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1979

### 1979-1980 School Year

St. Mary's University School of Law

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# Witan



Volume 8, No. 1

St. Mary's University School of Law

September, 1979

Dean Castleberry

## Reflections on His First Year

by Bill Hayes

**Editor's Note:** Dean Castleberry was kind enough to grant the Witan an interview to discuss his reflections on his first year as Dean of St. Mary's Law School. In addition, the Dean discussed such issues as tuition, the dress code,

enrollment, accreditation and the new library.

Citing several curriculum changes made in his first year, Dean James N. Castleberry said that he was generally pleased with his first year as Dean of the law school at St. Mary's.

"I can look on this past year with satisfaction," he said, adding, "I had some

plans for changes that were necessary and appropriate and I have been successful in achieving some of them."

"This is one of the eight best law schools in Texas," Castleberry said.

The one goal he did not achieve was his failure to obtain a commitment from the University to lower the law school enrollment target, he said.

"It is the view of the Dean and the faculty that total full-time student enrollment should be limited to 575 students," Castleberry said. Currently, the university mandates a total law school enrollment of 660 students.

"The plant was designed for an absolute maximum of 575 students," he said. The present physical facility was built in the late 1960's with an enrollment of 350 students in mind, he said.

"The result of this overcrowding is obvious this fall in terms of the large numbers of full class sections — with not enough seats for students who would like to enroll in those sections," Castleberry said.

Also, "the seating capacity in the library is grossly inadequate," he said.

"The opportunity for students to participate in

class is not at a level that it could be," he said. Student-faculty contact has been substantially decreased, he said.

An enrollment of 575 could be accomplished by placing a limit on the number of first-year students at 200 for the next few years, he said. Normal attrition should reduce the entire student body to a more desirable level of 575.

Placing chairs in the aisles of classrooms because of overcrowding, as done in years before will not be allowed this year because it is a safety hazard, Castleberry said.

Even with the new library/classroom building that is planned, the Dean's goal of 575 students will remain, he said.

"The new facilities will enable us to accommodate the 575 students," he said. "I don't envision increasing the enrollment above 575 students."

With the new library/classroom building, the school will be able to offer additional, smaller classes and seminars, Castleberry said.

A planning session with all the deans in the university was held this week and Castleberry said that he hoped to have the enrollment goal lowered at that time.

### NEW BUILDING

The law school is awaiting final approval of a \$2.5 million gift from a Texas foundation which will be

used to build, furnish and maintain the new law library/classroom building, Castleberry said.

Three new faculty offices and additional administrative offices would be included in the new building, he said.

"It will be a two-story building, west of the present law library and connected by a covered walk at the second floor level," he said.

One classroom will be built on the first floor along with a student lounge and

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### Witan Sets Deadline

A permanent deadline for submission of articles, cartoons, poems, etc. has been established for the Witan.

The twenty-fourth (24th) of each month is henceforth the deadline for the issue for the following month. This will enable the staff to get out the paper during the first week of the month.

Thus, for the next issue (October) all material for the Witan must be submitted no later than Monday, September 24.

To submit an article or story simply give your creation to any one of the persons named in the Witan Staff Box on Page 2.

Your article may be any length and need not be typed, but if handwritten, please double-space. All material submitted is subject to editing, of course.

### Justice Rehnquist Coming

The Honorable William H. Rehnquist, Associate Justice of the United States Supreme Court will address the St. Mary's Law School Law Alumni Association Banquet on Saturday, October 20.

"We hope to have a reception for the banquet sponsors on Friday before the banquet in the Faculty Lounge," Dean Castleberry said.

Castleberry said that he

and Rehnquist are good friends, having become acquainted through Phi Delta Phi, of which the dean is past-national president.

The black-tie banquet will be held at the Plaza Nacional Hotel and tickets are \$50 per plate.

The alumni are very happy about his coming and this year they are in charge of the banquet, Castleberry said.

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DEAN JAMES N. CASTLEBERRY

## Summer Changes

by Erwin McGee

The summer of 1979 entertained several substantial changes to both course outline and faculty here at St. Mary's School of Law. Perhaps the most notable change is the moving of Agency and Partnership as well as Remedies into the second year of study for 1979 matriculants and replacing those two courses (6 hours) with Constitutional Law (5 hours) and making the Legal Method (formerly Legal Bibliography) and the Legal Research and Writing Courses both two hours.

Current second year students will take Constitutional Law with former Dean Ernest Raba in academic year 1980-81. Second year students who accelerate graduation to December of 1980 will take

second semester Constitutional Law II in the summer of 1980 so that they may complete the course in the Fall prior to graduation. Although it is not encouraged, students who find it, for some valid reason, impossible to take Constitutional Law II in the summer may petition Dean James Castleberry for approval and if granted take Constitutional Law II this Spring with the May graduates.

Associate Dean Edwin Schmidt cautions all students who anticipate early graduation that six full semesters (a full semester being 16 full weeks) of full-time resident study are required during two summers for early graduation. In order to accelerate and avoid the sixth semester (Spring semester of third year law), a student must

attend two full 8 week summer sessions or the equivalent thereof.

Caveat: For those students who have attended the University of Texas Summer School or anticipate doing so, in recent years UT summer sessions have covered 12 weeks (four weeks plus exams and six weeks plus exams) which would allow a student to attend a full UT summer session and just a half summer session here next summer when St. Mary's will have two equal sessions covering eleven weeks during the summer session. The conclusion to this is that proper planning will allow a student to graduate early and have a half summer of vacation from the rigors of study during the second summer. This situation

(Continued On Page 6)

Ever since school started in late August, several curious parties inquired as to the nature of the premiere **Witan** editorial. After all, they pointed out, there is ample amount of editorial fodder such as the dress code, tuition, grade inflation, ad nauseum. To each, however, I kindly replied, "Beats the hell out of me." And when it came time to write this editorial, rather than attempt a blistering barrage on the law school faculty or the university's tuition, I decided to leave you with how I perceive my position as Editor of the **Witan** and my philosophy on the function of a student newspaper.

My thesis is this: **The Witan**, and furthermore, its editor are not the vanguard of the student body. The leaders of thought and opinion are the representatives elected to the SBA, particularly the officers. They, not the newspaper, should be the means by which the student body as a whole expresses its opinion on various burning issues.

It is my belief that a newspaper should be exactly what it professes to be, i.e., a disseminator of news. A newspaper should provide its readers with an objective account of events which concern them. It is then up to the reader to form his or her own opinion based upon the facts. A newspaper, especially a student newspaper, should therefore report events of interest to its readers — the student body. Thus, a newspaper should provide food for thought, not digested beliefs and opinions.

The **Witan** should not be utilized to further the opinion of one under the guise that it represents the whole as a school newspaper. It does not. At most, the views expressed in an editorial represent those of one individual. It would therefore be a travesty if I were to attempt to take a stand on an issue and publish it in the **Witan** as if it represented the opinion of the student body. I feel neither wise enough nor supercilious enough to form beliefs for you as a reader. I have always loathed the editorial section of any newspaper that attempted to tell me how to vote or how I should believe a particular state of facts to be. The **Witan**, therefore, will attempt to deliver to the student body the facts surrounding a newsworthy event and from those facts you the reader can render your own opinion.

On the other hand, if I find personal expression of disgust, dismay or glee is warranted, so be it. But it will be an individual utterance and not an attempt to represent the point of view of the entire student body.

In sum, if a student is either bewildered or overjoyed with some occurrence, he or she should either express his feelings individually as in a letter to the **Witan** or should seek an SBA representative, and allow him or her to voice an opinion. The **Witan** is not the representative of the student body, it is merely the forum for student events and creations.

It is important at this time to tell you how I feel about newspaper editorializing because last year a minor brouhaha ensued when the **Witan** editor refused to lead the "student body v. faculty" battles on the editorial page. He, as I, felt it was up to the elected SBA and not the **Witan**.

You may notice a few alterations in the **Witan** this year. The paper is now composed of five columns and is 14 inches long, not 12. In addition, we have switched to a larger and different type face. These changes along with more graphics will hopefully eliminate much of the grey areas of past editions and facilitate easier reading.

W.S.H.

# Witan



## Editorial

### Welcome Home

As most of you already know, this fall heralds the return of two expatriate professor. Messrs. Thomas Black and George Glos have returned to St. Mary's after spending a year in academia elsewhere.

Black, who teaches Fed-

eral Rules, Federal Courts, and a Sales Course spent last year lecturing at S.M.U.

Glos, who teaches Conflicts, Remedies and International law spent the year teaching in Tennessee.

Welcome back.

### (SC) OOPS!

Have you ever missed every class in a course, tried repeatedly to drop it, not take the final and still received a passing grade? No? Well, that's what Jane Deyeso did this summer in Constitutional Law.

According to Deyeso, she registered for the course in the usual manner. Later, she decided not to take the course and repeatedly attempted to drop it.

Deyeso, third year, did not attend a single class nor did she take the final exam, believing that long ago she had dropped the course.

Then, in later summer after exams she didn't know how smart she was. Without ever buying, much less

reading the book and without attending class or the final, Deyeso managed to score a 74 on the final exam. That's right.

She received three hours credit and a 74 for a course she did not take. She said that it was explained to her that she was confused with someone else. Regrets are extended to the one she was confused with, now sporting a 55.

One bright note, however. Deyeso, true to the Honor Code, did look a gift horse in the mouth and notified the operators of the computer that she did not take Constitutional Law and did not want a 74. She preferred to take the course, learn some law and get a shot at the book.

### Too Hot to Handle

Thanks to our President in Washington, the buildings here at the law school are being "cooled" at a tepid 78 degrees farenheit.

Needless to say, it seems as though it's a great deal closer to 85 degrees in the buildings, especially on the second floor of the library.

When we last investigated the snack bar (aka Snack Pit, now Handy Andy No. 4,396) it seemed to be closer to frigid 65 degrees, perhaps to get us prepared for the winter temperature mandated by Jimmy in D.C.

It makes it very difficult to concentrate while sweltering upstairs in the

library. The regulations permit the 78 degrees to be based on one place in the building at which it must be 78 degrees — the rest of the structure can have a temperature below that. So, why not set the thermostat in one area of the building at

78 degrees and let the rest be a little cooler.

### Dear First Years'

I must apologize for missing your orientation session to tell you about the **Witan**. I was in Mexico at the time and was somehow sidetracked. Notwithstanding, I now ask that you lend a hand in the production of the **Witan**.

This is a very informal staff and quite obviously no experience is necessary. We need writers and layout personnel. Contact any one of our high-profile staff.

W.S.H.

### Party!

What could be more important than the Law Wives 17th Annual "Texas Fiesta", which will be held Sept. 29 at the Pecan Grove from 7 to 11 p.m.

Music, door prizes and refreshments will be provided.

Editor-in-Chief	William Hayes
Managing Editor	Colleen McHugh
Articles Editor	Martha Warren
News Editor	Erwin McGee
Features Editor	Willard Hall
Consultant	Win Byers
Financial Affairs	Mark Miller
Faculty Advisor	Dr. Harold Gill Reuschlein



Contributor: J. Atherton

Witan is published by students of St. Mary's Law School, monthly except June and July. The views expressed herein are those of the individual writers and do not necessarily reflect those of the WITAN, its editors, the administrators, or faculty, unless otherwise stated. The Editor is responsible for the views expressed in unsigned articles.

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## "Tar Wars"

# Clements—Who Pays Spill Bill?

## Punto

By Anne Schwartz

## Contra Punto

By Peter Kinder

Why is it that in times of tragedy—like war, depressions, nuclear disasters, and now an oil spill that is at this very moment spewing 10,000 barrels of oil onto the Texas coast—that we, the "liberal ideologues" get "handed them", according to brother Pete, "to exploit?" I, for one, could do very nicely without any of them. It gives me no great pleasure. I take absolutely no satisfaction from any of it. I would much prefer to be somewhere (like Padre Island, for example) hanging out on the beach, swimming in the ocean, soaking up the sunshine, and generally getting laid back and mellow. But Nooo . . .

It seems to me far too serious a situation to indulge in the sort of demagoguery that portrays all of us as "ravenous Jackals" pursuing an "egalitarian bloodlust" just because everyone is picking on poor Bill Clements. The fact of the matter is that, (to borrow a line and make a worse pun), 'the buck stops there,' right on the good 'ole gov's desk. And bucks, big bucks, is at the heart of the problem—pumping, pumping, pumping. SEDCO leased the oil rig to PEMEX—right? Are you with me so far? The Gov was founder of SEDCO, Chairman of the Board of Directors, and a major stockholder; "was" because he resigned to run for election (after the equipment was leased) and put his holdings into a blind trust. (doesn't he get SEDCO stock back the moment he quits being governor and the trust terminates? Is the trustee also blind?) And now, Loe and Behold, Great Lands of Goshen, who do you suppose is President of SEDCO at this very moment—none other than the Gov's son, yep, his heir of the body, so to speak.

