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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.

In Memory of Bernard Becker Scholar, Teacher and Friend

In Memoriam: Bernie Becker

by Eric S. Janus

On a grey, cold November day in 1972 I left the skyscraper offices of a large Minneapolis law firm. The prestigious firm had flown me from Boston for an employment interview. After a day's worth of precisely timed interviews with associates and partners, I headed over to the outskirts of downtown for an interview with the Minneapolis Legal Aid Society and my first contact with Bernie Becker.

The McGill building did not compare well to the First National Bank Building which I had just left. A dark, bare cement staircase led me past the mechanical pounding and sharp chemical smells of the print shops which shared the building with Legal Aid. Inside the offices of the Legal Aid Society I met with Bernie Becker and two other lawyers of the Legal Aid Society (Luther Granquist, who is still there, and Paul Marino, since 1974 a professor at William Mitchell). My hour and a half with them that evening showed me that the Legal Aid Society, though dressed externally rather shabbily, embodied precisely the values of lawyering I sought. Bernie Becker was a key to the development of those values at Legal Aid.

One of the best ways I can talk about Bernie is by talking about the values which he lived, which he helped the Legal Aid Society embody, and which I began to learn about that November evening. Bernie, whose large size, moustache, cigar and New York accent struck me as a welcoming, though a somewhat

out of place sight in this Minnesota environment, leaned back in his chair and puffed his cigar. Through their questions and our discussion, a picture of these lawyers and their organization emerged. They were looking for people committed to the work of serving poor people. They were looking to produce systemic change. They loved the work they were doing. They loved the law. But they were fiercely devoted to the individuals they represented as clients. They were good at what they did. They had high standards. They were proud to be doing this work. But, there was no arrogance, no hubris. This was not a place of big egos, but of committed, strong people.

Bernie inquired about my experience the previous summer clerking for the county attorney in Piscataquis County Maine (roughly equivalent to working in Ely, MN). Tell us, he said, about some of the cases you worked on. I had been working on a criminal trespass case, I replied. What were the issues? The defendant had driven his all terrain vehicle down a dirt road over private property to a pond. But what, Bernie persisted, were the legal theories and defenses raised. Oh, I replied, a very interesting defense based on an old law guaranteeing access to public ponds (I doubt you would know which one). "Aha!" exclaimed Bernie. "The Colonial Ordinance of 1642. A law passed by the Massachusetts Bay Colony guaranteeing public access to ponds. Maine was a part of Massachusetts at the time; The ordinance passed into the law of Maine when Maine became a state." I was impressed. He was exactly right. Bernie, it turned out, knew of this ordinance through his work on Indian rights litigation in Minnesota. Bernie, it turned out, knew a lot about many, many laws.

Paul Marino showed up at the interview late. He had just come from a negotiating session with the attorneys for some landlords. Legal Aid was engaged in litigation representing the Tenants Union. Paul was wired. Pacing back and forth, he talked about the negotiations, his theories, the landlords' strategies. Bernie and Luther asked questions, They strategized, debated, analyzed. I had disappeared. I got a glimpse of them doing their work. To me, it was electrifying. It was clear they loved their work. They approached it with intellectual vigor and curiosity and energy.

Bernie's understanding of a lawyer's obligation to her client and its relationship to the mission of legal services was key to shaping the philosophy of the modern Legal Aid Society. Bernie was a leader in a profound transformation of the legal services program which took place in the mid-1960's. He saw legal aid not merely as a means for solving individual legal problems, but also as a tool for equalizing power and wealth.

But this newly defined mission brought an uneasy tension to the legal aid lawyer's work. On the one hand, the prevailing ideology of lawyering held that the lawyer's primary duty was to her client. In significant ways, the new vision was consistent with this prevailing ideology. Bernie's brand of legal services work required the highest standards of lawyering. These high standards arose not simply from general notions of professionalism. For him, professionalism supplemented his conviction that legal representation was an entitlement of the poor. Bernie's high standards grew, as well, from the knowledge that the legal system was not, in general, a hospitable place for his clients. Thus, Bernie understood that a key to helping his clients as individuals was to provide them with legal representation which was aggressive, creative, careful and of the highest quality. These values became part of the culture of the Minneapolis Legal Aid Society.

In some ways, however, the new vision was at odds with the traditional ideology. If the mission of legal services was to advance the interests of a class or group, as a whole, there was a danger that the individual client might become merely an instrument in the hands of a lawyer to accomplish that end.

The fact that the lawyers themselves had a "mission" or a vision of their work challenged that part of the prevailing ideology which held that lawyers are "hired guns" - merely instruments for the accomplishment of the ends articulated by their individual clients.

Some lawyers in legal services, faced with this dissonance, saw a dichotomous choice: seeing no way to accommodate both loyalty to individual client and loyalty to mission, they sacrificed the individual to the greater good.

Bernie would have none of that. Luther Granquist tells a story about an employment interview which he and Bernie conducted at Legal Aid, probably sometime in the early '70s. The candidate was a lawyer who had been practicing for a few years at legal services office in another state. As usual, Bernie asked the candidate to talk about some legal work he had done. The candidate told about a challenge his office had mounted against the administrative hearing procedures used by his state in the revocation of drivers licenses. Although the administrative procedure was allegedly defective, the state courts would provide a de novo hearing if the request for the hearing was made within 30 days of an adverse administrative decision. State law provided that a person could retain his license pending the court hearing. The state supreme court had held that the intervening de novo court hearing cured any defect inherent in the administrative hearing procedure.

This placed the candidate and his colleagues in a dilemma: if they demanded court hearings for each individual client who sought their help, they would lose their opportunity to challenge the allegedly defective administrative procedure. So, the candidate proudly related, they allowed one of their client's right to a de novo hearing to lapse after an adverse administrative determination. The client's license, accordingly, was revoked. The lawyers were then able to mount a challenge to the administrative practice.

Bernie's response was immediate and certain: "You did WHAT?" demanded Bernie. The candidate explained it patiently again as if Bernie had not appreciated the subtlety of their strategy: they had failed to take an available remedy for the client, in order to seek relief for the class. "That," shot back Bernie, "is malpractice." The interview was over.

Bernie left Legal Aid in 1973 to come teach at Mitchell. He continued his relationship with Legal Aid, returning frequently to consult. He was a lawyer's lawyer, consulting with us on difficult points of federal procedure and administrative law.

In 1984, I followed Bernie to Mitchell and joined the faculty. He continued in a mentorship role for me, becoming for me a teacher's teacher. During my first years of teaching civil procedure, I was a frequent visitor to his office (still piled high with papers). Bernie always had time to talk about civil procedure. And, although the questions I had were generally the hard points, the gray areas, the points that I, as a new teacher, was afraid someone in my class would raise, Bernie always seemed to have thought about the questions I was raising.

In about 1987 I was working on the development of a new course, *The Work of the Lawyer*, which was designed to help students explore the values underlying the lawyer's work. I was particularly interested in the complexity of the lawyer-client relationship, with its inherent tension between the lawyer's loyalty to the client and the lawyer's loyalty to his or her own values. I shared the course plan and proposed syllabus with Bernie, asking for his feedback. Bernie's reaction to the course was vintage

Becker. The course looked "interesting," he said, but was it really necessary to go through three weeks of class and several hundred pages of reading to discover the "essence" of the lawyer-client relationship? Wouldn't it be more effective just to tell the students how it is: The lawyer and the client talk. The client tells the lawyer what he wants. The lawyer tells the client what she thinks they should do. They discuss; they dispute; they argue, they yell; they explore their values, their wants, their fears and goals. In the end, they often reach a mutually agreeable course of action. If they can't, then they part company. "That's how it works."

For Bernie, the lawyer-client relationship was, like all relationships, an interaction between real, concrete people. It was to be a relationship in which people faced each others as equals, in which the wants and desires and values of both mattered. For Bernie, the lawyer was not a "hired gun;" nor did the lawyer, as a high status professional, control the relationship with the client. Both lawyer and client appeared in the relationship as whole people rather than as cardboard cutouts playing predetermined roles.

Bernie lived this philosophy, not only in his lawyering, but in his teaching and in his friendships. Without pretense, he was there, as a person. This was what made Bernie a "mensch" -Yiddish for "a real person." Put this together with Bernie's intellectual breadth and depth, his curiosity and creativity about the law, his deep caring and energetic advocacy for the disenfranchised and powerless, his loving relationship with his wife Carol and their three sons: he made a concrete difference in this world. He made it better.

