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## The Loyola Reporter

Loyola Law School Los Angeles

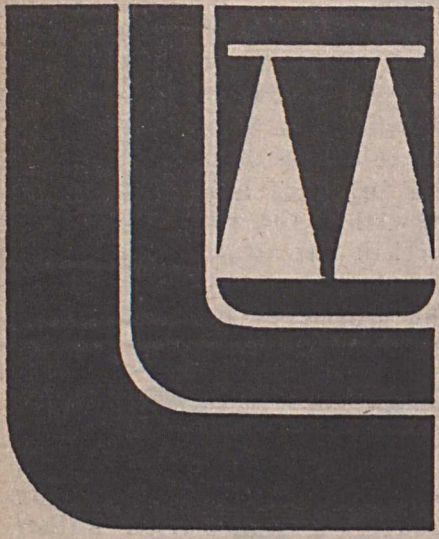
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The

# Loyola Reporter

Volume 10, Number 4

Loyola Law School

Monday, December 1, 1986

## EXAMS: THE QUEST FOR . . . ?



**1st Hour:** The dutiful student picks up the old exam on reserve in the library and begins work.



**35th Hour:** The dutiful student decides to compile the subjects to get an idea of the body of work he must master for exams.



**97th Hour:** The student realizes the true demands of law school and questions the futile dates and superfluous nights he spent on the town the previous semester. He wonders whether it was truly worth it. Now it's a race to catch up. Can he do it?



**273rd Hour:** The mind is almost completely gone. (E.g., the student realizes he has just written an 8 page outline stating why *Dillion v. Legg* is the seminal case to use when discussing the difference between real covenants and easements).

PERSPECTIVE, USE IT OR  
LOSE IT!

By Felise Cohen  
Reporter Staff Writer

Flawless outlines will serve you not if come exam time you are a walking basket case. Key words to remember during this time are permission and choice.

Stress. The impact that permission and choice can have on this mental and physical state of being can transform it into a positive happening. Stress is something, believe it or not, we all consciously or subconsciously choose to participate in. There is a conscious remedy and that is to opt out, right now.

Lets play a word game, shall we. I am going to take each letter of the word stress and show all of you disbelievers how it is all a mind game and everyone makes up their own set of rules.

**S.** Strength. Your physical strength is crucial at this time. Take care of yourself. Choose a proper diet and take vitamin supplements when needed. Binging is a favorite pass time for most students, but junk food is not the answer (it is called junk food for a reason, get it you clever law student. We all know what a few too many twinkies can do). Locate that place inside that has control, i.e. think about what you are doing to your body because sweetie, it's the only one you have (unless you know something I don't). Cut up some carrots or cucumber to nosh on. So what if you are not the galloping gormet, your body will appreciate the effort just the same.

**T.** Tenderness and tolerance. Be kind to yourself. Remember you are only human, and fortunately or unfortunately, there are only twenty four hours in the day. Take the time to look

(Continued on Page 11)

## L.A. GANGS A Growing Problem

By Jonathan Petrak  
Reporter Staff Writer

We have entered a new era of youth gang violence in California. Twenty-five years ago a typical police radio call on gang activity would say "gang fight, chains and knives". Today, the police radio says "major gang fight, shots fired, automatic weapons, three victims down, suspects at scene."

In Los Angeles City alone, 136 people have died in gang-related homicides this year. Innocent people who find themselves in the wrong place at the wrong time are paying with their lives.

These gangs are not a Hollywood version of the troubled youth portrayed in *West Side Story* or *Rebel Without a Cause*. They are well-organized, highly armed, profit-motivated individuals who engage in murder, rape, robbery, extortion and kidnapping for money, territory, vengeance or power.

The 1986 California State Task Force on Youth Gang Violence defines a gang as "a group of people who interact at a

(Continued on Page 11)

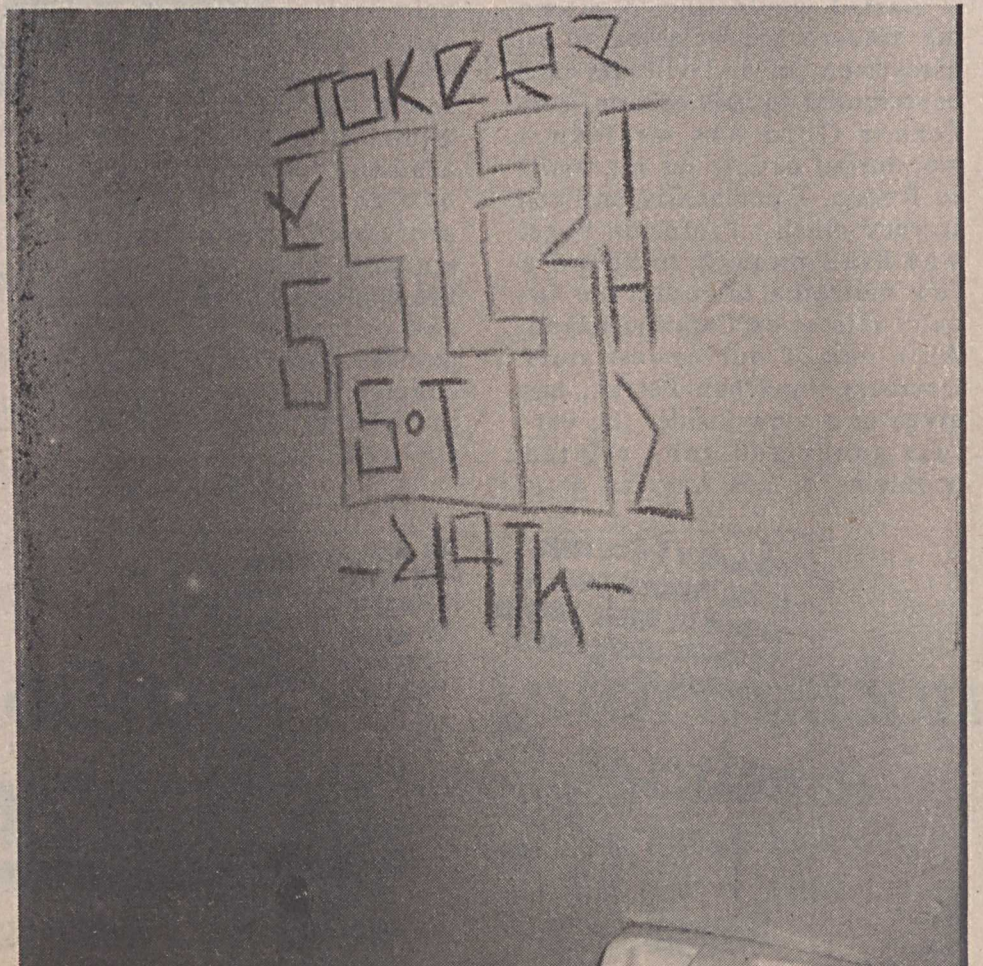
## To Russia With My Regard!

By Victor Gold  
Professor of Law  
Loyola Law School

Thirty minutes after my plane landed in Moscow, jack-booted KGB agents in military uniforms escorted me to a holding room adjacent to the main customs area. A short fat man in a greasy suit was waiting for me. He flashed a big yellow smile and asked me to empty my pockets and remove my clothes. As my wallet was picked apart and my clothing turned inside out, one thought kept running through my mind: "What's a nice lawyer from West L.A. doing in a place like this?"

So began my 1978 visit to the Soviet Union. My wife and I probably had been singled out for special treatment at the airport for several reasons. We were Americans not traveling with a group--a rarity in the USSR. We were clearly Jews, which meant we might be bringing forbidden religious materials to Soviet Jews who

(Continued on Page 12)



Recent Gang Graffiti Found Inside A Cell of Los Angeles County Jail

# From The Editor's Desk

This month's *From the Editor's Desk* is very brief. Rather than write an editorial on some controversial topic, this article will address a series of short items.

First, I am pleased to announce that the *Loyola Reporter* is currently in good financial shape once again. We will continue to produce the best newspaper we possibly can. This is due in part to the fact that we are now utilizing our own on-campus typesetting facilities. Anyone interested in writing or submitting material for the *Reporter* can learn Xywrite wordprocessing in the library computer research center. In addition, you can receive individual instruction from the *Reporter* staff. Let us know if you would like to contribute, we would be more than glad to help. Positions are still available on our staff and we will be choosing next year's editorial board in the Spring semester.

Second, I would like to draw your attention towards the many editorial columns in this edition. There are a great many topics of a controversial nature this month. Some of them tend to be very strong. I would like to remind everyone that the purpose of this publication is to give anyone a forum in which to express themselves. Dialogue is major step towards communication. Even if one tends to disagree or dislike the content of any given article, I must stress that the newspaper gives that individual the same opportunity to respond and express their viewpoint. Certain individuals have decided to utilize the newspaper for this purpose and I commend them for their time and consideration regardless of the content of their submission. I hope I will continue to see this dialogue in the future. The *Loyola Reporter* is a two way street.

Last, I would like to extend my sincere appreciation to an assortment of individuals that contributed to this edition. Professor Gold has written a wonderful article on his visits to Russia. I personally enjoyed it very much. Professor Vogel was kind enough to spend a few moments to recap the faculty retreat on Catalina Island. Also, one of our newest staff members, Jonathan Petrak, has given us a view inside the various gangs and gang related problems in Los Angeles. It is

very informative reading. Finally, I would like to extend my most sincerest gratitude to J.C. Thom for helping us all take a minute to laugh and forget about the constant stress and pressure we all experience in law school (J.C. is the man on the front cover of the newspaper this month). The photographs of J.C. were taken by a tremendously creative photographer by the name of Allison Marks. I would recommend her to anyone who might require her services.

Well everyone, relax and do your best on your exams. Good luck and I hope you enjoy this month's *Loyola Reporter*.

Mitchell A. Jackman  
Editor-In-Chief, 1986-87

## ADDENDUM

This Spring semester we all will have the opportunity to do something really important for the community and ourselves. I am currently in the process of arranging an on-campus community service project called VITA-Volunteer Income Tax Assistance.

The VITA program is sponsored by the IRS and it gives an individual the opportunity to prepare simple tax returns for the poor and the elderly in the surrounding community. One need not have any special training in income tax preparation to contribute to this program. The IRS generally gives a short course in preparing Federal and State income tax returns. The program runs until April 15, 1987, the tax deadline. If you are a tax student, this program gives you the opportunity to get your hands on the real thing, tax forms. It also teaches you how to prepare your own forms, assuming your tax situation is not overly complicated.

Tentatively, I have gotten a commitment from two of our tax professors here at Loyola to help back the program, professor Sliskovich and professor Vogel. In addition, I am currently negotiating with the administration to allow for some academic credit. I urge everyone to back this program, professors, administrators and students alike. It will benefit the community, the law school and ourselves. If you are interested in participating, please contact the *Loyola Reporter* or the *Evening S.B.A.* You will be glad you did!

Mitchell A. Jackman

## THE GREAT DEBATE/COMPROMISE

By Mike Vetter  
Associate Editor

Although the quotes from the two professors do not foreshadow a compromise, this is in fact what occurred. Both professors Kanner and Josephson recognized that there are substantial problems with our legal system, but these stem from execution rather than from the adversary theory itself.



"Don't let his seedy and harmless appearance fool you."

In the purest sense, two advocates who have equal ability, knowledge, etc. would represent their client's interest to the fullest extent. This "advocacy" should present all the facts from both sides to the judge who would then be able to make an accurate and informed decision. The judges decision, based upon all the relevant facts, would be equitable regarding both parties and justice will have been served.



"I have now learned that among his other shortcomings, he doesn't hear very well."

In reality, however, the theory seems to have become ensnared in burdensome and technical procedures which sometimes prevail where justice cannot. The rules of evidence, for example, are sometimes used to exclude evidence of the truth. This practice is rationalized by the attorney as fulfilling the duty to represent

the client to the best of his or her ability, "which is all I was doing."

Is the problem here really the system, the theory, or the rules? Probably not. People are the ones who choose to use the rules for their own purpose. The injustice is not intrinsically within the rule, but rather within the utilization. Remember that the surgeon and the murderer both wield the same knife.

## TO DECEMBER GRADUATES:

A grass roots effort started by a fellow December graduate whose feet rarely touch the ground (?) is in motion. Rather than wait six months to participate in the Spring commencement or forego this most deserved pat on the back altogether, why not have our own small, informal but completely legitimate ceremony

There are close to 40 people slated for graduation this December, many of whom have felt a bit disappointed that the school was not planning anything for them until May. Wheels are now in motion though, to have a commencement ceremony complete with caps and gowns here on the Loyola Law School campus

The date is tentatively set for Saturday, December 20. As of this writing, it has not been decided who will foot the bill for the reception and invitations. Students traditionally pay for the caps and gowns themselves. There should be little problem however in arranging for the facilities and seating.

If you are interested in participating in the commencement ceremony and or would like to help make this a nice event, please contact David Geffen at (818) 997-6964 or put a note in his box. We need to pick a student graduation speaker, distribute invitations and decide on someone to deliver the commencement address. Keep your eyes open for further developments in the Student Bulletin.

1986-87

## The Loyola Reporter

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And Continually Growing Everyday!

