a cohesive philosophy towards the human problems brought before the court," Klas said of the referee-judge system. "In juvenile court, the purpose is to provide that which the child's own home can't provide." The emphasis is on the child's needs, so there are two reasons for using referees: It's important to have a consistent point of view throughout juvenile court and to have consistency in dealing with individual children who make repeated trips to juvenile court. A judge overseeing several referees can be sure there's consistency within the system and in handling each child, she said.

The trend in juvenile law is to make fewer dispositional alternatives available for handling status offenders, and to keep the "hardcore" offender away from the child who was merely truant. The problem with that, according to Klas, is that so many of the status offenders have committed offenses considered a crime for anyone 18 years of age or older. Also, sometimes the closing off of alternatives for status offenders has forced the court to bring the child in on criminal charges in order to get a need disposition.

"The court should be flexible enough to respond to the individual needs of the child," she said. "Each child is different. We need all ranges [of alternatives]. Minnesota's juvenile courts are good because of the range of resources available. Juvenile court has been diligent in its effort to provide the child with what is needed to get his life straightened out."

Klas doesn't agree with the myth that juvenile law is the traditional area for women: there weren't a Jot of women in the field when she started. But she does agree it's a different kind of law.

"Juvenile court is directed at the person~" she noted. "It's more enmeshed in human emotions and problems and less 'pure law.' In juvenile law cases, there are no easy answers. You're dealing with raw emotion-people living through crises -something for which most lawyers are untrained. When a male or female can't cope with himself or herself, how can he or she give the child what is needed?"

In the area of divorces, Klas believes it can be necessary for children to have legal representation, someone to advocate their own view and to view the proceedings from their point of view. Asked about the changes in Minnesota's divorce Jaw, Klas said she hasn't had the opportunity to study all the amendments. However, in the area of custody, she noted that the courts have in the past looked at parental activity, and effect on the children, although such considerations were not so clearly spelled out as they are in the new law.

The referee-judge system in juvenile court may not be long lived. The legislature has asked the state judicial committee to report on the need for the system. Klas' own term expires at the end of this year.

That may work out best for her at this time. Her private practice and parttime referee , position amount to one and a half fulltime jobs which she finds too demanding.

Mentioned for the Minnesota Supreme Court vacancy to which Rosalie Wah! was ultimately appointed, Klas said she would enjoy being a judge.

"I enjoy the fact-finding process the trial court entails, and the challenge of listening and hearing carefully," she said. Klas has also been suggested for a seat on the Ramsey County Municipal Court and would like to be considered for one of the federal judgeships. She noted that many factors go into the appointment process and part of it is "being the right person at the right time."

Klas said she is pleased she went to law school and likes what she's doing.

"Know yourself," she advises female Jaw students. "Be comfortable with yourself. Have confidence and be assertive."

"I've always believed if a job is worth doing, it's worth doing well," she said when asked about her future. "I will look forward to doing that."

IMAGE

Informal, black and white photograph captioned Mary Louise Klas. Photo by Larry LaBonte

CARA LEE NEVILLE: SOLVING REAL-LIFE PUZZLES

By Diane Dube

"I never quite had my fill of mystery stories. I enjoy putting pieces together and solving things."' That is one reason why Cara Lee Neville decided to go into criminal law. A 1975 graduate of William Mitchell College of Law, Neville bas seen both sides of the table - as assistant county attorney and now as assistant public defender in Hennepin County.

Although she decided she wanted to be a lawyer quite early ("I wrote my first essay in ninth grade entitled "I want to be a lawyer"), it took three years of "ski bumming" and a long trek through night school at the University of Minnesota for an undergraduate degree in psychology (after a switch from business administration) before Neville ended up in law school. It was time worth taking off, she emphasizes. She wasn't happy with her job as manager of a restaurant after one year of junior college under her belt and she wanted to travel. During that three year stint, she married, decided to settle down and "went out of my mind." She went back to school at nights and worked during the day. Neville said she wanted to be a lawyer because it "sounded adventuresome" and, should she take over her father's business, it would be easier if she were a lawyer, rather than having to constantly seek one out for this business problem or that. When her father sold his Cannon Falls business, Neville switched her major from business administration to psychology. Criminology and penology courses got her hooked on criminal law.

At Mitchell, Neville's class of 300 had 25 women. Hers was the last class which faced a tough first year designed to separate the "wheat from the chaff' and her class ended up with 11 women out of 180. Neville doesn't recall any special attitudes toward the female students. There was always one professor

that students talked about as being chauvinistic, but that was minor. Neville was the first female elected SBA president, but she doesn't think her sex was a factor in her election.

Nor has her sex made a difference in the workplace. In the beginning, she said, clients may have been skeptical about her ability, but her reputation as a competent lawyer seems 'to overcome that. A couple of district court judges "maybe aren't quite used to women as trial lawyers," she added, "but on a personal basis, I get along with each."

As for the impact oil juries, Neville thinks it's "neat" being a female trial lawyer. "You've got their attention right off the bat and that's important," she said. "Once you get that, I find it's a great advantage."

During her second year at Mitchell, Neville worked at the county attorney's office. She was initially assigned to the file room and eventually, upon passing the bar, worked into an attorney position.

"I was awestruck by the whole thing," she said of her student days there. "I knew all the players; I knew all kinds of background about judges, clerks, the courthouse personnel. It was a super experience. I did anything just to be around to see how pleadings worked, how cases were drawn up, how to use the criminal code."

In February 1978, Neville took a six month stint in the public defender's office as part of an exchange program between ·that office and the county attorney's office., It was her first chance to do defense work since the misdemeanor and advanced defense clinics she took her third and fourth years at Mitchell. She returned to the county attorney's office in August, then accepted a supervisory spot at the public defender's office in October. She saw the job as a "chance to grow," and didn't find the switch from prosecution to defense difficult.

"You have to have compassion on both sides," Neville said. "You deal with people on both sides. The defendants up here could have been victims last week," she added.

As for criminal law being a macho, male field, Neville disagrees. "I've seen more women in criminal law than anything else in trial work," she said. "There are very few female civil trial lawyers." But then, she added, there aren't many women in trial work.

"I'd like to see more," Neville said. "[Trial work] is a more visible place. When people think of women lawyers, they think back in the stacks, not out front trying cases."

One of the things she enjoyed about Mitchell was its clinical program ("It's outstanding".) and the opportunity to work in the legal field while taking classes {"It's not the ivory tower"). But law school does take its toll in one's personal life.

"If there's a flaw in a marriage to start, it will be a great abyss by the end of the first year [of law school]," Neville said. "Law school doesn't create problems, it magnifies them. It calls for sacrifices on both sides." While in law school, Neville was divorced, then met and married a fellow law student, Monte Miller. Their honeymoon was in San Francisco where they attended the national convention of the Trial Lawyers' Association. At that time, Neville was executive director of the Minnesota chapter.

That trip is an example of how two professional people manage their time -by doing two or three things at one time." During law school, a social engagement could mean taking in a talk by someone in the legal field.

Now with a 19 month old child, Michael, efficiency of time is more important. Driving home from work together (Miller also recently joined the public defender's office after a stint in private practice) is the time to talk things out so work is behind them and family time begins when they get home with Michael.

Neville greets the frequent questions about family vs. career with an enthusiastic "You can handle both without problems." Neville believes she's a more interesting person at home because of this dimension of her life and says she looks forward to seeing her family at the end of the day. She took a 90 day leave when she gave birth, but found that staying home life. wasn't for her.

"Michael used to outlast me, time wise, and I was physically exhausted. I was ready to come back to work," Neville said. She enjoys her work, but admits a three quarter time job, not a full-time job, would be ideal.

With a full-time career (which includes professional organization activities) and a family, what gets eliminated?

"Sleep," she answered immediately. Grocery shopping becomes a family event. Laundry takes little time; but she hates cleaning.

The biggest problem is finding competent babysitters. There are five options: have someone come in, but that's expensive; family day care homes which are licensed by the county under state law and are limited to five children; daycare centers for larger numbers of children; Montessori and preschools; or babysitting services on an hourly basis.

"Start looking while you're pregnant," she advises.

Neville would like to see more women in trial work. She recalled her years at Mitchell and said she "worked like hell and I think that was right. I was active in a lot of things -law-related things and that kept my sanity. I met so many interesting people," adding somewhat sheepishly, "I enjoyed law school."

She has no plans for the future right now although she would find a judgeship "an intellectual challenge." She was considered last year for a spot on the Hennepin County District Court bench.

"I'd like to see more trial lawyers as trial judges," she said. "I'm biased, but there's a feel trial lawyers have for the courtroom that's different, almost a gut reaction to things."

IMAGE

Informal, black and white photograph captioned Cara Lee Neville. Photo by Larry LaBonte

THE KAREN SILKWOOD CASE: PLUTONIUM PLANT ON TRIAL FOR $11.5 MILLION

By Sally Oldham

The first judicial test of the nuclear power industry's liability for off-site contamination commenced March 6 in an Oklahoma City federal courtroom.