[Image](#)

Photograph of Professor Bernie Becker

[A Personal Tribute to Professor Bernard Becker](#)

by David Helmuth, 2L WMCL & Julie Griffin, 2L Hamline

It was a hot evening in August 1989, during my first week of law school. As I entered the ninety-degree classroom, I wondered what civil procedure was all about. Just then, a large man wearing a wrinkled shirt and loosened tie, with a half-smoked cigar in his pocket, entered the room. He was just in time for class, as was I. The bell sounded as I sat down.

My classmates and I sat attentively, ready to discover what this professor would be like. He began, not by asking a student to recite a case, but rather by vaguely asking, "How does a lawsuit start? Where does a lawsuit come from?" His voice was gruff, accented, and intimidating. Students looked puzzled. No one knew exactly what to say. Someone in the back row replied, "You file a complaint." This answer, of course, did not satisfy Professor Becker. Students' answers rarely did. The professor asked again, "But where does this complaint come from?" As the discussion continued, the professor's point, that a lawsuit comes from an attorney's mind finally hit me. Quite frankly, I was never fully able to understand the professor's analytical reasoning.

One afternoon, I sat and drank coffee with Bernie before class. At first, I thought he was going to quiz me on the day's civil procedure assignment, which I hadn't read. He didn't mention it. Instead, knowing that I was a sports fan, he asked me what I thought of the Pete Rose case. It became clear to me that Bernie was not always an intense professor whom I didn't fully understand.

This winter, I was shocked and upset to hear of Professor Becker's death at the age of fifty-two. He was a great man. As I sat in church at the funeral, great sorrow filled my heart, and I thought about his classes. The church was completely full. Past students, colleagues, and close, personal friends paid tribute to Bernie. Lines formed at the three microphones set up in the church, as many shared personal stories of experiences with Bernie. It was a deeply moving experience.

During the year I spent in Bernie's class, he often referred to cases that he had litigated, particularly pro bono cases involving Native American rights. His comments breathed life into civil procedure, taking a usually dry subject out of the classroom and into the real practice of law. As one of his students, I admired and respected his ability to teach in such a way, just as I admired the man himself. His students and colleagues will miss him.

Students of Professor Becker will not be the only ones who will notice the absence of Professor Becker's famous cigar. Many attorneys worked with Becker over the years on pro bono projects he supervised or developed, many on behalf of Native Americans.

James Capra, an attorney with Capra & Trampe in St. Paul, came to know Becker just after he graduated from Hamline University School of Law in 1988. As a young graduate, Capra volunteered his research skills with MJF and he was assigned to work on a civil procedure project with Becker. The project turned out to last two years, giving Capra an opportunity to spend much time with the magistrate, who at first intimidated him, then later earned his respect as a compassionate man.

My first impression of Magistrate Becker was just like what someone said at the funeral - he reminded me of a big bear," remembered Capra. "He was a physically imposing figure with a booming voice. But I found that he was very much to the contrary - a very compassionate and caring fellow, with whom it was very easy to work." During his work with Becker, Capra learned that "his office was always a disaster area, and if you tried to find something, you could be lost for days - but he always knew where things were."

Capra worked with Becker on drafting a proposed code of civil procedure dealing with sovereign immunity. He recalled, "Magistrate Becker was concerned about the lack of credit on Indian reservations, due to the doctrine of sovereign immunity. Some people would borrow money and then renege on the debt, and creditors could not recover, because they would claim sovereign immunity. Creditors could not take them to federal courts, because there was no subject matter jurisdiction. Therefore, credit was getting very tight on the reservations, and tribes as a whole would suffer. The idea was to create a court procedure whereby debtors could be held to live up to their obligations. Otherwise, the credit would dry up."

Becker was very well thought of by his colleagues. "I liked him. I spent so much time with him, I learned that he was very down-to-earth. He didn't like legalese, and he didn't speak legalese himself. He was a very likable fellow."

Jerry Lane, Executive Director of Mid-Minnesota Legal Assistance, Inc., and who had an office next to Becker at Mid-Minnesota, agreed. "He was a wonderful person to go to. Bernie never did anything quietly; a lot of noise and smoke emanated from his office, but also a lot of good ideas. I decided the good ideas were worth the noise and smoke."

Becker's most important contribution to his office and the legal profession, felt Lane, was that he focused on both legal issues and individuals who were caught up in those issues. "People often divide legal aid attorneys into 'issue' people and 'people' people. There are those who practice in order to help people, and those who want to change the world. Bernie changed all that - he cared about the issues, but also about the individual, the kid or woman sitting in his office. He never saw clients as a symbol of an issue, even though he was at the forefront, leading Mid-Minnesota into the modern era of federal litigation, in such issues as welfare," said Lane.

"He was a wonderful example for other attorneys - he could be concerned about the issues but never forget the individual who is suffering from the consequences of the issue."

That ability, according to Lane, was what made Becker special. "If you are lacking that, then you are lacking something essential." Lane concluded that he hoped his organization still reflected the values of his former colleague.

Magistrate Bernard Becker will be remembered by his students and colleagues as a caring person, full of ideas and wafting cigar smoke, a man with a strong physical presence, who cared enough about his students to take the time to chat about sports. In the words of his former student, "Bernie Becker was a great man."

Memorial to Professor Bernie Becker

This last fall, Bernie and I co-taught a section of Work of the Lawyer. Bernie told me many times over the 11 years I have taught here "not to take criticism personally." Once again in this seminar he taught me this same lesson. The students, Bernie and I disagreed on many important issues, but we did so respectfully. We learned from our differences. We had a great time together.

Bernie also talked to me often about his three sons, Lawrence, Aaron and Daniel. He was very, very proud of his sons. Bernie described each one as a real mensch, meaning a person of substance and honor on whom others can depend. Like the father.

-Neil Hamilton

Celebrating Professor Maynard Pirsig's 89th Birthday

Students, faculty, and staff at William Mitchell College of Law in St. Paul, MN, held a surprise party January 9 to help Professor Maynard E. Pirsig celebrate his (actual) 89th birthday and his 20th year of teaching at the law school. Officials at the law school speculate that Pirsig, who teaches professional responsibility and judicial administration, could be the oldest person now teaching at any U.S. law school. He joined the William Mitchell faculty in 1971, after teaching at the University of Minnesota Law School 1933-70 and serving as dean 1948-55. Pirsig has been a member of the National Conference of Commissioners on Uniform State Laws since 1948. He is the author of Minnesota Pleading, Cases and Materials on Judicial Administration, and, with Professor Kenneth Kirwin, Cases and Materials on Professional Responsibility. Pirsig, a personal computer "pioneer," owns eight computers and five printers. He is the father of Robert Maynard Pirsig, author of the '70s best-seller Zen and the Art of Motorcycle Maintenance.

Image

Photograph of Professor Maynard Pirsig in front of a massive birthday card.

GRADUATING CLASS OF 1991

Never mind a class gift of a useless but attractive bauble, let's band together and raise funds for a functional stapler for the library.

Please direct all questions, recommendations and donations to:

Ann Bateson - Big Library Cheese

875 Summit Avenue

St. Paul, MN 55105

612/290-6303

President's Report

by Robert A. McLeod

This is my last report as SBA president. While I would like to review a list of things accomplished by the SBA over the year, like the new Hachey Commons, the permanent financing for MJF internships, the new constitution or the other things we have done, I have agreed to write about another issue; Discrimination.

I find it irritating that it has to be reviewed at a law school. The SBA has one rule for funding activities. The activity cannot discriminate. The student handbook reviews the types of discrimination that are not allowed. Yet I have received several complaints recently that I am investigating. I have received complaints that the football league, hockey team, and the recent issue of the trip to the prison, all involved discrimination. This is by no means an immediate indictment against any group or individual, but it seems that I am forced to remind the student groups that discrimination on the basis of sex, color, religion, sexual orientation and so on are forbidden. Funding will be revoked or repaid for discriminatory activity. Every group knows that rule going into the process and is expected to follow that rule.

I would also like to remind each group of another fact. This school is trying to address the issue of diversity. That means that saying "anyone can join the hockey team if they want" is not enough. The concept of diversity at this law school is one that encourages diversity. Each group is expected to encourage and promote diversity. That includes an affirmative duty to encourage participation by the whole student body. I suppose some people don't like that idea. But what are you afraid of?

While I am leaving the SBA at the end of this term, I would recommend this: Before money is allocated for the coming year, each group must be clearly notified of the rules against discrimination. I would also propose that each group propose or show proof that their group encourages diversity before funding can be allocated. Thus, we can solve the real or perceived bias against various persons who feel they are not welcome in some of this school's activities. Women can feel welcome in a typically male dominated sports, men can be encouraged to learn and participate in feminist issues, and so on. I realize this calls

for affirmative duties on the part of law students and that is a repulsive thought to some persons, But I think a more repulsive thought is allowing fellow students to feel unwelcome in your own activities simply because you do not want to make a slight effort to encourage their participation.

