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The Opinion is published by the Student Bar Association of William Mitchell College of Law. Its purpose is to provide information, commentary and a little fun on topics of interest to students, faculty, administrators, support personnel and alumni. We welcome all contributions from members of the College community. Unsigned opinions are those of Opinion editorial staff exclusively.

Sherer Gains New Outlook After August Shooting

By Tom Goldstein

August 26, 1985, is the date third-year student Russ Sherer will never forget. As most members of the William Mitchell Community are aware, that's the night Sherer was shot in the head by an unknown assailant while returning to his car after an evening class. It was also the beginning of an ordeal for Sherer that included surgery, several days in intensive care, and a three-week stay at St. Paul-Ramsey Medical Center. In addition to his serious medical problems, Sherer had to cope with the frustration of being forced to drop all of his fall semester courses.

Despite these setbacks, however, Sherer now looks at that "evening in August" as the start of an experience that has changed his life for the better. "I can't imagine why I survived (the shooting)," Sherer said recently. "But whatever the reason, it has made me look at things a lot differently... I don't want to waste my life and slip back into just going through the motions of living."

Prior to the shooting incident, Sherer felt his life to be strictly one of going to work (as a computer architect at Sperry's Roseville plant), attending classes, and studying with little time for sleep and no time for exercise. He found himself worn out at the end of the day and somewhat removed from the world around him. His brush with death convinced him that there were more important concerns in life than work and law school, and since his recovery from his wounds Sherer has concentrated on spending

more time with his wife Patty and his elderly parents, as well as getting back into a daily exercise routine he abandoned when he began law school in 1983.

Sherer is quick to point out that his newly-found perspective on life is largely a result of the tremendous amount of concern that was shown him by William Mitchell staff and students following the shooting. Realizing that he did not know well many of the individuals who sent him cards and letters Sherer decided that he needed to become more aware of the many people in his daily life.

"Before last August I wasn't taking advantage of the human contact and friendship that was available with others... I guess I didn't know what I was missing. Now I'm much more aware of the people around me, and I'm making an effort to talk to others and let them know how I feel about them."

One of the individuals with whom Sherer feels a special bond is Betty Gibberd, wife of Raymond Gibberd, a Control Data computer consultant who was shot the same evening as Sherer and later died from his wounds. Despite her own personal tragedy, Gibberd sent flowers to Sherer the day after the shooting, and her uncommon kindness deeply touched him.

"I couldn't imagine someone with that kind of grief taking the time to send flowers," Sherer said with much emotion. "She's an extraordinary person and the friendship that my wife and I have developed with her will be a lasting one."

In contrast to Sherer's remarkable recovery from his wounds of last August, Gibberd, a British citizen, has faced numerous misfortunes since her husband's tragic death. In addition to the arduous task of raising two young children by herself in a foreign country, Gibberd's unfamiliarity with American law led to the complete loss of her automobile when a friend had an accident while driving it. "In England the insurance policy covers everything, so my husband and I didn't realize that one needed separate collision coverage in this country," Gibberd said. She and her children will return to England in May.

[Student to Walk America for Cystic Fibrosis Remedy](#)

By Robert Contreras

Law school is a challenge. Balancing law school with a full-time job is an even greater challenge. But try to attempt a cross-country walk to draw attention to cystic fibrosis (CF), and you definitely have your hands full. That is what first-year student Bill Adams is attempting to accomplish in the next few months.

Adams, an IBM employee and member of the Marine Corps Reserve, will be walking with Craig Reid, a cystic fibrosis victim and Ph.D. student in entomology at the University of Illinois-Champaign. Reid, 29, has taken no medication for the past six years. Many CF victims take up to as many as 20 pills a day. Reid has been able to beat the odds because he uses the five Chi Kung martial arts breathing exercises. In addition to the breathing exercises, Reid works out 90 minutes a day, five days a week, alternating between his upper body and legs.

Cystic fibrosis is the leading genetic killer of children in the United States. It is a disease that kills many victims in childhood, and most victims before they are 21. It is an incurable genetic disorder that clogs the respiratory and digestive systems. Cystic fibrosis affects only individuals of European ancestry, which adds to its elusive mystery.

The purpose of the walk is to draw attention to CF. Reid wants to reach out to children with CF, and to their parents, to give them a positive outlook on life. "I want to offer them an inspiration to live," said Reid. In addition to drawing attention to CF, Reid hopes he can teach other CF victims the breathing exercises he learned in Taiwan. Reid hopes he can teach the breathing exercises to anybody with lung disorders.

In order to learn the rare martial art, Reid mountain-climbed for thirty days in pouring rain. He waited five hours each day for an instructor that never showed. The ordeal was a test to see if Reid was truly sincere about learning the art form.

Reid and Adams met in Endicott, N.Y. in 1977, and have been friends ever since. Adams describes Reid as a very peaceful and gentle person, at peace with himself despite the fact that he may die any day. Adams, who does not have CF, is participating in the walk because he supports and believes in Reid's goal to help other CF victims to live longer with his special breathing exercises.