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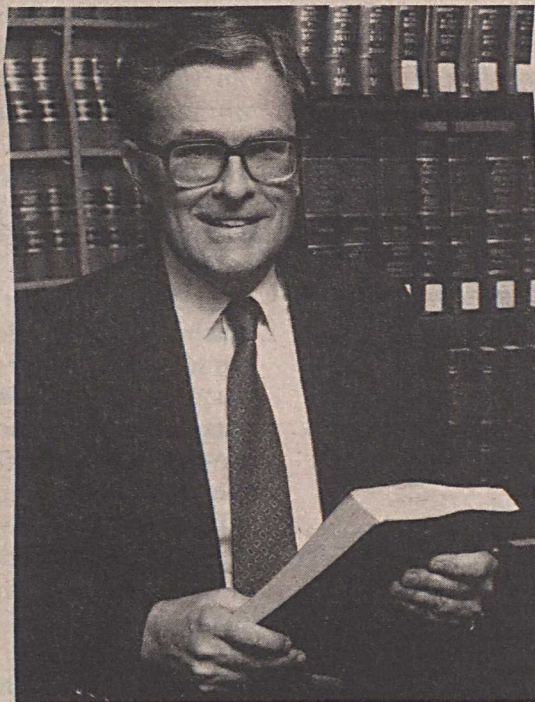
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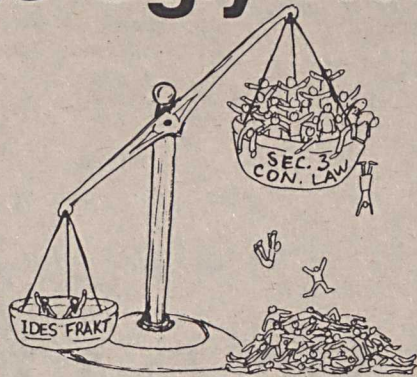
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## Editorial And Opinion

## ARGUENDO

Controversy Rears  
Its Ugly Head

WHO TIPS THE  
SCALES OF JUSTICE?

Recently, a controversy arose between the administration and the students in Professor Gaffney's Constitutional Law class (Section 3) regarding certain changes in the course's schedule. In response to this dispute, Dean Ides issued a memorandum to the students to explain the circumstances surrounding the situation. In return, the *Loyola Reporter* has received a series of letters addressing the Dean's memorandum.

The *Loyola Reporter* is obligated to publish these items as part of our commitment to communication and expression. We welcome additional viewpoints on both sides of the issue.



## LOYOLA LAW SCHOOL

## OFFICE of the DEAN

TO: Students in Section 3 Constitutional Law

FROM: Allan Ides

RE: Schedule/Final Exam

Date: November 19, 1986

I sincerely apologize for the confusion caused by what must appear to be arbitrary changes in the Spring 1987 schedule. The confusion was caused at our end and there is no legitimate excuse for it. The explanation boils down to one of unintentional human error.

The current Spring schedule for section three was not, however, a "change." When the schedule for the entire 1986-87 academic year was written in the Spring of 1986, section three Con Law was scheduled to meet during the Spring semester on Tuesday, Thursday and Friday as it now is. The purpose was to spread the use of the school's facilities over five days, to avoid conflicts with other courses and to feed into electives scheduled on Friday. The Fall registration materials erroneously listed the schedule for the Spring as Monday, Tuesday and Wednesday. If we had been more careful in proofing the registration materials a good deal of anxiety could have been avoided. Again, I am truly sorry for the inconvenience and anxiety this has caused.

Since a number of you had relied upon what turned out to be an erroneous schedule, I did consider changing the schedule to eliminate the Friday sessions. However, based upon the same considerations that led me to write the schedule as it now stands, I have concluded that a change would be inappropriate and disruptive of the overall schedule. I recognize that there are equitable arguments to the contrary; however, in my judgment the decision to adhere to the current schedule is the appropriate one.

I am extremely concerned about a rumour that changes in the schedule were made to accommodate Prof. Gaffney. There is absolutely no truth to that rumour. This schedule was written before Prof. Gaffney was assigned to the class. He played no part in the scheduling of the class sessions or of the final examination. As I mentioned above, this schedule was written in the Spring of 1986 by me. If there is animosity to be directed, it should be directed toward me and certainly not toward Prof. Gaffney.

With respect to the final examination, the exam will be given on December 8 as scheduled. In order to accommodate those students who anticipated a December 15 exam, a second administration of the exam will be given on that date. The presumption is that you will take the exam on the 8th. IF YOU WISH TO TAKE THE EXAM ON THE 15TH YOU MUST NOTIFY THE REGISTRAR'S OFFICE NO LATER THAN THE LAST DAY OF CLASSES (MONDAY DECEMBER 1, 1986).

Finally, with respect to Friday's off and work schedules. I suspect if everyone steps back and puts this problem in perspective they will find a relatively painless way to accommodate work and school. A full day off from classes definitely would make such an accommodation easier, but the absence of such a time block is perhaps less egregious than first blush may suggest. I recognize that law school can be a very difficult experience--I was a student not too long ago. There is, however, a tendency while under the pressure of law school to attribute bad motives or lack of concern to those who appear to be in positions of authority. We make mistakes too; sometimes we simply cannot rectify those mistakes in a manner that is acceptable to all. Don't let your frustrations over this incident undermine your willingness to be part of the educational process.

Again, I am sorry for the problems I have caused.

LETTER TO THE  
EDITOR #1

The administrations' recent actions concerning second year day students in section three furthers the perception that the students are the least important entity on this campus.

This past summer, students planned their classes around the administration's listed class schedules. These students reasonably relied on these class schedules as accurate representations of their academic year; namely, teacher, class times, and examination dates.

Section three's constitutional law class was originally scheduled on Monday, Tuesday, and Wednesday mornings. Irrespective that this is a year-long required course and that students relied on this time to remain constant, the administration nevertheless took it upon themselves to change the class time to suit their own private agenda.

The spring registration packet indicated that constitutional law would be shuffled to Tuesday, Thursday, and Friday mornings, without notice of any kind to these students. In fact, the only way for these students to realize their class time had changed was to find an announcement in next semester's registration packet.

Additionally, their other required course, evidence, meets on alternate days, so section three students must be on campus every day during the morning hours. This is a hardship on the students who are now required to travel into downtown for a single, early morning class; or students who have committed themselves to employers for this coming semester.

Dean Frakt told one of these students, who has to support himself through school, that the solution is to become a "part-time student." Students should not have to "justify" to the administration why they relied on the administration's representations, nor should they be forced to alter their career goals because of these inconsistent policies.

Section three has also been misled in regards as to whom their professor would be in the spring and as to when their midterm would be this fall.

In last fall's registration materials, Professor Gaffney was listed to teach in the fall and Professor Ides would teach in the spring. The students were informed that this was a "typo." These students were told of this early on, however, not early enough to change classes, since the other sections had filled in the meantime.

More recently, there was a discrepancy as to their midterm schedule. Repeatedly, students were told that their midterm would be on the first Monday of finals and then it would be on the second Monday of finals. The solution? Students now are told they have the option to take their midterm on either day. However, the same test will be administered on both dates.

Dean Ides issued a two page written memorandum on November 19, 1986 -- two weeks after registration was mailed and two days before registration was due -- in response. He stated all of the problems (the times and midterms schedule) were "typos." Strange that the students were not notified of the class time change typo when they were notified that their listed teachers were typos.

Dean Ides refused the students' request to appear before the class to address students' concerns and questions. However when some of section three's students went to see Dean Ides in his office, Ides' response was, "You can make all the lawyer-like arguments you want. I heard them all; it won't work."

Many of section three's students feel helpless. This is not unfounded considering how late in the game they were informed the rules had been changed. Moreover, with the upcoming pressures of exams, who really has the time to pursue an uphill battle?

However, there may be a solution. We feel Dean Ides' memo should be photocopied and sent with a cover letter detailing the chronological history of "screwing around with the students" to the many active, supportive, and influential alumni of this law school. Surely they will be more concerned about the events surrounding their future colleagues' law school careers.

Furthermore, we appeal to the SBA to support this mail campaign. We ask the students of this school to care because it could just have easily have been them. And if we do nothing this time, it will be easier for the administration to get away with more the next time.

We are training and learning to be lawyers. This school is trying to instill ethics and a sound legal knowledge into its future lawyers. All we ask is that we be treated with respect and dignity... or is our treatment here merely indicative of the legal profession at large?

John Myers  
Paul Chandler  
Anthony Ivins  
Diana Tani  
Phil Weiss  
Paula Montez  
Christine Buckley  
Christopher Liston  
Marie McTeague  
Kelly Ann Lee  
Jeff Reichert  
Dennis Kass  
Lee Petersil  
Suzanne Jones  
Aaron Yoo  
Susan Page  
Darlene Rohr  
Marian Gahagan  
Jana Lubert  
Joe La Rosa  
Lance Jensen  
Jason Pemstein  
Sam Ohta

And The List Goes On ...

LETTER TO THE  
EDITOR #2

I am writing this letter to present the student's side of our recent run-in with the Administration. For the sake of brevity, I will give only a short re-

cap of the facts. The Fall reg. packet represented that Prof. Gaffney's Con. Law section would meet on Mon/ Tue/ Wed in the Spring, as opposed to the Spring reg. packet, which says we will meet on Tues/ Wed/ Fri.

The administration says the Fall reg. packet was misprinted, and they are sorry. We presented the Administration a petition signed by 83 out of about 88 students requesting a return to the original Mon/ Tue/ Wed schedule upon which we relied, and they said no.

Our further complaints resulted in a hastily drafted memo from Dean Allan Ides, dated November 19, 1986, the purpose of which was to sooth the still-existing ill feelings our section has towards the Administration. In the memo Dean Ides presented three reasons for the Administration's hard-line refusal to at least move the Friday class to Mondays or Wednesday.

The first reason, Ides said, "was to spread the use of the school's facilities over five days." By this he could not be referring to a lecture hall; the availability of such was never an issue. We can only assume he meant the parking structure. How legitimate of a concern is this? Presently, only one-half of the students in my section are even allowed to park on campus. The new schedule will now require students be on campus all five days. As such, the Administration's schedule change cannot alleviate the parking problem at Loyola; it can only exacerbate it.

The Dean's second reason was "to avoid conflicts with

other courses." What "other courses" is he talking about? Is he refusing to move our Friday class to early Monday mornings because it would conflict with Administrative Law? Shouldn't the electives revolve around important Bar courses like Con. Law, and not the other way around?

Dean Ides' final reason for scheduling our class on Fridays was so that it would "feed into electives scheduled on Friday." The Administration is afraid that unless our section is relegated to meeting on Fridays, students will not enroll in those electives.

This argument fails. With all due respect to the professors of those Friday electives--and notwithstanding our undying gratitude to the Administration for giving us such a vast menu of electives from which to choose--2nd year students are simply not likely to enroll in Natural Resources Law, Law & Religion, Civil Discovery, or Securities Regulations II.

Given the Administration's top priority interest in raising this school's Bar passage rate, it would seem to follow a fortiori that the emphasis should be on important Bar-related courses like Criminal Procedure and Community Property. The fact that the Administration has mandated that we come to school on Fridays will not suddenly inspire interest in those electives. If students are truly interested in those classes they will enroll in them--whenever they are offered.

In the last paragraph of his memo, Dean Ides finally addresses the issue which most concerned my classmates, that of

work schedules. He suspects "if everyone steps back and puts the problem in perspective they will find a relatively painless way to accommodate work and school." Given that Dean Ides leaves it up to us how we should find that "relatively painless way," his suspicion is clearly easier said than done. How can he be so sure that there actually is a solution to each of my classmate's problems? He certainly does not suggest any solution.

In that same paragraph, Dean Ides also addresses a problem that he claims students succumb to: "a tendency while under the pressure of law school to attribute bad motives or lack of concern to those who appear to be in a position of authority." Notwithstanding the fact that this concern has nothing to do with the issue of conflicts with work schedules, can Dean Ides, Dean Frakt, or anyone else substantiate the claim that any of my classmates are falling to the pressures of law school? In having to conjure this up as an explanation for our recent fury, it is apparent as to whom is really succumbing to the pressure.

And is Dean Ides declaring that he and the rest of the Administration are not in positions of authority, so that we need not burden them with our concerns? If that is what he was trying to say then he may be right; for the last two weeks conflicting and contradictory statements and explanations have wafted from the Burns Building, creating a well-founded assumption that no one in a position of authority knows what's going on.

Department arrested a prime suspect for a significant number of these automobile break-ins. This case was only concluded because of the diligent efforts on the part of our security guards to patrol and observe the activities on the surrounding streets of Law School. In fact, one of our security guards, Pamela Carter, personally witnessed one of the break-ins and will likely testify in court against this suspect.

The Law School has also made an arrangement with Los Angeles Police Department to allow us to take automobile break-in reports on LAPD forms and telephonically relay that information to the Rampart Division.

As you can see we have not simply been sitting idly watching people break into automobiles. It simply takes time to get law enforcement systems to function properly and it will take even more time to convince those students parking on campus that they are, in fact, contributing to the problem. Whatever we can do to increase the consciousness of those people is essential to solving this problem.

*As Editor-In-Chief, I would like to thank you for your time and consideration in this matter. I always encourage responses to editorial matters in this newspaper. I only wish more members of the faculty and administration would take the time to either*

Our complaints have evidently troubled and frustrated the Administration. So much so, in fact, that after circulating the memo they told several students, in effect, "we're the Administration and we make the rules." We do not dispute that the Administration has the power to change our schedule at their leisure. Power, however, is not the issue here. The issue is one of fairness and equity. How can the Administration so easily disregard the student's concern over employment schedules? If the Administration is so hell-bent on the students not working, perhaps they could make more financial aid available.

Perhaps we have asked too much of the Administration. Perhaps we have not given them enough "warm fuzzies" for the great things they have done for us. In any event, Dean Ides, thank you for your apology. The only problem is that it does not do us any good.

