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THE LOYOLA BRIEF

LOYOLA SCHOOL OF LAW · LOS ANGELES

Vol. 1, No. 4

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Jan.-Feb., 1969

FEB 28 1969

THE ANATOMY OF A TRIAL

LOYOLA UNIVERSITY DATE SET FOR SPRING DANCE



Dr. Roback, expert witness, cross examined by attorney for the Plaintiff.

WADE V. BUTTERFIELD

Presiding Justice: Hon. John A. Shidler, Los Angeles Superior Court.
Attorney for Defendant: Mr. Harry M. Reid, Las Vegas.
Attorneys for Plaintiff: Mr. Neil G. Glatz, Las Vegas; Mr. David B. Baum, Los Angeles; Mr. John J. Lane; Sherman Oaks.

The Facts: A mock personal injury trial conducted by the above members of the bench and bar to expose the students of Loyola, UCLA and USC to the arena of the living law—the trial.

On 7 December 1968, the above men generously donated a full day of their valuable time to discuss and demonstrate the trial lawyers' art in the court room as a part of the Student Advocacy Program sponsored by the American Trial Lawyers Association (ATLA).

It was indeed a fascinating presentation. The attorneys enacted each phase of a typical personal injury

trial, each attempting to employ the particular demeanor and strategy they had found most success with in their vast backgrounds of trial experience. From voir dire to opening remarks and finally to summation the attorneys would outline their intended tactics, then demonstrate their approach and finally discuss what they had done in a brief seminar with the au-

(Continued on page 2)

Mark the date of Friday, March 28, on your calendar for the Quare Clausum Fregit Ball, Loyola's all student-faculty Thing of the Year. The new Westport Beach Club in Playa Del Rey will be the place to claim your damages this year, beginning at 8:30 P.M.

A committee of the Student Bar Association is now diligently at work developing new and exciting ideas for your uninhibited enjoyment. Watch for further details! And remember the date: Friday, March 28th.

LSD/ABA

LOYOLA'S REPS PREPARE FOR TRI-STATE CONFERENCE.

The annual Ninth Circuit conference of the LSD/ABA will be held this year at the USC Law Center on March 1 & 2. Don Aimar, Loyola's LSD/ABA Representative, will preside as conference chairman. Delegates to this annual conclave are coming from all the accredited law schools in California, Arizona and Utah to elect the Circuit Vice President and to establish policy for the Division.

The major theme of the conference is law student participation in community affairs. Mr. Gary Bellows, USC Professor of Poverty Law, will be the keynote speaker. Following his address Sue Tanzman, 2d Day, of Loyola will chair a meeting of her National Committee (the only national committee appointment in this Circuit) on Pre-Legal Education. The work of the committee has been in

(Continued on page 6)

**IN THIS ISSUE:
COMPLETE BAR RESULTS.**

THE LOYOLA BRIEF

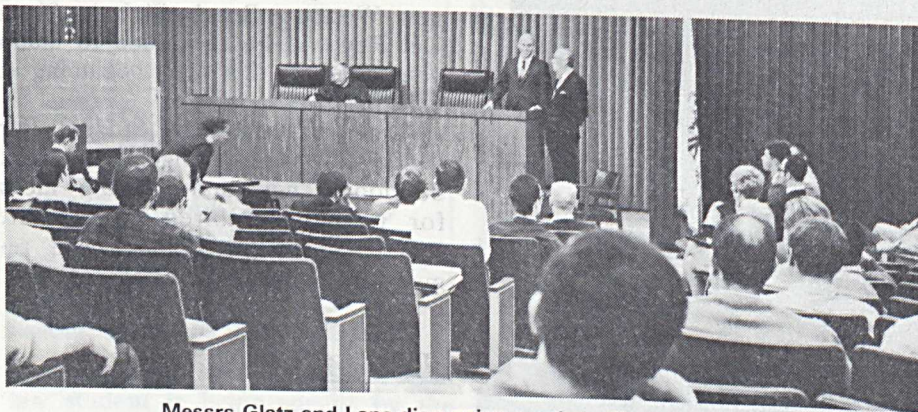
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Messrs Glatz and Lane discussing a point with the audience.

ANATOMY . . . (Continued from page 1)

dience.