Besides promoting a public awareness of CF, and trying to teach other CF victims the special breathing exercises, Adams and Reid plan to donate money they raise from the walk to the Cystic Fibrosis Clinic at the University of Minnesota. They chose the university clinic because its director, Dr. Warren Warwick, is the leading worldwide expert on cystic fibrosis.

"This will eliminate the confusion and hassles involved with the money," said Adams. "All the money we raise from the walk will go directly to the CF clinic at the university, which will go towards researching Craig's exercises."

The walk is very special because it is the first time a person with CF has attempted anything of this magnitude. The pair plan to walk 3,100 miles from New York to California. They will start from Ithaca, N.Y. because Reid earned his undergraduate degree from Cornell University, which is located in Ithaca. They plan to begin their walk on May 18, and finish at Santa Monica Beach on August 12.

The walk could literally take the life of Reid. "But no matter what happens, the walk has to continue," stressed Adams. He added, "We will finish the walk no matter what happens."

Reid looks forward to the walk and views it as another challenge in his life that he will overcome. "All my life I have overcome obstacles that were supposed to be impossible," said Reid. The trek will be a long and tough journey, but the pair are very determined to finish the walk and accomplish their goal.

"People think that I may be putting myself in danger, but if Dr. Warwick said I could not make the walk, I would not," explained Reid.

Reid stresses that the psychology of the project is to dedicate the entire matter to his father who recently passed away from Alzheimer's disease. "My father never knew about the project, and unfortunately never will," Reid said.

Anyone interested in contributing to this cause may send donations or helpful information to: Craig Reid - Walking America, c/o Bill Adams, 1070 Ashland Ave., St. Paul, MN 55104.

[Images](#)

Photograph of Mayor George Latimer and Craig Reid

Photograph of Bill Adams

First Annual Student /Alumni Dinner Dance

Saturday, April 12, at the Marquette Inn in the IDS Tower in downtown Minneapolis. Tickets are \$15 per person or \$150 for a table of ten. The cost includes a cash bar cocktail hour from 6:30 to 7:30 p.m., sit-down dinner from 7:30 to 9:00 p.m., and dancing from 9:00 p.m. to 1:00 a.m. Music will be provided by the Bill Duna Orchestra. This band plays music from the '40's to modern selections.

All students, "faculty and alumni are invited to attend. Tables of 12 can be reserved in, advance. Black tie optional. Reduced room rate from \$110 to \$65 per night. Contact SBA rep or the alumni office.

American Indian Law Students Organize AILSA

By Charli Winking and Terry Hokenson

Since American Indians are affected in unique ways by many levels of law - treaties, federal and state statutes, and reservation codes, for example - adequately serving the legal needs of Indian people can be very complicated.

Add to this complex legal picture the unique nature of traditional Indian cultural values - values which have somehow endured through unimaginable military and social devastation - and you begin to understand the dimensions of the need for American Indian lawyers.

American Indian students at William Mitchell have formed American Indian Law Students Association (AILSA) in an effort to enhance the awareness and sensitivity of non-Indians, especially attorneys, to American Indian issues. AILSA also intends to provide support for the American Indians currently enrolled in law school, and to work actively to increase the number of American Indian law students.

Shirley Cain, AILSA member, pointed out that many issues are unique to American Indians. The cultural pride that American' Indians have has come up in class discussions, Cain said. AILSA wants to show the importance of Indian culture, traditions and history to the community. It is important for non-Indians to recognize that Indian culture still exists and can and should exist within the larger U.S. society.

At present there are only eight Indian students at Mitchell, according to AILSA. They intend to maintain an American Indian student body within the law school by providing a support system for the American Indians presently enrolled. Cain pointed out that American Indian students have crucial philosophical differences with many of the concepts involved in legal education.

For example, although competitiveness and the struggle for grades and class rank seem inherent in the law school experience, competition is contrary to Indian values and beliefs, which center around community interdependence and cooperation.

The concept of private property as taught in law school is also foreign to Indian social patterns. AILSA members said that Indians have no concept of property in terms of ownership and possession. Indians traditionally view the land as another being, part of the community as a whole. The job of the human is to act as a caretaker, living in harmony with the land. The Indian view of the land as "sacred" is diametrically opposed to the legal system's view of private property as "sacred".

The separation of church and state, although firmly embedded in the traditional legal system, is also an alien concept. Many tribes do not separate spiritual from governmental practice on the reservations.

To bridge the cultural gap, AILSA plans to develop and enhance practical skills necessary for law school-writing, analytical and oral skills. "they plan to establish a network for sharing outlines and information on financial aid, professors and classes.

If any upperclass students or faculty are interested and willing to help tutor, give sample exams, or consult with students, AILSA asks that they leave a message in the AILSA box in the Communication Center. Members are also willing to offer a crash course in Indian issues if anyone is interested.

AILSA also feels that it is critical to increase the number of American Indian students at Mitchell. Members want to assist the college in recruiting and encouraging prospective American Indian students.

American Indians feel a very strong sense of loyalty to the community, according to AILSA. As a result of the needs of the Indian community many qualified students are diverted at the college level and don't pursue post-graduate degrees. It is not an instinctive goal for an Indian person to want to make a lot of money, according to AILSA members; serving the community is the more important goal.