By Phil Weiss  
SBA Vice-President

#### Editor's Note:

*Someday, when we are all professionals, we will receive a fancy, embossed envelope asking for alumni contributions. We will pull out our checkbooks, think about all the wonderful experiences we had at Loyola Law School, (especially pertaining to the administration) and we will put our checkbooks away. If 95% of the alumni refuse to contribute to the law school today (as per Dean Ides), the statistics must be going up. Think about it!*

*respond to controversial issues or correct factual misstatements were they occur.*

*In regards to the matter of security, I still believe there is more that the school and the students can do to help alleviate the crime problem. It obviously will not go away by itself nor will the arrest of one culprit really deter it from happening again. There may indeed be a shortage of funds to pay for additional security, but then isn't the welfare of all of the members of our campus more important than art, social affairs and the like? Last, I will still disagree that the security team is doing everything possible the next time I see 2 or 3 agents "shooting the breeze" in some obscure location on campus rather than patrolling key areas of entry. However, this newspaper remains open to anyone who cares to debate this or any other topic of importance (see article by Mr. Hall). That is what it is all about!*

\* \* \*

To the Editor:

I was appalled by the "From the Editor's Desk" essay in the last REPORTER.

The first paragraph of the section on security said both that there are no leads in recent thefts and that circumstantial evidence implicates that tiny group of people who are on campus after midnight. Circumstances are evidence. They are leads. Either there is evidence (Continued On Next Page)

## Theft & Security Revisited

### MEMORANDUM

TO: Mitch Jackman,  
Editor in Chief Loyola Reporter

FROM: Steve Johnson,  
Director of Operations and  
Physical Plant

RE: Corrections to the Article Regarding Automobile Theft at Loyola Law School

DATE: November 18, 1986

As I mentioned to you, the Security staff and myself are disturbed at the "Misinformation" that was published in the November 3rd issue of the Loyola Reporter. The following is the most accurate information I have regarding some of the allegations in that article:

1. The Law School has gone to a great deal of effort and expense to provide off the street secure parking for all of those students who wish to purchase it. The cost of parking at Loyola is not out of line with the remainder of the area just West of the Harbor Freeway.

2. Break-ins in the Union Lot. To my knowledge, there has been one and one only automobile break-in inside the Union Lot. This occurred during the second week of school and appeared to be a very isolated circumstance. The owner of the lot, FAB Corporation, has been very cooperative with the

Law School by extending the hours of the lot and installing additional lighting and mirrors on the corners.

3. The purpose of the contract security guards at Loyola is to provide for security of people first, and automobiles second. Their random patrols take them on the perimeter streets of the Law School. However, the primary intent is to provide security for the Law School proper.

To date, there have been twenty-two automobile break-ins or thefts reported since the beginning of the semester. At least half of these break-ins were automobiles which belonged to male students who had purchased parking in the Union Lot and yet chose to park on the street near the campus. Many involved theft of personal items displayed in clear view in the car. It appears to me that the owners of these automobiles are encouraging rather than discouraging a break-in. I would also like to note that a significant number of break-ins are discovered by the security guards prior to owner returning. We make a concerted effort to notify those owners immediately, and if necessary move a car with a broken window into the parking lot for the remainder of the day.

On Wednesday, November 12, 1986, the Los Angeles Police

## SECURITY

(From Page 5)

dence (leads) or there is not. If there is not, then it is irresponsible and reprehensible journalism to cast aspersions on a small and easily identified group of workers.

The writer then goes on to suggest that some failure of campus security was the reason no one witnessed a truck recklessly damaging a car on a public street. If the incident was unwitnessed, how can he know the damage was caused by a truck? How can he know the truck was driven recklessly?

Then the writer blames break-ins at the Union St. lot on the law school's "completely ineffective" security. And he suggests that we need to better secure the "perimeter" of the campus. He implies that our "perimeter" includes the public streets in the neighborhood and the private garages in which we rent space.

Consider his suggestion. Our private guards should "secure" local public streets. Perhaps they can end the malicious loitering of local residents. And they will impose security policies on other people's privately owned garages. Since they can't give out municipal traffic tickets, perhaps they can simply shoot errant truck drivers.

The essay avoids any consideration of the causes of the crime the writer complains of. Loyola is located in a very poor neighborhood and caters to many very well to do students. Our very poor neighbors are daily taunted by our recent vintage Beemers and Z-cars with fancy radios and clothes casually on display. Every day the no parking zones around the school are filled with student cars.

If students insist on parading their wealth in so poor a neighborhood, why should they be surprised when other people

parade the behavior born of poverty? If we may be cavalier about traffic laws why shouldn't others be cavalier about larceny laws?

We rent space at the Union St. garage for less than the standard rate. For our rate our parking privilege is limited. We are to park on the fourth level and above. But every day cars with Loyola I.D. are parked on every level. And Loyola students, always self importantly rushing to a class, routinely park across several spaces and in the pedestrian zones by the elevators.

I wonder how many cars at Union St. are victims not merely of theft but of purposeful vandalism by non-Loyola drivers who are infuriated by the insufferable egotism of the students. How many Loyola drivers take umbrage when they are told to obey the rules?

The editorial's mix of contempt for other people's rights with an assertion of our right

to impose our solutions on the surrounding public is nothing more than traditional fascism. Of all the places such ideas might be heard, a law school is the least seemly.

Disgustedly yours,  
Thomas Montague Hall  
2nd Year,

I would like to thank you for your response to my recent editorial. Debate is always interesting and healthy for the law school community. It gives us a chance to see other points of view. It makes us stop and think.

I am slightly perplexed at the tone of your article. I not sure that your anger is really focused on my editorial alone. I wish I had more time and space to clarify my facts and viewpoint, but I do not. However, I suggest you read the memorandum written by Steve Johnson from Operations. If that is not sufficient, give me a call at the Reporter's office and I will be glad to discuss the matter in more detail.

Mitchell A. Jackman  
Editor-In-Chief, 1986-87

# The California Supreme Court: The Political Aftermath

## "Point"

By Joel C. Koury  
Reporter Staff Writer

For the first time in over 50 years, Californians have failed to retain a chief justice and two associate justices. Before we are drowned in the triumphant cheers from the advocates of democracy, though, we had better ask ourselves some tough questions.

Will our new justices ensure that more criminals will be punished? Will executions pick up at an unprecedented rate? And, if so, is this desirable? Will justice be furthered by our new judges?

In a state whose prison populations are at 150% capacity, it is difficult to imagine vast numbers of criminals being removed from the streets. Similarly, it is dubious that executions will become a regular occurrence. But even if they begin to occur irregularly, we as a civilized society may wonder whether we should take a chance with substantially lower standards from this type of irreversible punishment.

By far the biggest concern revolves around justice, for it may turn out to be the ultimate

albeit unintended victim of the democratization of the courts. Will our future justices, facing morally challenging yet controversial decisions, be capable of making these hard choices? The moneyed interests that wreck havoc on the other branches of government can hardly be expected on their own to resist tampering with our judiciary.

In an age of computerized, targeted mailings and negative tv campaigning, can our judges ever be sufficiently insulated to ensure justice? Will we ever again see the kind of justice that in the face of enormous regional popular opposition brought our society decisions like *Brown v. Board of Education*?

The concept of an independent judiciary was not lost on the traveler of 20 years ago, who came upon a Texas billboard which proclaimed, "Impeach Earl Warren."

Democracy has served our nation and our state well for over 200 years, when it was limited to our executive and legislative branches. At the same time we have been well served by a judiciary insulated from the whims of public opinion. Once having opened the Pandora's box of politics in our hallowed chambers, will we ever be able to close the lid?

## "Counterpoint"

By Jim Lynch  
Associate Editor

The ousting of Rose Bird and Co. has necessarily forced Californians to face some hard questions about the future and stability of this state's judiciary.

Will it happen again?

Will judges be forever judged according to their politics?

The likely answer is "no."

While it is true that the money and effort expended to unseat Bird, Cruz Reynoso and Joseph Grodin were beyond any rational bounds, it is also true that no judges have spit in the faces of so many registered voters on a crucial political issue.



The notion of an independent judiciary is very important if the legal system is to have some semblance of justice; however, there is no reason that the judiciary should not have to answer to the people it enforces "justice" for.

The 1986 reconfirmation hinged on one crucial, emotional issue: the death penalty. The majority of Californians wanted it, and the three former judges didn't. Because of this, they voted to overturn nearly every (in Bird's case, it was 100%) death penalty conviction that came before them. While



it's true that some of the other judges voted to overturn, these judges also voted to confirm on more than a few isolated occasions.

Those who seek to "protect" the judiciary quickly point to *Brown v. Board of Education*, which went against a nation and turned out to be just and right. There is an immense difference between protecting innocent blacks and overturning the convictions of murderers, however.

The fact of the matter is, California wanted the death penalty, and three people went beyond the bounds of fairness and equity to deprive California of it. A thousand arguments can be made for either side as to the fairness of the death penalty, but the 1986 reconfirmation is a clear example of chickens coming home to roost.

Don't expect it to happen again soon. It's not every day that judges get discarded, and it's only likely to happen again in extreme and emotional circumstances such as these.

Bird and Co.'s demise is not attributable to a tide against liberalism; it's a reaction to judges who twist the law to meet their own views.

After all, Stanley Mosk was retained, although he is as liberal as Bird; his votes aren't as blind and one-sided on the death penalty, though, and Californians recognized it.

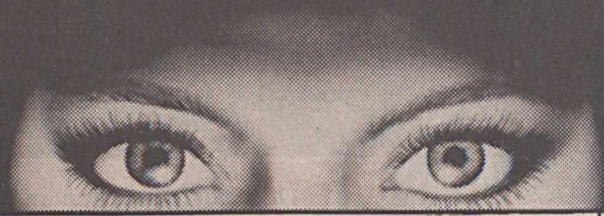


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Essays will account for 39 % of candidates' scores, beginning February 1987! Essay grading is scaled, so writing skills and substantive knowledge should be developed to place your score as high above the average as possible. The morning sessions of 2 days of the exam are devoted to essays (3 each morning) with 13 testable subjects. There is a strong likelihood you will be faced with "cross-over" questions which cover more than one subject area.

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December 30, 1986\* ..... 6:30 p.m. to 10:00 p.m.  
January 8, 1987\*\* ..... 6:30 p.m. to 10:00 p.m.  
January 11, 1987\* ..... 9:00 a.m. to 4:00 p.m.  
January 24, 1987 ..... 9:00 a.m. to 4:00 p.m.  
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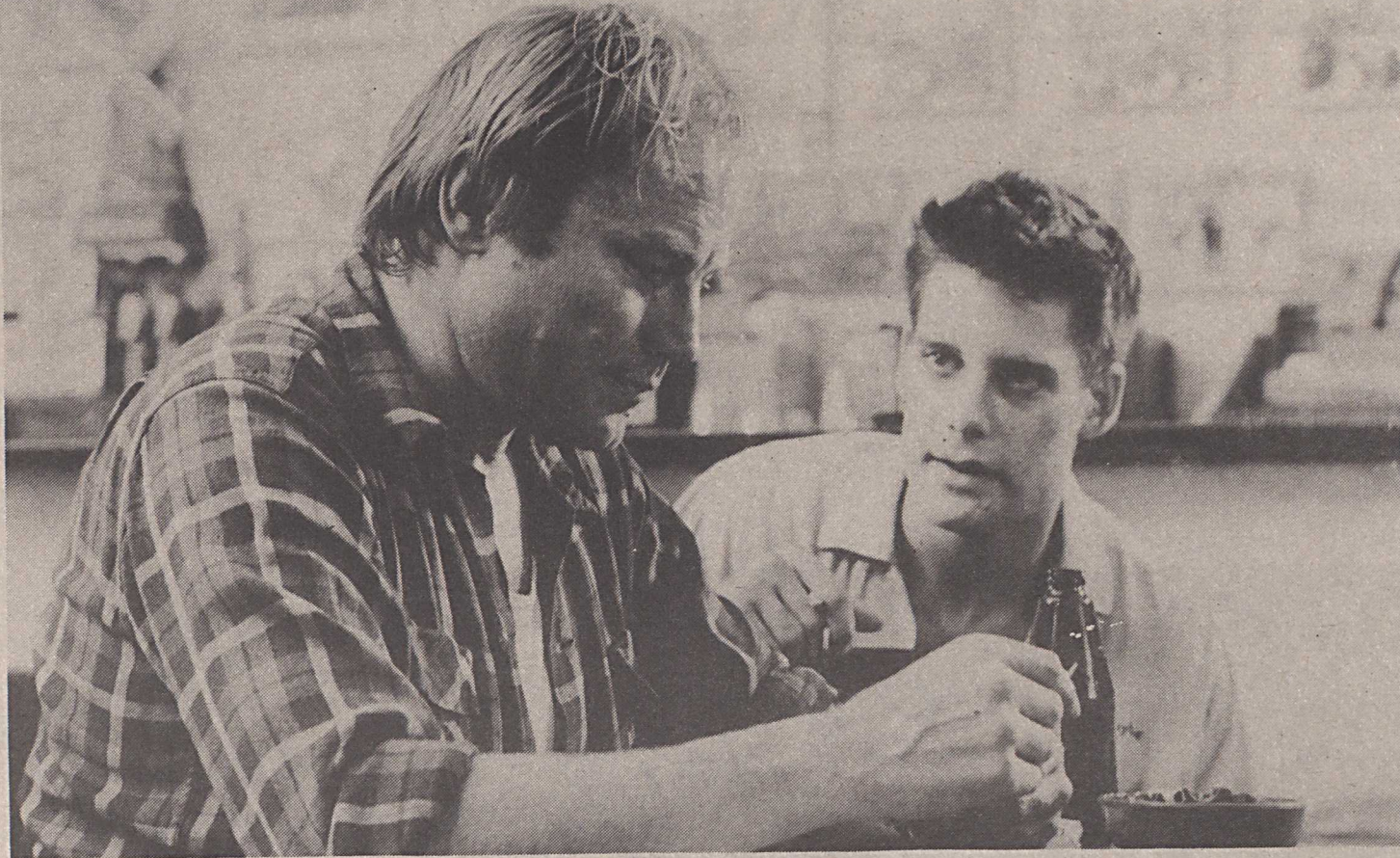
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# THE LOYOLA REPORTER ENTERTAINMENT SECTION BOOKS



## MOVIES

By Ralph J. Ortolano, Jr.  
Reporter Staff Writer

*Streets of Gold* begins as the story of a former soviet boxing champion, played by Klaus Brandaver, who emigrates to America after he is denied the opportunity to represent the Soviet Union the Olympics because he is a Jew. After a period of drunken self-pity and disillusionment about his new life in Brighton Beach, as a dishwasher in a local Russian restaurant, he stumbles upon an illicit neighborhood boxing club. There he meets two promising young boxers, played by Adrian Pasdar and Wesley Snipes, who convince him to be their coach. Then comes the big opportunity, an exhibition match with the Soviets. The two young fighters get the chance to leave the ghetto and their coach gets the chance to take revenge on

the Soviets.

