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The Opinion is an independent publication of 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, administration, support personnel and alumni. We welcome contributions from all members of the College community. The Opinion editorial board is solely responsible for this publication's content. Opinions expressed in this publication do not reflect the opinions of William Mitchell College of Law, its employees, or the Board of Trustees unless specifically authorized by and attributed to them.

Reflections From The Chief

In conjunction with the dedication of the new Warren E. Burger library, the former Chief Justice granted The Opinion a rare interview in which he recalled his law school days as well as opined about the legal profession in the 90's. Interviewers were Eric Larson and Cathryn Saylor Peterson. Our thanks to Dean Hogg for helping to arrange the interview.

C.S.P.: One of the things that we wanted to visit with you about today, was how you think William Mitchell is positioned to develop itself as a national law school, attract national students,

CJ.: I think it's pretty clear now that William Mitchell is one of the outstanding night law schools in the country. I know a little about some of the others, but I'd be hard pressed to put my finger on a law school that has a higher standing for night law schools than William Mitchell.

This was true to a degree in my days at school, except that people weren't looking at those things. There wasn't any accreditation process then, that came just as I entered law school, and the school was one of the first night law schools in the country that was accredited. But when you think of that new library, compared to the old school ... (laughter).

The little building that we went to was a fine old Victorian mansion up on Sixth Street; four classrooms, two on each floor.

The library wouldn't begin to meet present standards, but we were allowed access to the Supreme Court library at the Capitol, which was only about 300 yards away. We had a lot of federal judges on the faculty, and we had access to the federal court library in the old Landmark building.

You haven't asked me how I happened to go to St. Paul College of Law. Because I had no choice. I was in a family of seven children; there were three still younger than I was. I had been awarded a scholarship for which I had not even applied, a teacher of mine had applied for me to one of the great universities, and I got the scholarship but couldn't go. I went to work.

E.L.: You got a scholarship to the law school?

C.J.: No. Undergraduate. So I started going to night classes at the University of Minnesota. The University of Minnesota until quite recently listed me as a dropout (laughter). I've got to write to them and have a little fun with them. Minnesota was one of the advanced universities in the country with night classes, and the classes would meet at the public library here. I went for two years' nights at the University in General Extension Division, and then entered the law school. And while I was teaching three nights a week I was taking classes on other nights at the University of Minnesota. I was so in the habit of going to school I didn't know what to do with myself.

I didn't even apply for a job in 1931, because Harvard Law graduates were taking jobs as shoe clerks, it was the bottom of the Depression. I was working for the Mutual Life of New York, and I was an insurance salesman and an accountant/bookkeeper while I was going to law school.

E.L.: Do you see that one of the big advantages to a school like William Mitchell is that students are getting "real-world" experience by working and bringing that to the classroom?

C.J.: Another very important "real-world experience," to borrow your term, is that most of our teachers at that time were practicing lawyers and judges.

We had two members of the Supreme Court of Minnesota on the faculty, I don't know how many local trial judges on the faculty. I remember Evidence, I think was taught by one of the chief trial lawyers of the Great Northern Railroad. The procedural courses were all taught by lawyers in practice. That was another important difference. But you are quite right, it helps that you are living and working at something every day, even if you don't realize you are.

C.S.P.: If there was one thing that you could change about the legal profession in general, or the way that law students grow into lawyers and the way careers progress, what would that change be?

C.J.: First, I'm told, and I've read it in articles, that some of the things that I did over the last 20-odd years have had an impact on changing law schools, putting more importance on how to deal with facts; you don't have a lawsuit unless you've got facts. Law schools haven't paid much focus to the facts side of it. And the law schools, 20 years ago, were not, but more of them are now, focusing on ethics and on the skills of advocacy.

I was delighted when William Mitchell won the national prize on advocacy. I would attribute a lot of that to the importance of the adjunct faculty. It isn't limited to the adjunct faculty, because the professional teachers do a great job of teaching legal thinking, legal analysis, and the logical approach. But the practical side of it is the real world. and the adjunct faculty has a great contribution to make there.

What's wrong with the profession now, and it is going downhill, it has been going downhill -whether it started 10 years ago or 15 or 20, I'm not sure, but it's like getting an illness, you aren't sure when it began. The symptoms don't show right away. There is more shysterism in the practice of law today in our profession than at any time in the history of the country. And parenthetically I'll ask you have you seen my keynote speech to the American Inns of Court?

Group: No

C.J.: The Inns of Court is something that, frankly, I did organize. The reason I did it, by 1978-77, somewhere in there, I sensed that things after the Bates case in the Supreme Court, where lawyers misread that as saying the Bates case makes it perfectly appropriate for lawyers to advertise, is nonsense. The fact that the Constitution permits lawyers to advertise doesn't mean it's professionally proper for them to do so. The fact that the first amendment permits a lawyer to solicit business doesn't mean it's professionally appropriate to do it. And they used this crutch of the Bates case to bring that about. And when I look in the yellow pages of the telephone book, I get ill, and the TV ads are worse. I testified a couple of years ago before a commission of the ABA, and one of the members of the commission said, "What would you advise the public to do about this?" and my answer was, "I don't think the public is going to ask my opinion, but hypothetically let's assume that I am asked, my answer would be 'never, never, never engage the services of a lawyer who finds it necessary to advertise in order to get clients'."

All the way back from John Marshall to Abraham Lincoln, and all of them, the way lawyers got themselves exposed was to get into the community and conduct themselves properly. Even running for political office, there's nothing wrong with that.

E.L.: Some advocates of advertising by lawyers, have stated that it's an effective means of reaching those who do not think that legal [advice] is available.

C.J.: Nonsense, nonsense, nonsense. Three times I say nonsense. The Bar Association years ago, and many of them still do it, have a small box ad in the legal paper and sometimes in the regular newspaper, here the Ramsey County Bar Association Legal Referral Service. If you need a lawyer, call. Describe your problem and we'll send you three names. The shysters don't want that because they might not get on the list. But the idea of the touting that goes is nonsense. I regret to say some of the big firms have gotten into it.

Going back to 1978, I had been disturbed about these developments that were showing up... and began to show after the Bates case. I said [to the Dean of the law school], "Now the Bar Associations by and large are reckless, they aren't doing enough." I don't know why, but I want to see something started that will get young lawyers aimed in the direction of the standards of ethics, as well as the skills of the British Bar. I had an outline of what I wanted to do. Let's create the American Inns of Courts, which would be patterned [after the British System]. And you have one at the college now. Ethics first, ethics and professional performance is first, then skill comes next. To teach some person, man or woman, the skills of advocacy without having the restraining influence of the standards of ethics and rules of ethics, is like turning a little boy loose in a playground with a loaded .45 caliber pistol. He might not kill anybody, but the risk is there. And that's what we've been doing for too long.

E.L.: So you think that we should have more rules providing ethical guidelines?

C.J.: Yes. For example, we're in the process right now in the American Inns of Court, and I hope that it will be adopted affirmatively, that unless you sign a pledge that you will not advertise, and some other things, those two primarily, you can't be a member of the American Inns of Court. They have now about 6,000 members around the country, and they are in more than 100 law schools, more than half of the accredited law schools.

C.S.P.: Did you ever think back then [during law school] that you would be where you are today?

C.J.: Oh, heavens, no.

Image

Photograph of Justice Warren E. Burger.

Laramie Lampoon

(Associate Editors' Note: This series of letters has been deemed, by the Wall Street Journal, in its 6 September 1990 edition, as "the pot-shot heard round the world." Thus far, these letters have circulated internationally and are bringing Ms. Klemt untold fame and fortune. We hope you enjoy this moment of levity. To date, Ms. Klemt has thought of raising her legal fees from \$85.00 per hour to \$90.00. Ms. Klemt is scheduled to appear on the Johnny Carson Show October 3, 1990, to begin her fifteen minutes of "Andy Warhol" fame.)

RE: Broomell vs. Broomell

Civil No. 16424

Dear Mr. Corris:

This firm obtained the enclosed Judgment against Defendant, Stephen H. Broomell, on June 4, 1987.

Judgment remains only partially satisfied and there is due and owing as of this date principal and interest in the amount of \$4,239.84. Interest accrues at the rate of \$1.06 per day.

Would you please advise whether or not you would be interested in collecting on this Judgment and, if so, your fees for doing so. It's entirely possible that a letter from you to Mr. Broomell will be all that's needed.

I look forward to hearing from you.

Sincerely,

Pence and Macmillan

Becky N. Klemt

Dear Ms. Klemt,

I apologize for not getting back to you sooner, but I have been in and out of the office for the past six weeks. Seems that there's never enough time.

I want to thank you for offering me the opportunity to collect the judgment on behalf of Ms. Marcia L. Broomell, but, I must decline.

Without sounding pretentious, my current retainer for cases is a flat \$100,000, with an additional charge of \$1,000 per hour. Since I specialize in international trade and geopolitical relations between the Middle East and Europe, my clientele is very unique and limited, and I am afraid I am unable to accept other work at this time.

I am enclosing the copy you sent of the judgment and again, Ms. Klemt, I thank you for your thoughts. It was very nice of you.

Very sincerely,

Stephen G. Corris

Dear Steve:

I am in receipt of your letter to me dated August 8, 1988, regarding collection of a judgment against Stephen Broomell.

Steve I've got news -you can't say you charge a \$100,000.00 retainer fee and an additional \$1,000.00 an hour without sounding pretentious. It just can't be done. Especially when you're writing to someone in Laramie, Wyoming, where you 're considered pretentious if you wear socks to Court or drive anything fancier than a Ford Bronco. Hell, Steve, all the lawyers in Laramie, put together, don't charge \$1,000.00 an hour.

Anyway, we were sitting around the office discussing your letter and decided that you had a good thing going. We doubt we could get away with charging \$1,000.00 an hour in Laramie (where people are more inclined to barter with livestock than pay in cash), but we do believe we could join you in California, where evidently people can get away with just about anything. Therefore, the four lawyers in our firm intend to join you in the practice of international trade and geopolitical relations between the Middle East and Europe.

Now, Steve, you're probably thinking that we don't know anything about the Middle East and Europe, but I think you'll be pleasantly surprised to find that this is not the case. Paul Schierer is actually from the Middle East -he was raised outside of Chicago, Illinois, and although those national newsmen insist on calling Illinois the Midwest, to us, "if it's between New York and the Missouri River, it's the Middle East.

Additionally, although I have never personally been to Europe myself, my sister just returned from a vacation there and told me lots about it, so I believe I would be of some help to you on that end of the negotiations. Hoke MacMillan has actually been there, although it was 15 years ago, so you might have to update him on recent geopolitical developments. Also, Hoke has applied to the Rotary Foreign Exchange Student Program for a 16 year old Swedish girl and believes she will be helpful in preparing him for trips abroad. Another thing you should know, Steve, is that the firm has an extensive foreign language background, which I believe would be useful to you. Hoke took Latin in high school, although he hasn't used it much inasmuch as he did not become a pharmacist or a priest. Vonnie Nagel took high school German, while Paul has mastered Spanish by ordering food at numerous local Mexican restaurants. I myself, majored in French in college, until I realized that probably wasn't the smartest career move in the world. I've forgotten such words as "international" and "geopolitical" (which I'm not too familiar with in English), but I can still hail a taxi or find a restroom. which might come in handy.

Steve, let us know when we should join you in California so that we can begin doing whatever it is you do. In anticipation of our move, we've all been practicing trying to say we charge \$1,000.00 an hour with a straight face, but so far, we haven't been able to do it. I suspect it'll be easier once we actually reach California where I understand they charge \$500,000 for one-bedroom condos and everybody (even poor people) drive Mercedes. Anyway, because I'll be new to the area of international trade and geopolitical relations, I'm thinking of only charging \$500-\$600 an hour to begin with. Will that be enough to meet our overhead?

I look forward to hearing from you before you go away again for six weeks.

Sincerely,

Pence and Macmillan

Becky N. Klemt

P.S.: Incidentally, we have advised our client of your hourly rate. She is willing to pay you \$1,000.00 per hour to collect this judgment provided it doesn't take you more

Recognizing Discrimination

by Kathy Forbes

Last year, when the Student Bar Association was discussing the proposal to add minority representatives to the board, one white man kept repeating, "But I just don't see it," meaning that he didn't see the discrimination at William Mitchell.

Acknowledging that discrimination exists, and that discrimination is bad, there are many who fail to see that it exists in our midst. Most of these people are no doubt well-meaning. But they fail to see the degradation and humiliation of the students, faculty, and staff around them.

Some of these people are perpetrators of discrimination. Well-meaning as they may be, they may have even taken in a discrimination workshop or two, or read articles about discrimination. Yet they fail to see themselves as being capable of discrimination. It may even pain them to realize that they are harming those around them.

We have been socialized to discriminate, against women, people of color, religious and ethnic minorities, lesbians and gays, and the differently abled. It's hard to realize that we haven't been able to break away from that socialization.

There are those that go so far as to deny that there is a problem at William Mitchell. They haven't noticed any discrimination. Therefore, they claim that reports of discrimination are false. They go out of their way to deny the reality of the discriminatory experiences of others. This denial itself is abusive. It is reminiscent of a raped woman being told that she consented or that she imagined it all. To try to discredit those who report discrimination is in fact discrimination itself.

Those who claim that the numbers of faculty and students of underrepresented classes at Mitchell prove that William Mitchell does not discriminate, divert us from the real issue at hand. The issue is not the numbers at William Mitchell. The issue is attitude and behavior.

The faculty and student body of a school could have a composition of 99 percent underrepresented classes, yet still be guilty of illegal discrimination. The law is concerned about what happens to individuals.

Additionally, the fact that a person is from an underrepresented class doesn't guarantee that he or she won't discriminate against others in the same underrepresented class, or other in other classes.

Certainly, it is important to have adversity among the faculty, staff, and student body. The Boalt Hall study by Suzanne Homer and Lois Schwartz (Admitted Bur Not Accepted: Outsiders Take an Inside Look at Law School, 5 Berkeley Women's Law Journal 1 (1989-90)) confirms the value of diversity in that it presents role models and increases comfort levels for students.

That portion of the study dealing with numbers is one among many. Most of the rest of the study is concerned with attitudes and behaviors at law school, with what goes on in the classroom. The imminent release of this study was announced in the "Classroom Climate" workshop at the Women and the Law Conference in Oakland in April of 1989. Professor Mary Dean and I were in that workshop where classroom horror stories were shared by women from law schools from all over the country. Our experiences were remarkably the same, regardless of the law school. The major difference is the firings that Mitchell has engaged in the denials of problems at Mitchell, and the continuation of discrimination at Mitchell after it was made aware of the problems.

"Although women were represented in sufficient numbers, we were curiously imperceptible. Law school was conducted as if we weren't there, or as if it made no difference to anyone that we were." (page 3 of the Boalt Hall report). Other underrepresented classes also have similar experiences. What good that has come out of the problems at Mitchell is that some of us are seeing a little better what others are experiencing, and unfortunately, those experiences differ little from ours.