About a week ago, our governor and the Attorney General, Mark White, appeared on nation-wide television. The Governor had just returned from Mexico to assure the Mexicans that we, you and I and the State of Texas, would not sue. The news report pointed out in some detail how two, not one but two, safety lock valves that are supposed to keep the oil from escaping, failed—they would not lock properly into place after the drilling shaft had been packed with mud. These locks, to be patently obvious, were part and parcel of the SEDCO drilling rig leased to PEMEX. Now, just who is responsible? Moreover, if the Governor is going to dally in international politics, he might at least take the time to read the Texas Constitution. The Attorney General, and not the Governor, sues in the name of the State, at least the way I read it, and that's just what our Attorney General said. I've also heard about the right to assign choses in action, but I have never heard of having the cause of action given away, and by someone who is not in a position to do so.

Finally, a corporation can be, and often is, held liable. Not only the corporation, but occasionally the corporate veil is pierced to hold the Board of Directors personally liable, and the Courts talk about it "whenever necessary, to prevent fraud or injustice," in conjunction with the alter ego doctrine.

Frankly, it's also embarrassing to me, as someone who loves Texas, to hear our Governor say things like: "we should wait to take any action, because it's only going to get worse." That makes no sense at all—wait, hang on folks, let's not get hasty, after all if it's bad now, just wait for the really big disaster.

So what do we do Governor? Sue Mexico, sue SEDCO, sue PEMEX, sue you; or do what you suggest—nothing. Forget the whole thing, just a tragic mistake for the beaches, the fish, the ocean itself. Tragic for the people who live and work there, tragic for our children who will inherit our mess. It will take, according to the latest estimates, 1,000 years for the complete

It is not often that liberal demagogues have handed them a set of circumstances as readily exploitable as that presented by the tragic oil spill in the Bay of Campeche. Not only are environmentally sensitive areas threatened, but a body blow has been dealt to the Texas Gulf Coast areas of fishing, shrimping, and tourism. Losses are as yet incalculable, but are certain to reach tens of millions as the damage mounts this fall. But the real key to the increasingly hysterical liberal rhetoric we've heard for a couple of weeks now is this: the drilling rig used in the blown-out well is the property of SEDCO, an oil drilling firm founded by the man who last year defied all odds to become the first GOP governor of Texas in a century, Bill Clements.

Never mind the fact that Clements' holdings in SEDCO were placed in a blind trust upon his election. Never mind that the drilling rig was leased to PEMEX, the national Mexican oil monopoly, whose negligence appears the sole cause of the blowout. Never mind the fact that PEMEX employees were doing the drilling, while SEDCO had only a skeletal maintenance crew on hand. Never mind that one of the six distinguishing characteristics of a corporation is the notion of limited liability. What you liberals would really like to do is to have the State of Texas sue Bill Clements in a fit of egalitarian blood-lust.

Of course, the real reason why you would love to be able to hold Gov. Clements personally liable has nothing at all to do with a legal question. It has everything to do with political demagoguery. You simply cannot stand what Bill Clements represents: he is a fabulously successful, self-made man who earned his wealthy by PRODUCING energy. The notion of production is the key here. Production is an abhorrent to liberals, who know only about consuming and redistributing wealth (the two functions performed by government) after it has been produced in the private sector.

It of course comes as no surprise that a politician as practiced in strident attacks and shrill demagoguery as Cong. Henry B. Gonzalez has weighed in with his ill-considered two cents worth. Henry B. is a master at verbal bullying tactics of the kind he has unleashed on Gov. Clements, accusing the Governor of a conflict of interest which taints any remarks he might make on the subject of the oil spill. Gonzalez' position is that this "obvious" conflict of interest is the reason why Clements has urged a cautious, conciliatory approach toward the idea of suing Mexico for damages.

Several observations are in order. (1) I submit that Clements' prudent counsel that a suit against Mexico is only the very last resort reflects a calm, reasoned attitude born of years of decision-making in a high-risk business where reality, especially unpleasant reality, cannot be ignored. The reality of this situation is (2) that sensible people do not needlessly antagonize those who have something that those sensible people need. This country needs a long term contract to buy Mexican crude and natural gas. San Antonio officials want desperately to cut the Burlington-Northern umbilical cord by buying cheaper Coahuilan coal. These are sound reasons why Clements is probably right. (3) Further support for this position surfaced when democrat Bob Krueger, Special U.S. Envoy to Mexico, came through San Antonio recently urging the same conciliatory attitude toward suing Mexico.

One final word on Bill Clements, Anne. Although I think Texas voters showed massive good sense in rejecting your advice and electing him their governor, I have no opinion as to whether or not he qualifies as a great man. I leave the determination of that question to historians and to those who know him personally. I do, however, know this about great men who assume leadership positions: they are invariably pursued by a motley crew, a pack of jackals who seek to discredit and destroy them. Bill Clements is developing such a pack. Keep up your attacks, Anne. Bill Clements may just make it to greatness yet.

## Spouses 'Balance Book Pressure'

By Colleen McHugh

In a contrasting world of Lego's and law books, it's usually the married law student's spouse who creates an atmosphere of "semi-normalcy" during the law school years. And Law Wives, or Law Spouses, as it's now called, offers the supportive spouse a support group of her, or his, own.

Law Spouses' new president, Linda Blackman, recently explained the objectives set out for that organization's current academic year.

"We'd like to establish

more support for members and their families," said Mrs. Flash Blackman. "That's the first priority." Included in this objective would be the organization of more social events for the entire family.

Secondly, the Law Spouses plan extensive support of the Law Outreach Program, a program sponsored by St. Mary's Family Life Center. The program, in touch with law students through on-campus counselors, offers Enrichment Groups geared to law-school marriages.

"Thirdly," explained Mrs. Blackman, "Law Spouses looks to the creation of a

family-type atmosphere within the law school community; that is, more cooperation among existing law school groups."

Perhaps the most widely known project of Law Spouses is the classroom building bake sales, held every other Wednesday.

Law Spouses, Delta Alpha Delta, was founded in 1961 and is affiliated with the National Lawyers' Wives, a group which has presented several awards to the St. Mary's group.

Law Spouses Meets Sept. 12 at 6:45 p.m. in the Law Library Lounge. This week's program is a double-decker bus tour of San Antonio.

## SBA

by Sandee Ryan

I would like to thank all the people who helped so much with Orientation: the officers and Senators of the S.B.A. who helped set up the program; the members of the Chili Team who cooked and served the hot dogs at lunch; and the orientation advisors who gave tours of the library.

The Student Bar Association spent much of the summer planning its annual activities for this academic school year. The following is a list of the activities, dates, and locations:

Halloween Party, October 26, 1979, San Antonio

Homebuilders Assn. Red Mass, November 8, 1979, San Fernando Cathedral  
Assault & Flattery, March 21, 1980, Our Lady of the Lake University  
Speaker's Institute, March 28, 1980, St. Mary's University  
Law Day, March 29, 1980, Oak Hills Country Club

The graduation dates for December and May graduates have not yet been set; however, several people have already begun working on these commencement exercises. Darrel Dullnig is chairman of the committee

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# Placement News

By Pat Turner

Welcome back to all you "old" students and a hearty welcome to our incoming freshman class - all of whom look bright, bouncy and ready to challenge the wise and learned professors of law at St. Mary's.

As you probably know by this time, we have a new face in the Placement Office, that of Ms. Shelia Enid Cheaney who has bravely consented to counsel our students regarding employment and line up interviews and seminars in an attempt to help our students get the greatest jobs that are available out in the "real world."

## SEMINARS

The first two seminars of the fall semester should both be attended prior to interview on campus. They are:

Sept. 5 Resume Preparation & Interviewing  
7:00 p.m. Rm. 103

Sept. 11 Summer Internships  
7:00 p.m. Lib. 103-04

Other seminars this fall will be:

Sept. 25 Public Interest Law  
7:00 p.m. Lib. 103-04

Oct. 9 How to Graduate in the Bottom 90% of  
Your Class and Still Make Good  
7:00 p.m. Lib. 103-04

Oct. 23 Variety of Practice Panel  
7:00 p.m. Lib. 103-04

Nov. 6 Small Town Practice  
7:00 p.m. Lib. 103-04

Nov. 20 Alternatives to Private Practice  
7:00 p.m. Lib. 103-04

## INTERVIEWS

Don't forget to keep your eyes open and aware of the Placement bulletin board where the interview section is posted to see when to sign up for on campus interviews. Thus far this semester the following firms & businesses will be on campus:

Date	Firm or Agency
Sept. 18	Cox, Smith, Smith, Hale & Guenther (San Antonio)
Sept. 20	Oppenheimer, Rosenberg, Kelleher & Wheatley (San Antonio)
Sept. 21	Groce, Locke & Hebdon (San Antonio)
Sept. 24	Fulbright & Jaworski (Houston)
Sept. 24	Gardere, Wynne, Jaffe & DeHay (Dallas)
Sept. 25	Fulbright & Jaworski (Houston)
Sept. 25	Reginald Heber Smith Program
Sept. 26	Tinsman & Houser (San Antonio)
Sept. 28	Freytag, Marshall, Beneke, Laforce, Rubinstein & Stutzman (Dallas)
Oct. 2	Harris, Cook & Browning (Corpus Christi)
Oct. 4	Bandy & Boon (Tyler)
Oct. 15	Matthews, Nowlin, Macfarlane & Barrett (San Antonio)
Oct. 16	Matthews, Nowlin, Macfarlane & Barrett (San Antonio)
Oct. 17	Soules & McCamish (San Antonio)
Oct. 17	Harris County D. A. Office (Houston)
Oct. 18	Atlantic Richfield
Oct. 19	Bracewell & Patterson (Houston)
Oct. 19	Talbert Giessel & Stone (Houston)
Oct. 23	Exxon (Houston)
Oct. 23	Arthur Anderson & Company (San Antonio)
Oct. 24	Exxon (Houston)
Oct. 24	Federal Communications Commission (Washington, D.C.)
Oct. 25	Peat Marwick Mitchell & Co. (San Antonio)
Oct. 26	Ernst & Ernst (San Antonio)

Keep a lookout for additional listings of on campus interviews. And be sure that if you sign up for an on campus interview that you have our resume in the Placement Office at least 10 days prior to the interview and do not fail to appear at the appointed time on the appointed day.

A new batch of Placement Handbooks are available in the Placement Office for those students who did not receive one last year.

## PLACEMENT COMMITTEE

The first meeting of the Placement Committee was held on Tuesday, August 28 at 7:30 p.m. in the Placement Office. It was well attended and the interest which was demonstrated by those students is very encouraging. Beverly Clay (3rd year student) and Joseph Engel (2nd year student) are co-chairing the committee. Everyone is invited to attend Placement Committee meetings which will be held at 6:00 p.m. before each of the Seminars listed above in this article.

# Eat, Drink and Meet Mary

by T.C. Gallucci

"Where did Bullwinkle go to college?"

"I give up. Where?"

"What's A Matta U."

"On"

But then the Annual Law School Party at the Pecan Grove was never intended for high-brow conversation.

Lone Star was making its effects known around 4:30 that Friday afternoon thanks to the Women's Law Association. Rather those effects were thanks to the hard work and unbounding enthusiasm of Jon Miller, without whom there would have been no hangovers on Saturday morning. (Hate letters can be sent in care of WLA).

At roughly the same time, Brent Helms and the Chili Team created gastronomic delights with hundreds of tortillas and sausages. Dean Castleberry found the delight so gastronomic he demanded an accompaniment of mustard. Thanks are also in order for the Aggie Law Students who were every ready to lend a helping tong. Which by the way were loaned by Fatso's. Thanks Fatso's.

Wait. Above the sound of crackling coals was a definite and rhythmic "oompah, oompah". This is another kind of delight entirely. Is it? Could it possibly be...YES. IT IS. Prof. Joe Anderson and Players! Yep, the band of merry music-makers, affectionately known as the Pumpnickel Band, pumpnickled all afternoon long. Absolutely one of the highlights of the day.

Around the corner and up the bend, an ongoing game of volleyball kept many from succumbing to the effects of the Lone Star. What may have appeared to be one continuous game was in reality over a dozen. What was confusing was that there were no teams; only constant scrambling to play with the winners. Which must mean that by the end of the day, there was no loser. Hum...

The faculty was well-represented (and having a better time than many of the students). It was a great opportunity for first year students to glean some inside hints on upcoming exams; for second year students to complain about past exams; and for third year students to laugh about the whole thing. Prof. Charles Cantu, WLA moderator, was also present to oversee the tremendous, admirable and efficient job the WLA was doing. (This must be written by a WLA fan.) (Who isn't?), That's enough.



Mary Rudolph, President Women's Law Association, with disc jockeys for the event.