Image

Political cartoon of a row of Soviet leaders with their hands in the air. A crowd chants "Gorbachev Resign!!!" A man tells the leaders "Will you please stop doing 'the eave?'"

By CPS

FISHING_

I. Intro

The topic of the job hunt is always relevant for the Mitchellite; especially as the time of graduation approaches. Panic sets in for those who have not lined up work. One realizes that the gargantuan debt that has been accumulating and festering over the past three years will become due. We all knew that monster could not be controlled for long.

Yet panic not. Herein please find suggested answers to those tough interview questions. These answers are sure to, at the very minimum, set you apart from the competition and get you some sort of results. Included with each suggested answer is a short analysis explaining why the answer is appropriate.

II. Answers to those tough questions

Question 1: "What do you consider to be your greatest accomplishment?"

Suggested answer to question 1: "Well I've amassed quite a porno collection. I have every Club mag ever printed. If you hire me I would bring them in."

Analysis of suggested answer: An answer like this provides the preferred way to break the ice in an interview. This is a deeper "warm up to the interviewer remark" as opposed to a contrived "so how is your tennis game?"

Question 2: "How are your research skills!"

Suggested answer to question 2: "Well to tell you the truth I don't really need any. I usually know what's right for both myself and the client. I don't need a bunch of other ideas about what's right. I just go by what feels right and my intuition is usually pretty good. I didn't spend three years learning the law for nothing."

Analysis of suggested answer: This answer shows the interviewer your level of confidence in your own knowledge. The old saying "If you believe in yourself others will believe in you" is alive and well in the job hunt process. Besides this is a trick question. Everyone knows that each case is fact specific and no case can be extended beyond its own unique facts.

Question 3: "How are your writing skills?"

Suggested answer to question 3: "With all do respect sir (or Madame), I don't know why you put such emphasis on research and writing skills. Everyone knows its what you say in court that's important. And in court the court stenographer writes everything down anyway."

Analysis of suggested answer: This is another trick question. Everyone knows that no one reads any of those absurd memos people write. And if the judge insists on a writing, everyone knows the law clerks do all the writing for the firm.

Question 4: How well will you relate to the clients and fellow workers?

Suggested answer to question 4: I get along with everyone. The way I do that is that I don't act professionally. It's too stuffy and formal. Why not let it all hang out? I'll dress funny and talk funny thus making the client less intimidated. And again, everyone always enjoys the porno collection.

Analysis of suggested answer: Now who could argue with this response. It's friendly and honest.

Question 5: Where do you see yourself in five years?

Suggested answer to question 5: In five years I see myself doing exactly what you are hiring me to do right now. This is what I want to do for the rest of my life.

Analysis of suggested answer: Employers like to know that if they hire you will be happy to do what you are doing for a long time. It's painful to hire and fire people all the time. Let the employer know you are happy where you are and have no aspirations to get ahead. If the interviewer feels his job is threatened then surely you won't get the job.

Question 6: "How do you handle the stress of being in the courtroom?"

Suggested answer to question 6a: "If things get too hot in the courtroom one should just walk away from there for a while and grab a beer. I know judges are understanding of the stress that attorneys face and freely grant recesses.

Question 7: "How do you handle the stress of everyday practice?"

Suggested answer to question 7: "I don't believe in taking on any clients of files that I'm not interested in for then I can't give my best. I'm not afraid to throw stuff back in your face. Also if I took a file and if things got too bad then I'd just take the file and slip it under someone else's stack. Ha ha, no seriously, if I took a file and things got too rough then I'd ask for tons of help from you every step of the way.

Analysis or suggested answers to question 6.7: These solutions show that you can prevent most stress from developing and you can handle the stress that does develop. Also it shows you can delegate responsibility and that you know your limitations.

That's quite enough of this installment of suggested answers to those tough questions.

III. Concerns

A. The Old Library

I. Those of us who are old enough to remember please reminisce with me now about the old library where we all used to learn the law. Close your eyes and think back to the gym/auditorium where the

National reporters were kept. Now the state room. And now the basement where the law reviews were stored. Ah yes. It shows that Humans are remarkably adaptable and can endure almost any hardship.

Now come back to the present. And think how the old library is kept now. Our old friend is now a depository for old crapola. It is an embarrassment to the school. When you take your parents on a tour of the facility, they can't help but be revolted at the towers and heaps obsolete computers and old furniture, They wonder to themselves and with the rest of the student body about when this pyorrhea will be excised.

2. The remedy

Have a huge garage sale and sell all the crap. Dump the rest. Use the empty space for:

- a. Massive student rec. area/theater/games/video
 - b. Gym (with the basement level for locker rooms/showers)
 - c. Restaurant?/Shops?/Dorms?
 - d. Solid Gold II?
- B. Swastika

Last time I reported the presence of what I will now call "constructive" swastika formed from an aerial view of the new Hachey booth/table system. So far there has not been any response from those responsible. Query: Is this acquiescence a sign of tacit approval?

V. Next Week

A. The Poisonous Gabon Viper - The new rage for law offices and law schools. The perfect pet for the law student or practicing attorney.

B. A new section: Full Disclosure. Publication of intimate secrets from all sources pushing the bounds of good journalism to its limits.

+ So much more

Image

Photograph of a man with his fingers against his temple.

The caption reads: Grades? You want grades? I'll give you grades!!!

MOVIES

Current Showings

AWAKENINGS (PG-13) Robin Williams - Heart-tugging medical drama of comatose man who is temporarily revived. (GOOD)

CLASS ACTION (R) Gene Hackman - Father and daughter, both lawyers, square off in negligence case; top acting. (GREAT)

DANCES WITH WOLVES (PG-13) Kevin Costner - Exceptional western that portrays Native Americans with eloquence. (GREAT)

THE DOORS (R) Val Kilmer - Vivid account of the hot '60s rock band and its charismatic leader Jim Morrison. (GOOD)

GUILTY BY SUSPICION (PG-13) Robert De Niro - Compelling drama tells of witch hunts for communists in Hollywood. (GOOD)

THE HARD WAY (R) Michael J. Fox - Tedious cop-buddy comedy about an actor trying to learn the ropes from a real detective. (FAIR)

HE SAID, SHE SAID (PG-13) Kevin Bacon and Elizabeth Perkins - Gimmicky romantic comedy about battling TV journalists is short on laughs. (FAIR)

HOME ALONE (PG) Macaulay Culkin - Schmaltzy, enjoyable black comedy about tyke who fends for himself in a big house. (GOOD)

IF LOOKS COULD KILL (PG-13) Richard Grieco - High-school student is taken for a spy in this empty spoof of Bond films. (FAIR)

KING RALPH (PG-13) John Goodman - Klutzy American becomes the King of England: There's adequate humor in this frothy comedy. (GOOD)

L.A. STORY (PG-13) Steve Martin - So-so romantic comedy spoofs Los Angeles' culture and style. (FAIR)

NEW JACK CITY (R) Wesley Snipes - Drug dealers take over an urban community In this blood-drenched exploitation drama. (FAIR)

SHIPWRECKED (PG) Stian Smestad - Bland action adventure of Norwegian lad briefly stranded on a tropical island. (FAIR)

THE SILENCE OF THE LAMBS (R) Jodie Foster - Top performances mark this shocking thriller about serial killers. (GREAT)

SLEEPING WITH THE ENEMY (R) Julia Roberts - suspenseful melodrama about a wife who tries to escape from a brutal husband. (GOOD)

TRUE COLORS (R) John Cusak - Predictable tale of '80s era greed and corruption of a political candidate. (FAIR)

Letters To The Editors:

The Controversy Rides Along...

To the William Mitchell Community:

As women students at William Mitchell, we write to express our concern that the Match 25 memo from the Womyn Law Students Association and the Women's Law Caucus does not represent the views of the majority of women at William Mitchell. By definition, all women students are automatically members of the Womyn Law Students Association.

The memo criticizes the SBA for rescinding funding for two programs sponsored by the two organizations - the ride-along with the St Paul Police Department and a tour of the women's correctional facility in Shakopee. These programs were advertised in the Docket as: "The program is limited to 30 students. The first 30 women who sign up will be participants. Men will be placed on a waiting list in case there aren't 30 women who sign up." At its March 23 meeting, the SBA decided the program as advertised was in direct conflict with the WMCL Student Handbook's anti-discrimination policy, which states, "...discrimination on the basis of race, color, creed, religion, sex, age, national origin, disability, marital status, status with regard to public assistance or sexual preference is prohibited and will not be tolerated."