Some signs of discrimination against underrepresented classes to watch out for: The professor ignores and refuses to call on people; the professor looks through the person as he/she answers; the professor doesn't acknowledge an answer; the professor calls a correct answer wrong; the hypotheticals are biased. These may very well have been happening in your classrooms without you even noticing them. Try to become aware of these things happening around you.

Solutions to the problem of discrimination aren't easy, particularly in law school where faculty and staff are concerned with keeping their positions, and students are afraid to make waves for fear of alienating their professors and potential employers. The first step to any solution however, is recognizing the discrimination at William Mitchell. Only then can the behaviors be addressed.

[SBA Plays Dead Hand](#)

To the students: The following resolution was adopted by the SBA at the September 22, 1990 meeting:

RESOLUTION:

Whereas the purpose of the Student Bar Association is to govern the affairs of the student body at William Mitchell College of Law and to encourage the growth and variety of non-credit student activities on campus; and

Whereas the variety and size of noncredit student activities at William Mitchell College of Law has greatly increased over the last year; and

Whereas the continued growth of noncredit student activities is not dependent upon the consumption of refreshments by participants in those activities; and

Whereas the funds of the Student Bar Association are limited; and

Whereas the cost of refreshments is great and its purchase displaces the use of the funds for purposes more closely related to the purposes for which the Student Bar Association raises funds;

Now therefore, BE IT RESOLVED that no funds of the Student Bar Association of the William Mitchell College of Law be used for the purchase of refreshments.

The ban on the use of SBA funds for refreshments goes into effect as of June 1, 1991. The SBA apparently adopted the "dead hand" principle by using this year's board to control next year's activities.

The dead hand principle has been used by deceased individuals to control their wealth in their wills.

Richard Olson

President's Report

A number of students have asked me how the SBA works. I will try to briefly describe how we function and answer some other basic questions.

Membership

Every William Mitchell student is a member of the Student Bar Association. However, because there are so many administrative tasks that need attention, the students elect a Board of Governors. The SBA Board is then responsible for the administrative and representative functions of the Student Bar Association. The representatives consist of four first year representatives. There is one representative for each section. Second year students also have one representative for each section. The third year students elect six representatives at-large. The fourth year students have two at-large representatives. There are also two ex-officio members who represent the minority students.

Procedures

The SBA must meet every second Saturday of the month. We often meet twice a month. The SBA also has several committee meetings that take place at various times throughout the year. The committees report back to the Board.

Students are encouraged to attend SBA meetings. Students may participate in Board discussions of agenda items. Students are also encouraged to raise new issues for the Board to discuss under the "New Business" item of the agenda which is discussed at the end of each Board meeting.

The SBA Board members bring motions before the Board, vote on motions, and participate in board discussions. Discussion is always open to persons other than the seated Board.

The Board collects funds from the students when the students pay tuition. We then spend the rest of the year making sure that the money is spent on the students. The budget process and allocation of the money is one of the most time consuming parts of many Board members.

The best way for you to learn about the SBA and its operations is to come and participate in one of the meetings. Then sit down with your representative and ask questions or feel free to talk with me.

Stipends

Stipends are payment for services. The amounts of stipends are allocated by the previous year Board to avoid any conflict of interest. The stipend for the Opinion editor, right now, is \$1,000. The stipends for SBA officers is: President - \$2,000, Vice-President - \$1,000, Treasurer - \$1,000, and Secretary - \$1,000. The stipends for Law Review are paid by the school. SBA budgets are discussed at most meetings. We would be glad to explain in detail any part of the SBA budget with you after the meeting.

Apology

The editorial staff would like to extend their apologies to Sue Nipe for the mishandling of her article in the August, 1990 edition. We placed the article under "Letter to the Editor" when it was intended, by Ms. Nipe, to be an article that stood by itself.

Letters to the Editor

Without a hint or suggestion from anyone in the administration, faculty, student body or from any outside source, I have tried to gather accurate, reliable information regarding the efforts the college community has made during the past three years to attract persons of color and women to its governing boards, student body, administrative staff and faculty. I also tried to determine what efforts were made to bring to the college persons of color to share with the community what may be their special perspectives on racism. In addition, I sought to accurately determine the efforts the community as a whole has made to recruit and understand the problems of the physically handicapped individual.

In late August, 1989, I provided an initial draft of my report to the staff and faculty asking for suggestions, corrections and additions. After receiving many helpful suggestions and information, I prepared an 11-page final report detailing the results of my factual inquiry. Copies of the final report were given to the administrative staff, faculty, administration and student leaders about two weeks ago.

The final report fails to provide any support for statements made by a few outside and a few inside the community who suggest there exists a "terrible environment" or that the community is "doing nothing of substance in the diversity area." Rather, it reflects an honest, serious, sustained commitment by the entire community to make the environment more diverse and a better place for everyone in which to work and study. Moreover, it suggests that the community is being fed large doses of political rhetoric by a small but vocal group within it, rather than accurate facts.

For example, I found that the WMCL Corporation, Board of Trustees and Alumni Association have all made sustained efforts to attract persons of color to those organizations. Many offers for positions on those boards have been made and accepted by person of color. Within the last two years, at least three persons of color accepted positions on the College Corporate Board while 6-8 offers were made to persons of color to sit as Trustees and two accepted. I anticipate a third person of color will be added to the Board of Trustees this fall.

In its recruiting efforts, the college made several full-time tenure track employment offers in 1989 to persons of color and women. One person of color accepted its employment offer; all three 1989 tenure track positions were filled by women. The college leads the nation in terms of full-time tenure track women faculty with about 1/3 of its full-time teaching staff female. (Four of its eight senior administrators are women).

In the affirmative action area, the College was the first Minnesota private college to have its affirmative action plan approved by the Minnesota Department of Human Rights. The approval came in 1988 and its affirmative action plan has served as a model for other private colleges in the state.

During the past two years the college has run a large number of programs that brought outstanding speakers from throughout the nation to its campus to address race and gender issues. The speakers list is a "who's who" in the areas of racism, sexism and problems of the disadvantaged. John Powell, for example, the director of the ACLU and one of America's most prominent Black attorneys, spoke to the faculty on Tuesday, September 18. Others who have shared their experiences and insights with the college include Peggy Jones, Taunya Lovell Banks, Rachel Moran, Judge Ann Williams, Judge Harry Edwards, Judge Leon Higginbotham and Cesar Chavez.

In recruiting its administrative staff, the college has aggressively sought to attract persons of color. Applications from persons of color have increased by 128.6 percent because of the college's activities. And, there are dozens of other college efforts including scholarship, special tutoring, enrichment and new academic policies --all aimed at assisting and encouraging persons within the community who are of color or handicapped.

The financial support, classroom assignments, summer stipends, and pre-tenure leave policy for new faculty members is a model not matched by many law schools. It is aimed at providing real support for new faculty members.

The data I gathered accurately reflects the positive, progressive atmosphere that exists across-the-board within this community with the exception of a small group of faculty and students. It also reflects the view that while no one within the community is satisfied that we have solved the perplexing and difficult problems of racism, sexism, and under-representation, that we are well ahead of most other institutions in our efforts to address those problems.

Anyone desiring the complete report may put a note in my faculty mail box with your name and address and a copy will be sent to you.

Professor Robert E. Oliphant Professor of Law

[More Letters To The Editor](#)

There is broad agreement among the faculty that the various statements of the American Association of University Professors (AAUP) are critical to consider in revising the procedures of the tenure code. However, there seems to be considerable confusion in our community over the concept of academic freedom that tenure was intended to protect.

Everyone understands that the tradition of academic freedom in the United States grants freedom of expression rights to professors that would otherwise not exist in an employment law context. Academic freedom grants rights to professional academic employees to be free from lay interference by employers in research and publication. teaching, extramural utterance outside the walls as a citizen, and utterance within the walls beyond research and teaching that gives "expression to a judgment on controversial questions" (also referred to as extramural utterance in AAUP Statements).

I think we have seen abundant exercise of these rights of academic freedom within our community. What seems forgotten is that inherent in our tradition of academic freedom are not only rights but

correlative duties. These correlative duties inherent in academic freedom are imposed upon individual scholars as well as upon the faculty as a collegial body.

These correlative duties are set forth in three major statements by the AAUP: The 1915 Declaration of Principles; the 1940 Statement of Principles on Academic Freedom and Tenure; and the 1966 Statement on Professional Ethics. A restatement of the correlative duties set forth in these statements is set forth below:

Correlative Duties of Individual Faculty Members

a) The individual university teacher must comply with the duty of competency in professional inquiry and discourse. This includes the following obligations: (i) to devote the professor's energies to developing and improving his or her scholarly competence (1966); (ii) to seek above all to be an effective teacher and scholar (1966); (iii) to form conclusions by a scholar's method (1915); (iv) to form conclusions through competent and sincere inquiry (1915); (v) in giving instruction on controversial matters, to be a person of fair and judicial mind, (1915); (vi) in dealing with controversial subjects to set forth justly, without suppression or innuendo, the divergent opinions of other investigators (1915); (vii) to at all times be accurate (1940); (viii) to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge (1966); (ix) in teaching, not to introduce into the classroom controversial matter which has no relation to the subject matter of the class (1940); and (x) in teaching, to hold before students the best scholarly standards of the discipline (1966).

b) The individual university teacher must also comply with the ethical constraints of professional inquiry and discourse. This includes the following obligations: (i) "to hold conclusions in a scholar's spirit; that is to say ... they shall be set forth with dignity, courtesy, and temperateness of language" (1915); (ii) to show respect for the opinions of others (1940 and 1966); (iii) to "exercise appropriate restraint" in utterances as scholars and educational officers (1940); (iv) to make every effort to indicate that the teacher is not an institutional spokesperson (1940 and 1966); and (v) to practice intellectual honesty (1966).

c) In extramural utterance beyond teaching and research, the individual university teacher is under a "peculiar obligation": (i) "to avoid hasty or unverified or exaggerated statements;" (1915) and (ii) "to refrain from intemperate or sensational modes of expression." (1915)

Correlative Duties of the Faculty as a Collegial Body

Inherent in the tradition of academic freedom is also the correlative obligation of the faculty as a collegial body to determine when departures from these competency and ethical duties of professional inquiry and discourse have occurred. The faculty must acquire "the capacity for impersonal judgment in such cases, and for judicial severity when the occasion requires it" (1915). The 1915 Statement exhorts the profession to be willing "to purge its ranks of the incompetent" and "to prevent academic freedom from being used as a shelter for inefficiency, for superficiality, or for uncritical and intemperate partisanship." (1915)

With respect to competency specifically, the AAUP's Committee A has reported: "The position of the Association (AAUP) is clear: far from protecting the incompetent, it welcomes and facilitates their elimination from the professoriate.... The Association.... accepts the principle that institutions of higher education are conducted for the common good, and the common good demands competence. But in order that incompetents may be eliminated, and incompetents only, the Association insists upon two

things: The first is that department heads, deans, and personnel committees shall be honest and courageous in their duty of detecting and eliminating the incompetent during the period of probation... The second is that when an established teacher is accused of incompetence, he (or she) shall frankly be charged with it, given a hearing with due process, and returned or dismissed on the findings" (1946 Report of Committee A)

With respect to the ethical duties of professional inquiry and discourse, Committee A has stated that "academic responsibility is admittedly very difficult to define." "A faculty and administration have a legitimate interest in the maintenance of proper standards of faculty responsibility " "For a judgment of this kind, recourse should be had in the first instance to a committee of the faculty. Both traditionally and practically, it is the duty and within the particular competence of the faculty to make the decision to recommend any appropriate action." ("Academic Responsibility: Comments by Members of Committee A Incident to Consideration of the Koch Case, 49 AAUP Bulletin 40 (March 1963)). Similarly, the AAUP's 1966 Statement on Professional Ethics provides that the individual institution of higher education assures the integrity of members of the profession. "The individual institution should normally handle questions concerning the propriety of conduct within its own framework by reference to a faculty group." (1966)

I urge the community to give more attention to the correlative duties inherent in our tradition of academic freedom. In particular, as an academic community committed to diversity of ideas, we must both hold our own conclusions in a scholar's spirit of objectivity and fairness in presentation, and set them forth with dignity, courtesy and temperateness of language. We must show respect for the opinions of others. and refrain from ad hominem attacks that intimidate and suppress other's ideas.

I also recommend that persons who are targets of professional discourse that violates these ethical duties should not be forced either to suffer insolence or to engage in "memo" wars. They should bring the matter for discussion before the faculty as a whole to help develop a community consensus on the ethical duties of professional inquiry and discourse.

Professor Nell Hamilton

Dear Editor:

In the last issue of the Opinion I commented on rumors circulating within the college community regarding the possible involvement of various full-time faculty members who allegedly are providing support, encouragement and legal advice to individuals suing or who in the past have sued the college. Furthermore, I expressed my concern that if the rumors were true that some faculty may use their governance positions on the college committees to further the litigation aims of the persons they are helping. Since I expressed my opinion in the spring some facts regarding faculty involvement have surfaced.

For example, at a meeting of most of the full-time faculty this fall, two faculty provided the following information. First, one faculty member admitted that he was at one time acting attorney for Mary Dean -who is currently litigating with the college. However, he stated that his representation of Ms. Dean was well known and that it had ended quite some time ago.

Second, another faculty member expressed outrage at my suggestion that he might be acting or had acted in a lawyer-like capacity for Andrew Haines. He stated that while he had provided advice to Haines

(and I inferred would continue to do so) that he was never listed as Haines' attorney of record and never received a fee for representing him. Therefore, he argued, my suggestion was inappropriate.

Since the faculty meeting where the above was discussed, I have received additional information regarding possible faculty involvement in terms of supporting persons suing the college. In a written statement recently shown to me, it is alleged that at least three other faculty participated in a litigation drafting session on behalf of Andrew Haines at Mary Dean's home.

I believe that this is serious business and raises questions regarding the precise role some full-time faculty are playing at this institution. It is hard for me to conclude there is an absence of a conflict of interest if some fulltime faculty are carrying out lawyer-like activities against their employer.

While some persons may argue that there is no attorney-client relationships if there is no fee being paid, I suggest that this is too narrow a view of the relationship in the context of this college. It seems to me that an attorney-client relationship is created when 1) a person seeks advice or assistance from an attorney, 2) the advice or assistance pertains to matters within the attorney's professional competence, and 3) the attorney expressly or implied agrees to give or actually gives advice or assistance.

Others may argue that faculty have no duty of loyalty to their employer, that somehow the college setting is different from the normal employment relationship. But I am troubled by that stance, particularly in view of what seems reasonably well-settled Minnesota law that every employment contract encompasses implied duties of honesty and loyalty to the employer. See *Stiff v. Associated Serving Supply Co.*, 436 N.W. 2d 777, 780 (Mun. 1989). As I observed in my earlier article in the *Opinion*, the duty of honesty and loyalty seems particularly true of employees who are full-time managers and it seems to me that to some extent that characterizes fulltime faculty. *N.L.R.B. v. Yeshiva Univ.*, 444 U.S. 672, 686 (1980).