Kerr-McGee Nuclear Corporation and its parent company, the Kerr-McGee Corporation, are being sued for $11.5 million by the heirs of a female plant worker who suffered plutonium contamination and who died-a Week later in a supposedly unrelated traffic accident. An autopsy revealed that Karen Silkwood's lungs contained 95 grams of plutonium at the time of her death. Dr. John Gofman, who has been dubbed the "Father of Plutonium" by the plaintiffs lawyers, testified during the first day of testimony that 41 grams would be enough to cause cancer.

Ms. Silkwood's first documented exposure to radioactive plutonium occurred while she was working at the Kerr-McGee company's Cimarron Facility on the night of July 31/August 1, 1974. A routine air sample revealed that microscopic amounts of the material had escaped into the laboratory room where she was working. Follow-up analysis of Ms. Silkwood's urine samples showed that she had in fact been contaminated. When she complained to national union officials of the Oil, Chemical and Atomic Workers International (OCAW) at a meeting in Washington, D.C. on September 26, 1974, they took her fears seriously and apparently encouraged Ms. Silkwood to gather all the information she could regarding the allegedly improper health and safety conditions at the plant.

But it was not until Tuesday, November 5, 1974 that things really got "hot." After working four hours in the plant's Metallography Lab, Ms. Silkwood discovered that her hands, arms, face and neck registered plutonium levels of 500 disintegrations per minute. The Kerr-McGee safety level was 300 d/m. She was taken through normal decontamination procedures (scrubbing three times with a mixture of Clorox and Tide detergents) and her contamination levels dropped to safe levels. She then returned to work but excessive exposure was again discovered. During the next two days, periodic checks consistently registered extremely high levels of plutonium contamination, even though Ms. Silkwood had not handled any plutonium at work past Wednesday morning. Finally, at noon on Thursday, November 7, Kerr-McGee health physics personnel decided to check Ms. Silkwood's apartment.

The technicians initially entered the apartment wearing their normal street clothes, but preliminary tests showed that the apartment contained such high levels of contamination that the team returned with respirators and safety clothes. The highest readings were taken in the apartment's kitchen and bathroom. The hottest items of all were some bologna and cheese found in the refrigerator.

During the next few days, Ms. Silkwood spent most of her time talking to Atomic Energy Commission and Oklahoma State Health Department investigators trying to determine how she had been contaminated and to what extent. On November 10, Ms. Silkwood, her roommate, and her boyfriend all went to Los Alamos, New Mexico for more extensive tests. Researchers there assured Ms. Silkwood that she was not in immediate danger. The threesome returned to Oklahoma on the evening of November 12. The next day Ms. Silkwood returned to work but spent most of the day in union negotiations. At four o'clock that afternoon she met with local union officials at the Hub Cafe in Crescent, Oklahoma (site of the Kerr-McGee plutonium-processing plant). At six o'clock she called her boyfriend from the cafe to tell him that she was still planning to meet with national OCA W official Steve Wodka and New York Times

reported David Burnham to discuss her contamination. Ms. Silkwood was to meet Wodka and Burnham at a Holiday Inn in Oklahoma City, 30 miles south of Crescent, Unhappily, she never made it.

7 .3 miles south of Crescent on State Highway 74, Ms. Silkwood's car ran off the road, travelled 250 feet on the left-hand shoulder and eventually slammed into a concrete wall. She apparently died instantaneously.

Several mysteries surround Ms. Silkwood's contamination and her subsequent death. A private investigator hired by the OCAW concluded that Ms. Silkwood's car had initially been hit by another car which had forced her off the road. The Oklahoma State Highway Patrol, on the other hand, concluded that Ms. Silkwood had fallen asleep at the wheel.

There is also the question of what happened to a folder of papers that Ms. Silkwood reportedly had when she left the cafe. The folder contained her own notes of plant happenings and also official Kerr-McGee documents which Silkwood had somehow gotten hold of. She apparently intended to turn the papers over to Wodka and Burnham at the Holiday Inn meeting. A recent pretrial deposition of Kerr-McGee official Roy King developed the first explanation of the disappearance of the papers. King testified that Oklahoma State Highway Patrolman Rick Fagan, who investigated the accident, notified him that official Kerr-McGee papers had been found at the scene and had-been placed in the Silkwood car. Eagan had agreed to meet King the next morning at the garage where the car had been towed. However, when King went to the garage the next morning, Fagan told him that the papers had already been removed. The FBI investigation and the garage owner both reported that Fagan had met two other Kerr-McGee officials at the garage shortly after midnight on the night of the accident.

The biggest mystery of all and the one which is most crucial to the lawsuit is how the bologna and cheese found in Ms. Silkwood's apartment became contaminated. Both sides agree that the plutonium came from Lot 29 of the Kerr-McGee plant. The dispute turns on how it got into the food. In its narrowest sense, the suit charges that Kerr-McGee should be held liable for the contamination because it was responsible for its whereabouts -a strict liability theory, of sorts. On this theory, federal Judge Frank Theis ruled that the plaintiffs could introduce evidence of past Kerr-McGee safety violations to establish a pattern of negligence. But Silkwood attorneys further believe that Kerr-McGee sprinkled the food with plutonium to scare Silkwood into

giving up her investigative efforts. Kerr-McGee, on the other hand, maintains that Silkwood either accidentally contaminated the food herself or purposefully sprinkled plutonium on the bologna and cheese to call attention to her health and safety protest.

A second theory of negligence urged by the Silkwood side is that Kerr-McGee should be held liable simply because it operated a plutonium-processing plant. Apparently, Judge Theis will withhold his ruling on the negligence per se theory until drawing the jury instructions. Anti-nuclear groups are hopeful that the theory will be allowed in since it would establish a mighty precedent. for the liability of the nuclear production industry, perhaps enough to discourage future investment.

The Silkwood trial is expected to go six weeks. At its conclusion, the six member jury will first be asked to determine whether Kerr-McGee should be held liable for the contamination. If they find liability, the jury will then have to decide how much Kerr-McGee should pay to compensate for Ms. Silkwood's week of

agony. The plaintiffs are asking for actual damages in the sum of $11.5 million. Punitive damages were also pleaded.

3000 TO ATTEND WOMEN IN LAW CONFERENCE

A national conference on Women and the Law will be held March 29/ April 1 in San Antonio, Texas.

The Conference is organized by law students to promote the equality of women through educational workshops, to provide opportunities for women to develop and exchange technical and litigation skills, and to promote a nationwide support network of skilled practitioners in the field of sex discrimination law.

Over 3000 law students and practitioners are expected to attend. There will be 135 workshops, plus speakers and entertainment. This is an opportunity to meet national and regional experts in such fields as employment law, health law, domestic law, first world/community concerns, economic independence for women, educational law, affirmative action, lesbian concerns, women and girls in the criminal justice system, career alternatives, etc. Childcare and free housing will be available.

For further information contact second year student Kathryn Shaw at 222-0847 of the Women's Law Caucus, University of Texas, Austin, Texas, 512-471-7751.

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TWO FACTORS AFFECT MITCHELL'S SEARCH FOR FEMALE FACULTY

By Diane Dube

While it could be facetiously said that a story about the female faculty members at William Mitchell would necessarily be short with three women on the 26-member fulltime faculty there are some definite barriers which make it difficult for the school to hire more women.

In past years there has been only a slight increase in the number of women looking for academic positions, according to Dean Bruce Burton. Also, the fact that Mitchell is a night law school and is located in a state which has a reputation for cold weather makes the search more difficult.

Burton said Mitchell has interviewed a lot of women in its search for new faculty members; but is not always able to attract them to the school. Names of interested applicants come from two sources: women write directly to the school, and the school learns of other candidates through the Association of American Law Schools' annual Faculty Requirements Register which lists persons interested in law school teaching positions.

Faculty members Christine Ver Ploeg and Phoebe Haugen came to Mitchell through the first route, although Burton said the school receives very few direct inquiries from females.

Currently there are three women on the fulltime faculty which numbers 26. They are Carol Florin, librarian and professor, and assistant professors Haugen and Ver Ploeg. Of the approximately 90 parttime faculty, about a dozen are women. Courses in their areas of specialty are offered as demanded. This semester the only women teaching courses are on the fulltime faculty, although several are assisting in the various clinical and legal writing programs.

None of the fulltime female faculty has tenure, although Florin has been at Mitchell 15 years. Haugen and Ver Ploeg came to Mitchell in the fall of 1977. Tenure for Florin appears to rest on the question of whether tenure should be granted to a fulltime faculty member who does not teach a substantive law course. Last fall, the faculty tenure committee recommended to the dean that the librarian be eligible for tenure as a fulltime faculty member, with the criteria for evaluating the librarian's performance the same as for evaluating other fulltime faculty members except that "in addition to performance of teaching duties, if any, performance of library duties shall be considered in the same fashion as teaching duties."

Asked about the administration's efforts to recruit female faculty, Haugen said when she was hired she had the distinct feeling being female was an advantage and that the administration would like to hire more women. Florin feels that while there is a definite attempt on the administration's part to recruit females, there are now no older female faculty members who have extensive experience. Florin reasons that's probably because there were not as many women in law schools back then and correspondingly few women are now available for faculty positions.