SBA representatives suggested funding could continue for the programs if the discriminatory language were removed from the Docket advertisements and further recommended signing up on a first-come, first-served basis or preferences for group members over non-group members. These options were unacceptable to the organizations and, thus, the funding was rescinded.

No principles were compromised by the options presented by the SBA to the organizations. In fact, only 21 people had signed up for the 30 available spots, so capacity was not an issue. The absolute position that men must be on a waiting list while women received first preference was discrimination based on gender. Preferences for group members would have accomplished the same objective without discriminatory language. Further, the March 25 memo fails to acknowledge that the language violated the WMCL student handbook anti-discrimination policy.

Subsequently, a complaint of sexual discrimination was filed with the College's oversight Committee against the SBA collectively. At the March 28 meeting of the SBA, a representative of the two women's organizations agreed to remove the discriminatory language and substitute language preferring group members over non-group members. The SBA agreed to restore funding for the programs, and the representative agreed to drop the complaint.

This incident was avoidable and undermined the credibility of these organizations, which were working toward a more diverse environment at WMCL. We recognize that women have a special interest in learning about the law as it applies to women. We understand that these two groups want to ensure that women have the opportunity to learn more about women's issues and that education and awareness are two of the organizations' key objectives. However, as women and as members of these organizations, we seek equality. We cannot endorse reverse discrimination as a method of achieving our goals.

We value the commitment to change demonstrated by these two organizations. We respect the outspoken and involved people who invest their time to further the education of the WMCL community. But when passionate beliefs result in polarization rather than constructive communication, no benefit is derived.

Our community is heterogeneous. All members of our community need to recognize and respect it as such - that's what a commitment to diversity means. Lip service about diversity is not enough. What is needed is more constructive involvement, more commitment, and more positive, outspoken participation by members of the student body.

This memo was drafted by a group of concerned students including: Shannon Brumbaugh, Maureen Kelly and Margie Skelton. It is not representative of the opinions of any school organization. The undersigned have read the memo and agree with its contents.

Shannon J. Brumbaugh; Maureen Kelly; Amy Campbell; Kristen A. Kastner; Dawn M. Hazeltine; Margie Skelton; Millicent Calinog; Bonnie B. Westman; Michelle Blomquist; Lauri Vranes; Ann Looft; Kimberly Price; Karin Carlson; Jayne E. Gardner; Patricia A. Pedersen; Kirsten Keilitz; Kimberly Halva; Nancy K. Klasinski; Laura J. Benson; Ferd Grufe; Lori Berke; Tami Dokken; Chris Peterson; Kristin Campbell; Jenny Lara; Jennifer A. Richardson; Leah Emmans; Sharon Thompson; Sheryl Zaworski; Phil Grossfield; Amelia Buharin; Ann Hoku; Kevin J. Kolosky; Gary Loebmann; Amy Doll; Karen Bjorkman; Trish Kolonius; Charles Constantine; Beth Hyduke; Robin Maynard; Michelle Toneli; Katherine Gray; Janice Verjorsky; S. Shofner-Meyer; Catharine Davies Mark; Kaerin Priders; Shari Johnson; Paula Flint; Teresa Stromen; Cathy Klimek; Paul Kieffer; Charles Steffel; Darlene M. Tester; Nancy M. Longley; Edie Michalski

by Sue M. Nipe

It all started last fall. The Womyn Law Students Association asked for and received funding from the SBA Program Committee for a trip to the women's correctional facility in Shakopee for our April program.

In late February we began the details of scheduling the program. We decided to rent a bus for the 45-minute trip, and the cost of the bus was more than we had been allotted for the program. The Women's Law Caucus was going to co-sponsor the program. There was enough money in the program budgets of the two organizations to cover the cost, but, according to the rules of the Program Committee, we had to go back to the SBA with a special request because the money in the budgets of the two organizations wasn't allocated specifically for renting a bus.

On March 2, I presented a request at the SBA board meeting for money to rent a bus. The money, up to \$250 (we didn't know at the time exactly what the cost would be), was granted.

In preparation for the program, we put an announcement in the Docket It gave the details and indicated that, because of the limited capacity for the tour, women would be given preferences. This preference was noted because the purposes of the two organizations are to support women, women's issues and women's rights.

The night the Docket came out, SBA President Bob McLeod talked to both Lisa Sexton and me and asked us to change the wording. When we refused, we were told the matter would be discussed in the future. It was. At the March 23 SBA meeting, the previously granted funding was rescinded after a long and heated discussion.

On March 25, a memo was distributed throughout the school by the Womyn Law Students Association and the Women's Law Caucus describing our perceptions of the meeting. Also on March 25, a formal complaint of sex discrimination was filed with the school's Sex Discrimination and Sexual Harassment Committee.

On March 27, with a \$111 commitment to a bus rental company, we went to the Minority Affairs Committee and requested funding for the program. It was granted, along with authorization for Eric Janusz, the committee's chair, to contact the SBA to see if funding might be reinstated from the SBA.

March 28 was a day of supporting the phone companies. Numerous phone calls were made between Bob McLeod and SBA representatives, myself and steering committee members of the Womyn Law Students Association and Women's Law Caucus, and Eric Janusz.

An SBA meeting was held in the early evening hours of March 28 and, after another long and heated discussion, a compromise was reached. The SBA will fund the rental of the bus. Preferences were to be given to members of the two organizations. Bob McLeod agreed to investigate sex discrimination on the hockey team, the formal complaint was dropped, and both Bob and I agreed to write articles for the Opinion.

The important thing is that a compromise was reached; the ends were achieved. But it does not end there. To avoid repeating these gut-wrenching and headache-producing episodes in the future, we must be willing to address the issues involved.

All of the parties involved said they are committed to inclusiveness and diversity, but how do the parties define those terms and how do they work to promote them? Is there discrimination at William Mitchell, in whatever form? Why did it take intervention in the forms of a formal complaint and a college committee before final action was taken?

I am confident all parties to this do not want a repeal of it. It produced feelings of hurt, anger, frustration, disappointment and probably much more. I hope we all examine our actions and reactions and ask ourselves if this is how we want to act as attorneys and as advocates for our clients. It was a valuable lesson for us all.

The Opinion

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Haven't got experience? Not to worry! Neither do we! The work is messy, but the pizza and beer are free! Stop down to The Opinion office, in the basement of the LEC building, next to the bookstore, or leave your name and number in our mailbox (where all the other student organizations' boxes are).

APOLOGY

The Opinion staff would like to apologize for not giving credit where credit is due. In the last edition, the Collins Byrd interview was conducted by Patricia Guthrie with photo credits to Anne E. Zachritz.

What Does "Diversity" Mean to Each of Us?

by Professor Hamilton

In order to draft that part of the College's diversity plan relating to the recruitment, retention, evaluation and professional development of full-time faculty members, we need to understand what "diversity" means to each of us. To help each of us arrive at the principles that define our understanding of "diversity," I have set forth below a number of statements that reflect a wide range of views on "diversity."

These statements are not my personal views, indeed many of the statements are mutually contradictory. Some of them I strongly oppose. I intend the statements as a device to generate thought and discussion.

I ask that each should consider the degree to which she or he agrees or disagrees with these statements. Draft your own statements if those set forth here do not capture your views. This deliberation should help each of us define the basic principles that comprise our concept of "diversity." As a shorthand, "status" or "status-based" as used in the text refers to race, gender, sexual orientation, physical impairment, age and religion.

- Race, gender, and status matter. All persons are products of blood and status.
- Decisions should be made in order to advantage one group over another.
- Decisions must be made to redress the disadvantages suffered by one status group, even though that redress will inevitably disadvantage members of other groups.
- In this society, race, gender or status must not be a source of advantage or disadvantage to anyone. These differences cannot be exploited as a means to power by anyone. It is morally wrong to use race, gender, or status as a means to power. Instead we must use principles of fairness and human equality. No one has a special entitlement to more rights.
- Instances of insensitivity and bias based on race, gender and other status differences do occur. A diversity program can make a substantial contribution by providing (1) continuing prejudice reduction training and (2) vigilance to reduce discriminatory impulses and to insure that standards of merit are free of bias. There should exist substantial sanctions for actual discrimination.
- Diversity means increasing the level of understanding of all segments of the community of the nature and history of racism sexism, homophobia, religious intolerance, and age and disability discrimination and of the value to the institution, the profession, and the society of decreasing and eliminating these forms of intolerance.
- Diversity means creating an environment in which issues of race, gender, sexual orientation, age, religion and physical impairment can be discussed freely and safely. Growth cannot come without open "testing" of our ideas. People should not be labeled for their thoughts. Disagreements about ideas must not be transformed into questions about their motives or integrity.
- Prejudice reduction and the existence of diversity of ideas require a culture of sensitivity and respectfulness.
- An effective academic community is more a web and less a ladder. Characteristics of an academic community realizing diversity of ideas are a plenitude of mutual respect among colleagues, a manifest

regard for competing truths, and an absence of ad personam attack and male domination and intimidation tactics.