As the sun descended into the evening sky, radio station 92.9 set up dancing music. At that point, dancing took over as the more popular activity. Not overtaking beer drinking.

If you're reading all this with sorrow in your heart because you weren't there, take heart because it all starts again at 4:30 p.m. next year.

## Moot Court Competition

by Shirley Erlich

This year the Board of Advocates is composed of 11 members — Jerry Atherton, Chairman, Shirley Ehrlich, Vice Chairperson, Colleen McHugh, Secretary, Karen Carr, Susan Horton, Winston Shepard, Robert Valdez, Lisa Vance and Denny Voigt, Shelton Smith and Jad Stepp. Our first competition this fall is the Walker Moot Court. The problem has been distributed and final sign-up was on Aug. 31. Two seminars are planned with the first, a briefing seminar to be held on Sept. 6 and the appellate advocacy seminar is scheduled for the week of Sept. 17. Briefs are due at 12 noon on Sept. 17 and the

competition will be held on Sept. 27, 28 & 29. The Finals will be on Tues. Oct. 2 at 7:00 p.m.

The Board also plans fall competitions to include Novice Mock Trial during the last week of October followed by Senior Division Mock Trial in early November. The problem will be distributed in early October with sign-up dates posted on the Board of Advocates Bulletin Board in the classroom building.

The Board meets every Tuesday evening. We look forward to a successful year in our advocacy programs and ask students to watch our bulletin boards for further developments.

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# Law School News . . . .

## Placement Director

Shelia Enid Cheaney has recently been named the Director of Placement and Law Alumni Relations and Assistant Professor of Law. Ms. Cheaney has a Bachelor of Business Administration degree and a Doctor of Jurisprudence degree from the University of Texas. She has also attended Utility Rate School at Michigan State University.

Since she was admitted to the State Bar of Texas in 1972, Ms. Cheaney has served as Administrative Aide to Honorable Ben Z. Grant, Texas House of Representatives; Enforcement Attorney, Texas Water Quality Board; Executive Director, Texas Public Interest Research Group; Hearing Examiner, Public Utility Commission; and a lobbyist for Common Cause.

Ms. Cheaney is a member of the State Bar of Texas Consumer Law and Public Utility Law sections. She is the Chairman of the Individual Rights and Responsibilities Section and a member of the State Bar Committee on Federal Legislation. She is also a member of the San Antonio Bar Association.

Ms. Cheaney is married to George Scharmen (St. Mary's University School of Law, '73) who is in the private practice of law in Universal City.

## Phi Delta Phi

by J. Atherton

Phi Delta Phi held its first meeting of the year on Thursday, Sept. 6. Jim Hart, third year, unveiled his plans for the First St. Mary's Law School (students & faculty) Tennis Tournament. Hart proposed the gala be held in October, after the stifling heat had drifted southward.

The unusual format envisioned insures a day of fun for everyone, and we will finally be able to determine if Hart and Jim Keenan are really the best "doubles team" at St. Mary's.

Ed McCarthy also presented his social calendar for the fall, which will of course include the annual "Return of the Coneheads to Mama's." A party, with perhaps a band and intoxicants will be held later in September.

Phi Delta Phi wants to recognize the achievement of and congratulate one of our alumni, Ward Blacklock, who was recently appointed as Province President for Phi Delta Phi for the State of Texas.

Ward will replace Prof. J. Hadley Edgar of Texas Tech Law School who was elected to the council of Phi Delta Phi at our recent convention in Quebec City, Quebec. Ward is currently practicing law here in San Antonio with the firm of Cox, Smith, Smith, Hale & Guenther.

Also at the Convention in July, Dean Castleberry, who completed his term as International President of Phi Delta Phi was appointed to the position of Chief Justice of the Phi Delta Phi Court of Appeals.

## Journal

St. Mary's Law Journal Editorial staff have selected three case notes to run in their first issue. The three comments are: Larry Kurth on Delaware v. Prowse; Suzanne Langford on Doe v. Plyer; and Paul Drummond on Hisquierdo v. Hisquierdo.

The issue will deal chiefly with Bankruptcy Law. The following articles have been solicited: "Issuing Securities Under the New Bankruptcy Code: More Magic for the Cryptic Kingdom" by Robin

E. Phelan and Bruce A. Cheatham; "Chapter 11 of the 1978 Bankruptcy Code, or Whatever Happened to Good Old Chapter XI?" by Arthur L. Moller; "The Trustee's Avoiding Powers" by Vernon O. Teofan and L.E. Creel, III; "The Bankruptcy Court Under the New Bankruptcy Law: Its Structure, Jurisdiction, Venue, and Procedure" by Professor Frank R. Kennedy; and, "The Interrelationship of Community Property and the Bankruptcy Code of 1978" by Alan Pedlar. Further, an article on Chapter 13 of the Bankruptcy Code is being written by Evelyn Biery. David Epstein will write the introduction.

## Legal Research Board

The Legal Research Board will conduct a meeting at 7:30 p.m. on Sept. 10th in Lib. room 103 for those interested in entering the fall writing competition. Problems will be handed out at this time along with instructions on form and style of the memos. Those entering the competition will be given approximately 10 days to complete their memo and a determination of those accepted will be posted later in September.

## Wedding Bells

Wedding bells rang over the summer for at least three members of the law school.

Forrest Smith (3d year) was married in Houston to Cathy Rain, ex-stewardess in July.

Claudette Ault (3d year) and Bob Jones (3d year) were married in San Antonio in June.

## Welcome: Paul Renner

By Martha Warren

Have you been wondering about the young guy in Professor Dittfurth's old office? That's Assoc. Professor Paul Renner, one of three welcome additions to the faculty this year. Renner graduated from the University of Louisville with a degree in political science. He received his law degree from Georgetown in 1976.

Though he is obviously young, he has had experience out in the "real world." Such experience includes clerking for the United States Court of Appeals for the D.C. circuit and working for a large firm which specialized in commercial litigation. Since November

of last year, Assoc. Professor Renner has been in San Antonio with his wife and his 13 month-old son, Matthew Alexander.

Renner is teaching contracts, though his main interest lies in Environmental Law. In fact, while not babysitting for Matthew, Renner has been taking courses in Biology and Chemistry at U.T.S.A.

Associate Professor Renner suggested for his first-year students that they be adequately prepared for class — to enable them to relax and think when called on to recite.

"One of the most impressive briefs is one which is not read," he said. "It [in-

much better to show some thought before spouting off memorized material."

Renner readily admitted that commercial outlines are not the "kiss of death." He said that the use of Gilbert's, Coif's, etc. might be helpful in providing some organization.

He qualified this by adding that "in the long run, the student may find it more difficult to learn the law," noting "reading and analyzing" the cases is essential.

Associate Professor Renner also said he would probably give some credit for citing cases or for including relevant fact situations on the final exam.



Tony Balazi at WLA event. See story, page 4.

## Law Parents

The Delta Alpha Delta has enlisted the support of the Family Life Center in negotiating an out of court settlement regarding the aforementioned pending litigation. Negotiations with L.S.T. members ended at 2 a.m. this morning when Family Life Center representatives, Jacquie Nacewski, Rose Cruz, and Ethel Ethington obtained a statement clarifying the demands of the L.S.T. members. At that time, Family Life Center representatives, on the advice of Dr. Irv Loev, agreed to present a parenting seminar on behalf of said preschoolers.

The following demands will be presented for L.S.P. (Law School Parents) consideration: effective parenting, goals of behavior, recognizing behavior, and communication. L.S.T. members have agreed to drop all charges regarding the burning of chocolate chip cookies in exchange for an agreement that all interested parents seek out and attend the 5 weekly, 1 hour seminars to be presented beginning Sep-

tember 5, 1979, in the Family Life Center Conference Room at 7:30 p.m.

Additionally, a monetary settlement of \$12.00 per couple is requested. Further information and reservations may be obtained by calling the Family Life Center at 436-0346, between the hours of 8:00 and 5:00, Monday-Friday.

## Criminal Law Ass'n.

by Carter Thompson

Well, the fall term is upon us, and the Criminal Law Association is prepared with a comprehensive schedule of events.

For our first luncheon, we will be meeting at King Wah's Restaurant on Mon. Sept. 10, at noon. The featured speaker will be Ms. LeRoi John, Asst. U.S. Atty. for the Western District of Texas. Ms. John has been prosecuting criminal cases for 11 years, and is a fascinating speaker. All members and students are invited to attend.

Throughout the fall, the CLA will be sponsoring a series of evening seminars on "The Anatomy of a Criminal Trial". Noted attorneys and prosecutors have agreed to speak on the various aspects of a criminal trial. The first of these will be on Thurs., Sept. 20 at 7:30 P.M. in classroom 104, and will deal with defense work, and how a criminal defense is conducted. These seminars promise to be pretty interesting stuff, and all members and students are invited to attend.

That covers the CLA calendar for September. Watch this column for a schedule of upcoming events.



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# Considerations For First Year

Ninety semester hours are required by St. Mary's for the J.D. degree which must be earned in six full semesters (16 weeks per semester) of resident study or the equivalent thereof. To accelerate graduation (in December of 1982 and avoid the Spring semester of 1983), one must attend two full eight week summer sessions (both summers) or shop for the equivalent such as an 11 week summer session and add to it with a 5 or more weeks summer session in order to fulfill the "six full semester" requirement.

It is imperative that students intending to take all of the "Bar examination courses" plan ahead. There are 14 subjects on the Texas State Bar which are covered by 20 courses at St. Mary's (see chart). If all 20 courses are taken (plus the seven required hours which are non-Bar exam courses—Legal Method, Legal Research & Writing and Federal Income Tax); then 80 hours would be considered "booked." Of course not all bar-related courses are crucial, but it is a rare occasion when a taker of the Bar exam resents having enrolled in one of these courses. Sometimes a student will be disappointed at how little attention a course is given on the Bar exam but all should remember that

the Bar exam is rewritten every year so that such relative inattention may prove temporary.

All first year courses are required, and upon successful completion will amount to 31 hours of credit. Although only 27 hours are "bar," the remaining four hours (Legal Method and Legal Research & Writing) are perhaps the most valuable courses in law school and thus should not be taken lightly.

All second year courses are required (if one takes the normal load), and will amount to 30 hours of credit. Only 26 of those hours are "bar", the remaining four hours (Income Tax) is rightfully required although many law schools make it an elective. Further, the subject is included on many State Bar exams.

All third year courses for students in the 1979 class will be electives. The seven non-required "bar" courses that should be considered at this time are: Federal Rules of Procedure (2 hours); Commercial Paper (3); Conflicts (3); Community Property (3); Oil & Gas (2); Trusts (3); and, Wills & Estates (3). These courses total 19 hours.

Other courses which may prove helpful on the Bar exam are: Federal Courts (3 hours); Estate Planning (3 hours); perhaps Products

Subject	Course	Hours
1. Business Associations —	Business Organizations I & II * (Agency & Partnership, 3 hours) * Corporations, 4 hours) *	6
2. Civil Procedure— (including Federal and State)	Civil Procedure I & II * Federal Rules of Procedure **	6 2
3. Commercial Transactions—	Sales * Commercial Paper ** Secured Transactions *	2 3 2
4. Conflict of Laws	Conflicts **	3
5. Constitutional Law —	Constitutional Law I & II *	5
6. Contracts —	Contracts I & II *	5
7. Criminal Law & Procedure —	Criminal Law * Criminal Procedure *	3 3
8. Evidence —	Evidence I & II *	5
9. Marital Property —	Community Property **	3
10. Real Property (including — Oil & Gas)	Property I & II * Oil & Gas **	6 2
11. Remedies —	Remedies *	3
12. Torts —	Torts I & II *	5
13. Trust, Wills and — Administration	Trusts ** Wills & Estates **	3 3
14. Legal Ethics —	Professional Responsibility *	2
Total: 20 courses		TOTAL: 73

\*The 13 required courses (54 hours). There are 61 required total hours.  
\*\*The 7 frequently referred to as bar courses which are offered as electives (19 hours).

Liability (2 hours); and Mortgages and Real Estate Financing (3 hours).

Theories vary as to when is the best time to take these courses. Due to their possible unavailability, many suggest that Bar courses should always be sought since they may not be offered later when time allows. Other contend that electives might be taken in the first year summer so as to push the Bar courses later in law school and thus closer to the Bar. The material at this point should be fresher in the mind.

As for those who plan to attend summer school elsewhere, one should note that

not all schools offer the same courses, or may offer the courses but allow different credit. For instance the University of Texas requires four hours for Federal Income Tax (whereas St. Mary's requires three) but Constitutional Law is only a three hour course and is not required there. Many schools offer a course in Commercial Transactions which touches upon three of St. Mary's course offerings (Sales, Commercial Paper and Secured Transactions). Two of these courses are required and thus the combined course cannot be taken for transfer credit.