Like many of the big studio films of recent years, *Streets of Gold* relies somewhat on the crass exploitation of the poor state of affairs between the United States and Soviet Union as the basis of its "media hype" ad campaign. While the story consistently plays on "patriotic" clichés of *downtrodden life versus America, the land of opportunity*, the film's producer-director, Joe Roth, and screenwriter, Tom Cole, insist that the movie is a heartfelt expression of the positive aspects of life in America.

It is a shame that such fine actors such as Brandover, Pasdar, Snipes and Spain's famous Angela Molina have chosen to be part of a "formula" film like this one. Austrian born Brandover, well known for his portrayals of fascist heavies in films like *Mephisto*, *Colonel Redl* and *Never Say Never Again*, won an Academy Award nomination for best supporting actor for

his performance in *Out of Africa*. Pasdar, who plays the feisty young Irish boxer in this picture, starred in *Made in USA* and appeared in the box-office hit *Top Gun*. Angela Melina is a well known leading actress in her native country, although she is rarely known in the U.S. with the exception of a Luis Bunuel film or two. And Wesley Snipes portrayed his role as a fast-footed fast-mouthed upstart so well that I predict that he will soon be playing the lead in a more deserving film.

*Streets of Gold* is well described by two words, **predictable** and **cliche'**. It comes off as a rehash of the *Rocky* series, from training scenes, to the *get-to kid on his way up* storyline, to the *patriotic* stereotypes, to the big meathead Russian opponent. It even has the recurring theme song which drags this boring cliché story along to the predictable violent, meatbashing fight scene, wherein the good guy wins.

## THE ANSWER MAN RETURNS

Dear Answer Man:

What's going on around here? The outfits people wear around here are outrageous! Loud ties, jackets & pants that don't match, unshaven faces, earrings, torn sweatshirts! Something needs to be done, after all, this is a law school!

Signed,  
Proud Dresser

Dear P.D.:

You're absolutely right. There should be a dress code for the professors.

Dear Answer Man:

I want your opinion. Who won "The Great Debate" held recently between two of our professors?

Signed,  
Fell Asleep

Dear Fell:

(Yawn...) Moderator Stan Goldman won for three reasons:

1) He kept a straight face; 2) He managed to stay awake; 3) He kept the two egos apart.

Dear Answer Man:

I don't understand all the commotion about security on campus. I think it's great that all of the cars on the street display Loyola stickers. It makes my job mucho easier.

Signed,  
Juan

Dear Juan:

I'm glad you share the same thinking as our administrators. After all, you wouldn't want to break into your neighbor's car.

Dear Answer Man:

I am a first year student preparing for midterms. I got straight A's at USC. I need advice on how to maintain a great GPA. Do you have any advice on what I should do?

Signed,  
Susie \$.

Dear Susie:

What kind of school do you think this is? No professor would take money for midterms when they can get the big buck\$ in May.

Dear Answer Man:

I'm a second year day student in section 3. One of my classes has been switched so I have to come on Fridays at 8:40 in the morning! My whole section signed a petition to keep the class at its original time. The administration basically told us to "bug off." This screws up my work schedule and I don't know if I'll be able to afford tuition. Now what?

Signed,  
Screwed Over

Dear Screwed Over:

That's the nice thing about Loyola...they try to give us some real life experience. You'll soon find in your career as a lawyer, judges and partners are

Two new books by the imprisoned leader of South Africa's anti-apartheid movement, Nelson Mandela, have been recently published in the United States. They are *The Struggle is My Life* and *Habla Nelson Mandela*.

Mandela's books are published by Pathfinder Press in New York, which also publishes books by Fidel Castro, Malcolm X, and leaders of the Sandinista revolution in Nicaragua.

*The Struggle is My Life* brings together speeches and writings by Mandela spanning more than 40 years of his activity in the African National Congress (ANC), the major organization fighting for the end of apartheid rule in South Africa. Mandela's courtroom testimony in the 1964 trial at which he was sentenced to life imprisonment is also included. A special supplement contains accounts of Mandela in prison by his fellow prisoners.

Among the most recent material is Mandela's reply to South African President P.W. Botha's 1985 offer to release Mandela if the ANC leader "unconditionally rejected violence as a political weapon." In his reply, read by his daughter Zinzi to a mass meeting in Soweto, near Johannesburg, Mandela said: "Let him (Botha) renounce violence. Let him say that he will dismantle apartheid. Let him unban the people's organization, the African National Congress. Let him free all who have been imprisoned, banished or exiled for their opposition to apartheid. Let him guarantee free political activity so that people may decide who will govern them..."

"But I cannot sell my birthright, nor am I prepared to sell the birthright of the people to be free..."

"Only free men can negotiate. Prisoners cannot enter into contracts... I cannot and will

(Continued On Next Page)

always telling you to bug off. So think of it as a clinic. Besides, Loyola has conducted some surveys. They discovered that people who take Friday morning classes are more alert, and their chances of passing the bar is 33% greater than those who spend three day weekends in Palm Springs. Think of it as getting your money's worth.

Gotta go, loyal readers! See you in Palm Springs. If in the meantime you flunk out and get kicked out of school, just think it could be worse! You could have had to pay for parking.

ATTORNEY JOKE OF THE MONTH:

Q: What's the difference between a dead lawyer in the road and a dead snake in the road?

A: There's skid marks in front of snake!

not give any undertaking at a time when I and you, the people, are not free.

"Your freedom and mine cannot be separated. I will return."

Mandela remains imprisoned at the Pollsmoor maximum security prison near Cape Town, despite the growing movement in South Africa and throughout the world demanding his release.

*Habla Nelson Mandela con-*

tains Spanish translations of Mandela's courtroom testimony in 1962 and 1964, and the Freedom Charter, the key document of the South African freedom struggle.

Both books contain photographs of Mandela, his wife Winnie, and protest activities in South Africa. These books are available in local bookstores or by mail from Pathfinder Press, 410 West Street, New York, NY 10014.

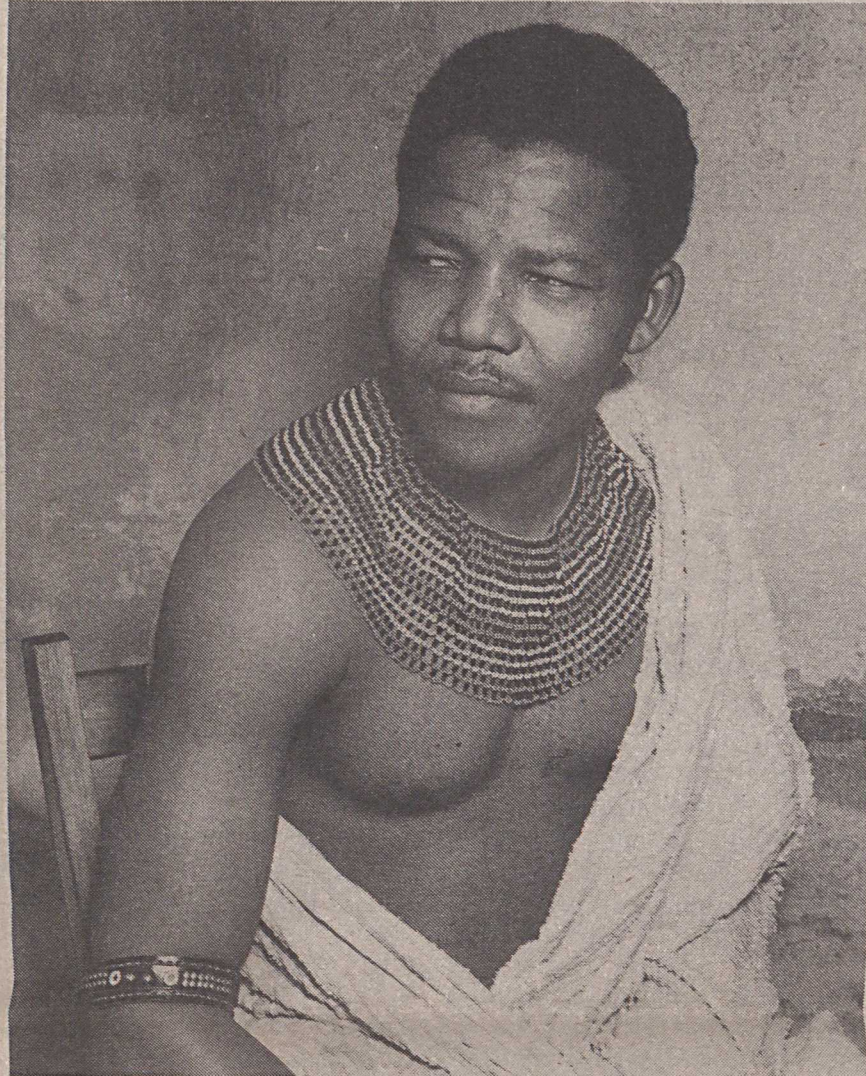


Photo: Eli Weinberg

**Nelson Mandela**  
Reprinted from *Nelson Mandela: The Struggle Is My Life* with permission of Pathfinder Press, 410 West St., N.Y., N.Y. 10014

*Fidel Castro: Nothing Can Stop the Course of History* was published in late September by Pathfinder Press in New York. It is the longest and most wide-ranging interview ever granted to U.S. citizens by Cuban President Fidel Castro.

The interview that produced the book was conducted by Dr. Jeffrey M. Elliot, a professor of political science at North Carolina Central University, and U.S. Congressman Mervyn M. Dymally of California, a member of the House Foreign Affairs Committee. Their discussions with President Castro in Havana produced over 25 hours of taped conversation. These frank exchanges cover dozens of topics.

The topics include -- U.S. Cuban relations, South Africa and apartheid, the role of Cuban troops in Africa, involvement in drug trafficking, the Olympics, and more. In addition, the book reveals much about the life of Fidel Castro, his relations with the Cuban people, and his views on Cuba itself.

Pathfinder Press has published three collections of Castro's speeches, a collection of the speeches and writings of Nelson Mandela, and books by Malcolm X and leaders of the Sandinista revolution in Nicaragua.

*Fidel Castro: Nothing Can Stop the Course of History*, 258 pp, photographs, \$7.95. This book will be available in local bookstores or by mail from Pathfinder Press, 410 West Street, New York, NY 10014.

*From the pages of Fidel Castro: Nothing Can Stop the Course of History*

**Drug Trafficking and Cuba**  
Congressman Mervyn M. Dymally: Reagan administration officials have testified before Congress that the government has concrete evidence of a Cuban-Colombian drug connection. Is Cuba actively involved in drug trafficking?...

**Fidel Castro:** It's absolutely impossible for the U.S. government to have a single shred of evidence of this kind... If we stick to facts, during the last twenty-six years, Cuba's record in this regard has been spotless. In our country, prior to the revolution, drugs were used, sold, and produced. The very first thing the revolution did was to eradicate that problem. Strict measures were taken to destroy marijuana fields and to strongly punish all forms of drug production and trafficking. Since the victory of the revolution, no drugs have been brought into Cuba, nor has any money been made from drugs

coming from anywhere else...

Cuba is the place most feared by drug smugglers. Although our country has been blockaded by the U.S. and has no obligation to cooperate with the United States on this or any other problem, Cuba has stood sentinel against the drug traffic in the Caribbean - as a matter of self-respect, a simple question of prestige and moral rectitude.

**Nicaragua and Central America**

**Congressman Mervyn M. Dymally:** Let's turn to the issue

of Nicaragua. Can the present conflict be resolved through peaceful negotiations? Is a peaceful settlement possible?

**Fidel Castro:** I'm absolutely convinced that it is... As long as the United States continues to believe blindly that the Sandinista revolution can be defeated by a combination of actions by mercenary bands and economic difficulties, and that the Salvadoran revolutionary movement can be crushed, the United States will not be willing to search seriously for negotiated political solutions in Central America. This is my firmest conviction.