- Because an academic community rarely resorts to self protective devices such as dismissal that other communities might employ to protect themselves from intimidation and ad personam attack, its members have a special duty to bring. appropriately measured moral sanctions to bear against those who practice professional intimidation.
- Diversity means increasing the level of understanding, among all segments of the community, concerning the nature of intolerance and coercive zealotry and of the value to the institution, the profession, and the society of decreasing and eliminating. intolerance and coercive zealotry and of increasing the diversity of ideas.
- Diversity asks that members of all races, and persons of every status face the fears that they inspire in one another and respect the commonality and interconnectedness of all people as a higher value than difference. The elevation of difference tends to undermine the communal impulse by making each group foreign and inaccessible to others. When difference alone is celebrated, rather than commonality, people must think in terms of differences to find meaning, and this meaning tends to come from an endless contrasting of one's group with other groups.
- The view that everyone is a descendant of oppressors or victims will fan and recreate hatred in each generation.
- To forget a history of oppression is to give final victory to the oppressors and to delude oneself into believing that oppression is over.
- An environment that supports an active involvement in prejudice reduction at the personal level is the best way to ensure that people are prepared and capable of systematically thinking about and challenging the broader social issues.
- Those who do not volunteer for prejudice reduction sessions should be required to attend.
- Inter-group tension cannot be resolved by a methodology based on an attitude of moral righteousness that only serves to reinforce feelings of guilt and blame.
- Existing institutions can best be helped to become discrimination-free by first addressing the personal life experiences of its members that have led to conscious or unconscious prejudicial attitudes and behaviors.
- Diversity means intellectual diversity, and it is essential in higher education. Intellectual diversity means that we should add to the faculty persons of the best academic quality who disagree with the unexamined prejudices of the existing faculty in such areas as race, gender, the family, religion, abortion rights, sexual orientation, and social disintegration and balkanization.
- Exposure to intellectual diversity in higher education helps each person to search for transtemporal and universal principles of justice and care through reflective thought, reasoning, analysis and discourse. There can be knowledge in contrast to opinion and perception.
- There is some correlation between peoples' ideas and their backgrounds and life history, but race, gender or other status-based criteria are only one of many factors that make up a person's background and life history.

- Persons of color, women or persons with other status differences think differently than heterosexual white males.
- The preceding statement is stereotyping. Status generalizations, whether positive or negative, derogate from the individuality of persons insofar as their unique characteristics are submerged in the image of the group to which they are deemed to belong.
- Diversity of ideas and proportional representation as goals are not the same thing. Proportional representation in employment is a political concept attempting to redistribute power from privileged classes to oppressed classes.
- Intellectual diversity does not exist on the full-time faculty because the spectrum of faculty views on the political, social, economic and cultural issues of our time tends strongly to be to the right of the spectrum of views represented in society as a whole. New faculty of the highest academic quality should be recruited to challenge these unexamined prejudices.
- Intellectual diversity does not exist on the full-time faculty because the spectrum of faculty views on the political, social, economic and cultural issues of our time tends strongly to be to the left of the spectrum of views represented in society as a whole. New faculty of the highest academic quality should be recruited to challenge these unexamined prejudices.
- The meritocratic ideal demands that every person's actual or potential contribution be judged in terms of merit. The university community must abjure all practices that advance interest - friendships, status differences, ideological affiliation - over the intellectual characteristics and merit of the subject being judged.
- Legitimizing status-based credentials imperils the idea of a cosmopolitan intellectual Community in which there exist no stereotyping expectations imposed on a person's work because of her or his status.
- Employment decisions should focus on the academic qualifications of each fulltime faculty applicant both to meet the College's curricular needs and to perform at the highest possible level the teaching, research, public service, and governance activities required by the Tenure Code.
- A diversity program means equal opportunity fostered through substantial affirmative efforts at both recruitment and retention of qualified individuals who satisfy status-based criteria. All searches should be designed to yield among the candidates persons satisfying status-based criteria who fit the search profile.
- In order to attract qualified individuals who satisfy status-based criteria, it may be necessary to offer-significant incentives.
- Social conditions for some groups may result in a frustratingly small number of candidates of that status with, the credentials typically required for admission to positions in legal academia. Special steps including assistance in educational outreach programs at earlier levels of education should be taken to create a larger pool of applicants with the necessary credentials.
- Students need successful professional role models, mentors and counselors with whom they can identify and from whom they can draw inspiration, guidance and some mitigation of a sense of isolation and alienation.
- The role model concept is undercut if employment decisions are made on a basis other than academic merit.

- The notion of role model is important in the socialization of children in explaining how in childhood we "identify" with others and choose certain persons in whom to model ourselves. This is a complex process. The social science evidence does not establish that this process takes place after puberty. It may be that professors serve as inspirational mentors at the university level, but no clear evidence exists that such mentors must be of the same race, sex or status background.
- In an atmosphere of anxiety, "like" is more comfortable seeking counsel from "like."
- Diversity means that faculty employment decisions should be made based on status to remedy historic discrimination practiced against persons of that status. Current advantage based on status offsets historic disadvantage based on status.
- When preferences are justified by past victimization, people of that status to some extent become invested in the view of themselves as victims.
- Since all paradigms of systematic thought are only expressions of the status of the speaker, there exists no truth independent of the seeker. Since no particular person's account of phenomena can be, in an objective sense, more true than any other, no distinction can be made among viewpoint, perception, and competence.
- The idea of a high civilization distinguishing itself by its art, philosophy, sciences and social sciences is elitist and chauvinistic. The current common culture is not multi-cultural; it is a system based on racism and hierarchy.
- Law matters only because it is a tool that is inevitably and invariably used to legitimize illegitimate hierarchies and racism.
- One's world view and thought are determined by status. To hold that status is to think in a particular way. No person is really capable of escaping her or his cultural determinants. Once you have subtracted the accident of status, nothing is left.
- Some reorientation is possible if a person is exposed to people who exemplify the thinking of other status groups.
- Knowing a person's race or status can properly lead to certain conditions or assumptions about the knowledge or capacity of a person to accomplish certain tasks. The experiences associated with a particular oppressed status create a distinctive voice that is itself an intellectual credential.
- Status based distinctions concerning acceptable conduct are appropriate. For example, groups with preferred status are entitled to undertake hostile or exclusionary conduct or tactics that should be prohibited to groups without preferred status.
- Objectivity and academic merit are masks to perpetuate discrimination against groups with protected status.
- Merit is a reactionary viewpoint. All academic standards are mere camouflage for white heterosexual male privilege.
- There exist substantive criteria for each status. Thus, for example the perspective of a particular racial group may not be provided by a person of color who thinks "white."

- Race, gender and other status differences imply special ways of both representing and conceptualizing problems and of addressing intellectual issues.
- The faculty should not conform to one cultural ideal. Numerical diversity based on status is a necessary part of the values-transformational process. Numerical diversity is a necessary condition to eliminate the "few among many" phenomenon where the few are pressured to play stereotypical roles. The goal of numerical diversity based on status requires an employment policy that recruits and employs only those candidates who are in underrepresented groups based on race, gender, sexual orientation, physical impairment and third world nationality until a sufficient number of persons from each status group is hired for the persons in that status group to feel that they are not "few among many."
- Although the College does not have enough women faculty members, the number of current women faculty has reduced the "few among many" phenomenon. Therefore, for awhile in hiring, we should prefer other status groups over women.
- There are a number of predictable incentives, disincentives and results of a policy or group preferences based on status for the groups that receive preferences, that are likely to get them, and that cannot get them.
 1. Preferences for particular groups are not temporary. They create incentives for other groups to extend and expand the preferences.
 2. The goal of respect for the dignity of each person as an individual cannot be reached by a program of treating other people according to their group status. Focusing on one status group to the exclusion of others will pit one group against another.
 3. Legally preferred stratification based on ethnicity has caused balkanization and group polarization in the societies that have tried it.
 4. Status preferences create a two tiered population of preferred and unpreferred and make automatic perceptions of competence.
 5. To the extent that normal hiring criteria have any validity as predictors of teaching performance, and preferences are required because candidates of a certain status cannot meet normal hiring criteria, then there is some probability that the performance of those hired because of preferences will not be as good as those who are not hired under preferences. The negative feedback that students may give regarding the performance of such a professor will be very difficult for students and professor.
 6. In any person, academic and performance difficulties may create self doubt and resentment. Persons hired under an explicit or implicit system of preferences may feel stigmatized and demoralized.