Asked about their relationship with female students, both Florin and Haugen said they don't find that more female than male students seek them out for advice. As for the attitude of male students towards female professors, they had different experiences because of their different roles in the school setting. Haugen noted the informality that accompanies the clinic setting. She is in charge of the criminal law section of the clinical program and finds a more casual attitude than that found in the classroom. But

that casual attitude, she noted, was present when the students deal with both male and female clinical instructors. Florin, on the other hand found a difference in the students.

"If students approach me as the librarian, rather than having had me in class, they're more likely to start the sentence with 'I don't know if you can help me but ... " she said. "If they've had me in class they know I'm the one most likely to be able to give them the answer."

Haugen doesn't feel there are any particular problems with being a female professor and has found the transition from practicing law (she was a prosecutor before coming to Mitchell) to teaching "surprisingly easy." Florin, on the other hand, feels there is unintentional, culturally based discrimination.

Haugen noted a change in the atmosphere at Mitchell since she was a student here. The school is larger, with women composing about one-third of the student body. There were three women in her class of 1972. There seems to be more sensitivity to the particular problems women might have in the profession, she noted. Haugen has also found the women are not only holding their own in class, but are also, in some ways, doing better than their male counterparts.

Haugen also finds a less formal atmosphere in the school but credits that to the added emphasis on skills and practices courses which promote a different kind of student-teacher relationship and involve a different mode of teaching.

Asked about the impact the increased numbers of female students have had on campus, Florin replied, "It makes it a more normal world." There isn't as much "male staring [at women]" anymore, she added.

Dean Burton said he is optimistic about the future when, ultimately, sex will be a neutral factor in selecting professors and the number of women on a school's faculty will be in proportion to the profession as a whole. Most law schools want faculty members who have done something with their legal training before they enter the classroom as teachers, he explained. The "great crush" of female law students is a recent phenomenon, so the number of women in the academic pool should be going up geometrically in the next five to ten years.

FEMALE ENROLLMENT

	Women	Men
1968	18	350
1975	274	810
1976	321	799
1977	346	779
1978	369	791

Fall 1978

	Women	Men
1st Year	**120** (37%)	**203** (63%)
2nd Year	**79 (**30%)	**181** (70%)
3rd Year	**92** (33%)	**189** (67%)
4th Year	**78** (26%)	**218** (74%)

WOMEN WANTED

By Peg Kaiser

One afternoon shortly before school started last fall, the women in the day section got together just to meet each other. The first few weeks of school had been disorienting and difficult-difficult in many ways but especially in trying to meet people under the less than ideal circumstances of starting a law school. We introduced ourselves, gave short autobiographies, and talked briefly about what it meant to be women law students. It was an exciting experience, satisfying natural curiosity about classmates, and giving us a sense of belonging, as individuals and as a group. We met regularly for only about a month and since then have met or had lunch together occasionally. But those first meetings were enough to lend a sense of comfort and familiarity that has persisted throughout the year.

I would like to see all women students at William Mitchell get together next year. Surely we have similar problems that we can work on as a group and common experiences to relate that will take some of the isolation out of being a law student. I think things like day care and recruitment of women professors are ripe for discussion. We can help each other understand our role as women in law-why we are here, and where we are going. If you have ideas to share, please get in touch with me through the Opinion.

OBSCENITY LAW EXAMINED

By Tom Copeland

"Latest Developments in Obscenity Law and Techniques in the Investigation, Prosecution and Defense of Obscenity Cases" was the title of a seminar held March 8th and 9th at William Mitchell College of Law. The audience of approximately forty people was composed of police vice squad members, assistant city attorneys, county and district court judges, ministers, one Mitchell professor who teaches Constitutional Law and two editors from the Opinion.

The seminar was put on by The National Obscenity Law Center (see box) and the lawyers who attended received nine Continuing Legal Education credits at the end of the ten hours of presentations.

Speakers at the seminar were:

Reverend Morton Hill -President, Morality in Media, Inc. from New York City;

Paul McGeady -Director, The National Obscenity Law Center from New York City;

Larry Parrish -former assistant U.S. attorney from the Western District of Tennessee who spearheaded the national prosecution of the film 'Deep Throat';

Homer Young -former FBI agent from California, now a consultant on obscenity investigations for The National Obscenity Law Center;

John Markert -Executive director, Minnesota Catholic Conference;

Edward Vavreck -Assistant city attorney of Minneapolis.

Reverend Hill opened the seminar saying that the traffic in pornography has reached "outstanding proportions," estimated by some sources to be between 3.5 and 4.5 billion dollars and he called for the vigorous enforcement of the law in this area. The seminar dealt extensively with techniques used by prosecutors to counter defensed strategies in an obscenity case. McGeady gave a detailed examination of the U.S. Supreme Court decisions in the Roth and Miller cases in order to more clearly define such concepts as "appeal to prurient interests", "average person", and "community standard". Vavreck described his efforts to prosecute the-film 'Deep Throat' in Minneapolis with uneven results. Seminar sponsors were hopeful that those attending would be able to use the materials presented to help them prosecute more obscenity cases and support the passage of tougher obscenity laws,

IMAGE

Black and white collage of articles and journal titles that relate to Obscenity Law.

COMMENTARY ON OBSCENITY

By Tom Copeland

What am I doing at a Continuing Legal Education seminar on obscenity?

I remembered well, from my Constitutional Law class, how the issue of ·obscenity gave the Supreme Court fits.

How do you define obscenity?

I don't know. The Supreme Court, despite its valiant efforts, doesn't seem to have come up with anything generally understandable. Their 58 word definition as presented in the three pronged Miller test still leaves vague what the terms "appeals to prurient interest", "community standards" and "average person" mean. If we can't even define what it is we are talking about, then we should be discussing something else more important.

But . . . there I was sitting in a room-full of policemen, judges, and ministers who all felt it vitally important to eliminate pornography and slap behind bars those who distribute it.

Some of the things I heard at this seminar disturbed and outraged me. For example:

1) Racism, sexism, and homophobia (fear of homosexuality) was patently evident. Commenting on a Supreme Court justice who had come down on the ''wrong" side of a case, the former FBI speaker said, "I don't want to mention any names but he's the only dark-one we have up there."

With the exception of a student from Edina High School and an assistant Opinion editor, the audience was entirely male. All the speakers were male. Those who passed out literature and served coffee and doughnuts for a day and a half were all female. Jokes were made about getting the phone number of the woman who was video taping the seminar.

One speaker twice referred to clerks in adult bookstores as "fags" and speakers on other occasions indicated that homosexuality was "deviant" behavior that should be suppressed. Rev. Angwin, who spearheaded the repeal of the gay rights ordinance in St. Paul last year, was in attendance. These views

signify a vision of humanity that is plagued by great fear and confusion. People who express such anti-human statements cannot possibly think clearly and sensitively about the issue of obscenity.

2) In order to put forward the most effective prosecution in an obscenity case, one speaker discussed how the concept of the "average person" should be presented to the jury. He said to tell the jury that they aren't to decide for themselves whether the material in the case was obscene or not, but rather they must imagine what the "average person" in their community would think. The speaker told of how he once directed such an argument to a young, highly educated woman on a jury saying, "It's not your attitude that you should think about, it's your mother's!" This approach is frightening. The young woman was the one on the jury, not her mother. Why bother selecting a jury at all if they can't think for themselves?

3) In describing the tactics he uses to seize pornographic films, assistant Minneapolis city attorney Ed Vavreck said he would rather make mistakes on the side of "right" and infringe on the constitutional rights of the few (i.e., pornographers) then infringe on the constitutional rights of the many (i.e., those opposed to obscenity). He said further that he wished judges would declare his seizures constitutional even if they weren't. Several people in the audience murmured approval. Those pesky constitutional rights! If only Ed could get some "cooperation" from the judges, he would solve this mighty problem.

4) The comic highlight of the seminar came when Vavreck described how the technique of surprise was used by a defense attorney in one obscenity trial. In the middle of the trial the defense attorney cited a case to the judge to support his argument. Not knowing the case, Vavreck couldn't respond to the argument.

The Case cited was Near v. Minnesota which is about as basic a case in the prior restraint area as you can get. This was a technique of surprise"? Only the three of us from Mitchell (two students and a faculty member) found this story laughable and at the same time shocking.

It was of some comfort to find out how tittle success has been achieved by those in the room who were fighting pornography. Despite the years of work put into prosecuting those who show "Deep Throat," it is still playing in Minneapolis and most people don't seem to care, one way or the other. Juries continue to acquit defendants, and attempts to use legal means to control obscenity continue to be unmanageable. Let's hope this situation persists.

The question of obscenity cannot be addressed in isolation from other social issues. Generally speaking, the same people who want to prosecute obscenity cases are the same people who are fighting against abortion, sex education, the equal rights amendment, rights for gays and lesbians, and so on. They share a consistent anti-human attitude towards women. The current battles in the legislature and the courtrooms across America will not and cannot resolve these issues. As the authors of the book *Conversations in Maine* put it, "What is important about human sexuality is the attitude to it, the human acceptance of it as the creation and expression of ourselves."