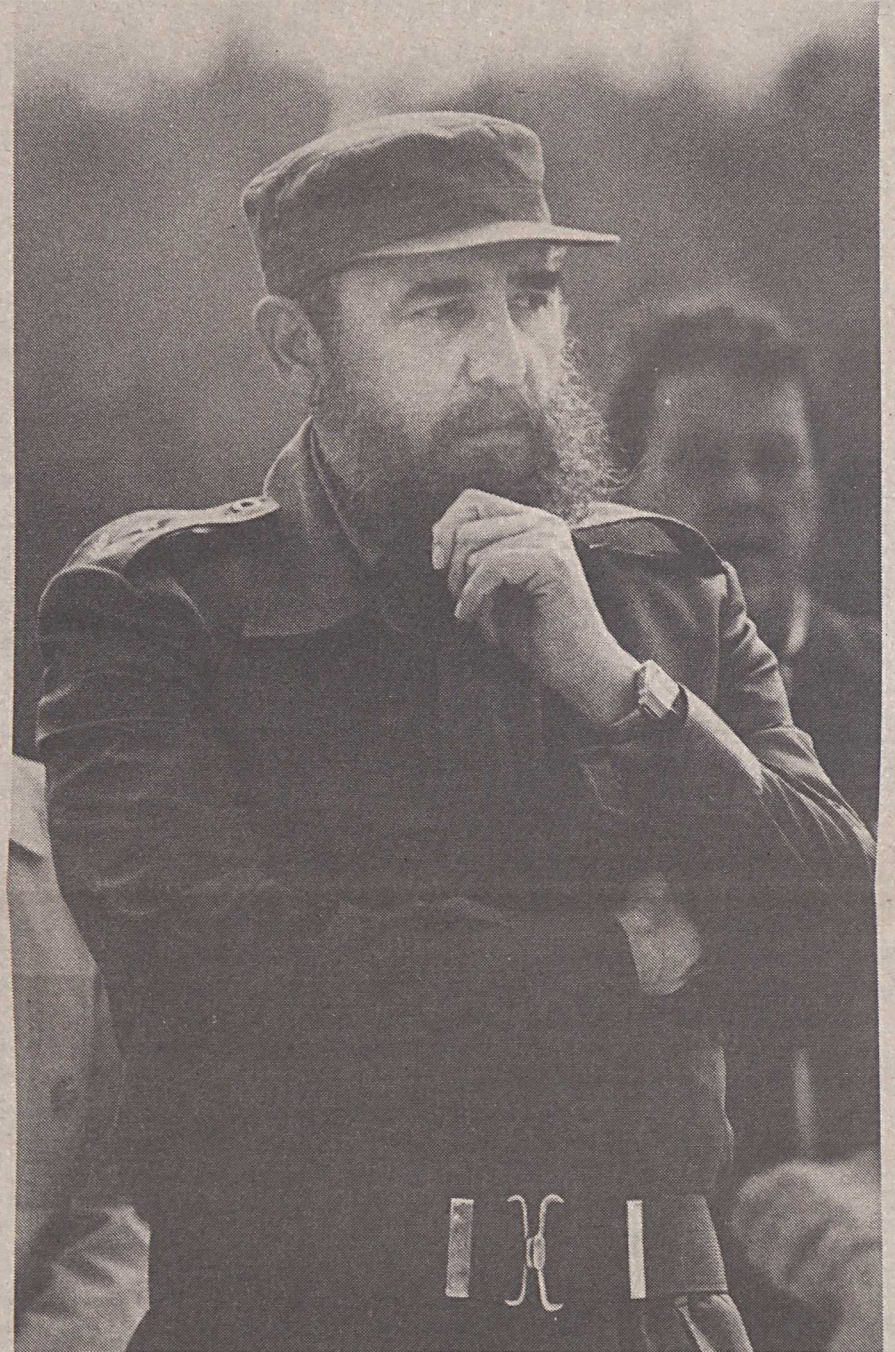


Photo: Gianfranco Gorgoni

**Fidel Castro**  
Reprinted from *Nothing Can Stop the Course of History* with permission of Pathfinder Press, 410 West St., N.Y., N.Y. 10014

# A LESSON IN ETHICS



**The Payoff:** If you can endure the demands of law school, you can practice law in California. Remember what you learned in Ethics:

1. Always follow emergency vehicles by their side.
2. Always keep at least one business card in the palm of your hand.
3. See ABA Model Rules of Professional Conduct, section 7.3, regarding Direct Conduct With Prospective Clients!

# 1987 THIRD YEAR BAR REVIEW

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## MORE BETTER ENGLISH FOR LAW STUDENTS

To wrap this series in making your writing cleaner, here is a quick list of constructions to avoid:

1. Beginning a sentence with "it." Who knows what "it" is? Sure the reader finds out what "it" is . . . eventually. Watch out for this problem -- *everyone* makes this mistake.

2. Look out for dangling modifiers, too. Hemingway may have used them, but keep them to a minimum in legal writing. For instance, instead of "The attorney argued, *rely-*

*ing on his briefs.*" say, "The attorney relied on his briefs when he argued." English teachers love to tear up papers for this sort of thing. The difference in the two sentences? The first implies some further action will occur with the verb form "relying." In the second, the action is completed and done. Minor point but which is more precise?

3. Passive voice! UGH! Typical example: "A good time was had by all." How about, "All had a good time."? Just be aware of *who* your subject is and let your *subject* do the acting; do not let your subject be acted *upon*. Passive construction is awkward, sloppy, and just sounds bad.

4. Finally, one good rule of thumb: one idea per sentence; one topic per paragraph. These are not hollow words! Consciously apply this rule and readers will love you.

## L.M.U. NEWS

**Wednesday, December 3; Murphy Hall; 7:30 PM:** The LMU Choruses present the annual Christmas Choral Concert, celebrating the Golden Anniversary of the LMU Men's Chorus. For ticket information: (213-215-1270).

**Friday, December 5; Sacred Heart Chapel; 8:00 PM:** Repeat performance of annual Christ-

mas Choral Concert. See above listing.

**Friday, January 30; Laband Art Gallery:** "Portraits by David Hockney", the first major exhibition of portraits by British artist David Hockney, opens today, and continues through March 14. Hours: Mon-Sat, 11:00 AM - 4:00 PM. For more information: (213-642-2800).

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## L.L.S. NEWS

ANNUAL ALUMNI DINNER HONORS PROFESSOR EMERITUS LLOYD TEVIS '50, AND CLASS OF '36

On November 6, 1986 the Loyola Law School Alumni Association held its annual awards dinner at the Sheraton Grande Hotel in honor of Professor Emeritus Lloyd Tevis '50.

Over 400 alumni, professors, students, and law school community members attended the \$55 a plate dinner. The Class of 1936 was also honored for its golden anniversary.

Dean Arthur Frakt related the current state of the school

had problems getting into the law school since he was married. The late Rev. Joseph V. Donovan discouraged the study of law for married students. Tevis, however, persevered and graduated first in his class.

He recalled some of his experiences while serving as Dean of the law school. During this period, Loyola was in the process of changing the previous law degree of LL.B to the current J.D. Tevis told the guests that he must be the only person in the country to have signed his own degree.

He also spoke of his episodes



to the alumni. He recapped the immense growth Loyola has experienced within such a short span. He stressed the importance of alumni support in this growth and said it is needed more than ever with the projected tuition for next year at \$10,000.

Dean Frakt also announced Assistant Dean Allan Ides will return to full time teaching and Professor Jan Costello will become the new assistant dean.

The evening's highlight was the presentation of the Distinguished Service Award to Tevis. The award is presented by the Alumni Association in recognition for dedicated and humanitarian service to the school, profession, and community.

Brian Wardlaw '74, president of the Alumni Association, narrated the slide show which chronicled Tevis' association with the law school.

Tevis accepted the award to a standing ovation. He spoke of his 36 year affiliation with Loyola with fondness. He remembered how he originally

while teaching. He remembered the rainy day he taught class in a "temporary structure" which caved in during class. He relates that was the only time his class "was cancelled by an act of God." And he remembered the day he received a rubber chicken from one of his classes upon trying to define "What is a chicken" in *Frigalment Importing Co. v. B.N.S. International Sales Corp.*, 190 F.Supp 116 (SDNY 1960).

Tevis said he is busier today than he ever was. He is working on a book about California debtor-creditor law and is speaking to numerous audiences around the state.

He also surprised everyone by informing them that he hadn't had a cigarette for three months . . . but it's been three seconds since he last wanted one.

Three members of the class of '36 also attended the dinner. Alan Gordon Campbell, Joseph V. Dimuro, and Dewitt Morgan Manning each received a special handcrafted medallion to mark the occasion.

## A REPORT ON THE FACULTY RETREAT — CATALINA ISLAND

By Kenneth Vogel  
Professor of Law  
Loyola Law School

Over the past four years the composition of the faculty at Loyola Law School has changed dramatically. We have added over two dozen new permanent members. In order to promote the necessary rapport that being colleagues means, we decided to go away to a place where we would not have the distractions of spouses, students and other friends. Catalina Island was perceived as the most remote, inexpensive place to attempt to get together and discuss our visions for the future of the

law school.

Our discussions on the island involved mainly educational issues. How can we deal with the increased costs of legal education? Can we try to promote an atmosphere where students feel encouragement to think and to learn and minimal pressure to need to find a job immediately. This is a concern because we believe that the law school process works best when it is done with the full effort of the participants.

Clearly we were also concerned with the rate of bar passage. Most students expect to practice law in California upon graduation, so our empathy nat-

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urally leads us to look for ways to increase the ability of all to achieve that goal. Our discussions were open-ended. We had plenary sessions for the whole faculty, as well as smaller sessions where we hoped to raise more ideas.

We did not come to any conclusions on any of the issues which we discussed. But we had not expected to be able to reach conclusions, as there were several members of the faculty who were unable to participate. We do have some better understanding of some of the options

which the approximately fifteen hours of formal discussions and five hours of informal discussions allowed. We were able to compress more than a full year's worth of faculty meeting time into one weekend. We were also able to discuss philosophic differences which we never have time to raise at our meetings.

I think I can speak for all of us when I say that we returned reinvigorated in our pursuit of excellence in the education which we attempt to provide for all of our student body.

#### JUSTICE CRUZ REYNOSO SPEAKS AT LOYOLA

Justice Cruz Reynoso visited Loyola Law School October 25, 1986 and spoke to students and faculty as a guest of La Raza.

The Justice began his speech by outlining his upbringing. He was raised in the Orange County community of Brea, attended Fullerton High School, and received a degree in art from Fullerton College, and a degree in history from Pomona College.

While growing up, Justice Reynoso became interested in law because of his unique experiences. He encountered school segregation, language barriers, and housing shortages because of his heritage.

He read about lawyers (such as Abe Lincoln) and took Latin. Today, he says he was "mislead" that he needed this course. Additionally, to prepare for law, Justice Reynoso believed he had to meet a lawyer. After doing so, he recounts he "now felt qualified to study law."

Justice Reynoso selected Boalt Hall School of Law. He did so for primarily two reasons: 1) He wanted a geographic change, and 2) it was cheap. He received his law degree in 1958.

The Justice's speech took an inspirational turn as he began to talk about the legal profession. He emphasized the notion that law is a service occupation. He told the audience that lawyers are special people since they know more about the government and legal system. With this added knowledge, the

Justice believes lawyers have a duty to speak out against injustices in the community. This should be the lawyer's concern, not making money.

Consistent with this view, Justice Reynoso felt more lawyers rather than less should be welcomed into the legal community, since the more people who want to help, the better.

The Justice's talk then began to change in tone as he became passionate about the then upcoming election. Prior to the last few months before the election, his entire time had been devoted to reviewing the law. When he spoke at Loyola, he said a quarter of his time was devoted to defending his position from the political forces against him.

The remainder of his talk centered on the court's death penalty decisions. He adamantly insisted the court was defending the constitution, and that this was its primary duty.

He said that 97% of the criminal cases which reached the supreme court were affirmed. The Justice emphasized that the defendant has never "walked" in any of the cases the court has reversed.

Additionally, the Justice said the Briggs initiative itself is the problem. All of the death penalty cases which have been reversed have been due to this initiative's ambiguous wording.

Justice Reynoso concluded his visit by asking whether judges "should place their wet finger up to the wind to determine what the politicians want."

has completely broken down, and from an environment of accepted drug use. According to Welby Kramer, Chairman of the Youthful Offender Parole Board, "a common denominator of a great many wards in the Youth Authority ... is the vast majority are involved in gangs or drugs or both."

The philosophy of street gangs is that "the gang is more important than the individual member." This contributes to the perpetuation of gang activity by members, even with the knowledge that they may die in the commission of this activity. According to Ray Mendoza, a counselor for Chino Youth Services, "there is tremendous loyalty ... a 13-year-old will lay down his life for another 13-year-old, right or wrong."

Youth gangs in California are usually organized along ethnic lines and are traditionally

# A PERSPECTIVE ON STRESS

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good in the morning. Wear your favorite clothes. For the next couple of weeks frustration is the name of the game, but buying into it only perpetuates and does nothing to alleviate. When you feel yourself losing your cool, take the time to sit back and breath deeply; stand up and do some easy stretching. After you have given your mind a quick break, sit down and go for it again all the while reminding yourself that you can do anything you choose to do. Before you go to sleep take a bubble bath or a hot shower and clear your head. Treat yourself to some caviar and champagne. (Caviar is approximately five dollars for a four ounce jar). Most importantly, do not resent yourself for not being a law school dynamo twenty four hours a day, seven days a week, (that makes you a law school nut).

R. Rest and reality. Stop studying when you are exhausted. You are only doing yourself a disservice by pushing your body and mind beyond its limits. Half hour naps are great wakerupers, try'em you'll like'em.

The reality of the situation is that other things are important too. What's that you shreik, sounds like blasphamy, chill out. Even if law school is the most important thing in your life, it's only what you do not what you be. And you do nothing if you be locked away in a padded cell with pretty white walls.