A highlight of the trial was the direct and cross examination of an expert witness, Dr. Robert A. Roback, an Orthopedic specialist on the staff of the UCLA Medical Center and the VA hospital in Westwood. Dr. Roback, a nationally known authority whose list of credentials would fill this page, has served as an expert witness in many trials. He appeared

as comfortable in the witness chair as did Mr. Baum and Mr. Galatz appear confident and meticulous as they tried to destroy in cross examination the value of his testimony given for Mr. Reid.

About 100 students attended the program which represents a part of ATLA's efforts to interest law students in trial practice. Only an estimated 1% of all attorneys do enough



The trial is over but the debate continues.

A BRIEF EDITORIAL:

WHERE IS THE FACULTY?

We continually attack and try to overcome apathy on the part of our 750 students, especially as regards participation in school activities. The alumni association tries to get Loyola graduates to take an interest in the law school and its functions. The Saint Thomas More Society does what it can to get members to attend its affairs after graduation. What's the big problem in generating some interest in something besides getting out of Loyola? Could the answer lie in the question: Where's the faculty? Why are the many members of Loyola's teaching staff so preoccupied that they can't take advantage of the many opportunities made available to hear lectures, seminars, etc., that are put on almost weekly in the moot court room? Too busy? The answer to that is the generic term used in reference to the refuse of the male of the bovine species! Perhaps there would be less apathy on the part of students, and especially on the part of alumni, if our faculty members were less apathetic toward school activities.

The one or two faculty members who do make regular appearances at school functions are excluded from the above reproach, and their participation is herein acknowledged and very much appreciated. But where are the rest? The television programs just aren't that good this year—or so I've been told.

trial work to be considered members of the trial bar.

Each of the twelve students who served as jurors were presented with the complete fact situation of the case, including all the documents each attorney would have had as he came into court. The 30 page file contained for eg., police reports, depositions, notes on interviews with the hypothetical parties, doctors reports, etc. It wasn't difficult to spot the key issues but it was interesting that so many points we missed in reading the documents came out as strategically important facts at the trial. And probably the most interesting aspect of the trial was to observe how each of the attorneys would handle these points according to their vastly different but equally effective approaches to the case.

1968 Bar Results

Following are the bar results from the August bar for several past years:

Year	Taking Exam first time, total percent passed	Percent passed from accredited Calif. schools
1964	61.1	68.0
1965	69.3	79.5
1966	63.0	71.4
1967	59.8	68.5
1968 (approx.)	63.4	70.3

Following are the (unofficial) results of the August 1968 bar from several accredited California schools:

School	Percent passed Aug. 1968 Exam	Cumulative *
McGeorge	89.	77.8 (63)
U.S.F.	85.	72.6 (186)
Stanford	82.	77.2 (289)
Boalt Hall	76.	79.7 (680)
Loyola	74.	74.1 (220)
U.S.C.	71.	68.3 (356)
U.C.L.A.	70.	72.9 (619)
Hastings	70.	73.3 (761)

* Percent taking bar for first time who passed the August 1956 to March 1968 exams inclusive. Figure in parenthesis shows total number who took the exam for these years.

It seems that most schools followed closely their past records of performance; the notable exceptions being McGeorge and U.S.F. who really outdid themselves.

Loyola again showed up the local competition. U.S.F., with its 85%, may have surpassed Loyola in the three-year cumulative statistics. Stanford and Boalt remain the two powerhouses.

Those interested in the above statistics may also be interested in one of the bar review courses. Information may be obtained from the student representatives listed below.

CBRC

Bennet Cohon
Dick Fernandez
Jeff Miles
Burt Ward

BAR

Marvin Benson
Dick Troop

**IN THE NEXT ISSUE OF THE BRIEF:
INFORMATION ON THE UPCOMING ELECTIONS
AND A PREVIEW OF 1968-69 LOYOLA LAW REVIEW.**

REFLECTIONS WHILE IMMERSED IN PRACTICE AND PROCEDURE

Gist of varied fragrances;

Leaves of superceded essence,
Brushed aside by recreation.

The reincarnation ball proceeds
Until the cymbals crash, limp.

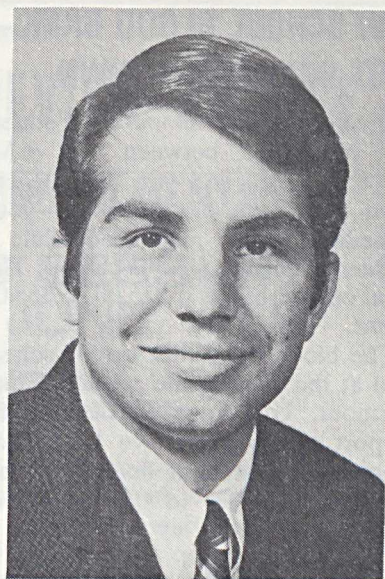
Speak, sound reflections of the
brain's imagery:

Odd creature of the toothy thorn,
Gorge thyself upon my blood.