AILSA members feel that they can help provide role models to encourage younger students to enroll in law school. They can provide role models within the law school by bringing Indian attorneys to speak on legal and cultural issues. But, it is also necessary to go out into the community and show high school and college students that there are American Indians at Mitchell.

The question raised by AILSA is how serious is Mitchell about recruiting and supporting American Indian students? The University of Minnesota is very aggressive in recruitment, giving information on financial aid, housing and the school. AILSA wants very much to participate in recruitment efforts by the college to see that the maximum possible number of students is reached.

AILSA points out that options at Mitchell are much better because of the flexibility in scheduling. Students can take evening classes, take less than a full load and work at the same time, easing financial burdens.

AILSA members want to contact the current applicants for fall admission. Dean James Brooks and Admissions Director Robert Stowers have invited AILSA members to participate in recruiting other prospective American Indian law students, according to AILSA members. They intend to pursue that goal by attending career days and career education fairs at high schools and colleges. In that way they feel that they can act as initiation guides in the community as well as at the law school.

Image

Image of an eagle in flight.

Image of a stylized bear.

By Nishnawbe Arts, Toronto

Client Counseling Competition Winds-Up Season

By Nancy Wiltgen

The student attorney team of David Johnson and Barbara Jerich won this year's Client Counseling Competition on February 15. Also competing in the final round on the 15th were the teams of David Fenske-Bob Goldstein and Jeff Heath-Thom Campbell. Because of prior commitments Johnson and Jerich were unable to attend the Regional Competition Feb. 28-Mar. 1 at Creighton University so William Mitchell was represented at the regionals by Fenske and Goldstein.

The Client Counseling Competition began in 1969 as an inter-scholastic competition in California. In 1973 the ABA Law Student Division began administering the competition, and by 1985, 110 schools in the U.S. and Canada were participating, including William Mitchell.

The purpose of the competition is to simulate an initial law office consultation situation. Law students acting as attorneys are presented with a typical client matter in a particular area of law, which this year was criminal law. They conduct an interview with a person playing the role of a client and then explain how they would proceed.

The competition is open to any second-, third- or fourth-year student. The intra-school competition begins in the fall, when students form their own teams and begin participating in practice rounds. First-year students act as clients during the three practice rounds held prior to the school competition in February.

Twenty-four teams participated this year. The teams were judged by a panel consisting of two attorneys and one counselor. The judges are selected by the Client Counseling Board, which organizes the school competition. Traditionally, the Board is made up of the six team members who were finalists in the previous year's competition. The Board schedules the practice rounds, critiques teams during the practice rounds and organizes the competition. Professor Curt Stine is the faculty advisor on the Board, and in addition to the general board duties he prepares the advancing team for the regionals.

Participating in the Competition is a unique and fun method of developing interviewing, planning and analytical skills in the lawyer-client relationship. It promotes greater knowledge and interest in the preventive law and counseling functions of law practice. Students may earn one credit if they participate in all the practice rounds, and in the actual competition, and if they write a 10-15-page paper in the competition's field of law for that year.

COMMENTARY

[Neighbors Sing Joni Mitchell Tune on Parking Lot Plan](#)

By Michelle Moran

In order to sample neighborhood feelings about William Mitchell's parking lot proposal, the writer contacted Courtney Brazel, President of the Summit Hill Association/District 16 Planning Board. Besides teaching twelfth-grade English, Brazel also serves as Editor for The Beacon, the newsletter of the Planning Board. Although Brazel was not able to schedule an interview, he was able to answer some written questions:

What is your perception of the relationship between William Mitchell and the community?

William Mitchell does not have as complex a relationship with the community as a liberal arts college would. Other than law students, a limited number of citizens have reason to associate with the college. There are no sporting events, concerts, etc. for people to attend. Thus, William Mitchell basically assumes the relationship of a property owner. A number of WMCL students and staff live and shop in the community and are an asset to the community in that regard. The physical presence of the college on Summit Avenue, of course, affects the neighborhood and nearby residents, especially where parking is concerned. When issues like the proposed parking lot come up, the lack of an ongoing college/citizen group to bring about a neighborhood dialogue causes a strain in our relationship with the school. The District Councils (8 and 16) have become that forum, along with the Grand Avenue and Summit Avenue task forces.

How does the Summit Hill Association feel about the proposed parking lot at WMCL?

We oppose the lot; both District 8 and District 16 have been on the record in that regard. The college does have the legal right to build it, but we question whether the lot is really necessary. There are other nearby lots not being fully utilized. Students do not seem to have an unreasonable distance to walk from street parking or these lots. We oppose placing a lot on the beautiful, green space along Summit Avenue. The neighborhood places great value on the historic avenue and another eyesore is unwelcome indeed. We see the potential for increased traffic congestion, especially at and near Summit and Victoria.

If the lot is to be built in spite of our opposition, we want to see a design implemented that will be a visual asset to Summit Avenue, rather than a detriment. The only reason we are considering softening our opposition to the proposal is because we do not want an all-or-nothing battle ending in a lot with an unacceptable design. We are continuing dialogue with the college.