It is in the seven non-required Bar courses, however, that St. Mary's transfer rules are logically

most lenient and should be considered for registration during the one summer away that is allowed.

The above presentation places a tremendous amount of attention on bar examination preparation. There is a strong and noble argument that the three years of law

study should not be myopically approached as a three year cram course for the State Bar.

## Summer Changes

(Continued From Page 1)

however is ever-changing and those who embark on an accelerated program should be diligent in keeping abreast of the changing schedules of the schools where they intend to go for a summer session. Slightly more than one half the law schools do not have a summer program and about fifty law schools do not allow acceleration by summer study away.

To make room for the Constitutional Law course in the first year, Agency and Partnership is being merged with Corporations to make one Business Organizations six hour course which will be taught over two semesters and required second year for 1979 First Year students. However, for current second and third year students who have had Agency & Partnership, Corporations will be offered in the Spring semester. Corporations is part of a subject covered in the State of Texas Bar Examination.

(see chart page 6)

Remedies, formerly a second semester first year course, will be moved to a required second semester second year course for 1979 students.

First year Constitutional Law and third year Constitutional Law, although both are required of currently enrolled classes for five hours, are different courses with different instructors and materials. Professor David Dittfurth and Professor Joe Anderson are teaching the first year sections. Dean Raba will teach all third year sections.

The most thorough overhaul accomplished during the summer was what was affectionately referred to as Legal Bib and Legal Research & Writing. Mr. Dittfurth has drafted nearly the entire faculty into the program to teach small sections of "Legal Method." During the first part of this course, first year students will analyze a basic civil suit — the summons, complaint, defendant's response, pre-trial procedure, trial, judg-

ment, execution, and the appeal. Associate Dean Schmidt suggests that this introduction should prove helpful since all of the case books generally ignore pre-appellate activity. We agree.

Mr. Dittfurth should be commended for turning what was a horror of sorts into an interesting course outline which should prove helpful as well as interesting to beginning law students. Further, Legal Method and Legal Research & Writing have each been expanded to two hour courses which will give current first year students 31 hours of first year credit. Although the first year picks up two additional hours on the Legal Method courses, it loses one hour in the shifting of two three hour courses for Constitutional Law which is a five hour course.

Regardless of credit counting, alas, the repeated complaints over the limited credit given the courses in legal writing have struck an attentive cord. Of course, this credit is not retroactive.

Not all is lost. We, who are in a position to do so, can tell our grandchildren that when we went to school we were only given one hour of credit and liken it to walking through snow for a mile. No doubt by that time the course will be six hours.

Other changes include expanding the Secured Transactions course to three hours and dropping Sales to two. It might also be noted that in moving Constitutional Law to the first year, will leave the third year for 1979 matriculants free for all electives (no required courses).

There are currently about 650 full-time students enrolled at St. Mary's School of Law with: 229 first year students; 211 second year students; and, 210 third year. The first year class is about 40 fewer than planned last year or about a 15 percent drop. About 65 expect to graduate this December with about 150 planning on a 1980 May graduation.

There are 24 full-time and part-time adjunct faculty

members. Four professors were added for Fall 1979.

## Ryan

(Continued From Page 3)

planning December graduation. Dale Hicks and Rick Hill are working on the May graduation. Any people interested in helping with either of these graduations, ie., speakers, locations, and receptions, please contact the respective chairmen.

All organizations that would like to submit a budget request to the S.B.A., please give it to any officer of the S.B.A. before September 11, 1979. Copies of the requests will be given to the senators at our meeting on Tuesday, September 11, 1979. Voting of each of these budgets will take place at a special meeting the following Tuesday, September 18, 1979, at 7:00 p.m.

Regularly scheduled S.B.A. meetings are every other Tuesday, beginning September 11, 1979, and all law students are welcome to attend.

(Continued From Page 3)

restoration of our beaches, our coastal vegetation, and our marine life to be what it was, again. Nature heal thyself. And she will, slowly, repair the damage. Not that money for reparation will, or could, do that job; but it sure would make it easier, not just for Mother Nature, but also for the people whose livelihoods had been damaged. Thus while money damages can't make Texas whole again, it does act as a social policy to maintain the standard of care we, the people, expect and demand of each other and our government. The beaches of Texas belong to we the people, not to me, and certainly not to SEDCO or to PEMEX or to Mexico. Yet, were I to dump as much garbage into the ocean as these two corporations, you bet that I'd be held accountable—we fine ordinary folks just for littering in Texas. So Governor Bill, who foots the bill for cleaning up the oil washing into the Gulf, wave by sickly black, wave? We the people, that's who—the citizen taxpayer. I bet that the people who live on the coast and who have already watched their businesses go down the tubes, are plain thrilled to now spend their tax dollars cleaning it up.

If the reason for the Governor's "wait until it gets worse" position can be attributed to the fact that the U.S. wants Mexican oil or Mexican natural gas, the incentive has been eliminated. According to this Sunday's front page story, Mexico has just called off and refused our bid for natural gas. Mexico has now sent our foreign ministers packing. There is no question that we need (at least so we are told) a source of foreign oil to supplement production of U.S. oil. But are we to trade-off our beaches oozing with oil, for a contract

## Castleberry

(Continued From Page 1)

formal reception lounge, he said. On the second floor will be space for additional volumes, microfilm and microfiche equipment and a LEXIS terminal.

### FIRST YEAR SUCCESS

In reflecting upon his first year, the Dean pointed to his accomplishments with the curriculum as a source of satisfaction.

"I have effected some very wide and substantial changes in the curriculum," he said.

Changes in curriculum noted by Castleberry were in:

- Constitutional Law
- Agency and Partnership/Corporations
- Legal Research and Writing
- Legal Methods
- Legislative and administrative Law
- Texas Land Titles
- Remedies

One of his projects was to change the research and writing class to give students an opportunity to be exposed to some training in legal research and writing on a more expanded basis, he said.

"It is now comparable to other law schools in Texas," he said.

Additions to the curriculum are:

- Patent, Trademark & Copyright
- Military Law
- Federal Taxation of Partnerships
- Estate Planning

(See complete story on curriculum on page 6).

### PERMANENT SCHEDULE

Another achievement was the establishment of a "permanent" schedule of all required and elective courses and what semester they will be offered.

"This will enable the student to determine well in advance what courses will

be offered in any particular semester," Castleberry said.

With the elimination of Constitutional Law as a required third year course, the third year will be composed entirely of elective courses, he said.

"Besides aiding students, the permanent schedule will enable professors to plan courses and the dean will be spared 14,000 inquiries as to when a particular course will be taught, if at all," Castleberry said.

Castleberry also cited the clinical internship program with the U.S. District attorney's office as a "significant step." "I hope this can be expanded to the Bexar County District attorney, other agencies and law firms," Castleberry said.

### ACCREDITATION

Castleberry said the law school is in no danger of losing its ABA accreditation.

"I have no real fear of losing our accreditation," he said, adding, "the law school will have a regular seventh year inspection April 14-16, 1980."

"We don't have the level of library that we need, but from a practical standpoint we have no place to put additional volumes if we acquired them," Castleberry said. Castleberry said he knew of no student to volume of books ratio required by the ABA.

"We definitely need a better student to teacher ratio, and ours is now 41 to 1," he said. "The ABA has established a student to teacher ratio of 30 to 1 as maximum."

Castleberry would like to hire four new professors, but that decision hinges on the law school budget.

"Even if we could hire four more, we have no place to house them," he said. "The new library building

will at least give us three new faculty offices."

### TUITION

"Tuition is determined by the Board of Trustees of the University," he said. "The figure of \$110 per hour is fixed for the current year."

"Tuition has to go up next year to at least keep pace with the rate of inflation," Castleberry said.

The Dean acknowledged the fact that any surplus law tuition which is not budgeted in the law school budget for expenditure is transferred to the University General Fund.

"The law school should be allowed to retain a sufficient amount of law school tuition to enable it to be in full compliance at all times with the accreditation standards," he said.

No precise figures on the amount or percentage of law school tuition retained by the university are available at this time, he said.

"In fairness to the university, all maintenance and improvements are paid for by the university, not the law school," Castleberry said.

"Also, tuition charges at St. Mary's remain within the bottom twenty percent of tuition charges at private, approved law schools in the U.S.," he said.

### DRESS CODE

In reference to the "dress standard," Castleberry said, "the memo speaks for itself."

"This is not new, it (dress code) was just not being enforced," he said. "Several members of the Faculty asked me if I'd put something out on it."

"There must be some point at which we would all agree as professionals that the line should be drawn," he said.

"It is true that perhaps on some campuses of other law schools in Texas one may observe creatures moving about in various and sundry attire and quasi-attire," he

the Mexican government refuses to sign? It is not the "needless antagonizing" as you call it Pete, that led Mexico to refuse to sell us their natural gas—they would rather burn it off. So what are we getting out of all this "conciliation:" no natural gas, and no reparations for Texas. Talk about buying a pig in a poke—such poor horse-trading raises the obvious question of just who's interests are at stake in the wheeling and dealing. If the State of Texas, and we the people, aren't gaining anything, that leaves only SEDCO and PEMEX and Mexico, by simple process of elimination.

One last comment, Pete, you underestimate my own political acumen, and insult the people of Texas' intelligence when you say that any of us would seek to discredit our governor because of his "fabulous wealth," or the fact that he is, as you put it, "a self-made man." Bill Clements is rich. That's fine. I hope he enjoys his money. But what isn't fine, and is the point of contention, is that Bill Clements seems intent upon protecting his own source of personal wealth, largely based on SEDCO's profit-margin, rather than protecting the State of Texas, or the interests of we the people. He is not just another rich man, he is also Governor of this state.

So perhaps it is time for the "motley crews of ravenous jackals" to redouble our efforts to serve as watchdogs of the public interest. Greatness comes with the doing of great deeds, of making outstanding achievements.

We watchdogs, or "jackals," as you would have us named, Pete, cherish the ideal of "greatness" and would see it bestowed only on the very few who are truly "great," lest that historical labe become nothing more than so many dead fish floating in crude oil.

said. "Such circumstances make it difficult to associate them with a program of training for professional people."

Obviously, there are appropriate times and places for various types of dress and undress," he said.

Castleberry then told the story of the British major charged with being out of uniform because he was caught in the nude in the corridor of a hotel in Cairo. The major defended his naked activity by pleading that since he was chasing a woman down that corridor, he was "properly clothed for the activity in which he was then engaged."

"I think students would take a dim view of a female in class dressed only in a 'G-string'," he said.

"This dress standard is a real benefit to St. Mary's," he said. "I've received highly complimentary remarks from visitors on the excellent personal appearance of the students and faculty."

"I have also received a number of notes, calls and comments from San Antonio lawyers which have endorsed the concepts expressed in the memo on dress standards," Castleberry said.

### GRADE DISCREPANCY

Castleberry said there will be no school-wide median grade average, adding that the memo sent out last school year to the students and faculty set forth the policy of the school.

"The approach is to insure a professional written exam which will distinguish between a student that works hard and deserves an A and one that deserves an F," he said.

"The student deserves an honest appraisal of his proficiency and if he does not receive it, it is a disservice," Castleberry said.

When asked if a multiple choice or true/false exam could best a student's

proficiency, the Dean said, "It is possible to evolve an objective series of questions which can discriminate adequately between excellent and poor."

"Just because an exam is yes or no does not mean it is purely objective," he said. "You cannot make a test purely objective—because of the choice of questions and the weight given to them."

"It is impossible to have a full-scale narrative exam for graduating seniors," he said. "That would require grading 50 to 60 papers in four or five days."

That is why the Dean has a balance of a term paper in Oil & Gas—for students without a writing sample, along with a test which can be graded in a short period of time, he said.

### HIS TENURE

"I'm not going to stay 30 years," Castleberry said. "I don't plan to stay as long as Ernest Alousius Raba."

"I have some goals on adding to the physical facility, reducing the student-teacher ratio and enhancing the quality of the faculty," he said.

"When I have completed my goals, then I'll return to the full-time faculty—hopefully that won't be too long," the Dean said.

Castleberry said he was not surprised when offered the job because he said, "I applied for it."

The dean said he did not believe that someone from outside of the faculty should have been hired for his position.

"Promotion within the organization should be done wherever feasible," he said. "It would take an outsider a year to learn the background here," Castleberry said.

In the absence of unique or unusual circumstances which would call for massive changes of substance, then there is no need to seek an outsider for the office of dean, he said.



Volume 8, No. 1

September, 1979



# Witan

St. Mary's University School of Law



"THEY'RE ONLY STUDENTS, JUDGE.... I DRESSED PRETTY GRUBBY MYSELF WHEN I WAS IN LAW SCHOOL AND I TURNED-OUT ALRIGHT."