MORALITY IN MEDIA/ NATIONAL OBSCENITY LAW CENTER

Morality in Media describes itself as a "national organization working to help stop the traffic in pornography constitutionally and effectively, and working for media based on love, truth and good taste." According to its president, Reverend Morton Hill, the organization monitors the traffic in obscenity and encourages prosecutions under the obscenity laws around the country at both the local and federal levels.

Hill spoke recently to a Continuing Legal Education seminar on obscenity law at William Mitchell (see accompanying story). He was coauthor of the Hill-Link minority report of the Presidential Commission on Obscenity and Pornography that was released in 1970. The majority report recommended the repeal of most obscenity laws but was promptly disowned by President Nixon and rejected by the Senate by a vote of 60-5. Both the House and Senate instead adopted the Hill-Link minority report and it was read into the Congressional Record.

One recommendation of the Hill-Link report was to form the National Obscenity Law Center. It was established in 1973 and is currently funded by Morality in Media as well as other private foundations and corporations including ITT, General Motors, and Coors Beer. The Center began operating with government money, but public funds were cut off after two years because of the Center's one-sided focus on the prosecution of obscenity cases.

The National Obscenity Law Center is a national clearinghouse for obscenity laws. Its purpose is to aid prosecutors in the enforcement of obscenity laws and to furnish government agencies, prosecutors, and attorneys with information in this area of the law. It publishes the Obscenity Law Bulletin which is an up-to-date source of information about obscenity caselaw.

Morality in Media of Minnesota

Affiliated with its parent body, Morality in Media of Minnesota is a small organization that has been active in supporting the passage of recent obscenity ordinances in St. Paul and is currently lobbying for several obscenity bills before the state legislature, according to its vice-president Mrs. Marlene Reid. On March 8th the group held its first annual awards dinner with a keynote speech entitled: "Can Obscenity be STOPPED?" Awards were given out to: Mr. K.J. McDonald for his citizens' arrest of members of the University Film Society for showing the allegedly obscene film Salo last year; St. Paul councilwoman Rosalie Butler for her part in getting the city council to pass six anti-obscenity ordinances; Mr. Bernard Casserly for his work as editor of the Catholic Bulletin; the St. Paul Dispatch and Pioneer Press for dropping X-rated advertisements; and two reporters from the Minneapolis Star for a series of articles in 1975 on the links between the pornography business and organized crime.

OBSCENITY BILL TEMPERED

By Jennifer Bloom

Don't expect to see "Deep Throat" showing at your neighborhood drive-in theatre this-summer.

A bill aimed at banning obscene movies from drive-in theatres was approved by the Senate Judiciary Committee on March 14, and sent to the full Senate; but not before major provisions (authored chiefly by members of a "pro-decency" group in the House) were stricken.

The bill that was passed by the House on-March 1 with a 116 to 7 vote had essentially two thrusts. It provided a misdemeanor penalty for showing an obscene movie in a drive-in theatre, and more significantly gave county attorneys power to bring injunction hearings in district court to determine if a movie about to be shown at a drive-in theatre was obscene.

The bill required that the hearing be commenced within one day of notice to the defendant. The district court judge was to render a decision within two days after completion of the hearing. If obscene, the movie was to be enjoined.

According to John F. Markert, director of Minnesota Catholic Conference and 1956 graduate of William Mitchell, such proceedings are authorized by law. He believed the procedure would eliminate any prior restraint problems.

Senator Robert Tennessen, member of the Senate Judiciary Committee, disagreed, however, and offered an amendment to delete the prior restraint provisions.

Proponents of the bill passed by the House claimed that the movie "Deep Throat" had been shown frequently in area drive-in theatres. Research gathered by the committee staff, however, revealed that Deep Throat" was shown at a drive-in theatre only once, in Verndale in 1973. The Senate Judiciary Committee felt that once in five years was not a significant enough problem to justify prior restraint.

The vote to approve the deletion of the prior restraint provisions was 8-7, with Senator Jack Davies casting the deciding vote, (Senator Davies is chairman of the Senate Judiciary Committee and a professor at William Mitchell.)

The bill sent to the full Senate prohibits the showing of obscene movies at drive-in theatres and uses the community standards language of the Supreme Court *Miller* decision to define what is obscene. (Miller v. California, 413 U.S. 15.) In Miller the Supreme Court applied the following test in judging the alleged obscenity of a material or performance:

(a) whether the average person applying contemporary community standards would find that the work; taken as a whole, appeals to prurient interest (and)

(b) whether the work depicts or describes in a patently offensive way sexual conduct specifically defined by applicable state law (and)

(c) whether the work taken as a whole lacks serious literary, artistic, political, or scientific value.

All three prongs must be met before anything is deemed to be obscene.

The bill does not clearly establish the community base that will be used in determining the community standards. According to Larry Parrish, former Assistant U.S. Attorney who successfully prosecuted a "Deep Throat" case, "each little community cannot decide what its standards will be. Community means people living in community with each other. That was the instruction given in ‘Deep Throat’. "Community doesn't mean geography."

Parrish feels that defining community more narrowly (for example, establishing the state of Tennessee as a community, the city Minneapolis as a community is a mistake. "Community is almost synonymous with average person. It shouldn't have geographical significance," Parrish said.

This effort by the Minnesota "pro-decency" legislators is not their only attempt to define and eliminate obscenity. A second bill, a comprehensive and detailed general obscenity bill, has been introduced by Senator Wayne Olhoft. This bill is now before the Senate Judiciary Committee.

The general obscenity bill incorporates the Miller three-pronged test; defines what constitutes patently offensive sexual conduct, as required by the second prong of the Miller test; and increases the penalties for violation of the statute.

The basis for increasing the penalties, as explained by Edward Vavreck, Assistant Minneapolis City Attorney, is that "pornographers" don't feel threatened by the existing penalties. "Minnesota presently has a minimum fine of $20 and a maximum of $100," Vavreck noted. "It's not hard for the local pornographers to come up with this kind of money." Vavreck feels that the increased penalties will serve as a deterrent.

The bill divides violations into two groups: obscenity in the first degree and obscenity in the second degree. Obscenity in the first degree is wholesale promotion of obscene materials; obscenity in the second degree is promotion of obscene materials for profit.

The amount of possible fine and length of imprisonment vary with the number of offenses under each degree of obscenity. For example, a person convicted of obscenity in the first degree for the first time would "be sentenced to imprisonment for not more than one year or to payment of a fine not more than $1,000, or both." A second conviction results in a sentence of one to five years or a fine of $1,000 to $10,000, or both.

When asked if increased criminal penalties would push the pornography business further underground and increase the criminal element, Homer Young, consultant for the National Obscenity Law Center and former agent for the Federal Bureau of Investigation, responded that he knew of one individual who served three years and chose not to get back into the business after he was released because the risk was too high. Young explained that pornographers have other ways to make livings. "For example," he said, “one person is a property tycoon and he uses his bookstores and movie houses to write off his bad property deals."

Markert, who is lobbying for the bill, feels these increased penalties may present problems. "Penalties at the hands of the legislative body are very political."

This is the third time this bill has been introduced, Markert said. "You have no idea how hard it is to get legislators to go in and move on these bills," explained Markert.

Legislation similar to the Minnesota bills has been proposed in other states. Tennessee recently passed a comprehensive and detailed obscenity statute that is presently being challenged in the courts. A South Dakota attempt to pass an obscenity law was submitted to the voters by initiative and referendum in 1978 and was soundly defeated.

"When Han Suyin was asked about the Chinese attitude toward sex, she said that in China if a man beats his wife, it is considered a social relationship and the community should interfere. But when it comes to sexual relations between individuals, the Chinese. consider these private, not public matters, not matters for public titillation, public celebration or public intervention. That is a very important distinction. It is a shame that we have reached the point in this country that we talk so much about these questions and involve the courts in so much argument about them trying to decide what is obscenity. Why do we have so much obscenity in this society that we have to spend so much time deciding what it is? There is something wrong with us and with this society. There is no point in dealing with legalities until we deal with ourselves."

From Conversations in Maine by Grace and James Boggs and Freddy and Lyman Paine - South End Press 1978.

CLE CONFERENCE PRESENTS ANTI-ABORTION STRATEGY

By Kathryn Shaw

On Saturday, March 10, the St. Thomas More Lawyers Society of Wisconsin held a conference at St. Thomas College in St. Paul entitled "The Unborn and the Courts". Beginning with the assumption that the U.S. Supreme Court decision in *Roe v. Wade* (that the right to privacy is broad enough to encompass the right of woman to decide to have an abortion) is a "sad" decision which will someday be overturned, the speakers went on to examine the existing state of the law in the abortion area. The ultimate goal of the conference was to educate those in attendance on the legal means to discourage or penalize the exercise of the right to choose an abortion over childbirth a right which is independently protected against governmental interference under the 14th Amendment.