What alternatives to the proposed parking lot exist?

Full utilization of lots in existence now. Disputes and communication problems have hindered this so far.

Would the Summit Hill Association like to have WMCL represented by students or faculty at its meetings?

We can notify the college if we want a representative at our meetings but we would prefer that the college initiate a college/citizen participation group.

What can WMCL do to improve its relationship with the surrounding neighborhood?

Initiate a participation group to ensure effective communication. The steady communication necessary for good community relations can be effected with a participation group made up of citizens, students, and college officials.

INSERT POLICY

The Opinion insert policy is to permit the insertion of circulars sponsored by members of the WMCL community as long as labor and materials are furnished by the sponsors and the timely distribution of the paper is not materially affected. Sponsors must be identified on the circulars.

HAPPY ST. PATRICK'S DAY

An Invitation

The College will host an information day for newly accepted students on Saturday, March 22, from 1:00 to 3:00 p.m. The purpose of the day is to acquaint these students with the faculty, programs, and facilities of William Mitchell and assure a high rate of matriculation.

There has been a general downturn in law school applications, so a special effort is needed to make sure that as many accepted students as possible become registered students.

A successful effort is clearly in the financial self-interest of all returning students. However, the Opinion staff urges all students to consider the golden opportunity to make a strong first impression on these potential entering students.

We can impress them with the vigor and camaraderie of our extracurricular organizations, with the broad range of interests and backgrounds represented in the student body, with a simple welcome that will dispel any fears of an unalloyed dog-eat-dog environment.

If you would like to contribute to bringing about a more cooperative atmosphere and encouraging a deeper social consciousness among law students, this is a time to do it. The way we do it here is going to affect the way we do it out there.

All of us can have a role to play in this important day. If you would like to take part, please call Bob Stowers or Nadine Sehnert at 227-9171 ext. 129 ASAP.

The program will begin in Room 111 at 1:00 p.m. Next our visitors will be invited to talk with representatives of student organizations in the student lounge. Hors d'oeuvres and refreshments will be served.

Information supplied by Robert Stowers, Director of Admissions and Financial Aid

Spring Program Set by Women's Law Caucus

By Laura Staples

A noteworthy upcoming event is the annual Spring Program sponsored by the Women's Law Caucus. The program, Women in the House/Women in the Court, will be a panel discussion, featuring members of the Legislature and the Judiciary. Panelists will include: Linda Scheid, Representative from Brooklyn Park; Aviva Breen, Head of the Commission on the Economic Status of Women and; Judge Cara Lee Neville, District Judge, Fourth Judicial District. The moderator will be faculty member Ann Bateson. The women will be discussing not only the challenges of holding positions which were previously under-represented by women, but also what women can add to these professions. The program will be held on Thursday, April 10, at 8:30 p.m., in LEC 107.

Anybody interested in helping to plan this event, or future events, is invited to come to a general organizational meeting on Thursday, March 20, at 8:30 p.m., in the boardroom.

Image

Stylized images of four women.

Students Split Vote on Parking Lot

Below are tabulated the results of the February 25 and 26 poll of students and faculty on the proposed parking lot. The total student population as of the eighth week of Spring semester 1986 was 1040. The total number of votes cast was 568(1) or 54.6% of the student-population.

	Raw Vote	% of Total Vote	% of Total Pop.
Strongly in favor	180	31.7%	17.3%
Mildly in favor	90	15.9%	8.7%
Don't know/care	29	5.1%	2.8%
Mildly opposed	61	10.7%	5.9%
Strongly opposed	208	36.6%	20.0%
Totals (2)	568	100.0%	54.7%

Staff Faculty: Total Votes Cast – 29(3)

	Raw Vote	% of Total Vote
Strongly in favor	17	58.6%
Mildly in favor	5	17.2%
Don't know/care	0	0
Mildly opposed	3	10.3%
Strongly opposed	4	13.8%
Totals	29	99.9%

(1) Three ballots were tossed out because they were ambiguous. Year 1, Section 3 ballots were not turned in.

(2) If all "favor" votes and all "opposed" votes are respectively combined, the vote is 270 for and 269 against.

(3) The staff/faculty vote was impromptu, so it is more interesting than reliable.

Note: The age, gender and year information was supplied somewhat erratically. Some type of demographic voter profile will be extrapolated by mid-April, but it will not be as broadly-based as had been hoped. For those who cooperated, we thank you; to those who weren't asked, we apologize; for those who wrote editorials, your existence is confirmed, if that's any consolation.

VIEW FROM THE TOWER

Ban the Ethics Exam

(this article contains footnotes)

By Prof. Doug Heidenreich

Every applicant for admission to the Minnesota bar must take and pass, in addition to the regular bar exam, a multiple-choice, 50-question examination in Professional Responsibility. 1 The requirement is

not only ineffective, it is insidious. The Minnesota Supreme Court and the Board of Law Examiners should stop administering the professional responsibility exam. 2 Furthermore, the court should stop requiring that some lawyers who are being disciplined take and pass the professional responsibility exam. 3

The exam is bad for two reasons: the "answers" are sometimes wrong and, more important, the exam teaches new and old lawyers alike that the appropriate standard of "ethical" conduct is adherence to arbitrary rules. 4 If the lawyer walks close to the line but does not step over it, she or he will not be disciplined. Thus, the message that the court sends to all of us is that a lawyer's conduct is to be measured strictly by adherence to rules of positive law as promulgated by the court. The lawyer who adopts this as the standard for appropriate conduct will perpetuate and enforce the popular perception of lawyers as comer cutters and tools of unscrupulous clients.