The status based preferences are granted principally based on race, gender, sexual orientation and physical impairment. Race preferences are focused principally on African Americans, Native Americans, Hispanic Americans and Asian Americans. Other groups may seek preference. This could be based on age, ethnicity (e.g. Ukrainian, Polish, Armenian, Latvian, Gypsy), race combined with non-American nationality, second or third world nationality, religion (e.g. Jewish, Muslim, Buddhist, Hindu, and underrepresented Christian denominations), and class (for example multigenerational poverty).

- Diversity means that each status group should be represented on the university's faculty according to their proportion in society.
- We should therefore stop hiring white heterosexual males, Protestants, Catholics, and Jews.
- The overarching goal of faculty recruitment is diversity, especially with regard to race, affectional orientation and different physical abilities. This remains the goal of all current and future hiring until a critical mass of underrepresented groups is attained. "Overarching" incorporates the idea that diversity factors are first among important hiring priorities. "Critical mass" means sufficient numbers and perspectives that persons who are members of traditionally underrepresented groups do not feel isolated or underrepresented on the faculty.
- The faculty should recruit and hire only persons of color for the next several years.
- The faculty should designate specific faculty positions for African-American persons. For these slots qualified persons of color other than African-American should be rejected.
- Specifically stated or de facto classifications based exclusively on an individual's race constitute a per se violation of Title VII. Classifications based on gender are lawful only where gender is a bona fide occupational qualification for the job at issue.
- All candidates for employment must be committed to treating all members of this community respectfully and professionally.
- All candidates for employment must have an ongoing commitment to diversity and must actively seek to nurture and enrich the College's cultural, racial and ethnic communities.
- Opposition to race based preferential treatment is both racist in itself and conducive to the spread of racism.
- When a person from a particular status group speaks, challenging that person's view shows insensitivity to the group, unless the challenger is a member of the same group. This insensitivity shows the need for more work on diversity issues.
- All persons are products on blood and status. Decisions should be made in order to advantage all status groups but white heterosexual males.

MJF State Board Member Starts Business Law Clinic To Serve Low-income Women

by Katherine L. Gray

MJF President WMCL

Many pro bono projects focus on family law, government benefits, landlord/tenant law, and consumer law. So, how does a person with a business background use her expertise in providing pro bono services? Cathryn Saylor Peterson asked herself this question, and from it, the Business Law Clinic was created.

Saylor Peterson is a graduating senior at William Mitchell College of Law. She is a former president of the school's MJF local chapter, currently sits on MJF's State Board of Directors, and chairs the state's pro

bono committee: It was there that Saylor Peterson began to look for a way to combine her business and financial consulting background with a commitment to pro bono work. She felt strongly that other students and business lawyers would share these two, seemingly mutually exclusive interests.

Aware of Chart/Women's Economic Development Corporation's (WEDCO) program to empower women on public assistance, Saylor Peterson created the Business Law Clinic (BLC) to serve these clients. Chart/WEDCO is a non-profit organization formed to improve the economic self-reliance of women on public assistance through counseling, training, and business planning services. The clients with whom the BLC works develop a product, service or business idea which they refine under Chart/WEDCO's Self Employment Training Opportunities (SETO) program.

The BLC provides legal advice to the clients both while they develop their business plans, and later, during early operations. For example, the BLC attorneys and students have dealt with questions related to commercial leasing, copyright, patent, trademark, corporate dissolution, bankruptcy, and simple contracts. They look forward to doing incorporations, drafting partnership agreements, and even consulting on employment law matters.

In addition to providing direct client services, the BLC students develop legal education materials for clients and present this information in a seminar format under the supervision of a BLC attorney volunteer. This semester's students will make presentations such as, "Intellectual Property for the Entrepreneur," "A Business Woman's Primer in Contracts," "Using Professional Advisors in Business," and "The Tax Implication in Choice of Business Organization."

Saylor Peterson developed the clinic under the auspices of a summer, independent study project supervised by Professor Niels Schaumann. Professor Schaumann teaches business organizations and securities regulation at William Mitchell and has a strong commitment to pro bono work. MJF's Theresa Murray Hughes introduced Saylor Peterson to a number of pro bono organization leaders, who were happy to share their insights on the administrative aspects of running a pro bono service. Saylor Peterson then worked with William Mitchell's clinical faculty, regular faculty, and administrators to arrange for insurance, course credit, faculty supervision of the students, and facilities. She and Professor Schaumann formulated an operational plan for the clinic's pilot program, addressing everything from the clinic's mission statement to the details of client file management and time sheets. The operational plan was presented to Chart/WEDCO's board of directors in time to obtain approval for the fall semester.

At the same time, Saylor Peterson recruited the BLC's first volunteer attorneys: Carol Bros and Kim Chaney from 3M, and Janet Polish from FMG/Tsumura. These attorneys worked with three students over the course of the first semester. John Herbert (treasurer for MJF's local chapter at William Mitchell), Margaret O'Sullivan Kane, and Anne Zachritz. Saylor Peterson and Professor Schaumann felt that the clinic should be kept small during the first year of operation. This semester, the clinic has four students and has recruited attorneys from Briggs & Morgan, as well as Oppenheimer, Wolff & Donnelly. In addition to supervising attorneys, Saylor Peterson is creating a network of "mentor attorneys" to provide guidance to BLC advisors on particularly thorny legal matters. Dorsey & Whitney's Bruce Shnider (MJF State Board member) was the first mentor on an expanding list that now includes several faculty members at William Mitchell, among others. Overall supervision is provided by Professor Schaumann.

As for the future. Saylor Peterson envisages a formalized clinical program - complete with faculty instruction - at William Mitchell. In the meantime, the program is providing students with a valuable non-litigation, clinical experience that is virtually unmatched by any law school in the country. The BLC

also provides business lawyers with a meaningful opportunity to help clients pursue the dream of creating their own successful business.

*Reprinted by permission of the Minnesota Justice Foundation Pro Bono Report

Susan M

Submitted by Dean Cabrera

I tell the tale of Susan M., As legal scholar, not a gem. This is to instruct, and not make light, So others may avoid her plight. Her story is more fully reckoned In 556 North Eastern Second.

In '85, young and elated, At New York Law matriculated, We hope she studies, hope she tried; First year law's no time to slide. But sad to say, by summer vacation, Susan M. was on probation.

For N.Y.L.S. says 2.0 Is low as one's yearly "cum" may go; And when the computer her marks did sort, Sue's grade point average came up short.

Now, once on probation you've been placed, The rest of your course had better be aced, 'Cause if you fall behind again, this'll Be ground for academic dismissal.

Sue came back for a second year; Her grades did not improve, I fear. She really landed in a fix With a term of one point five four six.

She went before the Academic Status Committee, Looked them straight in the eyes, did not seek pity. And, in the face of certain scoffs, The fault, said she, lies with my profs.

We've all felt this way, have we not I didn't deserve the grades I got.

Committee members began to blister And unanimously dismissed her.

So Sue did what her name implies And sued them to unmask their lies, And even one step further went, Alleged a prof incompetent

Could this be true? A charge so vile? We'll never know; there was no trial. The law school's motion to dismiss Was granted. Out again, this miss!

Undaunted by the first decision. Sue filed in Appellate Division, Which, hallelujah, heard her plea And ruled a trial there had to be, To find out were her charges specious Or were her grades in fact capricious.

So Susan M. had won a round, But little solace had she found, For the New York State Court of Appeals Finally squelched all of her squeals. The Court said - let it bring them fame - There's no judicially cognizable claim.

Are there morals to be found? A plethora, I think, abound.

First, study hard and do your best. Get an "A" on every test

And, second, if you botch this rule, There's little point to sue the school.

Since, third, it's just like city hall, You can't fight law school's judgment call.

Fourth, don't appeal to higher authority; You'll never muster a majority.

Fifth, courts won't referee each fight, Determine if the ump was right. For, if they did, where'd it end up? In lawsuits over America's Cup?

Sixth, God preserves the Honorable Courts, And they'll protect the profs of torts.

And so I sleep secure at night; I know my kids can bark, not bite. But fellow profs, please do take care,
Moral seven is you must be fair. Remember ere careers you thwart, You are the courts of last resort

Robert E. Rains

Taken from the Journal of Legal Education

Vol. 40, No. 4, Dec. 1990.

Robert E. Rains is Professor of Law, The Dickinson School of Law. He teaches, inter alia, Education Law.

[Image](#)

Cartoon of a lawyer with head in hands, as their client is dragged away by a bailiff.