E. Exercise and energy. Take thirty minutes a day to do some exercising; stretching, running, areobics, even a brisk walk will all do the trick. That short amount of exercise will get the blood pumping and the oxygen circulating. When you are in the midst of your work out you will achieve maximum benefit if you can stop thinking about the hours of work to follow and concentrate only on how good it feels to be taking

that well deserved breather. Believe it or not you will find yourself with more stamina and that will enable you to put in more productive hours when you are hitting (not literally) the books.

S. Spiritual health. By this, I don't specifically mean religion, but if that's your bag and it works then by all means go for it. The purpose is to clear your mind so that study time will be focused time and, therefore, more productive. I, senorita jewguru perscribe meditation. Once again this activity need not take more than thirty minutes. I suggest that you embark upon your search for nirvana right before your head hits the pillow. Sit on the floor in a crosslegged position and rest your hands by your side. Sit up very straight and breath deeply. Listen for your heart-beat. At first you will hear the blood rushing through your veins, then, and it may take a day or two to get to this point, you will eventually happen on the sound of your heart-beat. At this point, stop listening and start telling yourself that you can do anything you choose to do; you can remember and retain all that you wish, no lie.

S. Simplicity. Keep it simple. You have chosen to be a member of this institution. Give yourself permission to be the best you you can be. Eat right, rest, exercise, and meditate.

Take the opportunity this stressful time affords you to treat yourself better than you ever have. The goal is productive study time that will prepare you to do the best possible job you can come exam time. To quote Richard Bach from his novel *Illusions*, "You are never given a wish without also being given, at that same time, the power to make it come true, though you may have to work for it."

Break a leg everyone....its just a showbiz expression.

## GANGS

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high rate among themselves to the exclusion of other groups, have a group name, claim a neighborhood or other territory, and engage in criminal and other anit-social behavior on a regular basis."

Law enforcement agencies have identified over 500 gangs within Los Angeles County, with an estimated 50,000 members. Gang members are usually males who join the gang by either committing a crime or undergoing an initiation procedure where they are beaten severely by fellow gang members to test their courage and fighting ability. Their motivation for joining gangs is varied, but is usually for identity and recognition, protection, or fellowship and brotherhood. Often gang members come from a family whose support system

composed of Black, Hispanic and White groups. However, law enforcement officials are increasingly coming into contact with Asian gangs. Usually they are Chinese, Vietnamese, Korean and Filipino, although Tai, Japanese and various Pacific Islander groups are also engaged in organized criminal activity. Asian street gangs are frequently termed non-traditional when compared to other street gangs. They are highly organized, with national an international ties. Their primary goal if financial profit. Acts of violence are less random and less frequent than with traditional gangs, are are committed primarily to achieve group goals. Secrecy and remaining anonymous to law enforcement is a constantly sought goal.

Currently, no specific services or programs are available in California to prevent, divert

or rehabilitate Southeast Asian youthful offenders. Cultural experience and language barriers have precluded their reliance on law enforcement agencies. According to Fred Abram, Deputy Police Chief of San Jose, "One of the problems we had to overcome when we started dealing with the Southeast Asian community is our own operating procedures. We handcuff just about everyone we take into custody for the safety of our police officers. However, we found out that in Vietnam they never handcuff anyone unless they were going to be shot."

According to Dan Vasquez, the Warden of San Quentin Prison, "The harsh reality is that the young person involved in a violent gang in our community... would in all likelihood be a violent prison gang member of the future. The vicious

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## GANGS

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cycle never broken, we the public are the victims." In 1976 approximately 11,000 parolees were released from the California prison system. Included with this mass of freed convicts were several hundred members of the four major prison gangs - The Mexican Mafia, Nuestra Familia, Aryan Brotherhood, and the Black Guerrilla Family. A new prison gang, the so called "Texas Syndicate" has also recently emerged, since its birth in San Quentin as a separate prison gang consisting of Hispanic convicts who originally migrated to California from Texas.

Most of these gang members are considered hard-core criminals with many years experience participating in illegal and illicit activity, both within the prisons and on the streets. These gangs often have strong influence in certain areas of the cities in which they have been paroled. They tend to specialize in narcotics smuggling and distribution, bank rob-

beries, prostitution, and gun smuggling.

Another organized criminal group operating within the state are outlaw motorcycle gangs. At this time, more than 50 of these gangs are criminally active. The California Department of Justice defines these gangs as "Organizations whose members utilize their motorcycle club affiliation as a conduit for criminal enterprises. The nature of their criminal activity is generally conspiratorial and includes crimes such as extortion, business infiltration, and trafficking in drugs, illegal weapons, and stolen property."

The more notorious outlaw motorcycle gangs present themselves as organizations sharing only a common interest in riding motorcycles. The former West Coast President of the Hells Angels stated, "We're just a bunch of guys trying to get along in the world." Fortified clubhouses, arsenals including automatic weapons, counter intelligence efforts and organized criminal activities indicate these groups are far more than

just social motorcycle organizations.

Conviction rates of outlaw motorcycle gang members fall well below those of other felons arrested in California. Disposition comments are generally limited to "insufficient evidence" or "dismissed in the interest of justice". Entries such as "victim refused to testify" or "not available to testify" suggest some explanation for the lower conviction rate.

A good example of intimidation was exhibited in 1982 during a federal case against a Hells Angels member of Cleveland, Ohio. The loss of the case was attributed, in part, to problems created by other gang members which may have influenced jury decisions. These problems included threats to victims, witnesses, jury members and their families as well as to prosecutors and police officers. The Hells Angels appeared in the courtroom daily, en masse, wearing their colors (jackets) and virtually filled the first three rows of the courtroom. They located residences of jury members and

drove their motorcycles slowly by the jurors' homes on a daily basis.

Law enforcement is beginning to react to the phenomenal gang problem. Recent recommendations include increasing the penalty for youthful defendants, allowing 24 hour search warrants in cases involving narcotics or violent felonies, amending the death penalty to include those who kill a witness, and increasing the maximum detention for violation of juvenile probation to one year.

However, experts agree the long term suppression of gang violence requires interagency cooperation involving the parents, schools and community-based organizations. Until then, the citizens of California must contend with young people whose philosophy, according to one secret witness at the 1986 State Task Force on Youth Gang Violence, was "I never had a conscience. I tried not to let things bother me. You got to survive. If I didn't do it (kill people), well, I'd get my head blown off. Simple as that."

## RUSSIA

(From Page 1)

had been denied permission to emigrate to Israel. Finally, we had seven pairs of jeans in our luggage, all different sizes. This suggested that we were either planning to sell jeans on the black market or we were prone to dramatic weight fluctuations.

We were, in fact, planning to visit refuseniks. But instead of bringing them religious articles we were bringing them goods to sell so that they could survive for a few months the forced unemployment that comes with applying to leave the USSR. Since the Soviets fear bibles far more than jeans, I was permitted to put my clothes back on and enter the country. We spent three glorious weeks encountering strangers who expressed a keen interest in our comings and goings.

We returned to the USSR in 1984 and again in 1985. Friends and family were shocked to hear that we would consider returning after our initial experience. My wife suspected that I hoped to be strip searched again.

We returned because I was given the chance to lead groups of American attorneys and judges traveling to the USSR for the purpose of studying the Soviet legal system. We were taken to courts to view proceedings, met with Soviet lawyers and officials, and discussed the theory of socialist law with Soviet law professors. These were unique opportunities to learn about a legal system which is based on assumptions very different from those underlying the system I had become a part of in America. I discovered that the theories underlying Soviet law help explain why the Soviet government acts as it does, whether it is in Afghanistan or in a holding room at the Moscow airport. A few paragraphs

describing those theories is essential to understanding my experiences in the U.S.S.R.

Soviet law is primarily the product of the Bolshevik revolution of 1917. The Marxist-Leninist theory of the world is the basic theoretical foundation of Soviet law. Marxism-Leninism in the socialist countries represents something quite different from any philosophical doctrine in Western countries. It is, in fact, the official doctrine, and every other doctrine appears to be not only erroneous but to constitute a subversive threat to the social order. The Soviets believe Marxism-Leninism has discovered the objective, natural laws which rule the development of society, and the ultimate formula which will make possible the advent of a society founded on peace and harmony, victorious over misery and free from crime. Those who do not adhere to this doctrine and who reject, or even put in doubt, the postulates of Marxism are considered to be the enemies of mankind whose false ideas must be eliminated.

Marxism postulates that what is truly decisive in a society is its economic basis or infrastructure and the conditions under which the means of producing goods are exploited. All else is superstructure, closely dependent on the economic infrastructure. Included in this superstructure are ideas, social habits, morality and religion.

Law, in particular, is only a superstructure; in reality it only translates the interests of those who hold the reins of economic command in any given society. Law in capitalist countries is, accordingly, seen as a means of oppressing the exploited class. It is, of necessity, unjust.

In theory, then, Soviet law is not primarily meant to establish rules of order or principles for the solution of disputes. First and foremost it is a means of

transforming and guiding society towards the communist ideal outside of which, it is claimed, no true liberty, equality or morality can exist. Soviet law is essentially an instrument in the service of the Soviet ruling class. There are no scruples about freely admitting this. But Soviet leaders are different from leaders of capitalist states because they are enlightened by Marxist-Leninist doctrine, which informs Soviet leaders as to what goals to strive for according to scientific laws governing the development of human society. Thus, by definition Soviet law is just and correct. The aims of Soviet law are to endow society with the economic organization which conforms to these scientific laws and educate the people by showing them the delinquent nature of behavior in the capitalist world.

The essence of Marxist-Leninist doctrine lies in the belief that the root of all social evil is class antagonism. Thus, social classes can, and must, be suppressed by prohibiting the private appropriation of productive forces and by putting them at the disposal of the collectivity which will exploit them in the common interest. When purged of the "antagonistic contradictions" of present society, the theory is that then a fraternal society will emerge; a communist society in which the exploitation of man by man will have ceased, and in which harmony will reign. Each will then work for the community according to his ability, and each will receive from the community according to his needs. In this communist society all coercion will be needless; state and law, the aim of which is to assure the compulsion necessary in other societies, will become useless and so disappear. You don't usually hear such stuff at an ABA convention.

My first contact with the legal system that operates under

this theory was in a courthouse in an old section of Moscow. The courthouse was indistinguishable from all the other colorless and decaying buildings on the street save for a small metal plate bolted to the wall next to the entrance which proclaimed this the People's Court for the district. (Judge Wapnerov presiding.) The interior of the courthouse was no different. The old wooden tables and chairs in the courtrooms were marked with the dirt and scratches of decades. The plastered walls were cracked and peeling. In the chambers of the presiding judge I found no hint of luxury or high office; only the same old hardbacked chairs and grey walls.

It seemed appropriate to me that the courthouse should be this way. If law is only "superstructure", if it is only a mechanism for creating a communist society, the courthouse should not be a grand edifice resplendent with marble columns and velvet curtains. Rather, it should be just like all the other buildings on the street. The experience of entering that courthouse in Moscow reminded me of the ambivalent feelings I have about American courthouse architecture. In a democracy, there is something disturbing about pomp and grandeur in a building the principle purpose of which is to subject individuals to the will of the state. On the other hand, if the marble and velvet are metaphors for the grandeur of some higher goal of the law, such as justice, they might be worth the investment.

These philosophical musings were soon overcome by fascination with the criminal trial we were taken to see. The defendant, a man in his late forties, was accused of purse snatching. He was seated to the left of the bench on a raised platform enclosed by wooden partitions

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## SOVIET

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about three feet high. Two uniformed police stood to either side of this box. Even though they were no more than two or three feet from the defendant, who clearly was going nowhere, the police faced the defendant throughout the trial and glared at him menacingly.

In the gallery sat the defendant's evidently long suffering wife, sobbing softly. Defense counsel and the prosecutor, both young women, were seated at tables directly before the bench in a manner similar to the typical American courtroom. But the resemblance of physical layout stopped there. There was no jury box--there is no jury in the Soviet trial system--and there were three judges sitting on the bench.

The judge in the middle was the only professionally trained lawyer while the judges to his sides, again both women, were "people's assessors." Like jurors in America, people's assessors are lay citizens picked at random from a list of eligible candidates. Unlike in America, the list is usually compiled by the Communist Party. Two assessors always join one professional judge in people's courts, the name given to the trial court with jurisdiction over most cases. Varying numbers of people's assessors also sit on all appellate courts and are always in the majority. Their votes are equal in weight to those of the professional judges. The idea of people's assessors is connected to the Marxist notion that the law will wither away in a true communist society, leaving a world without law, lawyers or judges in which individual behavior will be controlled only by the opinion of the community.

The professional judge in the middle did all the talking. He read the investigators file on the case out loud. I resisted the temptation to object on the ground of hearsay. He then began a rigorous cross-examination of the defendant. Throughout the proceedings, counsel were passive, speaking only when some point raised by the judge needed clarification.

In the middle of his examination, the defendant shouted something. Before our translator could explain, the guards rushed out and quickly returned with a stretcher. The defendant stood up, laid himself down on the stretcher and was carried out of the courtroom. I assumed this was part of the streamlined process the Soviets had devised to implement capital punishment--I envisioned the defendant being neatly plopped directly from the stretcher into a pine box. Instead, our translator informed me that the defendant had complained of heart trouble and was being taken to see a doctor. One of the American lawyers in our group who is a public defender assured me that his clients regularly employed this strategy when the going got rough on cross-examination. I was beginning

to discover that, as in this country, legal theory frequently has little to do with practical realities.