In the wake of the Watergate episode 5 many writers urged American law schools to institute special ethics courses or to make other efforts to require training in Professional Responsibility. 6 Some law schools grudgingly complied 7 but the cycle of concern for education in ethics or professional responsibility now seems to have reached its nadir. The seed money grants and the articles will be with us again after the next public scandal in which lawyers are deeply involved.

Let me address the first of my points of criticism of the multi-state exam requirement: the "answers" are sometimes wrong. In the pamphlet provided to potential applicants for the exam there are 25 sample exam questions. The questions are similar to those of the exam that the applicant will take; the booklet advises the applicant to study the practice exam as a way of preparing for the real thing. 8

Among the questions is this one:

Questions 11-13 are based on the following fact situation.

Client retained Attorney to institute an action against Defendant for breach of contract. The retainer agreement provided for a nonrefundable fee of \$1,000, which Client paid, and a charge of \$50 per hour for services rendered in connection with the matter. Attorney spent eight hours preparing a complaint for filing, reviewing Client's files and making an independent investigation of some facts in Client's case. Attorney became convinced that Client's recollection of the facts was faulty and that Client would not prevail in a lawsuit. The statute of limitations will run on Client's claim in one week. Attorney wishes to withdraw without filing suit. Client insists that Attorney at least file the complaint in the matter before withdrawing.

The very existence of the exam and the reliance on it by the examiners and the court teaches the wrong thing.

Question 13

If Client admits that his story was untrue and Attorney withdraws with Client's consent, is it proper for Attorney to keep all or any part of the \$1,000 retainer that Client paid?

- A. Yes, the entire \$1,000 if \$1,000 was a reasonable nonrefundable retainer.
- B. Yes, but no more than \$400 for the eight hours of her services.
- C. No, if Attorney withdraws without filing suit.

D. No, because Attorney withdrew from further representation of Client.

The "correct" answer given in the key is (A): that is, the examinee is supposed to assume that "nonrefundable retainers" are valid and enforceable, at least under some circumstances. If a nonrefundable retainer can ever be valid (which is doubtful), the question and its answer are at best deceptive and, more realistically, wrong. 9 Any decent examinee could only conclude that (B) is the appropriate answer. The question virtually teaches the examinee that what is indefensible morally or ethically or, indeed, under any reasonable interpretation of the rules, is, or at least may be, okay.

The cycle of concern for education in ethics... seems to have reached its nadir.

The defender of the exam might argue that it is improper criticism to pick on a couple of specific questions that might be misleading or even wrong. After all, the questions are subject to constant scrutiny and review. 10 It would be easy enough to get rid of the offending questions. Why throw out the baby with the bathwater? 11

The response brings me to the related but more serious second point of criticism. The very existence of the exam and the reliance on it by the examiners and the court teaches the wrong thing. No lawyer, or any other citizen, can live his or her life blindly adhering to positive rules promulgated by the legislature, the court or anyone else.

By teaching that moral and ethical issues can be resolved by a fine reading of the language and that fact situations should be analyzed by a hair-splitting scrutiny of the words of the rules we are telling lawyers that they should practice their profession in just this way. If a client plans to commit a crime and we learn about it, we may disclose the client's intention (that is, we will not be disciplined if we do) so long as the crime probably will involve death or serious bodily harm to a third person. If the crime involves something less than this we may not so disclose (that is, we would be disciplined if we were to do so). 12 End of problem. Next case. Pernicious nonsense.

Of course, any lawyer can answer questions about the rules governing fee disputes 13 or about representing two parties with obviously divergent interests 14, but the ability to answer these questions does not tell the examiners or the court or anyone else what the lawyer's moral and ethical bent might be. If all that the examiners learn is that the lawyer knows that the rules prohibit stealing a client's money the entire enterprise is a waste of time.

What to do? Should we return to essay bar exam questions 15 about professional responsibility? Should we abandon the subject altogether? Can we examine in such a way as to determine the lawyer's moral approach? If we can, should we do so? In answer to these questions I suggest the following:

1. We should include issues of professional responsibility in the substantive bar exam questions. These issues should be relatively subtle and open ones that the examinee can discuss carefully within the timeframe of the questions.
2. The grading of these issues should not reflect adherence to a strict interpretation of one of the Rules of Professional Conduct but should evaluate the examinee's depth of concern and understanding of a moral dilemma that a lawyer might encounter.
3. If we are right in our assumption that we can evaluate a person's ability to analyze and to apply general legal principles to a substantive legal issue (and we may not be right in that assumption - but if

we are not, we should abandon the entire bar exam) it is no less likely that we can examine to determine the potential lawyer's moral orientation.