The speakers were lawyers with vast wealth of experience in that area:

Patrick A. Trueman, 1976, John Marshall Law School, J.D., General Counsel for Americans United for Life, Chicago, Illinois;

John Markert, J.D., 1956 William Mitchell College of Law, Executive Director of the Minnesota Catholic Conference and Lobbyist;

Ronald L. Wallenfang, J.D., 1969, Harvard Law School. Mr. Wallenfang has appeared as volunteer legal counsel for Wisconsin Citizens Concern for Life and other "pro-life" organizations and

Robert A. Destro, J.D., 1975, University of California Law School. General Counsel for Catholic League for Religious and Civil rights.

The agenda included:

1. Getting legislation passed that will be upheld in court. Judicial review of statutes, strict scrutiny and the need for a compelling governmental interest for interference with a fundamental constitutional right; instructions on the advisability of adding severability clauses to proposed legislation to increase the burden of those contesting the statute in court and the probability that at least part of a restrictive statute will be upheld.

2. Governmental action to discourage abortion. Criminal prosecutions against physicians; license revocations; licensing and regulating clinics (explaining the 'underinclusive' loopholes available when judicial scrutiny of legislation arises); placing restrictions on non-physicians involved in the counseling process; placing restrictions on the abortion method; reporting requirements; residency requirements; zoning requirements.
3. The informed consent requirements, and recommendations: That the patient be informed of every conceivable complication, regardless of the remoteness of its occurrence, that she be shown a picture of the stage of fetal development corresponding to her stage of pregnancy, that she be told that the fetus is "alive"; that she be required to endure a "waiting period" after giving her informed consent.
4. Strategies for effecting the requirement that consent for abortion be obtained from the husband or parents (a requirement expressly declared unconstitutional by the court in 1976), or at least that notification of the abortion procedure be sent.
5. An examination of the current state of the law that makes it constitutionally acceptable to deny access to abortion to the woman who depends on Medicaid to fund her medical needs.

The audience consisted of approximately 60 people. The majority were attorneys who were active in the anti-abortion campaign, or related litigation or lobbying. The non-attorneys in attendance were a few students, a Minnesota Citizens Concern for Life group and others. There were a very few whose political and/or moral view of the issues did not coincide with the majority.

The course was approved for 5.5 continuing Legal Education credits.

COMMENTARY ON ABORTION

By Kathryn Shaw

Why is it that men have always had power and influence and wealth and fame - while women have had nothing but children?

Virginia Woolf, 1929

Abortions will never stop. Any woman who decides to terminate her pregnancy, will obtain one. If we succeed in regulating clinics and harassing the medical profession so that abortions are no longer available as a medical service, all we will have accomplished is the removal of safe facilities for the women who have abortions.

Clearly, abortions performed by physicians are safer than those performed by black-market abortionists and infinitely safer than those that are self-induced. Before the *Roe v. Wade* decision in 1973, physicians reported about 350,000 women each year suffered from complications arising from illegal abortions. In 1972, according to the Abortion Surveillance Report of the Government Center for Disease Control in Atlanta, an estimated 550,000 legal abortions were performed and 88 abortion related deaths were reported, 63 of which were associated with illegal abortions. In 1975, when 900,000 legal abortions were performed, related deaths were down to 44.

The proposition that a woman must obtain the consent of her husband; the father' or her parents, or that notification of the abortion be sent by the doctor to one of these is a blatant invasion of the woman's right to privacy. It is a step backwards towards the day when a woman was controlled by some man -either father or husband -from the day of her birth to the date of her death. What the guarantee

of the 14th Amendment holds for women is that they have a right to choose the function of their body. This is independent of any "I-thou" relationship that the issues of parental and spousal rights present; it is solely an "I" confrontation.

The courts have held that it is not an unconstitutional denial of equal protection for the Medicaid program to discriminate between women who choose to end their pregnancy in childbirth and those who choose to end their pregnancy in abortion. The rationale is illustrated by the *Maher v. Roe* decision in 1977 stating that a state has a right to make a value judgment favoring childbirth over abortion and to implement that judgment by allocation of public funds. Structuring public medical assistance accordingly, "places no obstacles -absolute or otherwise in the pregnant woman's path to an abortion." This logic is indefensible in the light that the average abortion costs $250.00, and the average monthly payment to an AFDC family of four is $242.00 for food, shelter, clothing and all other living expenses. The obstacles in the path of the indigent woman choosing to exercise her fundamental constitutional right are insurmountable. Her choices? The back alley abortionist, self-induced abortion, or bearing another child.

In the words of the majority in *Rowe v. Wade*, written by Justice Blackmun, "Maternity or additional offspring, may force upon the woman a distressful life and future. Psychological harm may be imminent. Mental and physical health may be taxed by child care. There is also the distress, for all concerned, associated with the unwanted child, and_ there is the problem of bringing a child into a family already unable, psychologically and otherwise to care for it."

There is a constitutional amendment afoot. Those opposed to abortion are proposing an amendment that would define the unborn as a "person" from "the moment of its conception" or at every of its biological development. The result would be legal chaos. Unborn fetuses might be claimed as dependents for income tax purposes, or inherit property even if never born alive. Couples using IUDs or "morning-after" pills could be guilty of murder. And if these people were not prosecuted, convicted murderers could allege selective prosecution. The result, I repeat, would be legal chaos.

Each one of us has a right -a constitutionally protected right - to hold any philosophical or religious view of abortion, without the state compelling us to adopt another view. What any one of us believes is not unimportant. It just isn't relevant to the real issue.

JUDGE RULES COURT CAN '''DIVORCE" UNMARRIED COUPLE

By Sally Oldham

In an order handed down February 15, Ramsey County District Court Judge Joseph P. Summers ruled that the Family Court Division would afford an unmarried person all the rights and remedies which are available to a married person who seeks a divorce.

The ruling stemmed from an application by Bonnie Kohner for temporary relief against her partner of 11 years, John Hughes. Referee Eugene L. Kubes ,dismissed the petition, maintaining that the Family Court did not have jurisdiction of the matter since it was not an action for dissolution of a marriage as authorized by Chapter 518 of the Minnesota Statutes. The statute which created the Family Division of the District Court, M.S.A. §484.64 provides that the division "shall hear and determine all matters involving divorce, annulment, or separate maintenance ... [and] ... paternity actions ... " On appeal,

Judge Summers held that M.S.A. §484.64 merely directs which actions must be assigned to the division but does not limit the District Court's plenary original jurisdiction which derives from the Minnesota Constitution.

The Hughes case presented an especially appropriate situation for breaking new ground. Bonnie Kohner and John Hughes had lived together since May of 1967, they had four children together and had bought a home in joint tenancy as husband and wife. Bonnie and the children had all assumed the last name of Hughes. In her petition for relief, Bonnie sought custody of the children, child support payments and a division of the parties' personal property. The effect of Judge Summers' ruling is to return the matter to a Family Court Referee for proceedings consistent "with the routine procedures of the Division."

In his opinion Judge Summers writes, "The issue is not whether the district court has jurisdiction of plaintiffs claim. The issue is whether it ought to be heard in the Family Court Division or placed on the general term calendar." Under present statutory and case law, an unmarried person can seek all the remedies granted by the marriage dissolution provisions (except presumably alimony / maintenance) by pursuing separate actions. However, this process would be piecemeal and not entirely appropriate to the unique situation of an unmarried couple who split up. For example, if there were a custody fight, the only apparent statutory remedy is an action to terminate the parental rights of one of the parents. This would obviously be an excessive solution in many cases. Furthermore, the custody action is within the jurisdiction of the juvenile court. The paternity and child support matters, on the other hand, are assigned to the Family Court Division.

Finally, the issue of property division is a matter for the general term calendar of the district court. (The Minnesota Supreme Court in Carlson v. Olson, ___ Minn. 256 N.W.2d 249 (1977) held that a party to an informal , living situation has the right to court relief in the division of property.) "It makes far more sense to handle a family breakup in one single action in the Family Court Division, which is reasonably expert in the human situation, than to have a general term partition file pursuing a Family Court paternity file," writes Judge Summers.

Even though Judge Summers maintains that "there's less to it than meets the eye," there are many who see the decision as representing everything from a usurpation of legislative prerogative to an attack on the sanctity of the family.

William Haugh, former chairman of the Ramsey County Bar Association's Family Law section and Family Court referee from 1968-1971, is convinced that "Judge Summers is legislating. Admirable as his theory may be, it's for the legislature to decide." Haugh feels that the recognition of an unmarried couple and their offspring as a family unit by a single district court judge will doubtless create other problems. If an unmarried person is treated as "married" for purposes of property division, what of the myriad other rights and responsibilities which are accorded to a spouse under the current law, e.g., the requirement that a spouse join in the sale of property, the spousal share under the intestacy statute, spousal immunity and privilege, and the special tax rates for married couples. Haugh is further concerned that the *Hughes* decision will only apply in one of Minnesota's eight judicial districts. A legislative solution, on the other hand, would guarantee uniformity throughout the state.