Robert E. Oliphant

Professor of Law

Dear Editor:

Couldn't help but notice that Prof. Erlinder, Mr. Huff-and-Puff himself, wasn't at the library dedication festivities. I had wondered if perhaps the Angry Little Man wasn't more interested in the free publicity than furthering any cause he might be-championing these days. I guess after his defeat in the primary the free publicity wasn't worth the effort of walking around outside on such a chilly day, besides that, the Vikings were on ...

Of course, he might have had a very good reason for not being there, and who are we to judge?

Heather Brown Thayer

Dear Opinion Staff,

Just to make sure I am accurately quoted, please publish the following:

While I feel no obligation to explain my whereabouts during the protest against the violations of the MN Human Rights Act committed by the Board and Dean, I am willing to give the author several possibilities from which to choose:

During the demonstration I was:

a) on the beach at Acapulco

b) in the hospital

c) marching in the procession in violation of the MN Human Minority Lawyers Boycott, disguised as a token minority law professor

Professor Erlinder

[Open Letter to the Board of Editors -William Mitchell Law Review](#)

I was tempted, after reading the drivel in Professor Oliphant's paean to Peters,¹ to brush it off as the transparent apologia for a discredited and mercifully short-lived administration, concocted by the maundering mind of a member of that administration. A quick reading turned up embarrassing blunders in usage,² euphemistic jargon,³ sloppy research⁴ and, what looks like at least one defamatory statements.

My purpose in writing this letter, however, is to criticize neither Professor Oliphant's writing ability nor your staffs judgment. Rather, I want to insure that there is a record of the fact that at least some of us who lived through the Peters era remember things much differently. I don't wish to take issue with Professor Oliphant on each of his points. I do want you and the William Mitchell community to know that I look upon this article as a disgraceful piece of revisionist propaganda, worthy of the now-crumbling governments of Eastern Europe.

Sincerely,

Douglas R. Heidenreich

Professor of Law and Former Dean

cc: Faculty

William Mitchell Opinion

1 R. Oliphant, *Up From These Ashes* 16 *Wm Mitchell L. Rev.* 1175 (1990). Apparently the author believes that the title has some mystical metaphorical meaning. I shall refer to the article as *Ashes*.

2 Apparently neither Professor Oliphant nor his editor knows the difference between the verbs "pour" and "pore." See *Ashes* at page 1179.

3 Notice the use of terms like "out-placement" for firing (*Ashes* at page 1178) and "co-location" for the arbitrary moving of faculty offices (*Ashes* at page 1181).

4 The correct name of the former William Mitchell Librarian and Professor of Law is Carol Florin, not Florin as it appears in *Ashes* at page 1176.

5 Rather than republish the statement, I direct the reader to the comments about the auditors that appear in *Ashes* at page 1179.

[From the Desk of the Dean](#)

By James F. Hogg

President and Dean

The dedication of our Warren E. Burger Library on Sunday, September 16, was a great event – in the history of the law school and for its future. The Chief Justice was magnificent. The college is honored to have his name associated with the new library. Justice Sandra Day O'Connor was central to the dedication ceremony and to other events of the weekend. Both the law school and the Chief Justice were honored by her presence and her outstanding keynote address at the dedication. We were touched by her comment at the end of the program – after she received her honorary degree that she was happy and proud to be an alumna of William Mitchell College of Law.

I want to take this opportunity to thank all of you who made the library project, and the dedication, such a great success. Staff members, members of the faculty, and many, many students and alums contributed to the effort. Every one of you has my heartfelt thanks and appreciation!

The verdict is in on the new law library: magnificent! That's the judgment of students, alumni/ae, faculty, neighbors, professional librarians, and many others whether they're talking about the building's exterior, the interior layout and design, or its comfort and efficiency. Of importance to me, our library is at the leading edge of computer and other technologies. With this new facility, we are poised to make an impact on both legal education and the practice of law in the decades to come.

At a dinner for major donors, held three days before the library dedication, the campaign Steering Committee reported the results of our Building on Tradition campaign: \$7.5 million for the library and \$2.6 million for other college purposes, including scholarships and endowed faculty chairs and programs. These results exceeded our hopes and expectations. Examine the list of donors. It is an impressive endorsement of the law school, its mission, and its accomplishments by individuals, law firms, foundations, and corporations. Alumni/ae from near and far responded generously. Their gifts and pledges express their appreciation for the opportunities William Mitchell have them and their confidence in the law school's future.

At that dinner, I offered my perspective on the deeper significance of gifts to the campaign. I predicted that in the year 2000 or 2050 – when the law school celebrates its 100th and 150th anniversaries – the building of the Warren E. Burger Library and the Building on Tradition campaign will be seen as one of a few critical junctures in the history of the college. I also outline some of our major goals, which include:

- Continuing our 90-year tradition of offering both a flexible program and teaching of the highest quality;
- Being at the forefront of institutions that are committed to recognizing, encouraging, achieving, and celebrating diversity in the legal community and in society;
- Using computers and other new technologies creatively and wisely to improve the quality and effectiveness of law practice and teaching;
- Producing graduates of the first rank and assuring that prospective students have the financial aid required to meet the cost of tuition; and
- producing local, regional, and national leaders who have the intellect, energy, and moral courage to champion and defend our liberties and to improve our system of justice for all persons.

Thanks to all who gave so much to build the library and to make the Building on Tradition campaign a success, we who count ourselves part of the William Mitchell community have a renewed mandate and an opportunity to make great advances. But building for the future will require hard work, dedication, and purpose on the part of everyone.

[To: All Student Groups](#)

From: SBA

Re: SBA Policy On Funding of "Political Activities"

To whom it may concern; The SBA is a Minnesota non-profit corporation. The IRS code equivalent is a 501(c) (3) organization. A non-profit organization cannot participate in some forms of political activity. Issues have risen that demanded a clear statement of exactly what forms of political activity the SBA can fund. After researching the topic and reading the SBA articles of incorporation, we have reached a conclusion.

POLICY:

The SBA cannot fund any form of political campaign. This includes candidates from other states, or the distribution and dissemination of a candidate's information. The SBA is also unable to fund any activity that influences legislation.

Any group may bring political candidates on campus for a debate or lecture. However, that group must fund the activity themselves or with the help of William Mitchell. The SBA supports political speakers, but the law forbids us from funding political speakers. If a political speaker is not currently running for office, then the SBA can support a speaking engagement or debate.

If you need more information on this policy, please contact your SBA representative or call me.

Thanks, Bob R. Anthony Mcleod

[Interview With Judge Jack Davies](#)

by Eric Larson

This summer Jack Davies was appointed by Governor Rudy Perpich to the Minnesota Appellate Court. In recognition of his appointment, the Opinion sent one of its reporters, Eric Larson, to interview Judge Davies, an alum of WMCL and WMCL professor for twenty-five years.

Before being appointed to the Minnesota Appellate Court by Governor Perpich last summer, had you ever considered or desired a Judgeship: If so, what steps, if any, did you take to secure such a judgeship?

I requested an appointment when I lost my senate seat in 1982. I was passed over at that time when the first six appointments were made.

Q: Were you surprised when this appointment was announced?

A: Not when it was announced, but I was surprised when I was asked if I would sit on the court I said yes.

Q: Was that an immediate yes?

A: Yes, it was immediate.

Q: At this time, do you have any idea how long you would like to be an appellate court Judge or what you would like to do afterwards?

A: If the voters are willing to elect me. I would like to continue until I retire at age seventy. I am fifty-eight now. I have to run for re-election in 1992 and 1998.

Q: As an appellate court Judge, what short-term and long-term goals have you set for yourself?

A: The Court has the primary function to decide cases fairly and to do justice for the individual case. The Court must also decide the cases in a way the legal system can live with in the future.

In class, from time to time, I used a piece from Karl Llewellyn in which he said you appeal to the judge on three levels: first, by appealing to the judge's gut -what he believes is right; second, you provide the judge with a technically perfect case that convinces him or her that, on the basis of statute and precedent, the result wanted can, in fact, be reached. Then you appeal to the judge on the third level; you show that the result is one which can be lived with in the future.

As a judge, the second and third are the ones I have to make sure I respond to. I have no doubt that a lot of judges, indeed, respond to the first one.

Responding to your question more directly, first, I will decide cases on the basis of fairness; second, I will establish a sensible basis for each decision.

Q: In pursuit of those goals, you bring to this position something most Judges do not have; that is, after having served for twenty-four years as a Minnesota senator, you have authored, sponsored or been a proponent or an opponent for a good share of Minnesota law.

A: I have already run into several cases that turn on statutes which I authored or helped pass into law as a chair of the judiciary committee. It's no problem.

They get treated like any other statute. I still need to ask what meaning of the statute the legislature intended and which produces justice. Usually, the meaning I find does not do justice, then I must be reading the statute a bit wrong.

Q: Taking this idea of trying to achieve the goal of Justice, you have been known, as a senator, to be a crusader against special interest groups. Do you consider yourself such a crusader? If so, how will you bring this crusade to your current employment?

A: This court is bound by statute and by precedent, so we do not have much opportunity to "crusade." But you still have an obligation to apply your value system to the cases. The Bill of Rights is still part of law, and the opportunity to apply the Bill of Rights still exists in deciding cases.

There is a lot of law out there. Justice Douglas said "there are plenty of precedents to go around." As advocate, you must find one to support to position you want the judge to take. From time to time, I obviously will feel frustrated by Supreme Court decisions or by statutes. But you can't just be making decisions on your own value systems entirely. There is established law.

Q: Following up on this role of Judges as the decisionmaker, you were known, as a legislator, for being meticulous on your drafting of legislation and concerning the legislation of others. Assuredly, your

penchant for detail will aid you in your duties as a Justice, but will it also make you less tolerable than other judges with regard to unclear statutory language?

A: Statutory language is only unclear when you get to a point in the case where it ought to point to a result but it does not point to a result. When it does not point to a result, then the legislature did not address the particular problem you have before you. They left that for the Court to decide.

When I have something that I think the legislature messed up, what I might do is decide the case pursuant to the statute and include a suggestion to the legislature on how to fix it up for the next case. That is a very legitimate judicial practice -one that I may be more enthusiastic to use than most judges. I know how much the legislature appreciates that kind of help.

Q: In attempting to fill voids unaddressed by statute, would your long-standing membership with the Uniform Laws Commission be of aid to you? More specifically, what I am trying to get at is that there seems to be a tension between the goal of uniformity amongst the fifty states and the other goal of the states to legislate as to their particular wants and needs.

A: If the Minnesota legislature has not adopted a uniform act, I cannot use that uniform act as a basis for decision. I can use it as, in effect, a precedent, reason, or basis for deciding questions that have not been addressed by the Minnesota legislature. But I cannot use it as a basis for contradicting something the legislature has addressed.

One of my old standard lessons in law school was that statutes from other states and statutes from the Uniform Laws Commission are legitimately used as "precedent." That is, a group of lawmakers have addressed this particular problem and have come up with a solution. Well, that is as good a precedent, and as authoritative, as a case from the supreme court of some other jurisdiction. We are not used to recognizing this as a precedent, but, in fact, it is very useful.

Q: You have been a practicing attorney, a legislator, and a law professor. Now you are sitting as an appellate court Judge. Having surveyed the law from nearly every angle possible, can you tell me one thing our legal structure is doing well and one thing it is doing poorly?

A: Let me start with what it is doing poorly. I, along with every other member of this Court, am deeply disturbed by the way family law is handled. The system of a lawyer-advocate for each party clearly has a tendency to stimulate disputes and prolong disputes. This is a very costly system. Some alternative system must be found. This court cannot do this, however; it is a task for the legislature.

Q: I am not very familiar with the family law situation, but I do know that one proposed solution to cut down on the adversarial environment and reduce the caseload on the district courts is to channel disputes initially through administrative channels, such as an administrative court or arbitrator. Do you see this as a possible solution?

A: I think to somehow avoid the adversarial system is the solution. But we cannot accomplish that in this court.

Q: I understand, but it does get to the underlying reason for the creation of this court. The Appellate Court, as I understand it, was created for the expressed purpose of alleviating the large caseload that the Supreme Court was handling. Now we have seen the appellate court grow to fifteen, more than

double its original size. It seems to me that there has got to be a better alternative than continuing to increase the number of appellate court Judges.

A: As long as there is litigation that must be addressed, the Court will address it. The problem is to set up a structure that makes family breakup a less litigious process. How that is accomplished must be left to the legislature.

You had asked me for something that is working. I think that, generally, the law is working. I believe our system works pretty well in most areas.

That sounds more optimistic than it probably is. I am still a reformist at heart I am delighted with things as they are, but I always want to find out some better way to do everything.

Q: I would like to get into the area of legal education and the insights you have gained as a law professor. You have served as a law professor for twenty-five years. As a result of this experience, where do you think the law schools can improve in their stated task of preparing students for the practice of law?

A: I do not have much to give as departing suggestions. Legal education is pretty economical. The freshman year is probably the most efficiently designed year in all of education. To see the difference in the way students think about things between the first week of the freshman year and the first week of the second year is continually amazing. Something truly effective is at work. Now, maybe for a number of students who do not catch the train, we could somehow have a diagnosis process mid-year or at Thanksgiving time. I would like to give freshmen some sort of diagnostic test at Thanksgiving or Christmas time to find the students who have not caught on to what process they are involved with; then perhaps take them aside and try to give them some guidance.

If we could diagnose the particular way of thinking that prevents students from catching the excitement of legal education and law at an early time, we could then run them through a remedial program so they can catch on in November of their freshman year instead of November of their senior year. How wonderful that would be in terms of giving students a happy experience. I would like to see law schools pick up the people that are not catching the "excitement."

I remember one student looking up at me during a break and stating, "I love it. I just love it." You wish all the students in the class could have the same enthusiasm.

Q: This idea of the training of the law student. Many people feel that there has to be something more and compare legal education to medical education. For a medical student, after three to four years of medical school, you go through an internship and a residency. Then you generally develop a specialty requiring even more training and education. Proponents for a similar legal educational structure say that society's legal health or legal interests are nearly the equivalent to society's physical healthy or physical interests. Therefore, society should prepare society's legal health providers -in this case, the attorneys - the same way we educate physicians. Do you agree or disagree with this?

A: I think few law graduates have the ability to do the work of a lawyer immediately. What new lawyer need is to be in a work situation where they are associated with a senior lawyer who guides and checks the new associate's work. This is a form of internship. I think this is what usually happens.

On the other hand, what you have been trained to do is analyze and solve problems. During the first years in practice, you just do it a whole lot slower than when you are more experienced. That is why you charge a lot less than: if you had been practicing for four, five, or more years. Later you have much more knowledge of how things are done so you do things more efficiently.

Q: I agree with what you said. I was wondering whether we need to institute some formal mechanism to insure that, for every law student, that is the process they go through.