The question virtually teaches the examiner that what is indefensible morally... may be OK.

The hard questions I have not yet raised: if we do learn that a potential lawyer is an incipient shyster, what can we do about it? Can we refuse admission to a person who has yet to be caught in unsavory conduct because we have determined that his basic approach to life and to law practice is a tawdry one? Would such an approach meet constitutional standards? Would it be likely misused to exclude from the bar minorities or those of unpopular political persuasions? 16

Whatever the answer to these questions, one thing is clear: we are doing it wrong now.

NOTES

1. Rule II of Minnesota Rules of the Supreme Court for Admission to the Bar says that a would-be lawyer must have "taken an examination on the Code of Professional Responsibility [probably the rule will be amended to refer to the Rules of Professional Conduct] given under the auspices of the Multistate Professional Responsibility Examination Committee of the National Conference of Bar Examiners and received thereon a minimum grade as determined by the Minnesota Board of Law Examiners."
2. While the examinee must have received [at least?] "a minimum grade" on the exam, "[t]here shall be no limit to the number of times an applicant may take this test."
3. See, e.g., *In re Luther*, 374 N.W. 2d 720 (Minn. 1985) in which the respondent, a practicing lawyer, was required by the court not only to "take and pass the professional responsibility portion of the multi-state bar examination" but to "successfully complete a course in professional responsibility at an accredited law school."
4. The National Conference of Bar Examiners 1986 Information Booklet for the Multistate Professional Responsibility Examination (Booklet) contains Sample Examination Questions that are "similar to those contained in the MPRE." Of the 25 sample questions, 9 raise the question whether described conduct would make the lawyer "subject to discipline." Fifteen questions ask whether it would be "proper" for a lawyer to do or not to do certain things. One asks whether a lawyer "should" withdraw from representation in a described situation. The differences in the concepts are subtle; all refer to adherence to the Rules of the Code of Professional Responsibility or the Ethical Considerations of the Code, or to the Model Rules of Professional Conduct, their Preamble and Comments. See Booklet at p.5.
5. This term will sound faintly archaic if it is not downright mysterious to many readers.
6. See D'Amato, *Watergate and Legal Education: A Comment*, 27 J. Leg. Ed. 592 (1975) for comments on that suggestion.
7. The American Bar Association Standards for Approval of Law Schools requires approved schools to "require of all candidates for the first professional degree, instruction in the duties and responsibilities of the legal profession. "The law schools are not required, however, to have a separate course to meet this standard. Standard 302. (a) (iv).
8. "Read and answer [the sample questions] to familiarize yourself with the kinds of questions contained in the examination." Booklet at p. 21.

9. The curious can read my letter on the subject to the editor of Bench and Bar and the material there cited in Bench & Bar of Minnesota, Volume 42, No. 5, May/June 1985 at p. 8.

10. See Booklet at page 19.

11. Lawyers are fond of hackneyed phrases like this (consider also "Pandora's Box," "a windfall," "opening the floodgates." "the slippery slope," etc.).

12. See Model Rules of Professional Conduct, Rule 1.6(a) and (b)(1). Note, however, that Minnesota has retained as its version of Rule 1.6 the language of Rule 4-101 of the Code of Professional Responsibility that allows the lawyer to reveal "the intention of a client to commit a crime."

13. See sample question 7, Booklet at p. 26.

14. See Sample question 17, Booklet at p. 31.

15. In February, 1978, contrary to the recommendations of members of the William Mitchell, University of Minnesota and Hamline faculties, the Board of Law Examiners began to examine on professional responsibility by means of objective, multiple choice questions. Before this ill-advised change the bar exam had included an essay question on the subject.

16. There is a long history of efforts by bar examiners in some states to exclude those with political affiliations of which they disapprove. See, e.g., Baird v. State Bar of Arizona, 401 U.S. 1 (1971).

Think Spring!

Graduation Plans Taking Shape

SPEAKER TO BE CHOSEN

By Nancy Wiltgen

Plans for June graduation are now in full swing. It will be held on June 8th, 1:30 p.m., at the I.A. O'Shaughnessy Auditorium, College of St. Catherine. Each graduate will receive 6 or 8 tickets for guests. The number of tickets available depends on the number of graduates. The class size now is approximately 210 but only 190 to 200 will graduate, for various reasons.

Steve Krum, Special Events Coordinator for the College, handles the administrative functions for graduation. All graduation questionnaires and cap and gown orders were to be turned in to his office by January 31. As of this writing, 30 to 40 members of the class had not turned in this information. To plan properly and avoid any last-minute problems, he needs to know who will walk in the ceremony, the name to be printed on the diploma, any special needs of a graduate, the correct size for caps and gowns.

Krum is working with the student graduation committee on other details of graduation. The committee consists of Dianne Cohn, Karen Cole, Kathleen Corley, Maron Fenico, Peter Warner, Betsy Keyes and Clark Griffith. They will decide on music for graduation and the reception afterward, the food to be served at the reception, and the other smaller details that go into graduation. According to Krum, the committee will tell him what they want and he then will implement those plans.