BANKRUPTCY SEMINAR

Leading experts in the law of bankruptcy—namely, the referees—will be in seminar at Loyola on Thursday, February 27. A unique opportunity is available to students to explore the subject at this Thursday session which is also open to the public.

A series of speakers are scheduled from 9 A.M. to 3 P.M. in the Moot Court room.



In memoriam

It is with extreme regret we must note the recent death of student bar president John Gunther on January 6, 1969. Vivid in the memories of all who knew him, as a friend or student bar president, will always be his friendly smile and enviable personality which could not help but make friends with all whom he met.

As both friend and servant of the student bar, he unselfishly dedicated time and service to Loyola and its students. A member of St. Thomas More Law Society and Phi Delta Phi Fraternity, he was also class representative for two years, chairman of the student-faculty relations committee, the prime mover of the grades and disqualifications committee which was instrumental in the adoption of the new grading system, and finally an unassuming, hardworking student bar president.

In the desire to somehow express appreciation for his service to Loyola and to perpetuate the memory of this fine young man, a memorial scholarship fund has been created by friends, the family and the school. An annual award from the fund will be presented to a Loyola law student in recognition of his service to the school in the exemplary tradition of past student bar president John Gunther. Students, faculty, and friends will shortly be invited to participate in the building of this fund.

John Phillip Gunther Jr. He will be missed; but not forgotten.
(Written for the BRIEF by Timothy England.—Ed.)

LAW SCHOOL BLOOD BANK— BEST BARGAIN IN TOWN.

Give one pint of blood on Wednesday, March 12, between 8:30 A.M. and 8:30 P.M., and you become entitled to all the blood you or your immediate family may need while a student at Loyola, free of charge. The usual cost of blood is \$25.00 to \$65.00 a pint.

The blood drive this year is scheduled at the above time at 1130 South Vermont, Los Angeles. Let's really support this year's drive by having every eligible student become a participating member in the School of Law Blood Bank.

PHI DELTA PHI

New officers were elected for the period of December 15, 1968 to May 15, 1969. They are:

Magister Greg Cunningham
Social Chairman Joe Gellman
Clerk Steve Trabish
Exchequer Steve Maseda
Historian Len Roos
Brian Barnard will continue as chairman of this year's blood drive.

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WHY CAN'T THEY MAKE IT LIKE WE DID?

BY NEAL WIENER

One of the most often heard questions when middle class whites, especially first or second generation, discuss the topic of Negroes and poverty is: "We made it, why can't they?"

When some whites ask this question, they have a sincere desire to know and understand why such a tremendous percentage of persons in the low-skill, poor education, large and fatherless family cycle are black. Other whites, perhaps many or most, are implicitly making a statement of their belief that Negroes generally are inferior to whites. In other words, the question itself often reflects the racial prejudice that is a source of innumerable problems and barriers to every black man in the United States. Regardless of whether the question is asked rhetorically or sincerely, it remains a valid and an important question. This article is not an attempt to provide a definitive answer to the question, but merely a brief discussion of some reasons why the American Negro is so often at the bottom of the totem pole of American society.

Who are the blacks who haven't made it?

There are many black men in the United States who are successful as measured by the middle class values of a good job, decent home and stable family life. Of those blacks who have not "made it"—those in what is called the poverty cycle—most are American blacks of several generations, descendants of slaves. The significance of being a relatively recent descendant of an American slave is described in an article by Cecil F. Poole, the U. S. Attorney for the Northern District of California and a black. He starts at the point where the United States government first allowed the black man in the South the legal possibility of being a human being.

My arbitrary beginning is at the place where the Negro stood in this country in the period immediately post-bellum.

Two and a half centuries of what has been described as the most press-

ing, brutalizing and sustained slavery in history came to some kind of end with the Emancipation Proclamation and Appomattox. Those eons deposited at the back door of an indifferent and often hostile nation a people fettered with 25 decades of absolute deprivation, ignorance and isolation. They were a people deprived of the right to family ties, to heritage, to education, broken to servitude to the land and absolute obedience to the master. Emancipation and the end of slavery under such conditions could be in name only. For men cannot be emancipated nor free if out of them has been crushed the basic dignity and stability which makes us men and women rather than dirt.