They say "I don't understand, it worked on LA Law!"

By Rush.

["Goofy" Pic Page](#)

By: Patricia Guthrie

[Images](#)

15 photos of various students goofing off around the school.

[Arts And Entertainment](#)

[Eighteen Hours and Forty-Five Minutes](#)

[Book Review](#)

by M. O'Sullivan Kane

[Ulysses](#)

by James Joyce

783pp. New York:

Vintage Books. \$9.95

To reflect that each one who enters imagines himself to be the first to enter whereas he is always the last term of a preceding series even if the first term of a succeeding one, each imagining himself to be

first, last, only and alone, whereas he is neither first nor last nor only nor alone in a series originating in and repeated to infinity.

-Ulysses (1914)

One can't help but imagine Joyce faring better as a professor of law than he did as a literary giant, what with his propensity towards maligning and elevating the language. Some have likened the novel *Ulysses* (italics) to a cab ride complete with potholes, speedbumps, gridlock, shot shock absorbers and a cigar smoking driver. More often than not, all you really want is out because the person navigating your journey towards nowhere-in-particular seems better suited as a myopic government clerk. However, despite our initial reaction of wanting to blacken the eye of this hippopotamus of an author pushing a pea of a story line, for introducing into the King's English a novel better suited for smiting people with than reading, this is a novel to approach with some caution.

Joyce was no babbling idiot, compulsively raising his hand to us in vain attempts to demonstrate his knowledge of some issue wholly unrelated to the discussion at hand. *Ulysses* has been carefully crafted on many levels to resemble a twentieth-century odyssey of a modern day Odysseus. The twentieth-century equivalent of Odysseus is Leopold Bloom. a salesman in Dublin in 1904, reluctant and fatigued husband of Molly Bloom (rumored to be based on Joyce's wife, Nora) and the would-be father of Stephen Dedalus. More than the simple character trappings of the *Odyssey*, Joyce has replicated the structure of Homer's classic by linking each of the eighteen episodes in *Ulysses* with a different academic discipline and, very interestingly, for those Joyce buffs who have unwittingly discovered that James was of a scatological bent, different organs of the body.

The real question to be answered is why has this work become the most written about novel in all of Western Literature. To venture anything above a guess would be to ask the cabbie, already more involved in his own imaginings than the road signs, to step on it But allow me to hazard... the language. Not only did Joyce break ground by fashioning a novel entirely of internal dialogues, but also he rendered the notion that each experience or thought is like a piece of debris on a tidal wave of the past in language of such elegance and brazen beauty that the simplest of thoughts becomes like the Sistine Chapel.

Never mind the warnings people have given you, nor the novels size, nor the indisputable fact that some of what Joyce writes will be lost to you as it is to everyone no matter their erudition, read this novel in much the same way you approach a buffet table. Disregard the aspic and candied beets that make up some of the chapters, and spend your time on those chapters that effect and fill you for whatever reasons unarticulated.

FOOD TALK

by Dick Cabrera

As this is the last column for this school year, I decided, ambitiously, to explore three types of restaurant Perhaps 'types' isn't the right word, but my dedicated search for good food drove me to examine three distinct cuisines.

First is Vietnamese food. There are so many Vietnamese restaurants that it would be hard to find the time, energy, and appetite to review them all. But, I gladly rose to the challenge, chopsticks at the ready and necktie safely tucked away to avoid stains.

A favorite spot for me is The Saigon City Restaurant, located in Bandana Square. This is north of here, just west of Lexington Avenue on Energy Park Drive. This is a small and popular place, it always seems to be well patronized. The food is one good reason for this. It is a mix of Vietnamese and Chinese specialties. I have always been pleased with their egg rolls and their fried rice. Both have the lightness and delicacy of flavor one comes to expect from this cuisine.

Their lemon chicken is another favorite taste treat. It is consistently good, never heavily battered or greasy. Beef salad is a light dish, flavorful but not too much for a snack or quick lunch. My special choice here is sautéed beef and potatoes. This is found on the menus of most Vietnamese restaurants that I have been to, but Saigon City does the dish especially well. The potatoes are plentiful, mixed with onions and sliced beef. A light sauce is blended with these ingredients. The quantity, for the hungry student, is good, and the price is reasonable.

The White Lily, at 758 Grand Avenue, is another good choice for reasonably priced meals. They have a large and varied menu. Some good choices include their won ton soup, mock duck (more in a moment), and a sautéed beef with potatoes or other vegetables.

They do their beef dish a bit differently. It has a darker sauce and is accompanied by steamed rice. The beef and potatoes or beef and vegetables compare favorably with Saigon City's. The White Lily's attraction for me is mock duck.

This vegetarian entree, made from tofu, is very duck-like in consistency and flavor. It is served in several ways. I prefer it as a main dish, but it may also be included in a salad. The quantities at the White Lily are plentiful, especially that of the mock duck. One nice feature is their lunch specials menu. For an average price of about \$3.95, there is a wide selection of entrees.

Recommendation: Explore Vietnamese cuisine yourself. The Saigon City's beef and potatoes is a good bet, so is White Lily's mock duck lunch special. I have yet to find a Vietnamese restaurant that doesn't meet the criteria for this column of good price, taste, and nutrition.

Also, a Faithful Reader has suggested A Taste of Vietnam at 1278 Grand Avenue as a good bet. Their egg rolls were recommended for good taste and price.

Next on my explorations this time was Arby's. I went to their location on University Avenue and Fairview. While roast beef remains the staple of Arby's menu, there are a number of good alternative dishes as well.

Arby's has added some nice salads, as well as fish and chicken sandwiches, to choice. A brand new selection is Arby's fajita pitas. This is a different, multicultural sort of dish. It is also well worth trying.

The specialty sandwiches at Arby's remain my favorites. The beef and cheddar is a bit too cheesy for me, but the Philly Swiss sandwich is great. Something like a Philly steak sandwich, it comes filled with grilled onions and peppers.

Recommendation: You can't go wrong with the specialty sandwiches at Arby's, whether you like cheese or not. Watch for their special prices too. As of mid-March; you could get a regular roast beef sandwich for a quarter with the purchase of any other sandwich. A good bargain.

My bargain pick of the month is yet another sort of cuisine. It is the Best Steak House, several of which are located in the Twin Cities. The nearest one is at University and Victoria.

These small steak houses remind me of similar operations in Chicago, New York, and L.A. They provide a quick, low-cost dinner without all the frills of fancy restaurants. The Best has a menu of various steaks, chops, and sandwiches. Some locations also serve gyros.

I like the Best because, for about the same price, or less, as the specials at Arby's or McD's or any other fast food place, you can get a full meal. This includes meat, salad, potato and Texas toast. Their daily specials bring the price on selected items even lower. Some dinners are priced up around the five to seven dollar range, but it is hard to beat the specials. For \$2.35 you can get a full "steak burger" meal; a chopped sirloin steak is \$2.99 on special. For student budgets, the Best Steak House is worth a try.

Finally, I promised some recipes from time to time in this column. One favorite of mine is a hold-over from my student days. It is called "budget soup". This may be cooked in a crock pot while you are away at classes, or it can be prepared quickly on your return home. It is invariably excellent as a left-over meal as well.

Ingredients:

1 pound lean ground beef

1 large onion, chopped

(optional) 1 small can of mushrooms, or 4 oz. fresh mushrooms, chopped

1 pound can of corn

1 pound can french cut green beans

1 pound can stewed tomatoes

1/4 teaspoon garlic powder

1/4 teaspoon cayenne pepper

1/4 teaspoon oregano

1 teaspoon corn oil

1 cup sherry

salt to taste

In medium pot with lid, begin to sauté onions and mushrooms together in oil. Crumble beef and add slowly to onion and mushroom mix. Add spices and stir. Cover pot and cook mix on low heat until beef is done; stirring occasionally. Pour mix into 2 quart crock pot or soup pot. Add wine and canned vegetables.

Stir well and cook 6-7 hours on low setting of crock pot or, on stove top, bring to a boil once then lower heat and simmer 45 minutes.

Societal Pathology

Movie Review

by Mark R. Azman and Kimberly Price

Silence of the Lambs

Silence of the Lambs is a suspense thriller starring Jodie Foster and Anthony Hopkins. Lambs is a laudable film, well deserving of the Kim and Mark movie rating of three-and-a-half thumbs-up. But like most good movies, some problems existed.

The movie begins with Jodie Foster in training at the FBI academy. She receives an assignment to interview Anthony Hopkins, a.k.a. Dr. Hannibal 'the Cannibal' Lechter, at the local prison for the mentally insane. Upon arrival at the prison, Foster examines Hannibal's cell which is a subterranean dungeon built from brownstone and plexiglass. Instead of the normal bars to contain the prisoner, there are walls of clear, thick plexiglass with airholes. The feeling of cold oozing from the walls of this modern day rehabilitation center was in the air at the theatre.