The graduation committee will soon be polling the graduating class in order to select the faculty members who will do the hooding and give the "charge to the class." After the poll is taken, one full-time professor, one adjunct professor and one woman professor will be selected based on the number of votes received. The professor receiving the most votes will give the "charge to class," and the other two will do hooding.

The committee may also be surveying the class regarding student recognition awards. The graduates would select a certain number of their classmates for recognition at graduation of their contributions to the class and the school.

Probably the most important function of the graduation committee is providing advice on the speaker for graduation. Dean James Hogg stated that he wants as much information as possible from students. He would like to know what people want and need for graduation and says that the SBA should act as a link between students and his office. Unfortunately, the SBA did not form a viable student graduation committee early in the first semester, and as a result, student activity in the speaker selection process has not been as strong or diverse as it might have been.

The SBA did not publicize the formation of the graduation committee and originally formed one only by word of mouth. Several students interested in participating in the process attempted to participate on that committee without success, so they formed their own committee. According to Matt Downs, Dean of Academic Affairs, there were different committees in existence last semester, but now there is one consolidated committee. That committee is taking a unified approach to decision-making and is fairly representative of the class as a whole.

The committee has selected the theme "Law, Power and Social Responsibility" for graduation. Kathleen Corley stated that the speaker should be someone with prestige, influence and power, a good speaker, able to address the topic, have experience with social responsibility, and be an individual of local interest. Clark Griffith said he believes that the speaker should be a person from the non-legal community, someone who can help the school in its search for financial aid and provide entry into the business world. Because the class is so diverse, it will be impossible to find a speaker who will please everyone completely, so a sort of "balancing test" can be applied to these criteria to find speaker who can address the class as a whole.

A list of proposed speakers has been submitted to Dean Hogg. Contrary to what some students believe, Dean Hogg is the person who extends the invitation to a speaker, not the Board of Trustees. Both Dean Hogg and Dean Downs said that the Trustees' role in planning for graduation is minimal. There is no "hidden agenda" for graduation or for the speaker. There are practical limitations on selecting a speaker, such as a reasonable potential to get a suggested person. In addition, because the speaker is usually given an honorary degree, everyone concerned should be comfortable conferring that honor upon her or him. The administration has given its assurance that it will do its best to honor the list of suggested speakers submitted by the committee.

All of the people interviewed for this article agreed that graduation is a celebration for those students who have completed their formal legal education. Graduation is also a public event which should help to enhance the prestige of the school. Griffith sees graduation as an event which can bring glory to the college as a celebration of its future and its purpose. He believes the college should use graduation and the honors bestowed upon the speaker to improve itself.

An area of concern earlier in the semester was the location of graduation. In December the administration learned that the Ordway would not be available in June, and Roy Wilkins Auditorium was selected instead. Dean Hogg said he thought that decision had been made with student advice. When he became aware of the negative student reaction to that site, he immediately planned to change it. According to Griffith, the SBA was active in shifting the location of graduation to the I.A. O'Shaughnessy Auditorium.

Dean Hogg stated that graduation is not necessarily confined to St. Paul and that there are no set requirements for graduation. Practical objectives guide the selection process. The place for graduation must be attractive, suitable for the pomp and ceremony of the occasion. It must have a stage, room for a large audience, proper acoustics, and parking. Nearby should be a place for lunch beforehand with the distinguished guests and a place for the reception afterward. And there must be room for the behind-the-scenes activity, such as organizing and marshalling the trustees, faculty and graduates.

A Journey Into the Future

From a news release.

(Saint Paul, Minnesota) - On Friday, March 21 at 8:30 p.m., Actors Theatre will open Trakker's Tel, an odyssey into the future created by Composer Randall Davidson, Visual Artist Janie Geiser and Director D. Scott Glasser with the Actors Theatre Company. The production will run through April 12.

Set in the distant future, this exciting adventure depicts the life and culture of a tribe that has survived a worldwide chemical disaster. Diggers by nature, this tribe unearths a series of artifacts which are assigned meaning and significance. As they dig to uncover the past and discover a future, they are confronted by dreams, a wandering group of performers and a disturbed outsider.

Trakker's Tel is a journey into the future that reveals much about today's society as well as the formation of societies in general. It provides a provocative visual example of how a society's traditions, mores, values and superstitions can strengthen or weaken its structure. Music, puppetry and language will combine to create an extraordinary theatrical event at Actors Theatre.

Support to underwrite this special collaborative project has been provided by The Northwest Area Foundation, The Minneapolis Foundation, The Henson Foundation and The Jerome Foundation.

Preview performances are scheduled for Thursday, March 20 at 7:30 p.m. and Friday, March 21 at 1:00 p.m.

Regular performances are Wednesdays and Thursdays at 7:30 p.m., Fridays at 8:30 p.m., Saturdays at 4:30 & 8:30 p.m. and Sundays at 7:00 p.m. A Tuesday performance is scheduled for April 1 at 7:30 p.m. A Sunday matinee is scheduled for April 6 at 2:00 p.m.

Ticket prices for Trakker's Tel range from \$7.00-\$16.00 depending on seat location and day of performance.