We were then taken to meet the Chairman of the court; the presiding judge in our vanguard. She was a stocky woman in her sixties with a sad, tired face. She told us of her experiences fighting the Germans in the "Great Patriotic War." She described the problems of managing a caseload with inadequate staffing and courtroom facilities. The more she talked about the day to day administration of the law, the more her court and her system sounded like our own. We described our legal system to her and she agreed that the similarities are greater than the differences. (However, we never were able to make her understand the concept of the Fourth Amendment exclusionary rule. In this respect, she seemed remarkably like some members of the current Supreme Court.) I asked her what role Marxist theory played in the law she administered. She clearly did not know what I was talking about. Obviously, she must have received a low grade in Infrastructure back in law school.

Marxist-Leninist political theory was more important to the government officials and law professors I met in Leningrad and Kiev. In each city the meetings took place at a so-called "House of Friendship" which, I came to understand, was where the Soviets took foreigners they wished to impress. Unlike the Moscow courthouse, a House of Friendship is typically an ornately designed and well appointed former residence of Russian nobility.

The officials we met there were well dressed and well educated. They were also far less open than our Moscow judge. We were treated to lectures on Soviet legal institutions, but our questions concerning possible problems within those institutions were simply deflected. The usual response to questions concerning human rights and emigration was to deny the existence of problems in those areas. I explained to one Soviet law professor the nature of the debate in America over the death penalty and asked him to describe how the issue was regarded in his country. His response was simply "We have the death penalty. There is no debate."

One could hardly blame my Soviet colleague for hesitating to question the death penalty. After all, the last time the USSR formally outlawed capital punishment, it was at the instigation of that great civil libertarian, Joseph Stalin, who believed all his enemies had the right to remain silent.

One of our meetings produced a story from a Soviet attorney which well illustrates a fundamental difference between Soviet and American law. He told us of a case in which he was retained to represent an American in a criminal proceeding. The defendant, a teenager, had been arrested at the airport when he attempted to leave the country. When the customs officials inspected his bags, it was discovered that he had stolen a cheap tin ashtray from his hotel room. He was imprisoned for several days before a judge was persuaded to allow him to leave the country on condition the defendant

paid a stiff fine. The Americans in our group were surprised to hear that the Soviets would so harshly respond to a theft so petty and common in the west.

But the story seemed consistent with what I had learned about the theory underlying Soviet law. To avoid or disobey the law in the U.S.S.R. does not merely constitute an infringement on the interests of private persons or an insult to the code of morality; it is a threat to the success of the policies of the government and involves the risk of delaying the advent of communism. The functions assigned to law in Soviet society and the revolutionary character of the government make respect for the law much more imperative in the Soviet Union than in western democracies.

This helps explain the airport problems I had in the USSR. Given a system that is based on the proposition that it has discovered the only true path to justice and all other alternatives are evil and must be eradicated, one can understand why the Soviets get nervous over foreigners contaminating the country with a few bibles and blue jeans. The hesitancy of some Soviets to speak frankly with us is also understandable. Under Soviet political and legal theory, even the most trifling dissent or innocent of questions becomes a challenge to the very foundations of the system. Viewed through eyes of a western lawyer, this monumentalization of the trivial appears to be precisely what our legal system should strive to avoid.

\* \* \*

## Tape Recorder Update

For those of you who read the *Reporter*, and those who even read the letters to the Editor, here's the result of the last letter encouraging a policy of taping classes at Loyola: First, neither teacher remembered having read it but both promised they would. One suggested the next day that I use my "journalistic prowess" to make all the clocks keep the same time. I didn't catch the connection, but I can't perform the impossible. I will volunteer to tell the class when to take a break and when class is over though, and I won't even ask for class points. What a guy.

Second, a few friends said they noticed the letter and thought it was mildly amusing. I tried to make it a little less mind-numbing than the usual stuff force-fed us here in classes as well as in the normal papers, but I was trying to make a point more than get a laugh. (I'm saving that for Libel & Slander.) For those who missed it last time (everybody except the six of you who are reading this too) I basically whined and grumped how public policy (ARGH! That word again) and logic would suggest that taping allows students to concentrate on and

participate in the discussion rather than scribbling down copious quotes and string cites we'll never read anyway. (By the way, a hint to my tax Prof: try giving us cite once slowly, then pause to breathe, rather than ripping through it twice fast. Aside from that, you're doing o.k.) I'm not suggesting a spoon fed method for teachers who don't like taping ("Class, can yew say 'undercapitalized corporate investment and comingling of clients funds?'" Class: "business as usual." "I knew yew could."), but maybe some reasonable (ARGH! That other word!) middle ground.

I suggested that teachers who wanted to ensure preparation for class could call on students with recorders. I don't want them to do this exclusively (of course) because aside from my own self-interest, this would encourage the flakes who don't study to come to class and not tape, knowing that they can now sleep peacefully and memorize Gilberts later.

I have some more important stuff to do now, so that's it for now for that. One last point is the timing of the "art show" here in the lounge and the painting done on the walls of the Burns Building. Now, I vaguely remember some of my Torts and it seems that there might be just a smidgen of foreseeability (ARGH!) See above for reactions to concrete

sounding words used to back up and justify a result already obtained) in maybe getting just a bit of the paint on the walls onto the paintings hung on the walls. Yeah, I know it would improve most of them to cover them all over in black and call it "Night, pt. 1", "Night, pt. 2", etc, but it's not our artwork to f--- around with. We got it on loans and should take care of it. For those who go to the 2nd floor, check out poor old Mr. Burns. He now has some additions on his lower left quadrant. (Aw, gee, maybe the painter wanted to add some verisimilitude to the portrait and gave him some dandruff flakes. Thanks, but if anybody has dandruff the size of Cocoa Puffs, just keep me happy and ignorant, .ok?). If the school wanted to have a nice clean background to show the pictures off against, then take the pictures down, paint, and then put them up again. These paintings weren't given to us to transform into imitations of Pollack's stuff (He flings gobs of paint on canvas and people buy it ... sounds like the McDonalds school of art ... "over 7,000 spilled".) Anyway, that's about it for today. If my teachers read the original letter within 4 weeks from today, you'll hear about it here.

Sanford Rogers

# ACLU NEWS U.S. ATTY. NEWS

## GUIDELINES ON RELIGIOUS CLUB MEETINGS IN SCHOOLS DISTRIBUTED BY AMERICAN CIVIL LIBERTIES UNION

A set of guidelines for public schools faced with applications from religious clubs wishing to meet on school property has been sent to all public high schools in California by the American Civil Liberties Union of Southern California (ACLU/SC).

"The public schools have always served as a unifying symbol within our society, with all its diversity of religions and cultures," said ACLU/SC Church-State Attorney Carol Sobel, who prepared the guidelines. "Strictly following the church/state separation guidelines established by California law will help reduce religious and political controversy and keep the focus of our schools on education."

## Pregnancy Disability Leave: Help or Hindrance to Women's Rights

Does state legislation requiring employers to grant reasonable leaves to workers temporarily disabled by pregnancy and childbirth help or hinder the movement for full civil rights and liberties for women?

Those who oppose such legislation argue that it would encourage discrimination against women and thwart attempts to gain broader rights for all temporarily disabled workers. They submit that women unable to work because of pregnancy and childbirth should be given the same treatment as workers with broken legs, angina or the flu.

C.R.E.W., and other organizations who favor such legislation argue that mandatory pregnancy disability leave prevents current discrimination against women without impeding further reform efforts. Women must be given *treatment as equals* in the workplace, allowing them to exercise their procreative rights without losing their jobs, just as men are able to do.

Title VII of the Civil Rights Act of 1964 prohibits discrimination against any employee or applicant on account of his or her sex in hiring, promotion, terms and conditions of employment. What Title VII does not do is define what counts as "discrimination." In applying Title VII, however, the courts have found two different sets of practices that count as discrimination. One is "disparate treatment," which occurs when a woman (or a group of women) is treated differently than male employees, simply because of her sex. The other is "disparate impact," which occurs when an employer's work rule "just happens" to have a significantly harsher effect on women than on men.

Applying the legal rules developed to deal with these two types of discrimination, courts have been able greatly to increase the workplace equality of women. In 1974, however, the progress appeared to come to an abrupt halt. The Supreme Court, in *Geduldig v. Aiella*, held that a state disability insurance program could constitutionally exclude from coverage disabilities accompanying normal pregnancy and childbirth, because the exclusion was not based on sex. This astonishing reasoning was extended to cases covered by Title VII in *General Electric Company v. Gilbert*, decided by the Supreme Court in 1976.

Sobel drew up the guidelines after a recent U.S. Supreme Court decision in *Bender vs. Williamsport Area School District*, which she said could result in a substantial increase this fall in requests to hold such meetings on school property.

Said Sobel: "The use of school property in California for religious activity, including meetings of religious clubs, is prohibited by a strict constitutional ban in state law. The California courts and a ruling by a California attorney general have all held that use of public school property by religious clubs is prohibited, in order to maintain scrupulous separation of church and state."

Sobel said that the *Bender* case was decided on the very narrow grounds of who was authorized to appeal the case from a District Court decision, and that "no ruling was made on the underlying substantive issues."

Congress responded by enacting the Pregnancy Discrimination Act of 1978 (PDA), which amended Title VII to state that "on the basis of sex" included "on the basis of pregnancy." This amendment gave pregnant workers the right to share in whatever protections or benefits an employer chose to grant to workers suffering from temporary illness or injury.

A coalition of more than 300 groups, including labor unions, feminists, civil liberties unions, and civil rights organizations, lobbied Congress to overrule the *Gilbert* decision. Similar coalitions also lobbied state legislatures, asking for legislation to prevent state and local antidiscrimination laws from being interpreted against pregnant women.

A few states (California, Connecticut and Montana) went further. Women workers tend to be concentrated in lower-paying and unorganized occupations, where employers rarely grant leave rights to employees for any reason. These "no leave" work rules have a "disparate impact" on the basis of sex, because women who exercise their fundamental rights to procreative choice—i.e., the right to choose whether or not to become parents—lose their jobs, while men who make the same choice do not. To prevent such discriminatory effects, these states enacted legislation protecting the right of women workers to choose whether or not to become parents. For example, the California Fair Employment and Housing Act (FEHA) was amended to include pregnancy discrimination as a form of sex discrimination and to require employers within the state to grant any worker disabled by pregnancy a reasonable leave with a right to come back to her job when able to do so.

The California legislation caused no difficulties for employers who already had generous leave policies for temporarily disabled workers. But employers who did not grant temporarily disabled workers a right to return to their jobs did not want to be required to grant leave rights to workers temporarily disabled by pregnancy. One such employer, California Federal Savings & Loan Association, filed suit in federal court, claiming that the state legislation was inconsistent with the PDA amendment to Title VII. Cal Fed argued that the FEHA provision impermissibly required them to treat pregnant workers differently than other workers. (A similar suit was filed by an employer in Montana, challenging that state's version of manda-

## SAN LUIS OBISPO DEPUTY DISTRICT ATTORNEY INDICTED FOR CHILD PORNOGRAPHY

United States Attorney Robert C. Bonner announced today that Robert Michael Rabe, age 35, of Los Osos, a former San Luis Obispo Deputy District Attorney was indicted today for a violation of the Child Protection Act.

According to Assistant United States Attorney Joyce A. Karlin, the three count indictment charges Rabe with ordering and receiving child pornography magazines from the Netherlands. This indictment is part of the continuing

effort by the Federal Child Pornography Task Force to investigate and prosecute child exploitation cases in the Central District of California. The federal child pornography task force consists of representatives from the Customs Services, Postal Inspection Service, Federal Bureau of Investigation, Los Angeles Police Department, Sexually Exploited Child Unit, and the Los Angeles Sheriff's Office.

Rabe will be arraigned on November 24, 1986 before the Honorable Ralph J. Geffen, United States Magistrate. Rabe faces a maximum penalty of 20 years in prison and \$110,000 fine.

## INFORMATION THE LOYOLA REPORTER

tory pregnancy disability leave).

The Ninth Circuit Court of Appeal upheld the California legislation as consistent with Title VII. That court stressed the intent of Congress that any state law should be tested by whether it "furthers Title VII's prophylactic purpose of achieving equality of employment opportunities." California's legislation easily passed the test. It did not provide any "special benefits" to pregnant workers, but rather simply made sure that women who became mothers came back to work on the same step of the employment ladder they had left—just as men who become fathers remain on the same step of the ladder.

After losing before the Ninth Circuit, Cal Fed asked the U.S. Supreme Court to hear the case, which it agreed to do. The employer will ask the Court to strike down the California legislation and leave the employer free to grant or deny leave rights as the employer it sees fit. The State of California will ask the Court to uphold the California legislation as a reasonable attempt to further equal employment opportunities of pregnant workers.

Many state and national organizations will file *amicus* briefs, offering guidance to the Court on how to decide the issue. Some otherwise progressive organizations will ask the court to strike down the California statute because they believe that making any distinction on the basis of pregnancy is too dangerous. They will argue that leave rights should be available to all employees, regardless of the effect on women workers.

C.R.E.W. agrees that, as a policy matter, employers should be required to grant leave rights to all employees. Many of the members of C.R.E.W. have actively lobbied state and national legislatures to enact legislation that would allow parents of both sexes to take time from full-time employment to care for infants, and that would allow all temporarily disabled workers to return to their jobs when able to do so. In the meantime, however, employment policies that do not grant a right of return interfere with the right of procreative choice of women workers—and only women workers. This is discrimination. Because the California legislation simply prevents such discrimination by employers, we believe that it should be upheld.

C.R.E.W.  
(Coalition For Reproductive  
Equality In The Workplace)  
Spring, 1986

## Some Common Misperceptions about Pregnancy Disability Leave:

1. Doesn't mandatory pregnancy disability leave discriminate against male workers who would like to spend time with their new-born children?