A: I believe that medical students are taken advantage of horribly by our medical establishment. Law students know better. They would not stand for it.

Also, legal education has turned into the modern-day liberal arts training. People finish their undergraduate education, and the world has become so much more complicated that they need to get more training to be, in effect, the broadly-trained citizen. In looking around at what alternatives, are available, law school becomes attractive. That means that we are, in effect, training more people in law school than the profession itself can constructively utilize. It is important, therefore, that a good percentage of law graduates become entrepreneurs, become executives, become government officials, become something different than the traditional lawyer.

I think most of the students see law school as providing the necessary foundation to enable them to go on to other areas besides law.

Q: One last question. Would you or are you considering ever teaching law again?

A: I doubt that I will be doing any adjunct work. This is a busy court. I have enjoyed all the years of being on stage, but I do not need it. I can get along without it. I am going to continue being active on the Uniform Law Commission; that may take all the extracurricular energy I can afford to expend.

Q: Thank you for your time Judge Davies.

Dedication Protest

After we had protested for two hours, we were tired but proud of what we had done. The administration and board of trustees felt that they had a cause for celebration on September 16; we felt and continue to feel that discrimination is no cause for celebration. And, lest we forget, the Minnesota Department of Human Rights had determined that discriminatory practices were at the heart of Mary Dean's being fired from William Mitchell.

Aside from the successful protest (KMSP, Channel 9 said the protesters "overshadowed" the dedication activities and WCCO, Channel 4 mentioned our visible "dissenting opinion"), the lack of support for free speech rights at William Mitchell is alarming. Of all places, a law school should "Teach the law, not break the law" as one protest sign proclaimed. Two recent events illustrate our point.

First, the September 8 Student Bar Association Board meeting was a travesty. President Bob McLeod said that only board members could speak to issues; non-board members, who are dues-paying members, could not and he said it was somewhere in the by-laws. Unfortunately, Bob was pushing his power around; the by-laws note that all dues-paying members can attend meetings and can speak to issues. Students were "represented" by 10 white males and one white female. The concerns of students of color, feminists, and gays and lesbians were soundly squelched. We aren't represented and, consequently, we apparently aren't allowed to voice our concerns on our own behalf. When Deane Roe

introduced a resolution on a moratorium on hiring faculty, he voted against his own resolution when he realized he lacked support for it. Deane had also been asked by Professor Chris Jones to raise an issue, but he didn't. When another student raised it for him, Bob McLeod dismissed the matter and said it wasn't an issue for the SBA. It couldn't have been more of an issue for the SBA. Andrew Silverstein had represented that he was taking a poll of all faculty on behalf of the SBA about the moratorium; in fact, he only talked to Professor Jones. He denied making such a representation.

Also, students have no idea what the SBA is up to. They are not printing the minutes in the Docket because they said there was a flap over this last year; that is false. The flap was over publishing Sandy Glass-Sirany's (former SBA President) minutes of faculty meetings in the Docket. There was never any issue over publishing SBA minutes. So, the SBA Board has decided they will only post the SBA minutes on the SBA bulletin board in Hachey Commons. What bulletin board, you ask? Good question. There is no SBA bulletin board, yet in the meantime, the \$10 you pay each semester is going to fund an SBA Board that is non-representative, that doesn't abide by their own by-laws and that doesn't feel the need to be accountable by notifying all students of their actions. This is a disgrace!

Second, notices of the protest were placed throughout the school, only to be torn down. One professor saw a student take down one of the signs and throw it in the trash; he picked it out of the trash and put it back up. Apparently people believed that the protest would not happen if the signs weren't posted. Well, it did happen. and we will continue to speak out and bear witness to the egregious and reprehensible behavior that continues to happen at William Mitchell. We will not go away!

It is unfortunate that it is the feminists, gays and lesbians and people of color who continue to say that a problem exists and it is the white, male majority who denies that problems continue to exist. There are some positive things at William Mitchell; we don't deny that. However, the positive is overwhelmed by the negative in this environment that is hostile and unsupportive of feminists, gays and lesbians and people of color.

Many people have said they are afraid of retaliation or concerned for their physical safety, but until more of us document the atrocities that are happening here and tell others about them, it will take us longer to achieve the equality and civility we all deserve. William Mitchell is not diverse either in the people who are part of the school or in the way people think about others. Diversity is not just numbers. It is an attitude that has not yet been achieved.

P.S. All three of us attended the SBA meeting and participated in the protest Sue M. Nipe, Lisa Sexton

Hope Jensen

FOOD TALK

by Dick Cabrera

Law school has its problems, to be sure, this periodic column seeks to address just one of them. It is an important one. Student nutrition.

I do not pretend to be an expert in nutrition per se. I do claim to be a gourmand. By that I mean gourmand as defined in Webster's Ninth New Collegiate Dictionary. That is, one who is "heartily interested in good food and drink." This is opposed to the definition of gourmand as "one who is

excessively fond of eating and drinking." Any appearances to the contrary, I am one who is merely "heartily interested." But I bring to this column my great experience and, I hope, my good taste.

Accordingly, and as a service to all, I will occasionally review local cuisine. Now, some may not feel that some of the establishments I review provide haute cuisine, but that is not the point I intend to review restaurants for their economic and nutritional value to students, not their decor or their Cordon Bleu chefs. I'll try not to steer you in the wrong direction.

So, our first review is McDonald's. Surprised? Read on. Their price is affordable, their food is bearable. Did you know that McDonald's burgers, fries, and most other products taste the same at any location? I know they're the same in Hawaii as here, and I'll bet they're the same in Moscow. The food is bearable, and even an acquired taste. Nutritionally, some items are high in sodium, fat and other such elements (per their own nutritional study, but the up side is that they may give you some quick energy. But, here's the best thing about them. From time to time, McDonald's has a special menu item. Examples are McRibs, and the shrimp salad currently at the Marion and University location. These are often the best bets on the menu, and certainly a welcome change of pace.

Recommendation: look for the specials, usually a good price and tasty. McRibs are very spicy, so be prepared. The shrimp salad is decent and you should try it.

Get the idea? Sometimes reviews will be more detailed, but that will deal with the food itself and not the price. If it is too costly (at least by my standards), I won't review the item.

While we're on fast foods, how about White Castle? We have two nearby locations. This is the real low end of the price scale. The burgers are small and you need several to fill up, but they fit budgets very well. Specialty sandwiches here, like turkey or fish, are deep-fried. Not the best nutrition. The burgers are grilled and, though they may also be an acquired taste for some, are always pleasing.

Recommendation: try their hamburgers and cheeseburgers for cheap, filling food (remember, you usually have to ask them for ketchup and/or mustard). The Rice and University location also seems to draw its share of street characters. Try it at two in the morning for some people watching.

In the future, I'll try to review at least two restaurants per column. Probably one fast-food and one other. Any suggestions you may have are welcome and should be put in my mail box. I may also occasionally include a recipe or two as a change of pace. Let me know what you think of that.

Let's look at one final restaurant. This is the Boca Chica restaurant at 11 Concord Street in St. Paul (just west of Robert Street). They serve a nice steak dish called carne asada. This is two thin steaks served fried, with salad, "Spanish" rice, refried beans, and tortillas. A small dish of sauce accompanies this. It is a mild, but well-spiced salsa. You can dip your steak in it or serve the salsa over the meal. It is tasty, filling, and at \$8.95, at the top of my price range.

Recommendation: try it, I think it beats the usual steak dinner; the ambiance is nice, especially the Mexican music.

I have no particular cuisine that I favor. In the future you will see reviews of a wide range of establishments. I might recommend one new restaurant to you. First, because it promises to offer a very interesting variety of foods (the cuisine is Mexican and Latin). Second, one of our students is the co-owner; and we should do all we can to support one of our own. The restaurant is called "La Corvina" and

it is at 1570 Selby Avenue, near Grand. It is open as of September 22 and I hope to review it the November Opinion.

Commentary On & Off Campus

by Cathryn Saylor Peterson

Celebrations

Pat and Paula have been married forty years as of a recent crisp September morning. Black and white photos in a leather wedding album. cracked and torn with age, but like its owners, still intact, tell their story.

He was young and handsome, looking nothing so much like Spencer Tracy. She was petite, looking out of the monochromatic past with fashionable Bette Davis eyes and the smile of youthful optimism. A "country" church housed the ceremony. Family came from miles around to wish them well, eat cake and drink punch in the church basement. "Church ladies" served up pink punch and wedding cake on white doilies. The happy couple moved from table to table -effervescent, buoyant, and unassailable.

Flash forward forty years. Pat and Paula are back in church to celebrate forty years of wedded life. No more black and white, today the colors are vivid and real. In his Sunday best, Pat sits at the head table 'behind a centerpiece of ruby and white flowers. No more Spencer Tracy looks. He stares off into space uncomprehendingly. His once-strong right arm lies lifeless in his lap. A cane rests against the back of his chair. Paula hovers at his side, finishing his sentences and cutting his food. A stroke at the age of fifty-nine has robbed him of his future, has robbed her of her companion.

Some of the family joins the celebration reluctantly, almost cynically. They cannot understand how Pat & Paula can celebrate when there is so much to mourn. "He is gone," they say. "He was such a strong man," they say, "an executive who had the hands of a lumberjack from cutting timber." "Look at him now," they complain. "See how he struggles to get out of his chair, to walk with his cane, to articulate a complete sentence. How can you celebrate forty years of marriage to a once-proud man who can no longer brush his own teeth or bathe unaided?"

Yet without knowing why, this family knows that they must celebrate today and every day they can. They know that they must celebrate what they are, not what they are not. They know that mourning What is lost will not bring it back. So they celebrate. For it is the very act of celebrating that gives them the courage and the stamina to face the harsh reality of an imperfect world.

On September 16th William Mitchell put on its best to celebrate the public dedication of the new Warren E. Burger library. We hosted a party for some 1500 people including Sandra Day O'Connor and some the biggest legal names in the region. Everyone who was anyone was there. There were judges from the Minnesota Supreme Court and the appeals court. There were managing partners from some of the state's most prominent law firms. There were William Mitchell Board members, faculty, adjuncts, and alums of every sort.

Speeches taking the form of introductions were made one after the other. Judge Doris Huspeni read accolades out of a book of letters written by national and regional leaders who praised Warren Burger. Justice Sandra Day O'Connor's speech was lengthy and flattering. She applauded Mitchell's night school

philosophy and innovative day care center. Most of all, she praised Warren Burger and his work on the Supreme Court.

Of course, not everyone joined in the celebration. There were some who protested Justice O'Connor's position, or lack thereof, on abortion. They circled the lawn adjacent to the tent quietly, just raising their signs in defiance. Others marched in protest of past allegations of both racism and sexism at William Mitchell.

It is true that the college remains divided over these allegations. Valued and respected faculty members have resigned or participated in protests against the administration. While minority enrollment is significantly increased among the students, minority representation among the full time faculty remains woefully inadequate. In short, there are a great many things to be dissatisfied with here at Mitchell. But on that Sunday, we celebrated anyway.

It was a day to celebrate what we are, not to mourn what we are not. What we are is an institution that makes a high quality legal education available to scores of people who would not otherwise be able to attend law school. What we are is a rag-tag collection of individuals who find that to be an important and worthy objective. What we are is a group of people who can acknowledge that we have a great many number of obstacles to overcome -including those charges of racism and sexism -while we simultaneously acknowledge the successes. What we are is a group of people who understand that you must celebrate the landmarks, the successes.

FISHING

by Richard Kent Ellison

I. Old Biz A. No Star-Trek trivia answers shall be printed in this issue. The whole concept was insane. The previous column was an insult to journalism. To all those who took the 5-10 minutes required to read it - too bad. That time is gone for you all never to be reclaimed. But/for my policy of not apologizing to attorneys, I might consider apologizing. However because of my policy I shall not even consider it. B. Corrections 1. The "Picadors" is the worst band 2. Tony Schertler and I will not be sharing this column. This column is mine.

II. New Biz A. Fact Pattern -A Dead-eye-cation Story I invited my mother and father to the dedication of the all new, Warren E. Burger Library. I invited them on Sunday, September 9, 1990 at 12:30 p.m. at their house. My brother and I often see my parents on Sundays and have brunch with them for this is a convenient time for us all to catch up. I invited my father knowing he would graciously decline because it's nice to at least ask. He did so decline. My mother said she would "be proud to go with me." I felt good about her going because although my mother and I are close, we rarely do anything together besides eat.

I looked forward to the event as the week went by. In fact, on Saturday from 2:20 p.m. to 2:23 p.m., I gave thought as to what I would wear to the event. A Suit? Or could I get away with less? I decided on a suit at 2:22:34. I picked my formal blue suit at 2:22:58.

Sunday morning rolled around. I awoke refreshed from a good night sleep propelling myself out of bed like a spring at the thought of the upcoming festivity. I showered quickly and shaved close because I knew it was possible the Dean could call upon me, out of the blue, to present Justice Sandra Day-O'Connor with flowers. I knew this wasn't likely but it was possible. I was ecstatic at all possibilities. My

brother and I arrived at our parents' house at 12:30 p.m. of the big day. As usual, both T.V.'s were blazing away at close to full volume, the one in the kitchen tuned to David Brinkley and the one in the family room tuned to C-span. My father had already went biking. My mother yelled "hi" and I yelled "hi" and my brother and I sat down to feed on a rather bizarre combination of food which included chopped eggplant, crab legs, little breakfast weinnies, and waffles. I knew something was up because of the makeshift brunch menu and the fact that my mother didn't inquire about the dedication when I walked in the door. I chose to deny these danger signals of a possible bailout by my mom but deep down I realized she was not excited about the dedication. I ate the brunch hurriedly. At 1:00 when the T.V.'s went off, I asked my mother when she would like to leave for the dedication. She said precisely, "Ya know, do you really want to go to the dedication? It will be crowded and we will have to dress up. I guess I don't want to go. In fact, I'm playing in a big bridge tournament this afternoon. So let's not go. I've changed my mind." At that, my brother broke out in an uncontrollable laughter. My mother also began to laugh. I began to laugh nervously. Then, my brother said "the dedication is dumb -only an idiot would go to the dedication-freak," I took my brother's arm and twisted it while simultaneously grabbing at the fat globs on his face. My mother screamed for me to let him go. I released my grips as he fell to the floor writhing in laughter.

B. Richie's NEWS SPEW

1. A 'Jack Davies is doing just fine' story. As a clerk in a St. Paul firm I researched and drafted an appellate brief the oral argument for which took place in the new appeals court building before the Honorable Jack Davies. In late August, I had the honor of attending the oral argument and seeing Judge Davies in action. The main issue was as boring as it was convoluted. The issue as I saw it was, "Does a denial of a motion to vacate a divorce decree pursuant to Minn. R of Civil Pro. 60.02 and Minn. Stat. 518.145 or both, collaterally estoppe a subsequent 'motion to vacate that decree pursuant to Minn. Stat. 548.14? ". We wanted the answer to that question to be no. My boss asked me if I thought we would win. I said, "if the court understands the issue and the argument we will win. But the court won't understand the issue or the argument so we could lose.