And so this country had not in 1866 resolved a crisis. It had only cracked open the door of the dungeon. It was unable to bring itself to look into the darkness and the human suffering within. It pretended the pit did not exist.

It takes almost no imagination to contrast the black slave's entry into American society as a civilian with that of the white immigrant, or even the non-slave black immigrant (e.g. West Indian). The white immigrant brought with him the tradition of a family, the values of education, hard work and some family fidelity and stability. The white or non-slave immigrant also brings with him a cultural heritage and pride. If a Jew, he brings 5000 years of history and identity including a biblical appellation as "the chosen people" and a vast list of individuals who accomplished great things in almost every field. If a white Christian or European, he brings an identity with well known white accomplishments from "discovering" America to writing the world's "greatest" plays and music. If a black African, he brings a nationalistic pride in his country and his continent and its leaders.

Of course, the black American descended from slaves is not completely without an identity. He knows his forefathers were slaves, and he is constantly told his group traits are laziness, ignorance and unreliability. The Black Sambo image rather than

Moses or Spinoza or Columbus or Shakespeare or Jomo Kenyatta. The slave-descended black American has suffered from more than a lack of a positive self-image with which to identify and be inspired by; he has actually had a negative self-image. How many whites can even begin to comprehend what it would be like to hate yourself because of your color and racial features?

Heritage—A Head Start!

The **non-slave** black immigrant exemplifies by contrast the difficulty of the descendants of the emancipated slave. The immigrant non-slave black (e.g. West Indian) is not handicapped by the slave descendant's typical environment which is almost devoid of goals, stability and cultural identity. The black fortunate to avoid these handicaps is almost on a par with the white immigrant who is asking, "Why can't the Negro make it?"

A black from the West Indies who immigrates to the U. S. is an example of the black who usually succeeds as well, or better than many white immigrants. These West Indians do not know the sense of despair, the lack of cultural pride and the unstable or matriarchal family life which are often major causes of the slave-descended black's failure to succeed in American society. If the West Indian or other black immigrant does not succeed materially, or does not succeed or "make it" to the same degree as the white immigrant, it is probably due to a condition in the United States which usually adds to the problems of every visible black man here. The condition is racism, whether in the form of the Southerners' bullets or the Northerners' stares or the entire country's de facto segregation in housing and education.

Yes, many blacks are at the bottom of the totem pole in America, but it is not because of any inherent shortcomings. The slave trader uprooted him from his past and his culture which so many other people have to draw on as a source of strength and purpose. The slave owner crushed his spirit, his dignity and his manhood—three assets which almost all other people take for granted. And the white power structure has kept him down with Jim Crow laws, Rudyard Kipling attitudes and de facto racist practices.

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"It is time now to turn with all the purpose at our command to the major unfinished business of this nation. It is time to adopt strategies for action that will produce quick and visible progress. It is time to make good the promises of American democracy to all citizens—urban and rural, white and black, Spanish-surname, American Indian, and every minority group."

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LSD/ABA

(Cont. from page 1)

developing a high school project where law students go into the classrooms to discuss the legal rights and duties of the students. Miss Tanzman hopes to establish such a program here in Los Angeles as well as other cities within our circuit.

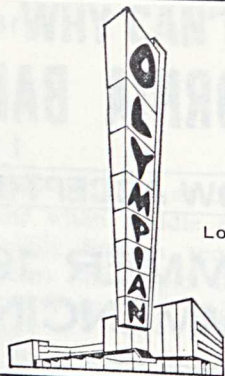
The upcoming conference represents 19 law schools, and 100% attendance is expected. Loyola has always taken an active leadership role in the circuit and we should continue our position after this conference. Miss Tanzman will seek the position of Ninth Circuit Vice President for the coming term. Her success will be a tribute to the work she has done as Loyola's representative and will be yet another step toward putting our school on the map.

This year the Ninth Circuit has spent much of its time in the areas of poverty law and in encouraging law student involvement in community affairs. Programs such as those sponsored by the Pre-Legal Education Committee have helped put the Law Student Division in a national leadership role. But we can live up to the expectations of the ABA only by becoming still more involved with and more concerned about and more aware of the contributions we as law students can make to better the American Bar. Contributions that will benefit us directly as attorneys, as citizens and presently as students.