Shelton Smith 9/79 The Witan



## Professional Profiles...

by Ed Schroeder  
Class of '79

This is offered as a public service report, geared primarily for the freshman class in the hope that they can pick up a few points about their profs from a veteran. I do not intend to be whimsical, yet cannot help wondering why Assault and Flattery is never staged in early September for this very purpose. But enough intro — on with the profs.

William Francisco, a.k.a. Wild Bill, Cisco, The Colonel. He teaches Contracts and Torts. In fact we used to wonder why he didn't have a talk show. He employs the Socratic method and has been known to keep a person up for the entire class period. He has an undeserved reputation for being a male chauvinist. I say undeserved, because he is rough on all students, gender be damned — it is the women who are less able (WLA will have a fit) to take it.

Charles Cantu, a.k.a., Cha-Cha. Charles is a socialite bachelor - and St. Mary's best dressed man. Now I can't speak from personal experience, but it is said that his closet resembles the Gucci show-

employs the Socratic method but with less range, that is, his memory for names is not too good and he generally calls on a damned and chosen few. The best study device for his Contracts course is his own outline.

Paul Ferguson, Admiralty and Legal Bib. Don't miss him for Legal Bib, especially the calling of the roll in his nicest Bostonian style.

Sister Theresa — Legal Bib. She's a good girl and - dedicated librarian and teacher. The only problem is that she has given essay exams for Legal Bib, hardly a fair practice.

Robert Hobbs, a.k.a., Gentlemen Bob. Property, Wills, and Texas Land Titles. Gentleman Bob is a hell of a fellow, in fact the first of the first year profs to treat us civilly, calling us Mr. or Ms. He uses the Socratic method and a word to the wise — be prepared, and avoid cans. By the way, it's just water in that pitcher.

Aloysius Leopold a.k.a. Leo the Lion. Property, Wills, Community Property. Leo is a legal scholar farmer and father of eight legitimate children. A graduate of St. Mary's Law School, Leo booked seven (17)

courses. Charles Cantu another St. Mary's grad, booked twelve (12). Another votary of the Socratic method.

Joe Anderson, a.k.a. Crazy Joe. Teaches everything but drinks damn little. A wise and witty Socratic satirist with an office as lush as a corporate executive's. Leader of the famous Anderson band.

Shirley Butts, a.k.a., Shirley Temple Butts. Criminal Law, Criminal Procedure and Juvenile Law. She rarely goes Socratic rather preferring to read to her classes.

James Castleberry, a.k.a. Dean, Diamond Jim, and Shah of St. Mary's. Farmers Friend, People's Choice and Ladie's Delight. He teaches Oil and Gas and is a nationally-recognized expert in his field. Father of the double-jeopardy, true-false exam.

Bueford Herbert, a.k.a. Boots Evidence. Generally lectures and lectures and lectures... Boots is never guilty of favoritism - he dislikes everyone.

David Dittfurth, a.k.a., Dirty Dave, Dapper Dave. Conflicts, Fed. Courts, Fed. Rules, Domestic Relations and Con Law. He paces about the classroom using the Socratic style but generally calls for volun-

teers. He rarely tells a joke — in class.

Colin Kaufman, The Legal Realist, U.C.C. courses. A religious fanatic and by far the worst dresser of the faculty. With the advent of the new dress code we might lose Colin.

Ernest A. Raba, a.k.a., Dean, Lonesome Ernie. Con Law with a flair. A raconteur who isn't happy unless he has some characters in the class. If none are enrolled he'll inspire them. In case you didn't know he built this law school and nurtured it through the hard times.

Orville Walker, a.k.a. Jolly Ollie, Mr. Texas Procedure. They say he wrote the rules. Noted for his all girl parties and solid backing of the UT football team. A first rate prof.-but he thinks 65 is a good grade.

Dr. Arthur Yao, a.k.a. Samurai Yao. Trusts, Remedies. No Socratic lectures here. Dr. Yao explains each case carefully, occasionally laying about him for lack of class participation. Do not leave his class early.

Edwin Schmidt, a.k.a., Vice-Dean, The Count. Teaches Ethics and Office Practice, wears his pants high on the waist and long the sock.

Thomas Black, a.k.a. Bix Black, U.C.C. courses, Fed. Rules and Evidence. He is the wittiest professor and most skillful trumpeter of them all. Recently returned from S.M.U. where he took the town by storm.

L. Wayne Scott, a.k.a. The Iron Duke. Civil Procedure, Evidence, Crim. Law, and Crim. Procedure. Editor of Texas Lawyers Weekly Digest. A Socratic lecturer and God help you if you're unprepared. He's a poet and a devotee of St. Valentines.

Dr. Harold Reuschlein, No nicknames. Trusts, Corps. Jurisprudence, Agency, Partnership. Dean Reuschlein is an old world gentleman, philosopher, historian, and prolific writer. He strongly resembles Franklin D. Roosevelt. I once heard a student say, "God willing, I'll park in the faculty parking lot." Overhearing this, Dean Reuschlein thundered, "Well, I'm not willing!"

George Gloss - Remedies, Comp. Law, Internat'l Law. He's real 'laid back' you need to check his pulse from time to time.

Pat Priest - This is his virgin experience, so you tell me about him.



## THE GAS PRICE FIXERS

### Washington Designed, Built And Ran The Energy Crisis

By Tom Bethell  
Washington Editor of  
Harper's  
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Reprinted from the June issue.

From time to time, American politicians assume the responsibilities of businessmen by adjudicating the price at which this or that commodity shall be sold. We can be grateful that this does not happen more often. When politicians decide to wrest control of the market, they are inclined to discover in themselves great funds of virtue and compassion, in consequence of which they decide to set a "fair" price, a "just" price, which usually turns out to be a low price. This is because the consumer of a given commodity will always heavily out-

number the producers of it, while all alike have one vote. The resulting low price tends to discourage the producers, who may well go into a new line of business—preferably one that has been overlooked by the politicians. A shortage of the original commodity results.

The foregoing is a brief history of natural-gas production in the United States in the past quarter-century. Some may notice that the description equally applies to apart-

ments in cities where rent control has been enacted; it applies also to numerous other commodities in various centuries and countries. Robert Schuettinger and Eamonn Butler, in their recent book *Forty Centuries of Wage and Price Controls*, demonstrate that time and again price controls have led to shortage. In the United States this began with the American Revolution, when a food shortage at Valley Forge was brought about by

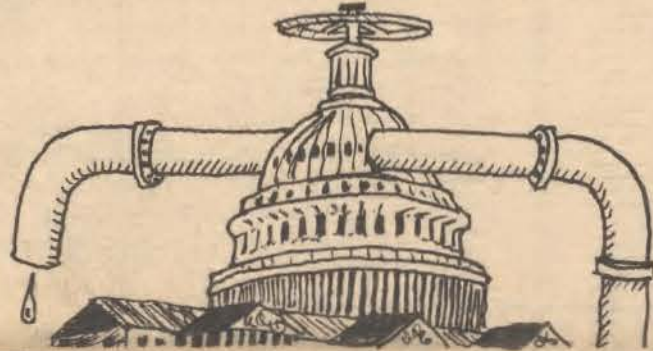
regulated prices that had, according to the historian Albert Bolles, "precisely the opposite effect to that intended, for prices were increased rather than diminished by the adoption of the measure."

At first sight an arid topic, no doubt of interest only to legal specialists and fine print readers, natural-gas pricing turns out upon examination to be among the most ideological issues of our time; the subject (according to one estimate) of the most protracted and heated Congressional debate since World War II (the voting on this issue along constitutes a fairly accurate litmus test of the ideological composition of Congress); its history offering unrivaled glimpse of the way good legislative intentions can turn into a nearly insoluble bureaucratic muddle. It is the

regulatory case history *par excellence*.

Natural gas—methane, in its most common form—is an efficient, high-Btu (British thermal unit) fuel, used in industrial boilers and, to a lesser extent, for domestic consumption (space heating and cooking). It is similar to, but not to be confused with, old-fashioned low-energy coal gas (used to light streetlamps in Sherlock Holmes's London). On a Btu-equivalent basis, natural gas accounts for about 30 percent of U.S. energy use, and is distributed through 200,000 miles of pipelines, representing assets of \$26 billion. It is by far the most desirable source of energy from the point of view of environmental cleanliness. For this reason, the deregulation of natural-gas prices has

(Continued on Page 9)



## Will State's Appeal Appeal To The Voters?

By Steve Malouf

On November 4, 1980 a Constitutional Amendment providing the State with the right to appeal specific and limited pretrial rulings in criminal cases will go before Texas voters. H.J.R. No. 97 allows that the State shall have the right:

"...to an interlocutory appeal, as provided by law, from a ruling of the trial court at a pretrial hearing as to the constitutionality of a particular statute or from a pretrial ruling of the trial court on a motion to quash, dismiss, or set aside an indictment or a motion to suppress evidence." 4 1979 Tex. Sess. Law Ser. A122.

If this amendment is adopted it will endow the State with the right of appeal heretofore expressly denied by Article V, §26 of the Texas Constitution which prohibits the State from appealing any rulings in criminal cases. The amendment, if adopted, will give District Attorneys greater flexibility in prosecuting criminal

cases, especially as to alleged errors on matters of law concerning search and seizure. Depending upon the propensity of the State to utilize this new tool there could be an increased caseload in higher courts where the State appeals judgments for the defendant in pre-trial hearings.

It appears that the wording of the Amendment is sufficiently narrow to allow the State to avoid Constitutional invalidation under the double jeopardy clause of the State Constitution and Federal Constitution. The Texas Court of Criminal Appeals has held that a person is placed in jeopardy: "...when he is put on trial before a court of competent jurisdiction on an indictment or information sufficient to sustain a conviction, a jury has been charged with his deliverance, the indictment read to the jury, and the plea of the accused heard." *Johnson v. State*, 73 Cr. R. 133, 164 S.W. 833 (1914).

The United States Supreme Court has held that jeopardy

attaches:

"...in a jury trial, when a jury is empanelled and sworn, and, in a non-jury trial, when the court begins to hear the evidence: jeopardy does not attach until a defendant is put to trial before the trier of facts, whether the trier be a jury or a judge." *Serfass v. U.S.*, 420 U.S. 377, 43 L.Ed. 2d 265, 95 S. Ct. 1055.

By limiting appeals to pre-trial rulings the State avoids action which might twice put a defendant in jeopardy. Further, a justiciable case exists as result of the double jeopardy clause only until the defendant is found not guilty. Similar Federal Statutes were struck down because an appeal from a trial verdict where the appeal was for the exclusive and specific purpose of obtaining advisory opinions effectually was a request of the court to operate in an area limited to legislature jurisdiction.

This Amendment signals what might be a move towards a more conservative stance on law enforcement.

## Valdez, Platt and Vance Regionalists

Apprentice lawyers squared off in Walker National Moot Court competition finals October 2, advocating alternately the rights to trial by jury and due process.

Robert Valdez, representing petitioner won the Best-Speaker award as well as first position on the St. Mary's regional team which competes in Lubbock, Texas, next month. Stewart Platt and Lisa Vance fill the remaining positions on the three-member regional team.

Ed Lavin claimed Best-Brief honors and the \$100 award. Tom Sisson won \$50 in submitting the second-place brief.

In the Moot Court problem the jury allegedly understood little of the facts and ultimate issues and reached an arbitrary, superficial division. Which rights prevail?

As one national magazine suggested, "juries are on trial." Though the lawyer-judges of

(Continued on Page 4)



Walker National Moot Court Honoree Prof. Orville Walker Joins Finalists and Judges (Left to Right) Prof. Walker, Regionalist Lisa Vance, Prof. David Dittfurth, Best Speaker Robert Valdez, LeRoy Jahn, Regionalist Stewart Platt, Finalist Ed Lavin, Finalist John Blair, Don Comuzzi, Finalist John McChristian.

In my last exposition on this page you will recall that I promised no opinionated editorials; no witanic charges up St. Mary's Hill. Never mind. I'm mad and malnourished as hell and not going to take it anymore. I have had it with the atrocious food now being dished out in the school troughs. Needless to say, those I have talked with concerning the feed situation are in unanimity in their view of Handy Andy's production so far—to wit: the food is disgusting, exorbitantly priced and monotonous.

Perhaps the most disconcerting fact about the situation is that the variety of food items is more befitting a concentration camp than a Unviarsity. Everything on the menu, with the exception of meager salads and pork-innard sandwiches, is fried in or grilled on grease. Think of the choices: fried chicken, fried potatoes, fried fish, fried burritos, fried shrimp, fried hamburgers, all of which can be covered with greasy chili con carne.

Granted, the University was working in our best interests to alter past food services. Perhaps the University planned to expend its resources and efforts in other areas. Obviously the University held good intentions, but the end result has been bewildering at best. In all my years of "school food" (now approaching 20 years), I have never seen more deplorable inedibles. Please proceed with all deliberate speed with the petition concerning this nauseating matter. Many of us dependent on University food are *in extremis*.