For reservations and more information, contact the Actors Theatre Box Office at 28 West Seventh Place, Saint Paul, Minnesota, 55102/(612)227-0050.

WHAT DO YOU THINK?

Photos and interviews by Pat O'Donnell.

Q: What do you like the most or the least about attending William Mitchell?

Bill Lad, fourth year, sec. 2: "I guess I like the legal environment, the diversity of the students. You get to meet people from a lot of walks of life."

Becky Havlisch, first year, sec. 3: "The thing I like the least is having to work and go to school. But that is no one's fault but mine. I like the variety of people that you meet here. You're kind of isolated in your own profession before you come here, but there's diversity here. I do hate the parking situation here."

Kathleen Corley, fourth year, sec. 1: "What I like best is that it's a night school, which allows me to be a student with people my own age, and which allows me to benefit from full-time instructors and adjuncts. And what I don't like about the school is the apparent lack of responsiveness to student needs and concerns."

Jeff Brown, second year, sec. 3: "What I've found kind of amusing, you might say, is the pretentious attitudes of people here, and it's covered with the competitive edge you find here. And it's pretty unnecessary because once you've locked yourself into a position, you're committed."

Nancy Wiltgen, fourth year, sec. 2: "The thing, I like the best is the faculty members - full-time and adjunct. They give us the best of both worlds, and I think they sincerely care about their students."

Mary Laue, first year, sec. 3: "Night school is advantageous, I think, because you're going to school with a group of people with different backgrounds - not like college where you were going to school with a group of people who were all the same age, all expecting to get out at the same time. Here it's not so homogeneous. People have real-life experiences. Sometimes in class we'll be talking about something in a case, and it will turn out to be someone's profession in the class."

Bill Pugh, second year, sec. 4: "I like the schedule. I moved here specifically because it is a night program. I came here from North Dakota, and that's the only reason I came - because there is no other night program around even close."

Image

Photographs of Bill Pugh, Bill Lad, Becky Havlisch, Mary Laue, Jeff Brown, Kathleen Corley, and Nancy Wiltgen.

Talent Show

7:30 FRIDAY MARCH 21 Room 111 (Auditorium)

- Comedy
- Song
- Bagpipes by Dean Hogg

- Dance Troupe with Dean Brooks
- M.C. - Prof. John Sonsteng

Ecumenical Aid to Counter Contra Support

A coalition of religious leaders has announced a national year-long campaign to raise \$27 million dollars in humanitarian aid for the people of Nicaragua in 1986. This effort, called the "Quest for Peace," is a direct challenge to the U.S. Congress which voted last June to send \$27 million to the contras who are seeking to overthrow the Nicaraguan government.

The ecumenical aid campaign was announced by Bishop Thomas J. Gumbleton, Archdiocese of Detroit; Rev. John W. Pyle, Washington Episcopal Cathedral; Sister Marjorie Tuite, OP, Director of Ecumenical Action for Church Women United and National Coordinator of the National Assembly of Religious Women; Clare Feinson, New Jewish Agenda, and Rev. William R. Callahan, Co-Director of the Quixote Center and Coordinator of Quest for Peace.

The Quest for Peace campaign is a broad coalition of 72 groups and individuals from 27 states and D.C. The ecumenical nationwide campaign has already shipped \$9 million in aid, equivalent to the same amount released thus far to the contras from the State Department's Office of Humanitarian Aid. The campaign was initiated by the Quixote Center, a national Catholic justice and peace center, 3311 Chauncey Place #301, Mt. Rainier, MD 20712. Contact them for information on how you can participate.

From Witness for Peace Jan./Feb. 1986

William Mitchell Talent Show

BENEFIT FOR WMCL CHILD CARE

7:30 FRIDAY MARCH 21

Room 111 (Auditorium)

PREVIEW OF ATTRACTIONS

- Comedy
- Song
- Bagpipes by Dean Hogg
- Dance Troupe with Dean Brooks
- M. C. - Prof. John Sonsteng

Ticket prices based on sliding scale - approximately \$3.00

Tickets available at the door or in advance in student lounge.

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Disabled Veterans Hit by Cuts

From a news release.

The Veterans Administration announced recently that payment adjustments will be necessary in some of its entitlement programs to successfully implement the Balanced Budget and Emergency Deficit Control Act of 1985.

Assistance for vocational rehabilitation trainees will be reduced by 13.1 percent or a monthly reduction of \$41 for a single veteran training full time.

In addition, grant payments for Specially Adapted Housing will be reduced by 8 percent. Maximum grant payments for automobile and adaptive equipment will drop from \$5,000 to \$4,600.

The agency also announced that it will impose a 10 percent reduction on the payment of allowances for burial, burial plots, and headstones.

According to VA officials, the reductions will remain in effect through Sept. 30, 1986, the end of the current fiscal year. The agency's 1987 budget restores the affected payments to their original levels.

Image

Four panel cartoon of the back of a man's head. In the first three panels he reads a series of case names, Lawrence V Fox, Hawkins V McGee, etc. His head slowly sinks down and in the last panel falls asleep, the Vs in the case names having transformed into birds.

By Nokie

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By Tim Helgesen

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