NO. The California legislation *only* requires that employers grant leave during the period when the worker is *unable to work* due to the medical condition of pregnancy. If a statute required employers to grant leave for child care, the statute would have to provide the leave for both male and female parents. The California statute, however, *only* addresses the physical inability to work that often arises when women choose to exercise their reproductive rights. Male parents do not suffer any temporary disability during reproduction, and are therefore not discriminated against by the California statute.

2. Isn't the California statute an example of the kind of protective labor legislation that used to keep women from competing on equal terms with men for jobs?

NO. Some old laws used to prohibit women from working more than eight hours a day or from lifting more than 25 pounds on the job. Those laws were *exclusionary*, i.e., they kept women *out* of jobs that required longer hours or heavy lifting. The California legislation is *inclusionary*, i.e., it keeps women *in* their jobs when employers might otherwise terminate them for a few weeks' absence from the workplace. The California legislation does not prevent any woman from working when she wishes to do so.

3. Won't employers be more likely to prefer male workers if they have to grant pregnancy disability leave to some female workers?

NO. Preferring workers of one sex over workers of the other is illegal sex discrimination under both federal and state law. An employer *cannot* justify sex discrimination on the ground of extra expense or inconvenience.

4. Wouldn't it be better to argue that leave rights should be extended to all workers who need them?

Yes and no. We believe that legislatures should be encouraged to enact legislation requiring broader leave rights for temporary illness and injury, pregnancy, childbirth and adoption, childcare and education. And employers should be encouraged voluntarily to adopt more generous leave policies. In the meantime, however, we should not attack state efforts to equalize the employment opportunities of male and female workers by allowing *both* to exercise reproductive rights without jeopardizing their jobs.

**PRESIDENT OF VENTURA CHAPTER OF THE HELLS ANGELS MOTORCYCLE CLUB AND AN ASSOCIATE INDICTED IN MURDER-FOR-HIRE SCHEME**

United States Attorney, Robert C. Bonner, announced in October that a Federal Grand Jury in Los Angeles returned a two-count indictment charging George Gus Christie, Jr., 39 of Oak View, California and Daniel Joseph Fabricant, 37 of Ventura, California, with conspiring to murder and soliciting the murder of an inmate at a federal prison in Arizona.

According to Assistant United States Attorney J. Stephen Czuleger, the grand jury indictment charges Christie, the Ventura Chapter president of the Hells Angels Motorcycle Club, and Fabricant with engaging in a conspiracy to murder another associate of the Hells Angels who was being held as a federal prisoner in the Federal Correctional Institution (FCI) at Safford, Arizona. The scheme is alleged to have begun in mid-August, 1986, when Christie contacted an individual in Ventura, California and asked him to arrange to have the inmate killed. The individual advised the Federal Bureau of Investigation (FBI) of Christie's desires and an investigation was commenced.

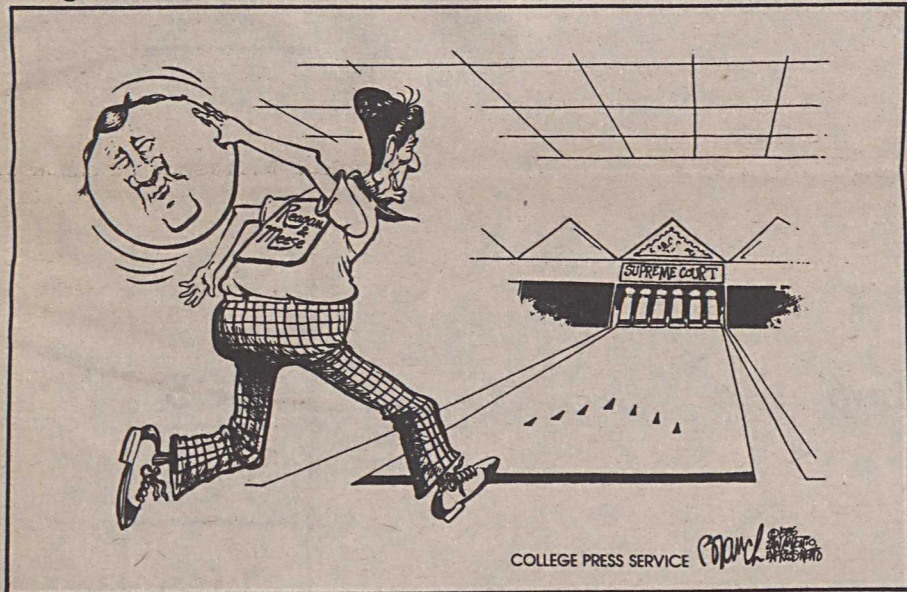
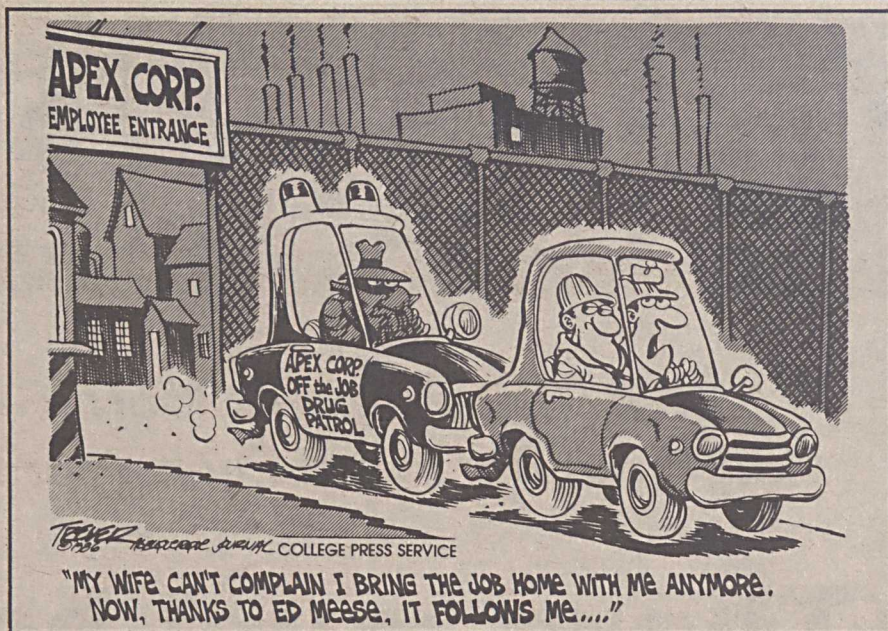
During August and September, 1986, Christie and Fabricant met with the individual in order to arrange the inmate's murder through him.

Working through the Bureau of Prisons, the FBI arranged to fake the death of the intended victim in FCI Safford on September 24, 1986. On September 25, 1986, Christie was arrested as he gave \$500.00 and the registration slip to an automobile to the individual in partial payment for the contracted murder.

Both defendants are charged in both counts of the indictment. Count One charges Conspiracy to Commit Murder within the Jurisdiction of the United States in violation of 18 U.S.C. 1117. The maximum sentence upon conviction for such a count is life imprisonment plus a \$250,000 fine. Count Two charges Solicitation to Commit a Violent Felony and Aiding and Abetting. The maximum sentence upon conviction on this count is 20 years imprisonment and a \$250,000 fine.

The investigation leading up to the indictment was done jointly by the Federal Bureau of Investigation, the Ventura County Sheriff's Office, and the Ventura Police Department.

Both defendants are currently in custody and are scheduled to be arraigned on October 20, 1986 on the indictment.



**OBSCENITY LAW**

Greensboro, N.C. (CPS) -- A tough new anti-obscenity law is causing big changes in some classes at the University of North Carolina at Greensboro this fall. At least two professors are changing their course content to avoid risking arrest. As a result, film history students no longer can study Federico Fellini movies, while art students can't see slides of certain artworks. Some human sexuality books were removed from campus display until student and faculty protest forced administrators to return them to public use last week. Though the new law can be applied statewide, no other North Carolina colleges beside UNC-G are enduring any of its effects. Some think it's because UNC-G's liberal reputation seems to have attracted the attention of a group of Christian fundamentalists who lobbied vigorously for the new anti-obscenity law in the state legislature last year.

"UNC-G is really no more liberal than any other UNC campus, but it does share a ra-

ther liberal reputation with UNC-Chapel Hill," says North Carolina State University spokeswoman Rosalind Reid. But NC State hasn't "had any kind of reaction to the law as yet," she adds. "The only controversy, so far, has been at UNC-G," agrees George Gardner of the American Civil Liberties Union's (ACLU) Raleigh office. "But it's hard to say what other professors aren't doing any longer at other campuses."

At UNC-G, however, the controversy has been continuous since film history Prof. Tony Fragola decided the new law was "ambiguous" enough to drop the works of Federico Fellini and a few other filmmakers from his syllabus. Some films Fragola has shown in class "deal with sexual activity involving minors, and showing them could make me susceptible to prosecution under the law. If the students seeing the films are minors, I could also be liable for displaying sexually explicit materials to minors."

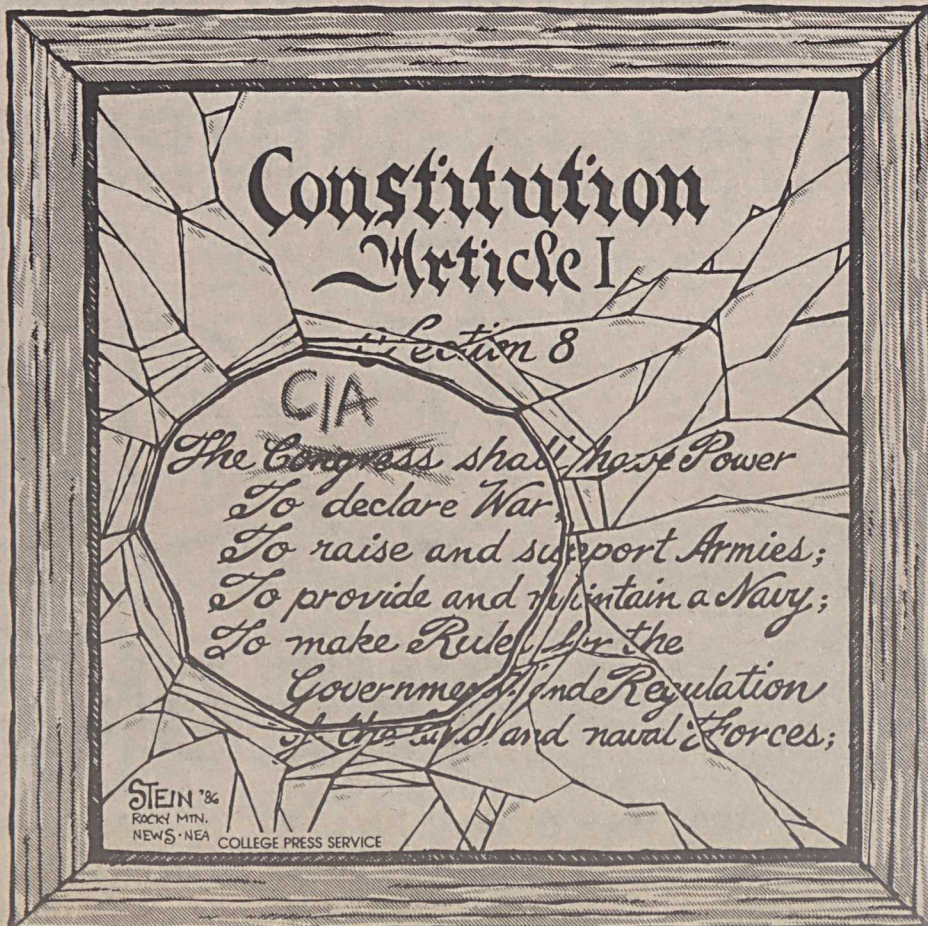
Communications Prof. Thomas Tedford's lawyer advised him to stop showing a slide show about erotic art and obscenity court cases from his class on First Amendment law, saying he could be arrested for it. In addition, an art class using live nude models for life drawing probably will disappear after this semester. School administrators, moreover, told Fragola they'd take no responsibility for what professors teach in their classes, "leaving it up to the individual to defend himself" if obscenity charges arise, Fragola says.

Karen Carpenter, an assistant editor of the UNC-G Carolinian, agrees school officials seem content to "continue to do things as always. They say the law was not made for this school, but they're being very tight-lipped." Indeed, no UNC-G official would respond officially to College Press Service questions about the course changes. One campus official, who asked to remain anonymous, dismissed the controversy as overblown. "As far as I know, it's affected only two professors (Tedford and Fragola). I'm not aware of any other changes, and I don't anticipate any others."

The new law makes it a felony for adults to possess pornography in their homes, lets local communities -- not state courts -- define what is obscene, and lets police arrest anyone suspected of disseminat-

ing porn before a judge determines whether the material is in fact obscene. As a result, Carpenter says, professors may not have much chance to argue the value of their allegedly obscene course content before being hauled off to jail. "There's no fair warning clause", she notes. "Violators can be arrested on the spot, and it's up to a jury to determine if the material under question is legal or not."

The well-publicized course changes and the prospect of professors being carted off to jail "have raised interest in the issue on the part of students," the ACLU's Gardner reports. Although Gardner adds private citizens are at just as much risk of arrest as professors, "there's not that much awareness (of the risk) on the part of the average person because most feel they aren't inconvenienced by the statute." Several UNC-G students, however, have started a Citizens Against Censorship (CAC) group to raise money to try to repeal the new law. While students seem to feel aggrieved by the law, CAC's Phil McCaul adds "this is a conservative environment and the law is vaguely written, so we're holding seminars and writing letters to publicize its potential danger." "The law," he asserts, "is part of a big movement to return to 'traditional values' and anti-'secular humanism'." Most people realize the law is a bad thing.





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