Much to my astonishment the court was on top of the issue -especially Judge Davies. His penetrating questions to both counsel showed he had taken the time to really understand an issue that took me weeks to sort through. This had to be one of the first appeals he heard as a new judge and yet he was in total control. Judge Davies turned a boring issue into something interesting and you can't do that unless you are a genius. Although I never took a class from him and don't even know him, I feel compelled to report that he is doing just fine at his new job. Note: I assume the decision will be out sometime in November. Update to come.

2. A proposition and four questions to those who object to protests regarding possible discrimination at Mitchell.

Whether the allegations of discrimination are true or not the perception that Mitchell discriminates surely exists as evidenced by MMLA boycott of the school, prima facie cases by MN Dept of Human Rights, etc. Even if protesting and other similar actions aggravate the perception, isn't it better to protest and thereby show an accrediting entity such as the ABA or whomever, that discrimination is a concern here, whether it actually exists or not, rather than risk sending the perception that we don't care or are somehow trying to cover up discrimination? Doesn't sending the perception of apathy or a

cover up to an accrediting entity truly subject Mitchell to the risk of non-accreditation which is the ultimate and immediate concern of all who are involved in any way with Mitchell?

Regardless of whether discrimination exists here or not, and regardless of whether the perceptions of discrimination are aggravated, isn't it better in all cases, or at least in our case, to show that Mitchell has faculty and students who do care or at least are thinking about whether we follow laws that forbid discrimination on the basis of race and sex rather than risk sending the perception of apathy or a cover up, which could truly result in non-accreditation? Isn't it correct then to praise, rather than condemn, those who protest, write or otherwise speak up regarding possible discrimination and who therefore reduce the risk of non-accreditation?

3. Spanning the globe with Saddam a. Saddam is saving this planet.

Because of Saddam's invasion, oil has become more expensive presumably because there is less oil available and we also have to maintain an army to protect it. This price increase should bring a reduction in the use of oil in the U.S. thereby permitting us all to enjoy a cleaner environment which will probably save more lives long term than anything else. Further, market forces will propel alternative energy sources that were once too expensive, such as domestic oil use, solar, electric etc., into demand again.

b. I Cry Conspiracy Corner.

Just as junkies are addicted to drugs, America is addicted to oil. The Arab oil sheiks ate the oil lords just as the drug lords in South America. American oil and car companies are the local suppliers who have succeeded in addicting us all to their product by spending billions in advertising pushing their cars upon us and fighting the development of mass transit. The American public are now the oil junkies. America sending armies to protect and insure the free flow of oil is analogous to a junky and his supplier sending forces to insure the free flow of drugs from, say, South America. Our only claim of right to the product is our great "need" (remember it's not our oil or land by first in time). Yet our need is evil because it is defined by addiction. Let us not allow this addiction to oil, fostered by the auto industry and oil companies, drive us into a war. Rather let us instead treat-our addiction to oil by going through (oil) treatment. We will all relearn how to walk a few blocks to the store rather than drive and rediscover the bus and bicycle. We will develop hobbies at home and become skilled in those rather than waste \$ by going and driving to some bar. Going to oil treatment will teach us to get pleasure by engaging in oil-free activities. We will become healthier in the long run just as if we had terminated the use of drugs.

Surely the use of oil in cars has to rank with nuclear energy and chemical waste as one of the greatest threats to the environment because of car exhaust polluting air and old cat carcasses polluting the land.

c. An ominous consequences

If we decide not to treat our oil addiction and continue to abuse the use of oil it seems we will have to be prepared to go to war for oil. If we are prepared to go to war for the oil and drop bombs in Baghdad we should be prepared for the possibility of terroristic attacks and sabotage right here in the U.S. This is a high price that should be factored in to the decision making process when determining whether or not to stop om oil abuse.

IV. Next month -In Fishing

1. Why stop paying homage to Professor Steenson with a mere Steenson Scholarship. Read about a proposal to buy a dilapidated house near the school and turn it into the Steenson tort house.
2. Star-Trek trivia answers. All this and more in the next issue of Fishing.

The Dedication And...The Dilemma

Photos by Anne E. Zachritz

Sunday September 16, 1990, was an opportunity to celebrate our school's history and look forward to its galloping future. And though the celebration was marked by much controversy, it was, in the final analysis, a decidedly sedate affair.

Many of us attending were torn between disdain for those celebrants who passed the protest line and made vituperative remarks and disdain for the protesters who used children to carry signs abstract beyond the children's comprehension. Once again both sides gave credence to the conspiracy of silence by placing a fine veil between themselves. On the one side, the administration, out of some sort of misguided courtesy, ignored the protesters and their issues. And on the other side, the protesters failed to clarify their issues and relied on a scatter-gun approach to protest.

As always, the student body is left to take sides based on their irrelevant affiliations and cast their lots with the side they perceive is telling the least fettered truth.

Images

Two-page photo spread of the Warren E. Burger Library dedication, and concurrent MN Human Rights Act protest. The following people are captioned in the dedication ceremony photos: Justice Warren E. Burger, Chief Justice Popovich, Professors Goldberg & Heidenreich, Supreme Court Justice Sandra Day O'Connor, Russell D. Thompson (Class of 1919), Jodie Carlson, Dick Olson, Dean Latimer, and the Secret Service. The protest photos caption Dixie Riley (vice president, Twin Cities NOW) along with various protesters and signs reading, "Keep abortion legal," "No more Hogg," "Supreme Court Keep Roe v Wade & privacy for all women," "Supreme Court restore civil rights & choice for voting women!!"

Domestic Abuse Knows No Gender

By Jo Hoo

Eight women and one man from the Twin Cities have been killed by their spouses or significant others this year. Another woman is missing, and believed dead at the hands of her ex-husband. Thousands of other women are abused, either physically or psychologically, by the men in their lives.

Domestic abuse is not a "women's" issue." It is true that over 90% of the victims are women. But what that really means is that over 90% of the batterers are men. The issue should be framed in terms of the offender, not the victim. This removes it from the realm of "women's issues." In a larger sense it is really society's issue. If the abusers are not punished or rehabilitated, the abuse continues creating more victims. The victims, dependent on the abuser, can either endure escalating abuse or leave. If they leave, they are usually cut off from financial support and need to draw on community resources to survive.

Some of these victims will petition for an order for protection (OFP), restraining the abuser from committing further acts of abuse. For some victims the OFP helps. For others it seems only to increase the level of violence they experience.

Police, prosecutors and the courts can combine to lessen the effectiveness of OFP's. Many police do not follow the mandatory arrest statute when dealing with violators. Prosecutors either fail to file charges or dismiss most of the cases they receive. There are also many judges who refuse to take such violations seriously and release violators with little more than a slap on their hands. All of these actions serve to reinforce the abusers perception that he isn't really doing anything wrong.

In October, the Ethics Committee will present two evenings of discussion on domestic abuse. October 17th will feature licensed psychologist, Jan Swenson who deals with victims and Don Chapin, a counselor who works with abusers. They will discuss the dynamics of the abusive relationship from both the victim and the abusers perspective. On October 18th, Ramsey County Judge Mary Louise Klas and Loretta Fredricks will discuss judicial enforcement of orders for protection. Please join us at 7:00 p.m. in the Oppenheimer Court Room both evenings to learn more about this issue and to ask any questions you may have.

In addition to the discussions on domestic abuse, the Ethics Committee is sponsoring several other events. October is Ethics Month at William Mitchell. Mark your calendars for the following events:

October 4 -Clayton Robinson, Assist Ramsey County Attorney and Richard Coleman, Asst. Ramsey County Public Defender discussing Ethics in Criminal Law.

October 8 -Tom Halleron from St. Thomas discussing Business Ethics.

October 11 -Bill O'Hara from Lawyers Concerned for Lawyers discussing Substance Abuse in the Legal Profession.

October 17 -Jan Swenson & Don Chapin discussing Domestic Abuse -Victim and Batterer Dynamics.

October 18 -Judge Klas and Loretta Fredericks discussing Domestic Abuse -Judicial Enforcement of Orders for Protection.

October 23 -An Environmental Forum focusing on the Ethics Behind the Reporting Requirements on Regulations. Panel members will be Senator Gene Merriam, Waste Management Commission, Prof. Marcia Gelpe, William Mitchell College of Law, Mike Connelly, Counsel for Northern States Power. The panel moderator will be Judge Thomas Kolitowski of the Minnesota Court of Appeals.

Watch for announcements on room assignments and times in The Docket.

[Womyn Law Students Association](#)

Womyn Law Students Association (WLSA) is a new student organization on campus this year. We are a feminist organization concerned about the issues that affect women both in the practice of law and in the law school environment.

More than 30 people attended the first WLSA meeting on August 30. During the business portion of the meeting we agreed to amend the spelling of women in our title to W-O-M-Y-N and also formed a steering committee to organize the rest of this year's events. WLSA will sponsor one event each month and also plans to co-sponsor at least one event with other student organizations.

Susal Stebbins, lobbyist for Minnesota NOW, joined us at our first meeting on August 30. Ms. Stebbins spoke about how feminism is defined and how it affects both women and men. A lively question and

answer session followed Ms. Stebbins' presentation. She fielded many questions on a wide range of women's issues.

WLSA events will be hosted on the last Thursday of each month at 8:30 p.m. This month's event was a panel discussion about sexual harassment and sex-based discrimination on September 27.

Below is a list of this year's steering committee members:

Carol Bauss, Julie Fedje, Kathy Forbes, Sue Gallagher, Patricia Guthrie, Lara Hammel, Jennifer Hunter, Hope Jensen, Jenna Kurud, Sue Nipe, Lisa Sexton, Margie Skelton, Lisa Sexton, Hope Jensen

Faculty Debating Hiring Moratorium

by Deane M. Roe

Members of the faculty are presently in the process of deciding whether or not to place a one-year moratorium on the hiring of permanent faculty. The Faculty Minority Affairs Committee, after spending substantial time discussing this issue, has recommended this move to the Faculty Appointments Committee. Thus far a decision has not been reached by the Appointments Committee.

The primary underlying problem is the need for greater diversity in the WMCL faculty. The debate is now raging between those in the faculty and the administration in favor of the moratorium, and those opposed to it -each with compelling, valid arguments.

Those in favor believe the College lacks clearly defined goals and philosophy behind its hiring practices. Specific questions which they say need to be discussed and addressed include: what do we want our institution to look like in its faculty, what is the process to be used to reach this, and how long do we expect this process to take?*

The idea behind this approach is that if the particular area that needs to be filled is for a tax professor, the hiring practice involves much more than hiring the first qualified tax professor that comes along. The belief is that the strongest faculty is one which includes a rich diversity of backgrounds, beliefs, and perspectives, in addition to a full spectrum of the necessary legal specialties.

In order to achieve this goal (to have the strongest faculty possible), they state that it is necessary to suspend hiring for a period and spend the interim discussing and creating a clear hiring philosophy. With this accomplished, the hiring should resume and proceed under this philosophy.

Those that oppose the moratorium believe it is too serious a move, and that the problems this move purports to address can be solved using other means.

The main argument for this group, is that the very thing the present situation needs is to bring in -in the form of new faculty -new ideas, perspectives, and creativity.

Also, if it is diversity (i.e., racial) we need, then the best thing to do is to hire qualifying candidates immediately.

Both sides agree with the need for a faculty rich in diversity. The focus of the debate, however, has not been confined to the "means to the end." The subissue which has produced the clearest division has to do with the way in which any decision will appear in light of the present boycott against the College by the MMLA.

Some, who agree with the moratorium on its merits, and in spirit, are concerned that such a move will appear to be a "giving in" to the coercive pressure of the boycott. The argument against this is that a decision needs to be made to do the right thing, irrespective of the boycott.

This article cannot provide the complexity of this issue, nor an accurate reporting of all of the views that have been presented by those involved. Those in the student body who recognize the impact any decision on the hiring of faculty can have upon their legal education may be interested in conducting further research by talking with the various members of the two committees.

In the September 8, 1990 meeting of the SBA Board, a motion in favor of the moratorium was rejected. Students concerned with this issue and who wish to bring a motion before the Board can have this placed upon the agenda for an upcoming meeting by contacting their SBA Representative or SBA Vice President Edie Michalski (via her mail box in the SBA Used Book Store).

* Some information for this article was taken from the September 12, 1990 memo from Eric S. Janus to the Minority Affairs and Appointments Committees.

[Rutgers Becomes the First Campus to Cut Grants to ROTC Students](#)

Newark, N.J. (CPS)

Rutgers University official David Burns said Aug. 22 that his school had become the first in the country to stop giving scholarships to ROTC (Reserve Officer Training Corps) students because of ROTC's policy banning homosexuals from the military.

Following ROTC's ultimately futile efforts in march to retrieve scholarship money from students at Washington University in St. Louis, Harvard University and the Massachusetts Institute of Technology who it ultimately found out were gay, more than 20 campus presidents signed letters to the Pentagon asking it to change its policy.

None of the schools, however, has yet carried out a threat to disassociate from the ROTC program.

[Fall Interviewing and All That Jazz](#)

By Liz Carlson

To a first year student, fall interviewing may seem a remote worry to be addressed at some virtually unforeseeable future. To a second year student, fall interviewing may provoke spasms of anxiety and self-doubt. To a third or fourth year student, fall interviewing may be just so much more hoopla, one way or another, in contemplation of post-graduate unemployment.

We read about it in the Docket. It is a major, if not unavoidable, source of conversation for many. It affects how people dress when they come to class and it affects whether people come to class. You are thinking about fall interviewing at this very moment.

We know that on-campus fall interviewing is typically conducted by large and/or prestigious law firms. We know that some, but not all of those who apply for on-campus interviews will be selected to participate; that of this group, some, but not all, will be selected for call-back interviews at the firm; that of this group, some, but not all, will be selected for offers of employment as summer associates; that of this group, some, but not all, will be selected for offers of employment as associate attorneys; and so on down the line, culminating, I suppose, in death and life everlasting.

Does this mean that those of us who eventually are selected to become fully capitalized partners with a professional association are a more select, choicer cut of attorney than the rest of us? Or does the prospect for senior partnership represent one potential indicia, out of many valid indicators, of excellence and achievement in the practice of law? If the latter, then what are the other measures of success? What else matters?

To answer this question, we can look at our reasons for seeking legal education. Some of us want money, some want status, some want power. Some want it all. Some of us may have even believed that a legal education is the best way to advance or serve broader social purposes. Some of us were simply bored with life before law school. And some of us wonder what the heck we were thinking when we applied for this misery in the first place.

Keeping these reasons or goals in mind, fall interviewing can be understood as a sort of rite of passage along the way, in the same manner or ilk as the LSAT, graded legal writing assignments, first year finals, class rankings, and passing the bar.