Now then, back to the world. As you know from reading the local newspapers, the United States and Mexico have reached an accord on the sale of Mexican naural gas to the U.S. Of course, American energy and transmission companies had an agreement with Mexico over one year ago to buy Mexcian natural gas for \$2.65 per thousand cubic feet (mcf). But no; James Schlesinger, Energy Secretary (since sacked) vetoed the agreement howling that the price was way too high. Now, a year later, the Federal Government has approved a deal whereby those same companies will pay \$3.50 per mcf for the same gas. This was after heated negotiations that severely strained once-friendly relations with Mexico. Thanks to you Mr. Schlesinger, the American consumer has suffered another setback.

With natural gas back in the headlines, I though it might be appropriate to run an article by Tom Bethel that is an excellent history of the natural gas shortage. You can be sure that if the country experiences an abnormally cold winter, natural gas will once again be in short supply, save for the media, and as fodder for White House hopefuls.

W.S.H.

# Witan



## Editorial

### BACKTALK...

### Red Mass Planned For Early November

by Prof. Reuschlein

The twenty-sixth annual Red Mass will be celebrated at 5:30 p.m. on Wednesday, November 7, in historic San Fernando Cathedral.

The Red Mass has been celebrated as a legal and judicial tradition in England since the reign of King Edward I in the early fourteenth century. Liturgically, the mass is the Votive Mass of the Holy Spirit. It took its popular name from the fact that the clergy were vested in red and the judges wore their scarlet robes. It was held to mark the judicial, parliamentary and academic year on a date close to Michaelmas (September 29). In Washington, the Red Mass is celebrated annually at the Cathedral of Saint Matthew with the justices of the Supreme Court of the United States in attendance.

At the Red Mass at San Fernando, Archbishop Flores will be the principal celebrant with his auxiliary bishops and many local clergy assisting.

The Red Mass is sponsored by the School of Law of St. Mary's University and the Catholic Lawyers' Guild of San Antonio. Members of the Supreme Court of Texas and of the Court of Criminal Appeals have been invited, as well as members of the local judiciary. Joining in procession into the Cathedral will be the clergy, administrators of local colleges, the law faculty and officers of the bar.

The music for the mass will be furnished by the St. Mary's University Chorale and a brass ensemble. The sermon will be preached by Bishop Pena, Auxiliary Bishop of San Antonio. The public is invited to the mass.

Dear Editor:

First of all, let me say that I really enjoyed reading the September Witan. However, one item printed in that issue has caused me genuine concern. I refer, of course to the interview with Dean Castleberry in which he is quoted as having remarked that "(t) his is one of the eight best law schools in Texas."

Now, I can understand that the Dean, like anyone else in his position, would have difficulty in forebearing to express immense pride in his accomplishments and the progress of the law school. And you know something? I really do not doubt that what the Dean said is true. What worries me is that his remark suggest that the law school's meteoric rise from (literally) nowhere to the Top Eight is breeding over-confidence in the school's prominence or at the very least, wouldn't everybody agree that showing greater

modesty is the dignified thing to do?

What good can possibly come from making statements that tend only to embarrass those institutions (which will here go unnamed) not fortunate enough to be within to Top Eight? Dean, don't let success spoil St. Mary's. If we're not careful, St. Mary's could wake up one fine morning to find it had suddenly become "one of the eight worst law schools in Texas."

Sincerely,  
David Weiner  
(Class of '79)  
Clerk, Court of Criminal Appeals

P.S. It was a misquote, or taken out of context, or tongue in cheek or something like that, wasn't it? 1979. All rights forfeited.

Dear Editor,

We agree with Dean Castleberry that we would take a dim view of women

wearing nothing but a "G-string" in class. We do, however, admit we would view it with close scrutiny and much alacrity.

We would like to point out, however, that due to the subtropical temperature in the library, said attire would certainly prevent one from "working up a sweat" over the law.

While we don't know if wearing a 'G-string' is EVIDENCE of misbehavior or is the correct PROCEDURE (or even if it is CIVIL), one TRUSTS it would not cause a type of "academic insomnia," the likes of which have never been viewed, brightly or dimly, before at this law school.

Sincerely,  
Two of the best  
3,087 law students in Texas  
Mark "The Beaver" Miller  
Pat "Wally" Coulson  
PS: Remember, the disco split skirt dies a thousands deaths, the G-string dies but once.

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## CHAPPAQUIDDICK:

## Water Under The Bridge?

## PUNTO

By Anne Schwartz

My first reaction to the question of whether Chappaquiddick should be an issue in the upcoming Presidential campaign is one gigantic yawn—who cares? Does anybody? I, for one have become so inured to political maneuvering that I can't tell the good guys from the stage drop. Worse yet, I have heard about the "lack of leadership in America today" until I'm ready to blow lunch. Who's fault is that? From whathisname at the White House who had the poor taste to use cocaine in public, to his boss who lives there, and who can't quite figure out exactly how much income tax he owes the IRS, to Talmadge, to Richard Nixon, to Adam Clayton Powell to ad infinitum, it goes on and on and on . . . What is that old saying about glass houses, or was it casting pearls before swine, or was it something about absolute power corrupting absolutely? Who knows, but if we're going to pick out someone for a character assassination, here is a galaxy of stars to choose from.

The point, Pete, is that Chappaquiddick (funny how that one word has taken on its own meaning) happened, and now it's over . . . or should be. But whether I think it should be an issue, or whether I don't think so; it is and will be, because Teddy Kennedy wants to be President and after all, he does come from a rather prominent family. So it's newsworthy (ten years later) and people remember. Or, they will be forcefully reminded—since every major newspaper, new magazine, radio and T.V. has been asking everyone they could get to answer, whether Chappaquiddick should be an issue—which is a great way to create an issue. Howard Baker issue. Maybe there ought to be a gentlemen's agreement not to mention Chappaquiddick when no one's around to listen. Because of all this "no issuing," it seems patently obvious that the hot no issue—issue is Chappaquiddick. Ah, the political knife is wielded which such consummate subtlety.

Having pulverized a dead horse, what happens next? Perhaps the voters should cluck reproachfully at the whole sorry bunch of presidential candidates, gather the moral fabric of society to our collective breast, and stay home in November. Wrong. That's just exactly how we got here: by turning the other cheek. Teddy Kennedy or Jimmy Carter—take your pick.

However, Pete, that choice should be made by looking at issues for more relevant than 'who's more moral than who.' I simply don't care whether either, or both of them, are or aren't complete moral degenerates; in my experience, just like the question of God, morals depend on your frame of reference and it's all relative. But then, I believe issues like: a national health care program, solving our energy problems by harnessing the sun, mass transportation, conducting substantive research into alternative regenerative sources of fuel, getting the price of gold under control especially now since the dollar isn't worth a dime—here or abroad, forging a foreign policy that reflects some small semblance of logic (how long has it been since the U.S. supported the winning side in Africa, Latin America, or the "Caribbean"? Why do we continue to sell arms to both sides all over the world?) and one that is independent of corporate investments abroad, . . . are more important. It just seems to me that prosperity at home—with a healthy economy, full employment and a reasonable income level for every American family—and peace abroad, to use a familiar quote, are a lot more meaningful than trying to dredge up mud, and old mud at that.

Frankly Pete, Chappaquiddick bores me; I wasn't there at the time—no one will ever know what could, should, or might have been done that wasn't; or what was done that shouldn't have been done—and I got tired of reading about the whole thing two weeks after it happened. The truly grave danger is that we will dwell on it with myopic vengeance, rather than requiring our candidates to come up with specific answers to some of these substantive issues, so that we can make an informed choice. Do the people deserve what they get, or get what they deserve . . . As for as I'm concerned we would be much wiser to render unto Caesar that which is Caesar's, and leave to God, or some other spiritual force better qualified than either you, Pete, or I, the question of who's getting into heaven this week.

## CONTRA PUNTO

By Peter Kinder

How odd that, in an article which seeks to deny the relevance of the Chappaquiddick coverup as an issue in presidential politics, the writer should pronounce herself ready to "blow lunch." Ignoring momentarily the utter tastelessness of that remark, exactly what is it that causes your stomach trouble, Anne?

Is it the sheer gruesomeness of the little we know of what happened that night? Or is your nausea caused by the transparent lies and flagrant contradictions in Senator Kennedy's self-serving versions of the event? No, indeed, your sickness is caused by excessive talk about "the lack of leadership in American today."

The apparent tone of nervousness in your article is easily enough understood, inasmuch as the relevance of Chappaquiddick is so easily established. I believe it was Teddy Roosevelt who said that the presidency was pre-eminently a position of moral leadership. Thus it makes sense for we Americans, in choosing our leaders, to try and assess the moral fitness of the various candidates for the presidency. I write no brief for the present Sunday school-teaching occupant of the White House; his flaccid leadership has been more of disaster than even I predicted it would be. Still, surely it is fair, even highly desirable, to look for some strength of character, some fidelity to moral principle in those who seek the most difficult job in the world. It is neither "character assassination" nor deciding "who's getting into heaven this week" to conduct this inquiry.

Above all, Anne, you are wrong in your declaration that morality "depends on your frame of reference" because "it's all relative." The standards which I apply to Senator Kennedy's conduct are the same which can be applied to all human conduct, any time and any place. Gross selfishness and murder (more specifically, murder's lesser included offense of manslaughter, which applies here) are nowhere, under any circumstances, praise worthy or lightly excusable.

Kennedy supporters would love to believe that the only people who seek to "dredge up old mud" are those cranks who dwell in the fever swamps of right-wing ideology, the John Birch crowd, but such is simply not the case. No less a moderate liberal and Kennedy admirer than Newsweek columnist Meg Greenfield, writing in a very recent issue of that magazine (in which she lavished praise on the Senator's public record on the issues), had this to say on Chappaquiddick: "What happened that night and the senator's attitude . . . and conduct thereafter represent a legitimate subject of . . . anxiety and this casts huge moral shadow over his candidacy. It emerges as a failure of personal and public responsibility so large and deep as to overwhelm" Kennedy's strength. M. Greenfield urges the Senator "to do at some point what he has failed to do so far—speak directly and candidly on the subject" and to face up to and accept responsibility.

Ms. Greenfield is sure to be disappointed. Such candor will not be forthcoming, either from the Senator himself or from the other tight-lipped men and women who attended the cookout party that night, still less from the awesome array of Camelot's speechwriters, lawyers, and brain trusters who convened at the Kennedy compound at Hyannis Port for a solid week after the accident, the better to concoct Kennedy's television address on the subject.

In an article of this length I can barely begin to sketch the full range of the lies and coverup. The closest thing we have to Woodward and Bernstein on Chappaquiddick is a father-son team, Richard and Thomas Tedrow, authors of a lucid and responsible book, "Death at Chappaquiddick." In its pages the Tedrows dissect Kennedy's two versions of the tragedy, comparing his story with known facts and the credible testimony of other witnesses. The result is a set of discrepancies so glaring and stange contradictions so improbable that any second year student who passes the first semester of Evidence could cross examine Kennedy and the other party-goers in such a way as thoroughly to devastate their credibility.

Listing just a few of the more shocking revelations, we find:

1.) No autopsy was ever performed on Miss Kopechne's body. There is not a forensic pathologist in the country who would sanction this breach of responsibility by the authorities. Autopsies are a matter of course in such cases. The upshot of all this is we don't know for certain how the girl died. We do know, however, that she did not drown.

2.) The diver who pulled the body from the submerged car found the body in the back seat of the overturned car, hands and fingers clutching the seat like talons, neck arched, teeth clenched in her death gasp for the last bit of oxygen in the air pocket. Most probably, she suffocated when she used up all the oxygen in the air pocket. People have survived up to six hours in identical situations in submerged cars.

3.) We don't know how long Mary Jo Kopechne lasted in her air pocket. We do know, though, that for at least part of the time that she clung to life in the car, Sen. Kennedy and his aides found time to make 17 phone calls during the night, but none of them to the nearby fire station, where trained divers and emergency assistance were less than 15 minutes away.

The Tedrows conclude:

"This then is the real horror of the case. Mary Jo in the bottom of that upside-down car, wedged in, clawing, clutching and straining for air and for life in the total blackness of Poucha Pond with the water creeping higher and higher. Completely terrified, she waited for help from Sen. Kennedy—who was on the phone seeking help not for Mary Jo but for Sen. Kennedy."

(Continued on Page 4)



Karen Amos, far left, Erwin McGee, center, and Mary Rudolph, far right, enjoy a day in the sun at the Delta Theta Phi lake party held at Canyon Lake Yacht Club on Sept. 22. The party, one of many law school gatherings, gives fraternity members a chance to "rush" new members under the guise of having a good time.