IMAGES

Four black and white photographs of people dancing in a club. Title: Disco Mania. Photos by Nancy Cavey. Images captioned respectively: “Swing Time”, “Jailhouse Rock”, "Rock Around the Clock", "Surf'n' Safari"

COMMENTARY | THE WEBER CASE: BAKKE IN THE WORKPLACE.

By Greg Gaut

[This article contains footnotes]

It is finally coming down to the wire for affirmative action. On December 11, 1978, the U.S. Supreme Court granted certiorari in the case of Weber v. Kaiser Aluminum, 563 F.2d 216 (5th Cir., 1977), the case which struck down a voluntary affirmative action program set up in a contract between the United Steelworkers (USW A) and Kaiser. This development confronts all forces who have an interest in social equality, and especially the working class, with a challenge. Following as it does in the wake of the backward Bakke decision, it would mean the end of voluntary affirmative action for both minorities and women.

But that's not all. The Supreme Court apparently wants to decide the case as quickly as possible, or at least before progressive forces are able to mount a national movement against the case. The court set briefing deadlines in January, set oral arguments ' for March 28, and may well have decided the case by June. For once, the court is moving with "all deliberate speed" in the area of racial justice.

The Case

Weber involves an on the job training program which admitted one minority trainee for each white trainee in order to increase minority participation in the "craft" (skilled) positions to a level reflecting the racial composition of an area's workforce. Separate lists of white workers and black workers, each listed in order of seniority, were established at each plant, and a worker from each list was alternatively was admitted to the program. The suit involves Kaiser's plant at Gramercy, Louisiana, where only 2% of the "craft" positions were held by blacks, and blacks made up only 15% of the plant's total employees. The workforce of the surrounding area is 39% black. Prior to the training program, Kaiser had required prior experience for hiring in the "craft" positions. This of course had resulted in few minority applicants, since the craft unions are notoriously white and male. In 1974, Kaiser "became interested" in affirmative action and on the job training when it was faced with losing its federal contracts because of ''underutilization" of minority workers.

Brian Weber is a white worker who was one of several who had greater seniority than blacks admitted to the training program. He went to court and argued that the training program violated Title VII of the Civil Rights Act of1964. He won in the district court and the 5th Circuit affirmed. Basically, the majority ruled that a collective bargaining agreement which uses a racial classification to ensure the inclusion of minorities in a training program designed to end the exclusion of minorities from skilled positions is illegal under Title VII, unless there is evidence of past discrimination against minorities in that particular employment setting. The result is that the court would approve of race-based preferences as a remedy

for proven racial discrimination under Title VII, but will not allow voluntary affirmative action even to correct the dramatic under-representation of minority workers at Kaiser.

Apparently the 5th Circuit court believed that it was merely a freak historical accident that only 2% of the craft positions at Gramercy were held by blacks. But it was no accident that no party to the suit wanted to prove past discrimination at the plant. Brian Weber, the plaintiff, did not want to prove discrimination against blacks because it would hurt his case. Kaiser and USW A, the defendants, could hardly be expected to prove discriminatory practices in which 'they might well be implicated. And of course, minority workers, who could have raised the discriminatory nature of Kaiser's earlier hiring practices, were not part of the suit. The defendants did argue however that "societal discrimination" justified the training program. To this the 5th Circuit responded that Title VII was not concerned with society, but merely with putting the particular victims of proven past discrimination in their "rightful places within a particular employment scheme."

Finally the defendants argued that the training program was valid because it had been entered into under threat of losing federal contracts: The Court acknowledged this reality, but held that to the extent the federal government mandates a racial quota to correct racial imbalance in the absence of proven past discrimination, it is contrary to Title VII and unlawful. This calls into question the legality of requiring federal contractors to adopt some affirmative action program to correct racial or sexual imbalance under threat of losing federal contracts.

The Implications

The Weber case presents in a straight-forward way a ruling based on the concept of "reverse discrimination," that sneaky but false ideological basis for turning back the clock on racial progress this nation. This concept ignores our country's history, and especially the history of the Civil War, the Reconstruction period, and the Civil Rights Movement. It suggests that the 13th and 14th Amendments and the civil rights statutes had some other purpose than to improve the condition of the minority population of the U.S. The result is an historical aberration: that Title VII would be used to continue the oppression of minority workers.

The affirmance of Weber would mean the dismantling of what affirmative action programs that exist in the employment area. This would be a greater defeat for minority workers, since their economic situation has shown no signs of improvement. For example, black median income is 60% of white median income (with the gap widening) and black unemployment is twice that of white unemployment. The end of affirmative action would guarantee that these conditions will stagnate. And these disparities between white and black workers divide and weaken the entire labor movement.

It is clear that the Weber case is an attack on affirmative action for women. Because Title VII makes no distinction between race and sex discrimination, any rule which emerges from the case will have a direct impact on the employment opportunities for women. Affirmative action is a crucial issue for women, because 67% of all women between 18 and 64, are working outside their homes, and most working women must work to support their families. Nevertheless, the average woman worker earns only about 60% of what a man does, and the gap in wages in increasing.

What Needs to Be Done

The only way to fight this attack on affirmative action is to build a broad coalition of progressive organizations, including civil rights, labor and women's groups, capable of mounting a national movement in opposition to the Weber case. This was the sense of a resolution passed at the recent convention of the National Lawyers Guild (N.L.G.) in San Francisco.

The N.L.G., an organization of lawyers, law students, and legal workers, has made the fight for affirmative action a national priority. Along with the National Conference of Black Lawyers and the Center for Constitutional Rights, the N.L.G. set up the Affirmative Action Coordinating Center (AACC) to act as a re source center for this work. The AACC organized 64 organizations to join in an amicus curiae brief arguing for reversal of the Weber case, and is trying to spark a national coalition against the case.

The Twin Cities Chapter of the N.L.G. is interested in doing educational and organizing work on the Weber case. The Chapter can be reached by calling 721-3938.

Footnotes

1. Brown v. Board of Education, 349 US 294, 301 (1955)

2. As a result, the training program actually benefited white workers as well as black, since it provided for in-plant training for skilled positions never before available to unskilled workers in the plant.

3. Executive Order 11246, which is enforced by the Office of Federal Contract Compliance (OFCC).

(Greg Gaut, who is in private practice in Minneapolis, is a 1974 graduate of William Mitchell and a member of the National Lawyers Guild. Much of this article originally appeared in the newsletter of the Twin Cities Chapter of the N.L.G.)

ILLUSTRATION

Black and white illustration of dozens of “blue collar”, industrial workers raising their fists in solidarity. Their collective fists joining together to form a giant, more powerful fist.

EDIBLE ELEGANCE AT 510 GROVELAND

By Doug Seaton

The 510: Haute Cuisine at 510 Groveland Avenue in Minneapolis is a very elegant place. The address might have once been chic-34, but-it's still chic and the physical presence of 510 Groveland is without peer in the Twin Cities. The dining is formal, the setting is impressive, the waiters are black-tied, and the food is not so much served as it is presented. On the other hand, The 510 is not a pretentious or an uncomfortable place to dine. Several reviewers of this new restaurant have, unfortunately, conveyed the impression that The 510 is some sort of cathedral of cuisine where the atmosphere is hushed, reverent and forbidding, and the amateur eater unwelcome. Nothing could be further from the truth. This is a place to enjoy unexcelled food in magnificent surroundings, but The 510 is also congenial, eager to please, friendly and -well -midwestern. For a special occasion you couldn't make a better choice.

Five Hundred Ten Groveland is a very exclusive cooperative apartment building across from the Guthrie Theatre whose ground floor used to contain a simple dining room serving, as the maître d' sniffed, "Salisbury steak and mashed potatoes." That is all mercifully in the past now, but the rest of 510 Groveland is unchanged. You enter to doorman service and attended parking, shared with the residents, and find yourself in an enormous "sitting room" with high ceilings, crystal chandelier, elaborate plaster moldings, a rose marble and limestone fireplace with an inviting fire and one of the more interesting collections of furniture, fourteenth to twentieth centuries, to be seen in a semipublic place. They are comfortable besides and it is very pleasant to drink your after-dinner wine here in front of the fire pretending you're James J. Hill or August Belmont.

But since you haven't eaten yet you move on past the front desk (no, I'm afraid there are no "transient" rooms) to The 510 itself. The actual premises of the restaurant are much more intimate than the grand lobby and sitting room. There are two interconnected dining rooms seating on the order of seventy-five people -very small compared to the 550 of Charlie's, for example. Owners Gordon Schutte (ex-3M) and Klaus Mitterhauser (ex-Vienna) have changed very little of the character of the dining room, for which we should all be thankful. If you've become resigned to "motif restaurants" with eclectic decor, insistent cuteness and mighty little taste, The 510 will be quite a surprise, and a relief. The chairs are traditional mahogany harp backs and the tables are to match. Settings consist of excellent China, heavy hotel "silver," linen, a single candle and fresh flowers. There is a fine old Aubusson-type carpet and the walls, perfectly proportioned, are classic wainscoting and paneling, cream in color, each panel set off by finely mounted bronze and crystal lamps and matching cream-colored drapes. There are a few, but not too many, well-placed plants to complete the ambience of Victorian luxury. The restaurant, in a word, is good enough to eat.