Initially, we are faced with the mystique of the unknown. Strategies to know the unknown may be characterized by seeking and evaluating survival/success stories and tips handed down by those who have preceded us.

As we move further into the experience ourselves, we may assign any of many possible interpretations as to the meaning of the upcoming event. Personal expectations, anticipated consequences, and feedback from peers and significant others all influence our perspective.

Next, we experience the event. We do it. We take the test, write the paper, submit the resume, go to the interview, whatever. We go through it.

Then, we are past the event. It is behind us. It is over. We finished the test, handed in the paper, received a letter from the firm, whatever. There may be an adjustment at this point in our perspective as to the meaning of the event, depending in part on how our expectations meshed with our actual experience and on how the anticipated consequences meshed with our actual consequences.

Finally, we are on our way. The particular event acquires a place in our memory and history to be modified in meaning by subsequent events and further experience.

As a rite of passage, fall interviewing is particularly relevant to the goal or outcome of senior partnership in a large or prestigious firm. Aside from senior partnership, what other goals or reasons for legal education qualify for or engender rites of passage? At our school, public service, pro bono obligation, ethics, and demographic diversity in the study and practice of law are shaping up as valid indicia of excellence, but there don't seem to be any rites of passage that particularly correspond to these goals. Nevertheless, if we agree that such goals are valid and important, then it would seem equally important to identify and develop corresponding rites of passage by which we may measure our accomplishments.

To the extent that we agree that these are valid indicators of achievement and success, it would seem reasonable to expect our academic community to develop rites of passage which correlate with such goals. But even if such rites of passage or other measures of accomplishment are never identified or developed, those of us who achieve such goals may simply have to accept the personal satisfaction from a job well done and the informal recognition of our colleagues. Perhaps these should be enough.

In the meantime, whatever our own individual experience with fall interviewing happens to be, the meaning of this experience can be enriched or leavened by remembering to consider what else is important and what else matters, to ourselves personally and to our profession.

Pro-Choice Supporters, Your Help Is Needed On Election Day!

By Susan Lake Gasway

As many of you are aware, General Elections will be held across the United States on Tuesday, November 6. And as in the recent past, abortion will again be one of the key political issues. The Anti-Choice groups were very organized in the September 11 primary and are likely to be organized again next month. Because the Supreme Court has given the states broader power to decide how abortions will be conducted in each state, the outcome of our state elections is crucial to our cause. Here's what you can do to help insure the Pro-Choice candidates are elected:

1) If you are not registered to vote, do so now. See instructions below. 2) Know the candidates' positions on the abortion issue. If you do not know how the candidates stand on the issue, contact the Abortion Rights Council of Minnesota. The Council will send you a list which summarizes the candidates' positions on abortion. You may contact the Council by phone at 612-827-5827 or by mail at 3255 Hennepin Avenue, Minneapolis, MN. 3) Vote on November 6th. If you will be out of town or are registered in a different state, arrange to vote by absentee ballot. See instructions below.

Keep in mind that Pro-Choice groups carry a lot of clout. Just recently, we have been successful in convincing the Dayton Hudson Foundation to reverse its decision to withdraw funding from Planned Parenthood. This result was a major victory. Hopefully, we will be as successful on Election Day!

Here's how to register: Contact the Election Commission of your county by phone or in writing to request a registration form. If you apply in writing, state your address and social security number, that you wish to register to vote and that you are a county resident. October 13 is the last day Minnesota residents may register to vote in the General Election.

If you are a resident of another state or will not have the opportunity to visit the polls on November 6, you may vote by absentee ballot. Write to your county in the above manner. Make sure that your ballot is received by your county election commission no later than Monday, November 5 or your ballot will not be counted.

Facetiae

Compiled by Karl Green

Democrats Song (to the tune of the Lumberjack Song)

I'm a democrat

And I 'm O.K.

I sleep all night

and at work all day.

Chorus:

He's a democrat

and he's O.K.

he sleeps all night

and at work all day.

I cut you down

I eat my quiche

I go to the lavatory

On Wednesday I go shopping

after getting welfare money

Donkeys:

He cuts you down

he eats his quiche

he goes to the lavatory

on Wednesday he goes shopping

after getting welfare money

Chorus

I cut you down

I skip and jump

I like to burn the flag

I put on womens clothing

and make other people gag

Donkeys:

He cuts you down

he skips and jumps

he likes to burn the flag

he puts on womens clothing

and makes other people gag

Chorus

I cut you down

I smoke my dope

I spend and spend and spend

I wish I were a commie

like all my liberal friends

Donkeys:

He cuts you down

he smokes his dope

he spends and spends and spends

he wants to be a commie

like all his liberal friends

Chorus

I'm a democrat

And I'm O.K.

I sleep at night

and at work all day

(Repeat and fade out)

Condemned murderer (to Lawyer): You said you could get a sentence of imprisonment for life, and here I am facing the gas chamber next month.

Lawyer: That's right; you will be imprisoned for life, won't you - and only a month, instead of long, weary years. Be reasonable, man!

-The Green Bag

A district court judge once addressed a phenomenon of innocence in a smock-frock in the following words: "Prisoner at the bar, your counsel thinks you innocent; I think you innocent; even the prosecution thinks you innocent. But a jury of your own countrymen, in the exercise of such common-sense as they possess, which does not seem to be much, have found you 'guilty,' and it remains that I should pass upon you the sentence of the law. That sentence is that you be kept in imprisonment for one day; and as that day was yesterday, you may now go about your business."

-The Green Bag

Judge: It would be more respectful to this court, sir, if you would keep your hands out of your pockets. Why do you do so, sir?

Defendant: Just for the novelty of the thing, your Honor.

Judge: Novelty! What do you mean?

Defendant: Fact is, your Honor, my attorney has had his hands in there so long, I'm tickled to death to get a chance at them myself.

-The Green Bag

It seems that a lawyer is somewhat of a carpenter.

He can file a bill, split a hair, chop logic, dovetail and argument, make an entry, get up a case, frame an indictment, empanel a jury, put them in a box, nail a witness, hammer a judge, bore a court, chisel a client and other like things.

-The Green Bag

"This makes the third time that you have appeared before me charged with begging on the streets," said the judge, "and I shall have to send you up for thirty days."

"Please don't do it, Judge," sobbed the woman. "I have a large family to support, and what would my husband and my children do if you were to send me up?"

"Your husband? Have you indeed a husband?"

"Yes, your honor," said a man, stepping forward from the crowd. "I am her husband, and I want to ask you to be lenient with her. She makes out like she's too sick to work; but if you let her off this time, I'll see to it that she works in the future and supports her family."

"I don't think you will," said the judge. "In fact, I am going to let the woman go, and send you up for six months as a vagrant. You have no visible means of support."

And the man muttered as he was marched out: "No visible means of support! Good Lord! Ain't my wife in court."

-The Green Bag

[Students, Cleveland State Battle Over Treatment of Black Administrator](#)

CPS

In what is likely the longest running protest of the summer, Cleveland State University students on Sept. 4 entered the 67th day of a sit-in protesting how CSU treated one of its black administrators.

A different kind of community involving minority campus officials ended at about the same time, when Dartmouth College music Professor William Cole said that, after seven years of verbal assaults and ridicule from a conservative student newspaper, he would quit.

At Cleveland State, "We're prepared to stay as long as possible," declared student Herman Brooks II, one of the protesters demanding that CSU rehire Raymond Winbush, its former vice president for minority affairs.

Between 40 and 50 students and local citizens have maintained a sit-in – with about 20 people on duty at all times – at Cleveland State President John Flower's office building since June 29.

The protesters may be there a long time. The University says it won't budge.

"Raymond Winbush is not an issue for negotiation," CSU spokesman Ed Mayer said.

While CSU grappled with the controversy over employment of a minority official, Cole, one of the few black professors at Dartmouth, resigned Aug. 22.

Since 1983 the Dartmouth Review, one of the original conservative student newspapers funded on some 35 campuses by a group of wealthy business people, regularly attacked Cole as incompetent and even as looking like a "used brillo pad." The attacks – which climaxed in a shoving match between Cole and two Review staffers – drew the official ire of Dartmouth administrators and ultimately became a national cause celebre when writer William F. Buckley cited the disciplining of the Review staffers as an example of how colleges discriminate against conservatives.

"I wish I were leaving under more favorable circumstance." Cole said in a prepared statement. "I know that many people will feel that the forces which are part of my leaving Dartmouth have won a major victory. However, this problem is no longer for me to wrestle with. It is a problem for Dartmouth to wrestle with."

The Cleveland State controversy began when Winbush refused a new contract that offered only a 2-percent raise. Rather than present a counter offer, Flower withdrew the contract, leaving Winbush without a job.

Winbush, noting that all other CSU vice presidents also were offered merit raise, said Flower's 2-percent cost-of-living offer was an insult.

"I was trying to do a job and I got truncated," Winbush said. Flower hired Winbush 10 months ago to fill the newly created position. In that time, Winbush became a visible campus figure.

In addition to the student sit-in, Winbush's ouster prompted a statement by black professors condemning CSU's action, and it has attracted Justice Department officials to the campus to mediate the dispute. Cleveland Mayor Michael White and Ohio Gov. Richard Celeste both have called for a resolution to the controversy.

Brooks said protesters have been picketing at homes and offices of trustees, who in July expressed their support for Flower's handling of the situation.

"The people down here are pretty serious about this issue," Brooks said.

Winbush predicts that controversy will hurt the university financially, maintaining that 1,500 Arab-American students, in a show of solidarity, have vowed to "de-register" if Winbush isn't reinstated by Sept 24, the day classes begin. Twenty-six other students have already de-registered, Winbush says.

"There's no evidence of that," CSU spokesman Mayer declared. "Registrations are dramatically above what they were a year ago."

[Iraq, the Past, and-Other Rambling Thoughts](#)

by Jeffrey Schueler

I had the opportunity to attend a summer program at Cambridge University in Cambridge, England. While in the United Kingdom in addition to traveling throughout England and France, I visited the

American Military Cemeteries at Cambridge and Normandy just a few days after the Iraqi invasion of Kuwait-on August 2nd.

As a naval officer prior to entering law school, I have seen enough military cemeteries to last a lifetime and did not plan to visit more. For one who has seen shots fired in anger, these sites are all too graphic evidence of the costs of war, appeasement and complacency.

Buried at Cambridge are over 3,000 air corps pilots who were shot down over Europe between 1943 and 1945. Buried at Normandy, on the crest of the slope at Omaha Beach, the principal American landing area, are a far larger number of D-Day invasion casualties.

Most Americans recall from their high school history classes how, between 1936 to 1939, Mr. Chamberlain of Britain (acting with political pragmatism, but not moral courage) proclaimed "Peace in our time!" only-to be double-crossed by a ruthless tyrant. Had anyone the moral fortitude to stand up for the rights of sovereign states, in addition to their own self interest, Hitler would now be known as just another two-bit dictator. But that is history.

Today, our generation is challenged by a repeat of history -only the names, places and dates have been changed to protect the guilty and to challenge the innocent Saddam Hussein, with a large, battle-tested army at his disposal, and the demonstrated inclination to use that army as well as deadly chemical weapons, has annexed -not seized, liberated, or assisted, but annexed -a small sovereign neighbor, Kuwait.

The manner in which Mr. Hussein annexed Kuwait is alarming, and chillingly Hitlerian in nature. The events of the past two months need not be elaborated here. Mr. Hussein's annexation of Kuwait is simply a blatant violation of Article 2(4) of the United Nations Charter ("All Members shall refrain ... from the threat or use of force against the territorial integrity or political independence of any state"). Never was the existence of the Iraqi state threatened militarily, politically, or even remotely economically, so as to justify this Iraqi action as self defense.

In the areas of foreign affairs and military matters, the Arabian Gulf Crisis has highlighted certain ominous facts. The nuclear weapons that Mr. Hussein has been working so hard to obtain may be assembled within two to five years. Even today he has demonstrated his willingness to use chemical weapons. His missiles, which have been used successfully to bomb civilian and military targets in Tehran and to gas Iranians and his own Kurdish minorities, can reach most areas in the Middle East, including Israel, the Suez Canal and the Straits of Hormuz.

If Mr. Hussein will not be stopped now, how much will it cost the world in two to five years? How much territory will he annex? How far will his nuclear weapons reach? How many lives, on both sides, will be sacrificed?

No one wants to see a war in the Middle East. And I'm sure all would be happy to see Mr. Hussein voluntarily retire on his own accord. But we all know this is highly unlikely.

Allowing Mr. Hussein a face-saving compromise that leaves him in power in Kuwait will only postpone the solution to today's Gulf crisis. Not only has he violated international law by invasion, detention of diplomats, and use of foreign civilians as military shields, but his army continues to terrorize innocent people. Saddam Hussein must physically leave Kuwait.

Over the past 60 days, the nations of the world, under the leadership of the United States, have banded together in horror and concern over these devastating events. Past differences have been set aside, specifically those between the United States, the Soviet Union and Syria. Dozens of nations have sent military forces to defend Iraq's neighbors from aggression. Those nations not willing to send military forces due to prohibitions on foreign deployments have agreed to contribute financial aid. Indeed, in announcing Germany's contribution (not WEST Germany's, but Germany's), Chancellor Kohl wept as he thanked the United States for standing by Germany with financial assistance in its reconstruction after World War Two. And so American forces stand at the heart of a united effort against unprovoked aggression.

These United Nations steps have erected an economic stranglehold around Iraq. Turkey, Syria, and Saudi Arabia, at great cost to themselves, have blocked the overland routes for export of Iraqi crude. A multi-national naval force under United Nations authority has stopped and searched over seven hundred ships to block attempts at trade via links with Iraq. Early reports, available through news services, show evidence that these steps are beginning to be felt. Food is in increasingly short supply and rationing has been imposed on a broad range of goods. The ball is in Mr. Hussein's court, and he must decide how to keep his army and his people fed and paid, and how long he can hold on to Kuwait.

This is the world that our generation is about to inherit. Whether we like it or not, our generation has some choices to make, and using this crisis we can practice and debate them before we must assume the full responsibility. They are, namely, to do nothing, to be the world's police force, or to be an advocate for international law.

I do not, and never will, advocate a "do nothing" approach to naked aggression. We can take our lesson from Munich.

To be the world's police force would be equally disastrous. The United States does not have the financial resources to indefinitely counter aggression of any kind anywhere in the world. Our people will not tolerate the significantly increased burden in the form of new taxes. American views of the proper response to a situation may be vastly different from those of any number of other countries. Indeed, there may be too much opposition to our policies so as to preclude our effectiveness as the WPD (World Police Department).

And then there is the middle ground. As a result of the last round of unchecked aggression in 1939-45, our parents' and grandparents' generations set up the United Nations "to save succeeding generations from the scourge of war," "to reaffirm faith in fundamental human rights ... of nations large and small," and "to establish conditions under which justice and respect for ... international law can be maintained" (U.N. Charter, Preamble). With our position as the world's most stable democracy and strongest industrial nation, and the increasing cooperation between ourselves and the Soviets, we have an opportunity to advocate a world order centered on the United Nations and based on international law. The events in the Middle East demonstrate that such a regime is at the least possible. Today, that appears to be our best hope to confront aggression without war.