TROOP RECEIVES J. REX DIBBLE HONOR AWARD

The Faculty Honor Award, renamed the J. Rex Dibble Honor Award in 1966, is given annually to the outstanding student who is beginning his last year of studies. Larry Preble was the recipient of this honor in 1967-68 and Dick Troop (4th yr. evening) walked off with this year's award.

The award consists of a check for five-hundred tax free dollars. "How sweet it is", you say, "and how can I receive such a sum?" Nothing to it: Just come up with an 88.4 cum grade average for some 60 units of work. Dick, in his own humble way, says that that's all he did.



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ED THOMAS SCHOLARSHIP FUND RAFFLE

Tickets are still available for the drawing to be held Friday, 2-28-69, at noon in the coffee shop. Don't miss this opportunity to help fund a legal education for someone who would otherwise be unable to attend Loyola and at the same time have a chance at a round trip ticket for two to Las Vegas, plus accommodations there for two nights. There will also be a second prize of accommodations for two in Las Vegas for a weekend.

Only 1200 tickets will be sold, so get 'em now while they last—only 50 cents each.

IT COULDN'T HAPPEN IN THE LAW!

Counsel represented a young widow in a wrongful death action. At the time of employment, he stressed to her as usual the importance of her not remarrying until after her trial. In July, the lawyer wrote her that her case had been set for trial on September 16. A few days later, her lawyer received a telephone call from her. She told him that this date was not a convenient one for her. He asked why. She answered, "I'm due on October 1." Hoping that his suspicion was illfounded, he asked, "What do you mean, you're due?" She answered, "My baby's due on October 1." Her lawyer exclaimed, "Did you get married?" She replied, "No, you told me not to!"

Plaintiff's counsel inquired of the panel as to whether or not any of them were acquainted with any of the parties in the litigation. A little old woman raised her hand and said, "I do." "Whom do you know?" he inquired. "I know the plaintiff," she replied. "How do you happen to know him?" "I see him drunk on the street every night." Somewhat crestfallen, but in the realization that she apparently had the wrong man, he asked her if she knew him, to which she replied, "Why, of course, I do, you were with him." Not to be taken by this obvious mistake, he then pointed to defense counsel and said, "Do you know this gentleman?" to which she again replied, "Certainly, he is the biggest drunk of all of you." Counsel reflected for a moment and realizing that this person was not qualified to serve as a juror, he turned to the Judge to exercise his challenge. As he did this, the Judge looked down at him, pointed his finger and said, "Don't you dare ask that next question!"

CHERNIN, ARMSTRONG, BAVETTA WIN SCOTT MOOT COURT HONORS

After months spent preparing a brief and weeks spent preparing for the main event, the appellants and respondents finally had their day in court as this year's Scott Moot court competition was concluded. Most observers agreed that this year's participants staged one of the best performances ever as Norm Chernin (2nd yr. day) walked off with top honors. Second and third place trophies went to Wayne Armstrong and Judy Bavetta (both 3rd yr. evening) respectively.

The final rounds of competition were scored by the Hon. William MacFaden and Joseph T. Ciano, judges of the Superior Court, and Mr. Coskran, who filled in for Judge Slaughter who was ill and unable to attend.

The following list of the scores given each of the ten finalists by the different judges provides some indication of how close the competition was:

	Ciano	MacFaden	Coskran	Total
Norm Chernin	89	96	82	267
Wayne Armstrong	90	87	82	259
Judy Bavetta	85	83	78	246
Martin Barab	79	86	79	244
Joanne Rocks	86	69	77	232
Bob Downen	85	71	74	230
Richard Cruz	76	73	79	228
Jack Engstrom	78	69	80	227
Jim Crandall	79	68	80	227
Fred Lawson	74	68	80	222

All advocates agreed that the experience of moot court was worthwhile and that when you are standing before the Supreme Court of the State of Scott, your situation seems anything but moot. Let's look forward now to composing two winning teams to represent Loyola in next year's National Moot Court Competition.

Congratulations to this year's victors and to all the participants—neither Mr. Carter nor Mr. Evans could have wanted for more competent counsel.

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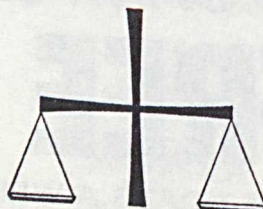
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