Foster's assignment is to obtain information about the current serial killer, Buffalo Bill, at large in the Midwest. The FBI believes Hannibal, a psychiatrist and a serial killer in his own right, can shed some light into the workings of the mind of a fellow psychopath. Unexpectedly, Foster discovers that Buffalo Bill was a former patient of Dr. Lechter. This sets the tone for the rest of the movie as Foster attempts to unravel the identity of Buffalo Bill, who has recently abducted the daughter of a prominent senator.

A look into the main characters finds complexity and realism. Anthony Hopkins portrayed Hannibal with veracity and conviction, leading our classmate, Mark Hooley, to comment that Hopkins must be psychotic in reality. Hannibal was a sophisticated intellectual, yet insisted on a childish quid pro quo exchange of facts from Clarice's (Foster's) personal life for information about Buffalo Bill. Hopkins maintained a calm satisfaction while maiming and murdering. He remained always calculated, never awkward, guided by the hand of experience.

Jodie Foster played Clarice, an FBI trainee. We don't know what an FBI trainee is really like, but Foster's portrayal seemed realistic. Clarice comprised a sincere combination of intellect, beauty and courage. We were impressed.

Along with these positive aspects of the movie, every rose does have its thorns. Lambs contained few gore scenes, but what gore existed was unrealistic. The corpse in the morgue scene looked more like Resusci-Annie (remember CPR?) than a body scooped from the river after three days with a leaf or two for effect. In addition, parts were hard to follow. For instance, when Hannibal killed two police officers in what seemed like seconds, then escaped incognito wearing another officer's face. At this point of the movie, the sequence of events and where he obtained the face proved confusing for some viewers.

On the whole, Lambs provided two full hours of suspenseful, gripping psycho-fun. We think you should see it We have to go now, we're having a friend for dinner...

The Weekly Crossword Puzzle

WMCL Art Contest

The First Ever Opinion Doodle Contest

3rd Prize

Drawn in Torts I with Prof Marino.

"Reasonably Prudent Person," by Brian Tufte

A shaky sketch of a superhero with RPP across his chest.

2nd Prize

Drawn in Legal Writing class with Prof. Susan Bedor.

by Mike Bjerke

A well muscled WMCL student saying "March 5, 4:30 PM in O.P.C. Con Pro"

1st Prize

Drawn in Property Book during Property class with Prof. Gelpe.

Jim Morrison 1942-1971

by Steve Heller

A facial portrait of Jim Morrison

NASTY HABITS

by Tamara Tegeler

Enigma: MCMXC a.D.

Enigma combines synth agility with the unlikely compliments of opera, gregorian chanting, and spoken lyrics to produce a simplistic, yet innovative aural work. The album is an arrangement of sounds-mood music with a beat, like the music of The Art Of Noise with the more eerie elements of Dead Can Dance. The tracks range from depressing to dance remix overkill to downright odd. The titles of the selections on the album include: "Principles Of Lust", "The Voice & The Snake", "Knocking On Forbidden Doors", and "Back To The Rivers Of Belief". Their character can be classified as "yuppie mystique".

Despite the beat, the tracks on this album have an overall calming effect. The selections are all very similar, by nature, and blend into each other. The soothing tonal qualities or the beat usually compensate when the chanting and moaning vocals become annoying. The flowing sounds may lull a person into total relaxation or bore someone silly with their repetitiousness. Others may find it alluring or erotic. "MCMXC a.D" is pleasantly moody, interesting, and professionally crafted, but may not be able to keep long term attention of listeners.

The Posies: Dear 23

"Dear 23" is an album of intelligent pop/progressive music. Having to place it in a category of music is a shame, because it deserves better than the prejudice a label will create. The music has great variety, exuberance, intensity, and is of the highest quality. Their songs are well-crafted and complex. The poetry of the lyrics is intriguing and challenging to interpret. When was the last time you said that about a popular song? These are not songs you will be able to sing along with, or even understand, after hearing them twice. This particular quality is usually the mark of a great piece of music or an esoteric piece of crap. In this case, it is definitely the former.

"Dear 23" begins with the bouncy; beat happy song "My Big Mouth", where the singer pleads to his girlfriend: "Don't make me explain myself - you don't need to know what's going on in my big head right now. It could appear that I should have a statement prepared, but don't make me open my big mouth." This is because he fears he might reveal she is not his "sole engagement." This song just never stops. The driving beat, great harmonies, and raging guitar make this song a riotous and flashy event.

"Golden Blunders" is a lyrically somber explanation of the feelings involved with an unwanted pregnancy and forced marriage.

The memorable chorus is an intense hook: "You're gonna watch what you say for a long time. You're gonna suffer the guilt forever. You're gonna get in the way at the wrong time. You're gonna mess up things you thought you would never." The harmonies and vocal arrangements accentuate the music and powerful lyrics: "Disappointment breeds contempt, it makes you feel inept... His and hers forever more, throw your freedom out the door. Before you find out what its for... Men and women please beware: don't pretend you care. Nothing lasts when nothing's there."

The sparse arrangement of "You Avoid Parties" draws the listeners attention to the lyrics which describe a depressed and withdrawn woman slipping away from reality. The singer cautions her saying: "And how you avoid parties. Because they remind you of someone you used you know. Pretty soon you'll want to avoid yourself." He continues to describe her sad condition: "Isn't it nice how things resolve. To test your will would take the skill of crazy ants. You fit your mind into smaller and smaller jars... You find you hide for weaker and weaker reasons... And you couldn't run away even if you tried... You find yourself drawn to tighter and tighter circles... You are insane though you have gained such wide appeal." The vocal harmonies give this sparse song a lush feeling.

"Suddenly Mary" is the current single from the album. Perhaps you've heard it on KJJO 104. The dreamy, psychedelic tune describes a man's new found submission to his new wife. He sings: "Loving, she told me, was a question of bravery. But when she started to hold me, it was closer to slavery." The sweet music is deceptively soothing. The topic and tone is actually quite creepy.

The emphasis of the drums and guitars with gentle compliments of piano should focus attention to "Mrs. Green" after even just one listen. The song is a pop powerhouse. Its like some kind of perverse (in a good sense) combination of The Beatle's "While My Guitar Gently Weeps" and The Monkee's "Look Out (Here Comes Tomorrow)". Though, it takes several listens to figure out it's about a miserable, embittered, old woman.

The Posies are very hard to describe. They're unique. Their general sound is similar to late 60's Monkees with more seriousness and quality like The Beatles. They also have a knack for being hook prone and a

talent for building intensity like The Raspberries. Their lyrics have intellectual and emotional depth. They are adept at creating beautiful melodies and rich harmonies. The Posies is one of the most worthwhile and talented bands to come along in years. They have great potential.

The Soup Dragons: Lovegod

The Soup Dragons are a new band trying to capture a share of the progressive market with a sound somewhere between rock and dance/club music with a quite a tinge of psychedelia. They have the feel of a garage band limited by the talents of a group only proficient in the studio. Currently, they are on tour as the opening act for INXS.

"I'm Free" is their current single. The song has a decent beat and an adequate, predictable guitar line. The lyrics consist of: "I'm free to do what I want, to be what I want, to do what I chose, to do what I want any old time." Real deep.

"Softly" brings down the tempo from the rest of the album into a gloomy Bauhaus or Cure-like semi-lovesong. The beat drags and the vocals are rather dissonant

The beat picks up a full, pounding force in "You Drive The Pain", unfortunately the vocals get more atonal and the lyrics get more sick. "I'll take a motor car and drive it to her brain. I'll take a motor car and realize that, I just like the pain. It goes straight into my heart and it runs right down my veins. You drive the pain."

"Sweetmeat" has twangy guitar and rather crude lyrics. The lead singer, Sean Dickson, makes his strongest showing on the album of his uncanny ability to sound like Marc Bolan of T-Rex.

"Beauty Freak" has a fast pace and grungy guitars in a mode similar to The Primitives or Transvision Vamp, except with a male singer. It starts out: "With a face like hell, a Nicademus spell. Painted on her golden eyes. And with an acid glance, trip into romance... She is the coolest queen, just sex supreme." The title refers to the fact that this "beauty queen" is actually a transvestite.

The Soup Dragons have little talent for extensive lyrical expression, but they have short and strange down pat. The sound of the music is like a more melodic Nine Inch Nails that falls short in it attempts at intensity and lyrical angst. They will probably do quite well in the college radio market.

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