Admittedly, our government's actions, both with respect to supporting Mr. Hussein during the past decade, and with respect to our advocacy of international law during the Cold War, have not been proud chapters in our history. However, our government's response to Mr. Hussein's aggression has been

flawless, primarily due to the skillful use of the United Nations. Indeed, this united response has recently resulted in a more realistic Iraqi proposal for their own withdrawal from Kuwait.

In 1990, I hope we are finally witnessing what Woodrow Wilson envisioned in 1919 when he signed the Treaty of Versailles establishing the League of Nations -that body which effectively fell apart in the 1930's. Our generation has the opportunity to prevent a similar fate for the United Nations. Before we choose which part we wish to play advocate, police force, or fence-sitter I encourage each of us to look closely at the consequences, and at the potential costs of unchecked aggression in evidence on the beaches of Normandy and at Cambridge.

Biography of Warren Burger

by Karl Green

Special thanks to William Mitchell College of Law Public Relations and Development Offices.

Warren E. Burger was born in St Paul, Minnesota September 17, 1907. He was raised in the Dayton's Bluff neighborhood on St Paul's east side and comes from a Swiss-German Protestant background. His parents, Charles Joseph and Katharine Burger, installed a strong work ethic in Warren Burger and by the age of nine he started delivering newspapers. He went to John A. Johnson High School where he participated in track, swimming, football, hockey and tennis. He further served as student council president and edited the school newspaper and his last year he worked for the St. Paul Dispatch as a "stringer" reporter covering high school events. Warren Burger graduated from Johnson High School in three years.

Warren Burger worked for an insurance company as an assistant cashier (doing accounting work) for seven years. During this time he enrolled in pre-legal studies at the University of Minnesota for two years and then entered the St. Paul College of Law (now William Mitchell College of Law). Warren Burger graduated from the law school on June 11, 1931 ranked third in his class and obtaining his LLB. magna cum laude.

On November 8, 1933, Warren Burger married Elvera Stromberg, who was a fellow student at the University of Minnesota. Warren and Elvera Burger have two children, Wade Allen and Margaret Elizabeth.

Warren Burger became an associate in the law firm of Boyesen, Otis, Brill and Farley after passing the bar in 1931. In less than three years he was made a full partner and the firm became known as Otis, Farley and Burger (now known as Moore, Costello and Hart). Concurrently, from 1931 to 1953, he was a member of the faculty of the SL Paul College of Law and for several years taught contract law. Further, Warren Burger was the President; of the junior Chamber of Commerce and a member of the board of directors of the St. Paul Association of Commerce. Also, the former Chief Justice helped to organize the Young Republicans in the state of Minnesota in 1934 and played an important role in Harold Stassen's successful bid for governor of Minnesota in 1938. Warren Burger is known to be a life-long Republican.

After the war, the former Chief Justice's interests in the postwar civil rights struggle led him to be appointed to the Governor's Interracial Commission of which he was a member from 1948 to 1953. In 1953 President Eisenhower appointed Warren Burger Assistant Attorney General of the United States. In 1956, serving to 1969, Warren Burger was again appointed by President Eisenhower to the United States Court of Appeals in Washington, D.C. (District of Columbia Judicial Circuit). He received an

Honorary LL.D. Degree from William Mitchell College of Law in June 1964. He was chairman of the American Bar Association Criminal Justice Project between 1967 and 1969. He has participated in a number of Federalist Society events. Warren Burger is a trustee emeritus of William Mitchell College of Law.

Chief Justice Burger served 17 years on the Supreme Court of the United States. He was nominated Chief Justice by President Nixon on May 22, 1969 and took his seat June 23, 1969. Besides the many opinions the Chief Justice wrote, his tenure as Chief Justice is noted for administrative changes in the U.S. court system that largely due to his efforts have come about. He announced on June 17, 1987 that he would be stepping down from his Chief Justice position. A reason stated for his "retirement" was the appointment by President Reagan to be chairman of the National Commission on the Bicentennial of the United States Constitution.

By the by, Warren Burger is considered to be a gourmet and a connoisseur of vintage wines. He also is said to enjoy painting, writing, sculpturing and working in his garden.

Image

American Monument, Coast of France, by Cathryn Saylor

[A Synopsis/Review of the DLC on Behalf of the William Mitchell Democrats](#)

by John Herbert

On August 28, the William Mitchell Democrats sponsored an issues forum with the MN Chapter of the Democratic Leadership Council (DLC). Representing the DLC was its president, Tom Foley, and executive-director, John Wodele. Mr. Foley is currently the Ramsey County Attorney, and Mr. Wodele is his executive assistant.

Approximately 30 students attended the forum which included opening remarks from both Mr. Foley and Mr. Wodele and concluded with a lively question and answer session.

The DLC was founded in 1985 to revitalize the party and lead it back into the political mainstream. This will be accomplished by exploring and developing innovative approaches to fundamental questions of national policy. Therefore, the DLC acts as a think tank to help steer-the party in a new direction, while still holding fast to enduring Democratic principles, such as individual liberty and civic responsibility. The DLC includes more than 300 elected officials in federal, state and local posts around the nation and is currently chaired by Governor Bill Clinton of Arkansas.

The DLC believes that only progressive initiatives will pull millions of Americans from the clutches of poverty and help American industry regain national and world markets. To achieve these ends, the DLC seeks to rally the party, and the country, behind an exciting vision for America's future based on four major national initiatives:

- 1) forging a new social and economic contract-a "Democratic Capitalism;"
- 2) mounting a new "opportunity offensive" against poverty and dependence;
- 3) assuring national strength by building a more capable and cost effective defense;
- 4) issuing a call to national service, to evoke a new spirit of citizenship and civic responsibility in our country.

Although all four initiatives are exciting and thought-provoking, only two will be discussed in detail here: 1) the concept of Democratic Capitalism and 2) the call to national service.

Democratic Capitalism

The DLC believes we can -and must -reverse America's competitive decline. To achieve this vital goal, a fundamental change must be made in our capitalist culture. A new social contract must be forged in which all of our major economic players -business, labor, government, education -agree to adopt their behavior to the new realities of global competition.

The theory is that Democratic Capitalism can be achieved by completing these three steps:

1) Linking pay to performance; 2) practicing democracy in the workplace; and 3) making strategic investments in our human resources.

If workers see a direct link between their pay and their job performance, both are likely to improve. The DLC recommends moving from fixed wages to a bonus or gain-sharing system of compensation. Under such a system, both workers and managers would receive most of their pay in fixed wages and the rest in bonuses tied to profits or some other measure of company performance. No longer will just highly paid executives reap the benefits of a generous bonus system, where bonuses are often awarded despite poor company performance. Under the DLC plan, all would share the rewards if the company fares well, and all would share the pain if profits fall.

Although pay for performance is an incentive for workers to work harder and better, the concept will be a pyrrhic victory only, unless workers have the power to improve their work environment. To allow workers to boost their own productive efforts, America must practice democracy in the workplace. For such a transformation to occur, both management and labor must lower their spears and learn to work together toward a common goal.

Companies should minimize class distinctions between managers and workers and give the latter a greater say in design and production decisions. Instead of blind directives from on high, executives should solicit and follow the advice of workers, who are consumers as well as producers.

Labor and labor unions must also do their part. Foremost, the relentless adversarial approach taken by labor toward management must be disarmed. Rigid job classifications and unyielding work rules must be eliminated. Workers then can use their newly found freedom to creatively attack the problems besailing their company and have an equal say in the proposed solutions. An exciting example of how the new cooperative spirit might work is the new Saturn agreement between GM and the UAW. There, GM has minimized class distinctions and offered new job security guarantees, while the workers have agreed to be paid on a bonus system and have agreed to a dramatic deduction in the number of job classifications.

The third pillar of Democratic Capitalism is strategic investment by both the public and private sectors. Economic growth requires us to invest not only in nurturing and educating young minds, but also in rebuilding our crumbling infrastructure and in research and development.

With regards to education, the federal government must support state initiatives such as stricter academic standards, more rigorous testing of pupils and teachers, and higher teacher salaries. With regards to R & D, our competitors spend far more than we do on R & D that promotes industrial growth and the gap continues to grow.

Therefore, we must reverse the growing disparity in R & D spending between us and our global competitors. Thus, to bring America back to the front lines of scientific inquiry and industrial innovation, we should set as a national goal an annual commitment of three percent of GNP -as opposed to the current figures of just under two percent.

Civic Responsibility

The DLC believes that Democrats should create new opportunities for public-spirited Americans to serve their country. America faces an array of national needs that the private sector either can't solve or won't meet, and that fall beyond the current competence of the public sector. Therefore we should explore the possibility of answering national needs with national service. The DLC believes voluntary as well as compulsory options should be studied. National service might entail spreading literacy and basic arithmetic skill, caring for young and old Americans, and rebuilding our inner cities.

Besides serving national ends, a national service program could rekindle a sense of civic responsibility - like the notion that being an American involves duties as well as privileges, which inspired the Peace Corps and other volunteer efforts. Today, the DLC is poised to inspire the American people to look beyond their immediate self-interest to the broader concerns of our Republic. Such inspiration includes not only rekindling the help your neighbor spirit, but also such substantive plans as a loan forgiveness program for those who return to rebuild their crumbling neighborhoods.

Therefore, the DLC believes America has the potential to become both an effective global competitor and be a much nicer and satisfying place to live. However, this vast potential will go unrealized absent admittedly painful change.

Although the DLC has been accused of party-bashing, and sleeping with the enemy, what other alternatives are available to pump life into its dying body, and resuscitate party ideals of equality and a decent standard of living for all.

Even though the specific plays of the DLC game plan are not exactly new, the concept of the Democratic party risking alienating traditional allies such as organized labor is quite remarkable. The DLC has correctly assessed the erosion of the Democratic Party in the national arena and concluded that the run-off must be stopped now. If the party continues to follow Cher's advice, and tries to turn back time, the party's death as a vehicle of progress for the masses will not only be inevitable, but will be hastened by the party itself.

Thus the party must reach out and educate management and labor as to their common goals and support the idea of cooperation and respect in the workplace. Further, the party should lead the call to arms in the struggle to regain our neighborhoods from crime and decay. The party should encourage community activism from the top down, and support legislation such as the loan forgiveness program, which will enable citizens such as ourselves to roll up our sleeves and return to the trenches.

Rumor Has It

by Zachritz, Zachritz, Zachritz, Naros & Kane

What If ...

- Big Firms were actually interviewing for associates this fall?
- Anyone understood why the Career Counseling meetings are mandatory?

- Every copying machine were working at all times?
- Legal Writing were given the 8 credits it is due?
- 3rd-year night students actually knew Civil Procedure?
- Sue Nipe never wrote another letter? (Just kidding, Sue)
- The top of our class really were the brightest?
- The Opinion staff actually could meet a deadline?
- The bookstores were actually open?
- Someone threw a protest and the organizer didn't come?

Query:

Whether Erlinder received as many votes as the convicted felon?

Where's the Justice?

- When your tuition has reached astronomical heights for the last two years, yet you'll graduate before you see the library take off!
- When the seniors are stuck in un-airconditioned 301 and the incoming freshmen lounge in Oppenheimer?
- When there is no escape from Food Service due to an abundance of health code violations in area bars?
- When you've paid \$40.00 for parking, and either can't find a parking place, or the lot has been pre-empted for social events?
- When classes are cancelled on Friday and you didn't have a class in the first place?

Overheard in the Hall ...

- First-year student WIS beard to remark. "I can't believe how unorganized this place is!" (Yeah, right!)
- Overheard in Career Counseling meeting: "Some of you will get jobs and some of you won't" (Thanks for the tip! Could this be the reason for making the meetings mandatory??)
- Generally overheard: "Where is the smoking lounge anyway?"
- Third-year student was overheard to ask, "Now that we know all about Warren Burger, who the hell is William Mitchell?"
- "Thank God they took down all those unsightly note boards!" (Will Dean Brooks provide us with a message service?)
- Overheard in Hachey Commons: "Isn't a patty melt supposed to have a patty?"
- Overheard in The Opinion office: "I heard Zachritz, Naros, and Kane had dates last Saturday night ... " (And, no, it was not with one another!)

Rumor Has It ...

- There will be no graduation this spring since it has not appeared on the master calendar.
- Dick Olson was uncustomarily speechless when asked by Mrs. Hogg: "So, what do you do at The Opinion?"
- Delta Theta Phi is planning on constructing a frat house and is seeking donations.
- The school is providing an escort service this year.
- M. O'Sullivan Kane won Ms. Congeniality in the Homecoming Queen contest.
- The WMCL football team won the homecoming game. WMCL, 110, Hamline, 0.

(Gee, sorry to have missed it!)

Image

Four panel comic. First panel is a sketch of Washington Crossing the Delaware with the word 'Independence!' above. Second panel depicts soldiers running with the caption 'Freedom!' Third panel shows Raising the Flag on Iwo Jima with the word 'Democracy!' Fourth and final panel is a sketch of President George H.W. Bush in front of tanks and military aircraft, with the exclamation 'Cheap Oil!'

Image

Single panel comic depicts two soldiers back to back in the desert. The first is reading a newspaper and comments, "Bush wants to forgive Egypt's \$7 billion debt, for being such a big help in standing up to Iraq!" The second soldier is writing a letter which reads, "Dear George, About my old student loan..."

The Latimer Interview

Note: This is the first of a two-part series exploring what it means to be Dean of a Law School.

by Mike Broback and Tony Schertler

Age: 55

Education: BA, St. Michael's College, LL.B., Columbia University Law School, 1963

Married: to Nancy Moore Latimer

Children: Faith, George Jr., Philip, Kate, Tom

Accomplishments: Mayor, City of St. Paul, from 1976-1989; Nationally respected Urban Housing Expert; Neighborhood Revitalizer. Many others too numerous to fit in this 16-page newspaper.

MB: Why did you take this job

L: It was just a wonderful confluence of my attitude at the time, my needs, and this institutions mission. Came together beautifully. I, about a year before I stepped down, announced I wouldn't be mayor any more and I got some very attractive offers from large law firms. And then I had three academic opportunities afforded to me. I decided fairly early in my thinking, and almost to my surprise that academia far and away attracted me more than the practice of law. Once I did that, then I focused on the three academic opportunities.

MB: Where were the three opportunities?

L: I don't want to tell one of them ... there were a couple local opportunities, but I won't go into that. There was one at the institute of Politics at the Kennedy School at Harvard. That a marvelous position but a) it had nothing to administer. Basically in a wonderful crossroads at the institute where you meet a lot of mid-career people and put on seminars. It has no faculty of its own. b) It would require leaving St Paul which, in my case, would also carry with it the cost of a divorce, my wife told me. I decided that, you know, who needs that extra expense? I really came gradually to the view that to return to the law, and also to return to academia, and also to have a challenge of something to run administer -fit the kinds of skills that I have to offer and the things that I love the most. So, I was a very fortunate person that this came along just when it did.