# PLACEMENT NEWS

By Pat Turner

The fall interviewing season got underway on Tuesday, September 18 with a full schedule of second and third year students interviewing with the San Antonio firm of Cox; Smith, Smith, Hale & Guenther. The day went smoothly (everyone was on time) and for the most part the schedule was kept on schedule. At the end of the day, the interviewers, Larry Macon and Keith Kaiser, were full of praise for our excellent students (keep up the good work).

Thursday and Friday with Oppenheimer, Rosenberg, Kelleher & Wheatley and Groce, Locke & Hebdon firms respectively, along came more accolades for our student body.

Yes, friends, the "Beautiful People" came out en masse this week.

DEFINITION: Beautiful People—Law Students on Interview Day.

On Friday evening at 6:00 p.m. the firm of Groce, Locke & Hebdon hosted a cocktail party for those students who interviewed with their firm with about 15 of their attorneys present.

CORRECTION: Bracewell & Patterson has changed their interview dates to Monday and Tuesday, October 22 & 23. Peat, Marwick, Mitchell & Co. has changed their interview date to Friday, November 2, 1979.

**ADDITIONS**

Oct. 19—Hoddick, Reinwald, O'Connor & Marrack (Honolulu)

- Oct. 24—U.S. Army JAGC
- Oct. 25—U.S. Army JAGC
- Oct. 29—Pravel, Gambrell, Hewitt, Kirk, Kimball & Dodge (Houston)
- Nov. 2—Shell Oil Company (New Orleans)
- Nov. 19—East Texas Legal Services

**PLEASE NOTE**

NO RESUME — NO INTERVIEW! ALSO — If you are a "NO SHOW" for an interview without contacting the Placement Office 24 hours in advance — there are NO MORE on-campus interviews for you.

If you haven't already put your resume on file in the Placement Office, do so immediately. You can miss an interview if your resume is not there, even if you have a time

slot scheduled.

**SEMINARS**

Thus far we have had three very successful seminars — Resume Preparation and Interviewing (featuring Skip Good of Groce, Locke & Hebdon, and Larry Macon of Cox, Smith, Smith, Hale & Guenther) — Summer Internships (featuring our own Phyllis Siegel, Nev Shafer and Bill Hayes) — and Public Interest law (featuring Carol Barger of Consumers Union; Sue Saab, private practitioner in San Antonio; Steve Cochran of Bexar County Legal Aid and Steve Gardner of Central Texas Legal aid). Coffee and cookies are the fare at each seminar, along with lots of good information and camaraderie.

## ADVICE TO THE LAW LORN

Dear Mrs. Palsgraf:

Will the use of Gilbert's Outlines really make me Sterile?

Childless in Charles Francis

Dear Childless:

Extensive laboratory testing has proven beyond the shadow of a dead rabbit that use of Gilbert's will not cause sterility. In fact, Gilbert's gives you at least a 55% chance of preventing aborted law school tenure.

Dear Mrs. Palsgraf:

How do I get to the law library?

Lost

Dear Lost:

Just ask Colonel William P. "Wild Bill" Francisco.

Dear Mrs. Palsgraf:

How do I find the "Wild Bill"?

Still Lost:

Dear Still:

Say kiddo, this is remarkably easy. I can't believe you haven't happened upon the great oracle with the exposed cranial lamella. Listen carefully—Look for a golden haired little girl playing innocently in a field of flowers. Now look carefully down wind

and you will notice an Elmer Fudd type man with a pack of bird dogs and a shotgun. DUCK!!!! You're in the line of fire. That great white hunter, whose trophy room is littered with golden haired little girl trophies is your man.

Dear Mrs. Palsgraf:

I heard that the "Mad Dog" is still in the library, yet he is supposed to have already graduated. Is the library safe? Please set me straight.

Terrified.

Dear Terrified:

The old dog is up to his same old tricks of boning up on the law. You will find him chained to this favorite desk reading up on Rin Tin Tin's estate planning and the such. He rarely if ever bites. He is especially fond of steak bone treasure trove law. He is intimate friends with Lassie and used to be seen chasing Morris the cat around the neighborhood. He delights in new cars that have never been chased. His favorite day is Arbor day, so stay clear if you are tall, green and your leaves rustle about when the wind blows. The "Mad Dog" is hailed as one of St. Mary's many distinguished alumni.

**Chappaquiddick (Continued from Page 3)**

Other contradictions abound concerning the nature of the party, Kennedy's version of the time of the accident, and the shocking behavior of the Senator and his aides. You, Anne, or I, or any other private citizen would have faced charges of manslaughter, obstruction of justice, and possibly perjury.

Five years after the accident, a sanctimonious Kennedy raised this question: "Do we operate under a system of equal justice under the law? Or is there one system for the average citizen and another for the high and mighty?"

He was, of course, speaking of the Nixon pardon.

## Neece Elected to Student Council

Ben Neece, a second year law student has been elected by the University Student Senate to the office of Second Vice-President in charge of entertainment. Ben feels that law students should get more of their money's worth in the entertainment events offered on campus and is trying to gear events to meet all the student's needs.

In a related development, law students John McClung and Cary Locke were confirmed as Law Senators to fill vacancies. One vacancy still exists and any interested person should see Rex Easley or file at



BEN NEECE

the Senate office. Photo credit: Karen Desmond.

## Phi Delta Phi Serves Up Tourney

By J. Atherton

Jim Hart and Mary Brennan have been actively planning the Phi Delta Phi "Enter at the Risk of Your Own Humility"

International Tennis Tournament. The tourney will be held on Saturday, November 3 at the tennis courts on the St. Mary's Campus, and there will be a division for

EVERYBODY. In addition to the Championship Division (for your serious tennis buffs), the other divisions will include: mixed doubles; law student and spouse; law student and attorney or faculty; and a "Never Heard of Tennis Before" division. The all-day affair will include tennis, refreshments, several exciting auxiliary contests and lots of fun for everyone, even Keenan. Watch the Phi Delta Phi Bulletin Board for details and sign-up information.

## CRIMINAL LAW ASSOCIATION

By Carter Thompson

First of all, we would like to thank all the members and friends of the CLA who attended last month's luncheon and defense panel seminar. The turnout was excellent for both events. Even the feature speakers commented on the degree of enthusiasm displayed, and expressed an interest in coming back.

So far our October calendar looks like this: On Tuesday evening, Oct. 4, we presented the second part of our seminar on "The Anatomy of a Criminal Trial." We focused on the various aspects of prosecution, and had a panel of speakers from the District At-

torney's office. This was held at 7:30 in classroom 103, and refreshments were provided. Our next general meeting will be Oct. 30, at 7:30 in classroom 104. We will cover the upcoming Huntsville Trip, and the schedule for November. Of course, there will be free beer for all afterwards in the Pecan Grove.

We would like to express our thanks to the Student Bar Association for a grant of \$535. This grant will enable us to sponsor the "Law and Psychiatry" seminar in conjunction with the University of Texas Medical School at San Antonio next spring.

## Moot Court

(Continued from Page 1)

moot court don't reach a decision on the merits, a pending U.S. Supreme Court case, **I.L.C. Peripheral Leasing Corp. v. I.B.M.**, parallels the moot problem.

Judges of the final round of Walker Moot Court were Prof. David Dittfurth; LeRoy Jahn, head of the U.S. Attorney's Office, Appellate Division, Fifth Circuit; Patent attorney, Don Comuzzi.

# Law School News

## SBA Opens Coffers Coughing Up Cash

By Sandee Ryan

The Student Bar Association met September 18, 1979, for its annual budget meeting wherein most of the student organizations submitted their proposed budgets. The S.B.A. had a total budget this year of over \$11,000.00. After lengthy discussions, the S.B.A. voted approximately \$5,000.00 to be dispersed among the groups according to their respective requests. Hopefully, most organizations were pleased with the amount of monies they got and each will have a successful and beneficial year with their activities.

Congratulations to the newly elected first year senators and Honor Court Justice. This was definitely a tough race with over thirty people running for first year Senator. The first year class' enthusiasm this

year has amazed many of the second and third year students as well as the faculty.

Many people have probably been wondering what the wooden box with hanging folders is outside the locker room. In the past, this was used as the students' mailboxes but obviously it needs some repairs. The S.B.A. is working now to get it current and, hopefully, by October 1, it will be back in order. After this date, please check your "mailbox" periodically for notices from fraternities and other organizations concerning upcoming events.

The annual Halloween Party will be Friday, October 26, 1979, at the San Antonio Homebuilders Association. Tickets will be on sale the week preceding the party. Everyone put on a costume and come dance, eat and drink!

## PAD Announces Fall Follies

### Parties, Booze, What Exams?

By Mark Daniel

• Phi Alpha Delta continued its tradition of totally out of control parties on Friday, September 14th when the fraternity and its guests polished off an eight keg extravaganza at Cooter Brown's.

• PAD would like to thank the entire student body for their patronage in helping them to have their best booksale ever. This booksale not only provides money for the PAD scholarship fund but aids the fraternity in funding functions of which the entire school is invited to attend. Thank you for your support.

• PAD has taken it upon itself to alleviate the crowded conditions in the library with the introduction of the PAD MEMORIAL LAW LIBRARY to be located at Fatso's Bar B-Q on Bandera Road. The library will consist of out of date books which have accumulated through the booksale over the years. PAD hopes that this will provide additional study space for St. Mary's Law Students. Remaining out of date books will be donated to the inmate's law library at the Texas Department of Corrections in Hunt-

sville. PAD feels that this will provide valuable reading material for people with a lot of time on their hands.

• PAD would also like to announce that it now can obtain Gilbert's Law Summaries at a rate of 20% off bookstore prices. Minimum order is ten (10) volumes, not necessarily on the same subject. Delivery within 10 days. Any group that can put together an order of ten, please contact Mark Daniel.

• PAD would once again like to recognize Professor Shirley Butts as their faculty sponsor and thank her for her continued support.

• PAD will conduct formal initiation on Thursday, October 18, 1979 at the Bexar County Courthouse followed by our initiation party at Camp Rio Vista in Kerrville on Saturday, October 20, 1979. All members are urged to pay their dues for this semester so that we can fund these projects.



Yacht Club also-rans present were: Rudolph, Amos, Rucker, Voigt, Attorney, et.al. The Unidentified Party-Goers reportedly had more fun being unknown.

## Chili Team Swallows Texas Pride And Red

By Brent Helms

St. Mary's Law School Chili Team dispensed free chili, beer, and beans to law students and alumni that attended the annual Chilympiad in San Marcos on September. Sixty pounds of the chili named "Volenti Non Fit Injuria" (he who con-

sents cannot receive injury) was washed down with five kegs of beer. Marshall Ray and Mark Luitgen concocted a delectable batch of the Texas Red for competition. However, for some reason beyond our comprehension it was not picked as the winner out of 217 batches of chili entered

in the competition.

Partial funding for the extravaganza was provided by Delta Theta Phi, Phi Alpha Delta, and the S.B.A. We would like to thank everyone who showed up for traveling all that way to share in our good time. Also, special thanks to Mary Lou, Sherry, and Lecia for their help at the cook-off.

## Delta Theta Phi

By Carter Thompson

Once again, Bickett Senate of St. Mary's Law School has achieved national recognition. At the 41st Biennial Convention of Delta Theta Phi Law Fraternity, held last August in Houston, Bickett Senate was voted outstanding Student Senate in Region 4, our local 10-state area. The competition was keen and we prevailed. Also, Tony Hajek, past Tribune of Bickett Senate, was awarded Outstanding student in Region 4 for his work while he was a student here two years ago. It was during his tenure that we were awarded Outstanding Student Senate in the nation in 1977. These awards have not come without a lot of work on the part of past members. Still, it is nice to see it pay off. While St. Mary's Law School is not the largest in the country, it is

impressive to see how much weight we carry with the national office of Delta Theta Phi.

For our first event of the term, we sponsored a lake party at Canyon Lake on Sept. 22. Thanks to the generosity of Carey Tynan and her parents, we had the exclusive use of the Canyon Lake Yacht Club, which we proceeded to fill with members, friends, food and much beer. We pooled together four ski-boats and a sailboat, and managed to get most everyone out on the water (if not in it) at one point or another. Of the 80-100 people who attended, many could be heard in the halls at school the following Monday, discussing sore muscles, various efforts to get up, and the performances of our better skiers. It was a typical Delta Theta Phi party: many people, much beer, and some great times.

## Bloody Merry Party

By T.C. Gallucci

In appreciation to their spring antics on the softball field, the faculty will be the guests of the Woman's Law Association at the annual Bloody Mary Party.

This year's party is scheduled for Thursday, Oct. 4, at 4 p.m. in the faculty lounge. The WLA will furnish the Bloody Marys and members donate hors d'oeuvre. Members are encouraged to attend, and urged to contact a WLA office if able to contribute food or drink.