You won't be reduced to eating the decoration, however. Having made a reservation (please do), you will be immediately seated by a maître d' who falls into the amiable rather than the arrogant camp of that ancient profession. After you have had a few moments to drink" in the elegance, and congratulate yourself on your taste and discernment, your waiter will arrive to offer a glass of wine or champagne. The 510, by choice, has nothing stronger than wine. Once you are comfortably drinking the bubbly he will return to recite the bill of fare for the evening.

The 510 operates on a prix fixe basis. Dinner is $17 .50, with additional charge for wine, coffee and dessert. (At lunch the price is $4.75, with soup $1.75 extra, or soup and salad at $4.50.) The kitchen

offers three or four different entrees each evening and you can call to determine the menu a few days ahead of time. The beauty of this system is that Chef Mitterhauser can select what is fresh, in season and available and give it his full attention, which he certainly does. Each meal will include an appetizer, selected from four or five choices, a soup de jour, an entree with several truly dazzling accompaniments, salad and, if you choose (you won't be able to decline), dessert.

Appetizers are a favorite part of my dinner and The 510 accommodates those who believe the first food of the evening should be perfect. The game and poultry liver mousse is a regular offering and is served with piquant Cumberland sauce. Bird livers are the finest food known to man or woman and this is one of the finest pates you can eat hereabouts. The poached salmon is excellent also. The poaching stock is reduced, gelatinized and served chopped with the salmon, and the accompanying dill and mustard sauce is so good it must be eaten by the spoonful after these are gone. Among the other appetizers available that evening were mixed antipasto and marinated variety meats.

The soups are freshly made, of course, and I have heard secondhand of excellen.t cream of vegetable and mulligatawny soup, in addition to the consommé available on this particular evening. Only a single soup is offered, however, which is too restricted a choice for those who enjoy soup. A second soup selection would be the one modification of the menu format which I would suggest. The consommé was a well flavored, well-reduced and clear-as-crystal broth. Good in itself, the high quality of this basic soup also suggests that the more complex cream soups, bisques, or vichyssoise, which are offered, will more than meet your expectations.

Entrees at The 510 generally follow a pattern of game or poultry, red meat and fish. On a recent evening, however, the offerings were hasenpfeffer (rabbit stew), veal with mushroom and shrimp sauce, tournedos princess and Strasbourg goose. We chose the goose and the tournedos.

The tournedos are broiled and served on puff pastry to soak up the tenderloin juices. The puff pastries are a delectable variant on the traditional toast. To coin a phrase, they melt in your mouth. The accompanying straw potatoes, french fried potatoes the size of vermicelli, were crisp, hot and delicious. Additional garnishes included an excellent broiled tomato with bacon and gruyere cheese, excellent green beans -apparently parboiled, then roasted leaving them firm to the tooth and explosively flavorful -and a complete artichoke bottom, rich, bland and without a hint of the bitterness characteristic of the canned variety utilized in most restaurants. An excellent Bearnaise sauce is served with this entree as well. The tournedos themselves, alas, were to degrees overdone: medium instead of rare. Tenderloin is the leanest high grade beef cut and it is almost too dry for human consumption in that condition. We were too pleased with everything else to be bothered much by this, but I would suggest when ordering that you be very firm about the condition of your beef.

The goose made up for any deficiency in the tournedos. This is a classic dish of Strasbourg and is German in origin, though Strasbourg, which is in Alsace, has been part of France since World War I. The drumsticks are traditionally served alone, though The 510 offered breast, thigh and drumstick. The gooseflesh was well roasted, rich and tender and the almost chocolate-colored brown sauce was so precious every drop was sopped up by French bread. Red cabbage relish and dried fruit compote usually accompany this dish. The 510's red cabbage relish was a perfect offset to the goose as was the baked apple which Chef Mittenhauser substituted for the more common prunes or berries. I have eaten this meal at Karl Ratzch's in Milwaukee and Luchows in New York City, two of the more well-known Teutonic

restaurants in the U.S., and The 510's goose Strasbourg/ Minneapolis holds its own very well. Straw potatoes were served with the goose as with the tournedos. There was also a tasty slice of stuffing.

The 510 has an interesting, but eclectic wine list. The selection is not comprehensive, but there are many excellent choices and several very good values. The recent explosion of interest in better California wines hasn't penetrated into many restaurant cellars, but The 510 offers more fine California wines than most restaurants in the area. There is also an above-average selection of Italian and German wines. The *Bordeaux* wines are well represented and I recommend the 1973 *Chateau Lascombes*, a *Margaux*, which is what we had with our meal. This wine was a second choice, however, because The 510 has no French burgundy, which is my favorite wine. The wine steward explained that he felt that the better California *Cabernet Sauvignons* were the peer of the burgundies. Everyone is entitled to his opinions, even if he's wrong, but no Strasburger would eat goose with anything but burgundy. Beef, too, cries out for burgundy. So the one plea I would offer to the proprietors of The 510 is that they offer at least a few burgundies, especially since all but the very best are underpriced compared to the Bordeaux.

The 510's desserts are pretty to look at and very good to eat. The selections we were offered include pineapple torte, banana torte, Nougat torte, Dutch apple torte, Marzipan torte and assorted sherbets and ice creams. If you're a marzipan fan the fresh almost paste in that torte will more than meet your expectations. The pineapple torte won an award from a pineapple planters' association for meritorious use of the pineapple. The tortes are much lighter than they sound, since in most cases the base is a fairly light sponge cake. Lightness, however, is a vice in continental pastry, a concession to American taste and waistlines (and lately to the nouvelle cuisine), and wins no applause from me. My taste runs to tortes full of chocolate, ground nuts and

eggs weighing 8 ounces a slice. I concede, though, that most people prefer their tortes light and The 510's are among the finest you will find, light or-heavy. Several coffees are offered and, though we had asked our waiter for *cappuccino*, we enjoyed the espresso he brought us very much. At this point brandy would have been awfully nice, but, to repeat, The 510 offers nothing stronger than wine, so have another half bottle instead.

The 510 is the type of restaurant which sounds like an excellent idea but which couldn't possibly work (especially, we all think but are too proud to say, in the Twin Cities). The 510 does work, though, and right here in river city! It's small, it's uncompromising, the selections are few, unusual and excellent and the atmosphere is enough to make you feel like an earl. It isn't cheap, but then nothing good is, and the prix fixe meal plus wine and dessert is actually less expensive than the usual total bill at a great many inferior restaurants in the area. Mitterhauser and Schutte are serious about their restaurant and they follow through as well. The food is extremely good, but not baroque in preparation or service (no flambe nonsense for instance). The atmosphere is elegant, but not uncomfortable, the crowd lively, but not noisy, the service gracious, but not formal. The 510 is designed, not to awe, but to please its customers, and l think it succeeds on every level.

The 510: Haute Cuisine is located across from the Guthrie Theatre at 510 Groveland Avenue in Minneapolis (874-6440) and is open from 11:30 a.m. to 2:30 p.m. for lunch Monday through Friday and 6:00 to 10:30 p.m. Monday through Saturday for dinner. They also serve a light supper and dessert after theatre. Reservations are necessary. They accept American Express, Mastercharge and Visa.

IMAGE

Black and white photograph of exterior entry of 510: Haute Cuisine captioned: 510: Haute Cuisine. Photo by Tom Copeland

WHODUNITS

By Elizabeth Davies

One consequence of being a law student is that many fads elude us. Ask the average William Mitchell student to define rolfing and, depending upon the day of the week, he or she will grasp at a straw and tell you that it is either a fiduciary duty or an esoteric trial skill known only to Professors Haydock and Oliphant. Juggling classes, studies, work, subsidizing fast food chains, and trying to keep meaningful relationships meaningful, doesn't leave time to pursue getting an act together or other delights of the '70s.

One activity that should not be foregone, however, is reading.

Not casebook, hornbook, what-does-it-mean reading, but just plain reading. Why? For the same reason that we used to read - for fun.

One literary genre particularly suited for the purpose of fun and for the life-style of the law student is detective fiction. Before voicing your disdain, as I did when a friend suggested I read Hammett's, *The Continental Op,* consider that the day is long past when a detective story was thought to be the simplest pulp fiction -boring and badly written. Today quite the opposite is true. Many commentators and scholars consider detective fiction worthy reading. The analytical philosopher, Wittgenstein, read detective fiction for diversion and the novelist, Somerset Maughmam, defended the detective story against attack by critic Edmond Wilson. (Wilson, nonetheless, concluded that "detective story reading was a silly but minor vice.")

Having quelled your intellectual suspicions, the question remains: Why is the detective story particularly suited for reading by the law student?

There are two reasons. First, the reason for which Wittgenstein read detective stories in his austere rooms at Cambridge, they help to turn off the mind. The parallel is obvious. Wittgenstein attempted to determine philosophy by mathematical logic. We attempt to determine another abstraction – justice - by analytical logic. Knowing that at a certain point logic must give way to haphazard insights of common sense, we, too, need our minds turned off. We, too, need diversion.