MB: You talk about the chance to administer; it seems like there is a distinction between the private law school dean's job and that of Dean Stein (of the University of Minnesota). Maybe there's less of a need to fund raise?

L: I doubt it; he's a veritable vacuum cleaner. He has a national reputation as one who has raised large amounts of money for endowments.

I suppose you could argue that a public law school has less pressure for outside revenues, but I rather doubt that the mix of time you spend on external activities, internal management, faculty issues, and student issues is a whole lot different. That's my own attitude; I'm doubtful that there is a big difference.

But I enjoy the management opportunities here. They are more fun even, if you can imagine, than when I was Mayor because here on one hand, you are not able to delegate to many people. On the other hand, you don't need to delegate to a lot of people either. And so it's sort of enjoyable, to confront a problem and to deal with it first hand -instead of delegating it, hoping some other manager will work it out. So it's a smaller operation, but it's also more intimate and it has rewards of its own.

TS: Where do you see the law school going. When you took the job, did you have a vision or direction in mind?

L: Yes. I think there is not only a strong sense of vision and mission at this law school, but it's connected with that of the Hamline University itself and it's one that really attracted me in the first place. It is first and foremost to produce what I've described as caring competence and ethical lawyers; practitioners. [To teach] the skills and craft and art of practicing law, of counseling, litigating, analysis, articulation and advocacy. That's pretty fundamental to what any law school should be about. Our special interests bring us closer to the liberal arts as well. Being part of a larger university, part of the oldest higher education institution in Minnesota, enriches what we do here. Also, it affects what we do.

We have a South East Asian clinic, for example, that brings all the lawyering skills to the students as part of any good clinic would. But because we serve the most vulnerable of our population (the southeast Asians, a new culture to our environment) it means that we deal regularly with Hamline in the undergraduate side. For example, the co-chair of the clinic is Cynthia Cone who is chairperson of the anthropology department of the college.

Those connections I think make a difference. In the practice of law the future, interdisciplinary understanding is very important. For a lawyer to undertake an administrative law problem without

having a good sense of the physical environment, that lawyer is going to have to pull together more disciplines than in a simpler time.

So part of our mission is to achieve competence and to make a contribution in the public sphere. It is really in the essence of the practice of law that it is public. In a way we talk about public law, public administration; indeed, all of us, all lawyers are basically in the public service by definition. So part of the mission and vision here at Hamline is that we not only accept and understand the need to pull together disciplines to represent diverse peoples, but we actually celebrate that diversity. So I think diversity and the understanding that eighty-five percent of the people entering the workforce in America today are not white males they are people from backgrounds that were, traditionally, not part of the workforce in this country. When I was young in the earlier part of the century. There should be a comma there [and] in the earlier part of the century. [Laughter]

T.S.: There are a couple things that I was wondering whether we could address. I am a member of the student ethics committee at William Mitchell and we have sponsored guest speakers to discuss important ethical issues. Is there something parallel to that here, are you trying to stir something up in that area?

L.: Oh no, I don't have to stir anything up. The last thing I would ever dream of doing is stir anything up [Laughter] we have published a journal of law and religion here and have been for a number of years. In fact, we just got a small foundation grant to support part of the Williamsburg Papers, which is a charter for religious liberties. There is also a course in ethics taught in collaboration between the Associate Dean and Pat Keifert, who is a theologian and a senior faculty member at Northwestern Seminary. Frankly, all of us have to devote more energy to it. Not only to imbue the practice of law with a better understanding of its effect on people's condition and values and needs, but also because the reputation of the law is almost as low as the reputation of politics. That's interesting. That means that I have devoted my whole adult life to two fields that are more condemned than any others in this country. [Laughter].

MB: The reputation is important too; it isn't just form but it's sort of a substantive decision that the public makes.

L: Yes, and it's related to trust, and trust is related to the sense of community and we can't get very far without a stronger sense of community. As you know, Professional Responsibility has only been required as a course since 1974 in law schools. It's not considered the most demanding course in law school and we have to change that.

TS: This may be tangentially related. At William Mitchell, there is a lot of talk about adopting a mandatory pro bono program.

L: Yes, Peter Thompson of our faculty who, as you probably know, has written a book on Evidence in Minnesota also has a strong commitment to pro bono. He happens to be an advocate of pro bono. The law school faculty itself has not yet committed itself. I am still struggling with whether it should be mandatory or not. Minnesota's lawyers are devoting more hours to pro bono than, I think, any other state. One might argue that you ought to encourage that rather than make it mandatory for law students. The Bar is certainly debating that subject in Minnesota.

TS: So, you 're not sure how you feel about

it?

L: No, I haven't had to make a decision. As an old politician I still tend to make a decision when I have to make it [Laughter]. So I have to think about it and let my faculty [decide]. Such a process really permits the people in an institution to take ownership of an idea instead of it just being imposed from above. That part of the administrative/faculty process is one I really subscribe to.

TS: Is there enough cooperation between the law schools?

L: No, there is not enough. In my opinion. I think we have a marvelous opportunity here. Each institution is gaining in its own traditions. I think there are reasons for a high level of self-confidence in each institution. Self-confident institutions and self-confident people freely exchange ideas and support one another's mission. It is only the people and groups that lack confidence who are not open to learning from each other. I take it as a mark of a mature institution to be able to learn from other institutions. Personally, I have known Bob Stein and Jim Hogg for years and years and always in a positive and favorable, professional relationship. From a personal standpoint, I think we all respect and like each other. I also think Hamline has moved into a level of maturity so that this notion of it being the "new kid on the block" -well-the simple fact is that we are part of a one hundred and thirty-six year old institution and we're not going to go away. We're going to do well, and there's no reason that doing well means to do well at anyone else's expense. The faculty in the various disciplines have a natural affinity to each other. Peter Thompson, one of the most esteemed faculty members we have, taught at William Mitchell and has many friends over there. Obviously, there aren't many of us who don't have some connection with the University of Minnesota and its law school. The new building at the University of Minnesota and the new William Mitchell library, coupled with increased sophistication of interlinking library systems through the use of computers tells us that we have the capacity, by collaboration with the Supreme Court building and its library and the Hennepin County and Ramsey County libraries to provide the legal community with over two million volumes. That will be among the richest resources in the country for legal literature. Throw in being the home of West Publishing Company, and the opportunities are endless. Finally, Dean Stein and I have met with the Minnesota Justice Foundation (and I am sure that Dean Hogg will agree) and, for the first time, we're going to jointly support the MJF's effort at developing an endowment to support loan forgiveness for law students who enter public service related law. This is mandatory to get more good people into that area.

MB: Will you miss not being in the public eye?

L: It's not nearly the adjustment that people imagine. Most of the adjustments are on the positive side: that is to say that part of me that is still a little boy, which is substantial and likes lots of reaction from people, the recognition, etc. continues. I love doing my work with KSTP TV. They don't attempt to exercise a great degree of control over what I say. The work of Deaning is also a very public job. It involves many public appearances. I'm active with the Ordway, as well as a number of different Boards. So, I'm doing a number of things that I really enjoy a lot. The little boy part of me, the fun part of being a public figure continues.

TS: With respect to being Dean I'd like to raise an issue that may be somewhat sensitive. I'm sure you're aware of some of the controversy going on at William Mitchell, and you know Dean Hogg personally. How do you perceive the controversy, and would you comment on it?

L: Well it is a very difficult thing for me to comment on. It seems to me -let me speak in the most general way; I think for me to comment in particular about Mitchell is just bound to be either misunderstood or not to be precisely what I'd like to say. So, let me in general say this. As we as a nation and all of our institutions move toward the diversity that I referred to, we're going to make that move because we must and we should. But, we're deluded if we think that move can be made without a price, without friction, without a cost, without pain. without acrimony, without mistrust, and without a sense of loss in the people who are comfortable with the status quo. We must pay that price. If one place, one school, one city, one hamlet, one government at one time seems to be the center of some particular acrimony in that area, I believe that finally we're all in it together. If there is no tension, then chances are either nothing is happening or people are not being honest and not being direct about their differences and values. I think that we're going through a transition and it will be a long time to go through; whether it has to ... it all amount to the same thing, and that is that we have a whole array of systems that have served some of us but not all of us for two hundred years. Slowly but surely we're shedding all of those little systems that favored one group over another. During the transition, we have to do some correcting. We have to take, forgive the phrase that everybody gets upsets about, I believe in it, we have affirmative action. We have to do more than stand pat. I feel that the transition can't be made without pain. The problems Mitchell is experiencing are occurring everywhere.

MB: On a lighter note, what exactly has Hamline's law school hockey team done to shore up its porous defense, in the wake of last year's rout, won by Mitchell 14-1?

L: [Laughter]

Next Month: an interview with Robert Stein, Dean of the University of Minnesota Law School.

Image

Photograph of George Latimer sitting behind a desk in his office.

NASTY HABITS

by Tamara Tegeler

Nine Inch Nails: Pretty Hate Machine

Intense. Intense is a good word to describe Nine Inch Nails. Nine Inch Nails sound like a cross between Depeche Mode and The The/INXS. The music lashes out with anger, confusion, and frustration, gloriously exposing long-repressed feelings.

The current single, "Hed Like A Hole," has a great ominous undertone to it. The menacing chorus is a chant of "bow down before the one you serve, you're going to get what you deserve." The video currently assaults viewers everywhere on MTV.

"Terrible Lie" carries a similar theme, but personalizes it. Existence is a "world of piss" and there isn't enough contempt to express feelings about life personified as the 'terrible lie.' Here, the singer pleads to God, "Why are you doing this to me? Am I not living up to what I'm supposed to be? Why am I seething with this animosity? Hey God, I think you owe me a great big apology."

The despair-and-disdain trend continues with "Down In It" -a vicious, beat-heavy lament of how a person lost himself. Reznor sings: "I used to be somebody. I'll cross my heart and hope to die, but the needle's already in my eye. And all the world's weight is on my back and I don't even know why. And

what I used to think was me is just a fading memory. I looked him right in the eye and said goodbye." 'Rain, rain, go away, come again some other day' fades out the end of the song.

We get a break from doom and gloom and venture into sexual frustration with "Kinda I Want To." The singer absolutely conveys a sense of vehement, single-minded obsession, confessing: "I know it's not the right thing and I know it's not the good thing, but kinda I want to." The music and crazed screams of "I WANT TO" build into a twisted climax that makes the desperation well understood.

"Sin" and "The Only Time" are more violent, driven tunes about satisfying sexual desires and loss of purity. The messages are loud and clear and shockingly well-expressed for this type of music.

Nine Inch Nails is the creation of one person, Trent Reznor, not a group. To reveal his influences, the liner notes include thanks to Clive Barker, Jane's Addiction, Prince, Public Enemy, This Mortal Coil, and 'various unknown others.' The music is a relentlessly

pounding emotional overload that is strangely appropriate for certain moods/frames of mind. Not for everyone.

The Creeps: Blue Tomato

In terms of style, The Creeps are a bluesy, rock & soul, upbeat group in the tradition of Blood, Sweat & Tears. Their songs move and groove in a late 60's/early 70's mode, complete with crunchy guitar, cheesy organ riffs, and a kick-ass horn section. The lead singer has a great voice -deep, full, resonant, guttural and raspy when necessary.

The album opens with a small intro highlighting the horns and a catchy rhythm that jumps into "Right Back On Track." The lyrics are nothing monumental -very trite actually -it's the sound that's so much fun.

The fun continues with "Sharpshooter," where the guitars jam, the organ picks up the groove, and horns jump-start the backbeat.

"Ooh-I Like It" is a bit of silly fluff with nonsense words that rocks better than most of its MTV competition. The organ warbles out infectious ear-candy, but the horn section rules.

Guitars rip up the intro to "Get A Little Lovin'" and keep going strong all the way through. More unoriginal lyrics, but then again, they don't really matter -you don't look at models for their brains, right?

The "Boss Cool comes right to ya" and "shows you how to do it," (how to be cool, that is) on "Way Cool." It's a funky, egomaniacal, hilarious groove to help nerds "get out on that disco floor and really strut their stuff." The Boss Cool can come to my house anytime, but he better bring the band!

The Creeps are hot. This is party music driving music-fun music. You'll bop up and down, shake and shimmy, sing along, but it won't save the environment or make you a better person. Blue Tomato is a rockin' good time.

Book Review By M. O'Sullivan Kane

James Joyce

Dubliners

182 pp. New York:

Bantam Books. \$3.95

One might imagine that I am urging upon you James Joyce as a "child might urge a cool lima bean onto a luncheon companion." But Joyce is not given literary accolades simply because he was able to confound us in *Ulysses* and *Finnegans Wake*. In fact, the greater part of his opus is no more difficult to digest than the plainest of English.

Nowhere is this ability with plain English more amply demonstrated than in *Dubliners*, a collection of short stories which mark the beginning of his literary career. One may be smug about having never read *Ulysses*, as if it were a negative honor; however, the whole of Joyce's later works, the symbols, imagery, and characters, are in an embryonic form in these stories. And the heavily autobiographical and biographical bent (in relation to Ireland, Dublin, and its inhabitants), there are many universal elements of discontent. In many of the stories, Joyce construes the simplest events of life and draws from the main discontent which is part and parcel of the human condition. In "A Little Cloud" Joyce details his frustration with the art of daily living. The character is unable to cope with the exchange he has made between being a father and husband and becoming an artist of great ambition. Closer to Joyce's own home, yet no less narrow in its scope, is the theme of suppressed youth in "Araby." In this story, the parents of the young have been wiped clean of their dreams and impressions and attempt to halt their young from pursuing any opportunities afforded them.

It is a difficult task, to sit down and write what has thus far been a "book report" on Joyce. So much more than action and the analysis of action is going on in any of Joyce's works. For example, in "Araby" the reader sees for the first time Joyce's articulation of "paralysis" in a people. *Dubliners* was written at a time when Ireland had been decimated by famine and emigration. The result of this was a bankruptcy of hope that is too poignant for my weak mastery of the language. Like any other culture that has been subject to multiple disasters, Ireland was caught in the clutches of a cultural inferno from which it has never fully recovered. Joyce looks back, in *Dubliners*, at a homeland from which he has voluntarily exiled himself, with bitterness and anger. At that time, he had no awareness or hope for a revolution beyond the lofty attempts of the Gaeliophiles to re-introduce a language that is all but dead, and an Athletic Association that is calling for a removal of all non-Gaelic sporting events.

It is not a pre-requisite that the reader be Irish, but Joyce speaks in the Irish tongue. That is, his heritage is the slick by which he measures all events whether they be to denounce Catholicism, or to lament the death of a culture. Still, Joyce stands on his own despite the culture the read may bring to the volume, and as always I urge this volume of short stories, however much it may resemble a cool lima bean, upon you to read and enjoy with a mind toward one day considering *Ulysses*.

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