Second, a detective story fulfills a need to have a degree of finality in an otherwise un-final universe. Here again, the law student is especially vulnerable. After grappling with relativity in the form of majority and minority, old and new, English and American (with exceptions) rules, it is satisfying to discover a concrete reality: the culprit.

As with other literature which fulfills a basic function, the detective story has an ancient history. It is claimed that the first detective story is found in the Bible. Cain slew his brother Abel and God inadvertently became the first detective: "Then the Lord said to Cain, 'Where is Abel your brother?'" (Genesis 4:9). Of course, poor Cain never really had a chance since God is omniscient and knows

whodunit *before* the culprit himself knows he or she is going to do it. Since Biblical times, the detective-hero has emerged as slightly more fallible. Shakespeare, too, loved a good mystery. Famous is the scene in "Hamlet" where the brooding Dane stages a play supposedly to trap his uncle, King Claudius, but only succeeds in trapping himself. Claudius then knows that Hamlet knows how he came to the throne by murdering Hamlet's father.

The first modern detective story, Edgar Allan Poe's, "The Murders in the Rue Morgue," was published in 1941. Then, in 1887 Arthur Conan Doyle, introduced Sherlock Holmes in "A Study in Scarlet." later came Dashiell Hammett, Raymond Chandler and Ross Macdonald and the body of detective fiction split into two camps. Hammett disliking the style of Conan Doyle-the detective story as an intellectual exercise-set out to fashion an action novel peopled by "hard-boiled" types. Thus, the delineation of two schools of detective stories: (1) the country house-party narrative; and (2) the action novel.

The first style has a familiar formula: A group of people gathers in a country house. Each of them has some reason to fear or mistrust one particular guest. That guest is murdered. An atmosphere of tension and suspense develops. The motives for murder are exposed, and people behave in odd, suspicious ways. There is often a second murder, though there need not be. Eventually the murderer is unmasked, all is explained, and normal life is resumed.

This style is represented by the ubiquitous Agatha Christie and Dorothy Sayers, and the less well known Josephine Tey and Cyril hare. The country house-party traditionally is a world of murder with manners, without blood. The protagonists are genteel experts at making deductions based on material clues. The emphasis is on the puzzle.

The second type is the action novel, in many ways typically American: violent, cynical, tough and fast-paced. Best represented by Dashiell Hammett and Raymond Chandler, life is short, nasty and definitely not British. The protagonists are far from delicate and rely less on empirical analysis of material clues and more on their abilities to read people. Hammett's, *Continental Op* sees all faces as masks, behind which anything may lie concealed. The gentlemanly amenities which serve the detectives of the British school are recognized by the Op to be perfectly useless in a world "where violent action always speaks more effectively than a civil tongue." The story, far from confined to a single locale, moves from place to place. Chandler's protagonist, Phillip Marlowe, treats us to all that is seamy in Southern California.

The common theme of the two schools of detective story writing is, of course, the puzzle. Regardless of character, time, or circumstance, the ultimate question is: whodunit. The culprit may be a distinguished matron or a small time shyster, but our hero "always gets his man."

Two of my favorite authors which illustrate the two styles of detective fiction, although imprecisely, are P.O. James and Maj Sjowall and Per Wahloo. Maj Sjowall and Per Wahloo, husband and wife, collaborated until Per Wahloo's death in 1975, on a series of detective stories. Although the authors are Swedish, their work is in the American tradition of suspense writing. The Wahloo's protagonist, Detective Martin Beck, clearly does not possess the grace of Bentley's Mr. Trent. Instead, he has a chronic cold and bad digestion. Beck, however, is an ideal policeman, who, along with his best friend, Lennart Kollberg, solves crimes through meticulous work and inspired hunches.

The Wahloo's early works are about sex crimes against innocent people (*Roseanna* and *The Man on the Balcony*). In later books the victims are as villainous as the killer. In *Murder at the Savoy*, a tycoon is shot

during an after dinner speech, his death mask etched in mashed potatoes. He turns out to be a major white-collar crook with a far-flung gunrunning empire. *The Locked Room*, considered the finest of the series, contains acris comment of Sweden's bourgeois welfare state which abounds with sick, poor and lonely people. Clearly, the Wahloo's are not guilty of a criticism leveled at the country house party story that the plots are implausible because the murders occur solely in the upper classes.

P.D. James, in marked contrast, writes in the grand tradition (but with a bit more blood). Her protagonist, Scotland Yard's Inspector Adam Dalgliesh, is a poet who is also a policeman. Although one critic of English detective fiction charged that he simply did not believe that such agonishingly well-bred men as Lord Peter Wimsey would frequent the police, Inspector Dalgliesh is believable and authentic. Fortunately, he does not have a chronic cold or a bad digestion, but he does possess the requisite amount of idiosyncrasies to make him human.

Inspector Dalgliesh is always presented with the country house party in a variety of disguises: in *Shroud for a Nightingale*, the setting is a nursing college; in *Death of an Expert Witness*, a forensic laboratory; in *Mind to Murder*, a psychiatric clinic. And, there are always a finite number of suspects with each of them having some reason to fear or loathe the victim. The puzzle is unraveled and such is James' honesty that the solution is not an entire surprise. James' appeal lies in the originality of her doing-in methods, the development of character of her collection of suspects and the creation of atmosphere.

Whichever style you prefer, discovering the culprit is a fun pursuit, one which is not as strenuous as jogging or as kinky as rolfing. Reading detective fiction is a satisfying diversion. A new cause for addiction is as close as the paperback section of any bookstore. Here's a list to get you started:

Agatha Christie, *The Murder of Roger Ackroyd*

Dorothy Sayers, *Murder Must Advertise*

Wilkie Collins, *The Woman in White*

Dashiell Hammett, *The Big Knockover*

Raymond Chandler, *Farewell, My Lovely*

Rex Stout, *Death of a Doxy*

Josephine Tey, *Brat Farrar*

Hugh Greene, ed. *The Rival of Sherlock Holmes*

John Franklin Bardine, *A John Franklin Bardine Omnibus*

Dick Frances, *Slayride*

Image

Black and white photograph of a display of crime fiction paperback books captioned: A Wealth of Mysteries. Photo by Nancy Cavey

AUDIENCE APPRECIATES ANDERSON'S ARGUMENT

By Jennifer Bloom

Thorwald Anderson "finds no pleasure in the prospect of doing it again."

As prosecutor in the Virginia Piper kidnapping case, Anderson is petitioning for a rehearing before the entire 8th Circuit Court. Recently a three judge 8th Circuit panel reversed the convictions of Donald Larson and Kenneth Callahan and ordered a new trial.

The basis for the reversal was the refusal of Judge Devitt to reopen the case to admit the testimony of a last minute defense witness.

Anderson said he will probably try the case again if the rehearing is denied.

Anderson presented his closing argument from the Piper case to William Mitchell students on March 14.

Anderson claimed that everything that could go wrong in this kind of case did go wrong. "All of the witnesses were hostile except for Piper and a few FBI agents," Anderson said. "In fact, one witness said 'absolutely not' when asked if he would swear to tell the truth." Most of the witnesses were in prison. They tried to sell their testimony for release.

When defense attorney Ron Meshbesher questioned the credibility of the prosecution's witnesses because they were criminals, Anderson explained that the witnesses were friends of the defendant, and if the defendant had visited a nun or a priest, the prosecution would have brought them in.

During the closing argument, Anderson argued the facts. Referring to the two strongest pieces of evidence, the fingerprint and the hair sample, Anderson reminded the jury that there was no innocent way that Larson's fingerprints could have gotten on the paper bag that was found in the park where Mrs. Piper was found, and that there was no innocent way that samples of Callahan's hair could have gotten into the car that was used to kidnap Mrs. Piper.

Evidently this argument was persuasive. A juror said during a television interview that she could not reconcile the fingerprint and the hair sample with innocence.

Admitting that some people do have identical hair, Anderson explained that in over 300,000 hair samples examined by an expert, only 40 were found to be identical. "That's more than 99%," Anderson said. "The percentage is better than Ivory Soap." Anderson added that it was definitely beyond a reasonable doubt.

Anderson quizzed a member of the audience on the spelling of approach. The word approach was misspelled twice in the ransom note. According to Anderson, Callahan wrote a letter to his caseworker spelling the word approaching "approuching," the same way that it appeared in the ransom note. (It's a good thing the student questioned spelled it correctly.)

Anderson interrupted his argument periodically to give points on trial technique. When speaking of Larson's fingerprint, he pointed out that the print was a bad print. It only showed a portion of a little finger, and it was smeared. Experts needed four attempts before they were able to identify the print as belonging to Larson. "The defense attorney should have argued that the jury could not be sure beyond a reasonable doubt that the fingerprint belonged to Larson," Anderson said. "But instead the defense

argued that it was planted evidence, admitting that it belonged to Larson." Anderson called this a "terrible blunder."

"One of the reasons you ultimately win criminal cases is that people do stupid things," Anderson added.

Image

Black and white photograph of man lecturing to a class in front of a blackboard captioned: Thorwald Anderson. Photo by Al Bonin

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