Only dress, not atmosphere, is formal.

Each spring, the faculty valiantly attempts to assault their well-hidden talents on the softball field. Although, the WLA shows no mercy on the field; they do show their appreciation for risking life and limb.

## Olga Loses Its' Opener

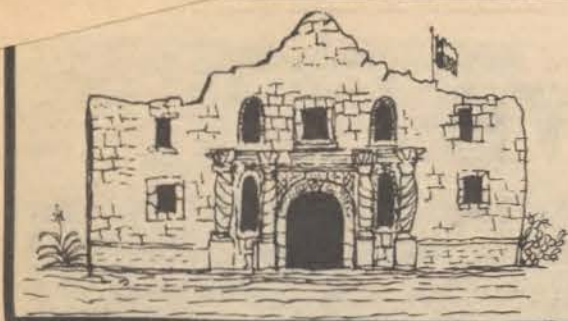
A law school softball team, "Olga," lost its season opener against the undergraduate team Kappa Sigma in a 9-5 score.

The law school team, which consists of 2nd year students,

was under the able coaching of Mr. Barry "Whata ya mean he's out?" Goodwin. Based on Darth Vader's personality, Mr. Goodwin's coaching approach could best be described as the cut, thrust, and lunge method.

Most valuable player was Dan Sciano who played Left Out.

Most worthless player was Mark Miller playing Designated Nerd.



# The Fifth Column

## Why They Call It Wales

by Daniel J.T. Sciano

This article will not, and I repeat will not, discuss the evolutionary development of the whale. In fact this article has nothing what so ever to do with the "orde Cetacea". However, this article will discuss (rather preferentially) the Sciano/McKenzie theory on how the country of Wales acquired its name. But such trivial facts are not the crux of this article. The essence of this section of the WITAN is designated to my rendition of, how I spent my summer vacation. Now don't get me wrong it doesn't mean your summer experience is boring and mine is so exciting. The real reason is that I participated in a summer school program at the London School of Economics. The editor thought that the Witan's reading public might be interested in acquiring seven (7) easy law school credits. That's right folks, I said "Seven easy law school credits." The process is actually quite simple and relatively inexpensive.

I ran up a tab of \$2,500 — which included flight, room & board, gifts, tuition, books, and lots of partying. The trip included visits to Wimbledon, Edinburgh Scotland, Wales, the British Grand Prix at Silverstone, Bogner Regis on the sea, the Cathedral at Chichester, the Duke of Norfolk Castle, two plays, hundreds of pubs and many afternoon excursions too numerous to name. What I'm trying to say is that I had one hell of a time and earned 7 law school credits. I think? (The grades still haven't arrived).

There are two summer law school programs in England. Tom McKenzie and I went to the London School of Economics in London. That program is affiliated through Notre Dame. The other program was at Cambridge, sponsored by the University of Richmond. I know of four St. Mary's Law students that attended that program. They were Patrick Tobin, Miles Buttery, Mason Stanley, and Chip Bonner. Both programs offer plenty of time to experience

the cultures of people of another part of the globe. Classes are taught on strictly lecture basis (at least Public International Law, Common Market Law, and Collective Bargaining and Arbitration were). They offer plenty of time for extracurricular activities. The experiences I had will never be forgotten and to name them all would take hours. However, the editor has been gracious enough to let me share a few with you.

**3 days at Wimbledon:** I frequented Wimbledon three separate times. I saw tennis by the best tennis players (Bjorg, Tanner, King, McEnroe). I drank champagne paid for by Tom McKenzie and Mark Foster. The eyes turned on those people worse than mine did the day I saw my torts grade from "Wild Bill" Francisco. The usual question from the crowd was, Are you from Texas? Mark Foster's reply was always, "where else but Texas?"

**The day St. Mary's Discovered the "Bidet":**

Two of the rather wealthier law students in the Cambridge program spent two days at the Dorchester (for those who don't know the Dorchester is considered one of the finest hotels in London). I'll only mention these students initials so as not to slander them. They are Miles Buttery and Mason Standley. Well, I soon found out why it costs so much to stay at the Dorchester. The rooms have everything including a sufficient supply of alcohol to tranquilize a herd of stampeding elephants. Not to mention that the doorman knows everything and can get you in anyplace in town. However, the best thing they have are funny looking toilets. When we visited our fellow law students we got into a heated discussion on why in the hell a place as fancy as the Dorchester has a water fountain that squirts as high as the ceiling. Of course leave it to Tom to explain to Mason that you don't "drink out of it" but "sit on it." So if you see Buttery or Standley smile when they enter the restrooms its probably just happy memories. (The Dorchester Hotel is, of course, owned by an Arab.)

**Why they call it Wales:**

Tom and I visited Wales one weekend. Our stay was rather short but extremely educational. We had just finished a fine meal (honey duck and Hungarian steak) and a tall bottle of wine. We followed with a visit to a local pub. The song, "Don't The Girls Get Prettier at Closing Time" aptly explains our evening. Before

we knew it we were sitting with two Welsh woman. When the Pub closed we went our separate ways and my only comment, "so that is why they call it Whales."

**The Day the Law Students Violated the Dress Code:**  
Now don't get me wrong neither the highly respected school of Notre Dame nor the London School of

Economics have instituted a dress code. (Which might indicate the validity of the statement, "The dress code keeps up our reputation"). This story however requires a little factual background. The school provided us with a "disco boat" for our farewell party. (That's right, a disco machine on  
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The Miller Hypothesis

## Mechanics Of Faking It

By Mark M. Miller

Don't bother trying to find it in any of the orientation materials and you won't hear any of the professors discussing it. I'm talking about the most indispensable tool used in getting through law school: Faking It. Everyone knows the basics of Faking It like when your date asks what you think of the dinner wine. "A lusty full-bodied little burgundy, albeit somewhat ostentatious, whose color demands a delectable gustation," you say confidently not knowing whether it is vintage burgundy or a glass of Big Red. In law school, Faking It has developed into an art and is practiced with a passion. The following provides an idea when you can Fake It (known as the faker) or are being Faked (known as the fakee). Note: all first year law students are fakees.

**RULE No. 1.** When in doubt, use Latin. It was spoken by the Romans and is considered a "dead" language. So what we have here is a language no one presently speaks, which makes it great for Faking It—who is going to correct you? To convert anything into latin, simply add "us" or "o" or and "is" to the end of the word. For example, "let a smile be your umbrella" becomes, Letus a smileo beus youris umbrellas." This rule works especially well with non-law oriented people:

Him: (at a disco) How about going to my place?

Her: Get lost, creep!

Him: Buto I amis a wildus, crazyguyas.

Her: Wow! I didn't know you spoke law! Let's go!

**RULE No. 2.** "There are a few cases that hold" rule. Here

is a great way to provide authority on any side of an argument by simply saying, "Well, that may be true, but there is some authority for my position that..." this rule is based on the fact no one has read every case on every subject, so this rule can be easily and safely used. Caveat: Do not attempt to use this rule under ANY circumstances with Dr. Yao!! When it is obvious you have lost your side of an argument, this rule can be adapted by saying, "Well, of course, I was speaking of common law."

**RULE No. 3.** One cannot enjoy sex when involved in law school.

**RULE No. 4.** One cannot enjoy law school when involved in sex.

**RULE No. 5.** The more a professor advises not using prepared outlines and canned briefs, the more he uses them. Everyone knows we are being taught by professors because they supposedly know the law. But I have discovered the reason they tell student not to use cans, outlines, etc. is because these are the only things they use. No student had every seen the faculty library. Why? Because its chocked full of Gilberts, Smiths Reviews, Casenotes, Legalines, Nutshells, and even student outlines! I know the only reason tuition went up was to pay for the increase in prices of Gilberts and Casenote Legal Briefs. The only reason professors have office hours is so a student won't accidentally walk in on a professor reading canned briefs on the cases to be covered in his next class.

**RULE No. 6.** Always tell everyone that you are in your first year. Thanks to that damn TV show "Paper Chase," the first year of law has acquired a

mystic with which everyone identifies. Most people, however, are disappointed upon discovering the first year has little resemblance to "Paper Chase." "No," I would reply, "I am not a loveable midwest farm boy who carries a full load of first year classes, demand I have a 'Socratic dialogue' with my crusty contracts professor, solve everyone's problems, and work 40 hours a week in the local quaint pub." Rule No. 6 is that even if you are 2nd or 3rd year, always tell people its your first year and it is just like the TV show "Paper Chase." For the full effect, it is helpful to actually carry the Contracts casebook wherever you go and moan something about 200 pages due tomorrow. After graduation, substitute the contracts casebook with one of those pocket-beepers like doctors carry. Remember, it doesn't matter if it really works, its that people believe you are important enough to need one.

**RULE No. 7.** People in the top 20% can never have sex. The bottom 80% have sex constantly and in large amounts.

**RULE No. 8.** When writing, Fake It with a footnote.

It is widely known no one ever questions the authority of a sentence with a footnote, especially one long and complicated. The more involved and incomprehensible the footnote, the quicker the reader will skip it and accept the sentence as true. Do not just use cases, but make up impressive sounding foreign works like, "JHERING, DEUTSCHE UND ERNST IN DER JURISPRUDENZ (Berling, 1911)." Vague ex-

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## FEDERAL INSURED STUDENT LOAN PROGRAM

### THE BORROWER'S RIGHTS

By JEFF BABCOCK

Most matriculating law students are confronted by financial obstacles in obtaining a legal education. For those individuals attending a private institution, such as St. Mary's, the financial obstacles can be overcome simply by being rich or by being bankrolled by a "Sugar Daddy." Admittedly, not all law students fall into the category of the favored few. For the huddled masses, many have found that the U.S. Government provides an adequate alternative to "Sugar Daddy" through the govern-

ment student loan program.

As a borrower, the student often fails to appreciate the loan process until he/she has difficulty in obtaining a Federal Insured Student Loan check from the Business Office. The following discussion concerns certain rights, you, the borrowing law student, have to the Federal Insured Student Loan issued to the school, but made payable to you in the form of a check or draft. An initial synopsis of the loan program will be helpful in better understanding your rights.

The Guaranteed Student Loan Program, authorized by

the Higher Education Act of 1965 and subsequent amendments, established loan guarantee programs, and especially the Federal Insured Student Loan Program, FISL. The Department of Health, Education and Welfare, Office of Education, was given the responsibility of administering the FISL program.

According to Sue Bierman, Program Specialist — Guaranteed Student Loan Branch of the Office of Education—HEW, the Code of Federal Regulations, CFR, requires that in order for a student to be eligible for FISL, the student must (1) be accepted for enrollment at an eligible school, (2) file a loan application with the school and (3) apply for the loan with an eligible lender, such as a bank or credit union. 45 CFR Part 177 2 (b) et. seq. The lender then must submit the student application form to the office of Education's Bureau of Student Financial Assistance for processing. Once the Bureau of Student Financial Assistance guarantees the loan, 45 CFR Part 177 § 46 requires that the lender send the check or draft, made payable to the borrower, to the Financial Aid Office where the student is to be enrolled. This procedure is to insure that the student has indeed matriculated and is eligible to receive the FISL check. 45 CFR part 177 § 1 (r) defines matriculate as where "a student has completed all the requisite steps in the enrollment and registration process and has commenced the attendance program." Thus the question becomes, what rights do you, as borrower, have to the FISL check once the check is sent to the school?

When the borrower is awarded a FISL, the lender submits to him/her a promissory note drafted by the U.S. Government. The promissory note includes a statement of borrower rights and responsibilities.

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Tom McKenzie, (left) and a few members of Parliament play a spot of Rugby with a U.S. pigskin in Picadilly Circus (Where else?).

### Crossover Determinism

## Democratic Politics in 1980

By Erwin McGee

For two years now, all those regarded as "in the know" politically had discounted the possibility that Teddy Kennedy would enter the 1980 Presidential contest. Many reasons were given in support of this view, among them: an incumbent Democratic Administration; ten year anniversary of Chappaquiddick; conservative Proposition 13 mood; shaky marital relationship; acute medical problems of his sons; unfinished Senate business of personal importance to him; promises to his mother (two of her sons already been killed over the office).

Even recently, as the Senator appeared to function like a candidate by maintaining heavy out-of-state speaker's schedule while, in so doing, openly criticizing the Administration (e.g. deregulation of oil and gas; public health care legislation; defense budget concessions for SALT; the little tit for tat as to whom might whips whose what where), many argued that Kennedy was merely looking like a candidate to foreclose any early organizational efforts by the left wing of his party. In effect,

it was in Kennedy's interest to protect the President from the left in order to put the White House on reserve for himself in 1984.

Now, those "in the know" have reassessed their predictions in the belief that a Kennedy candidacy is inevitable. For example, on September 20, the Wall Street Journal reported that Speaker Tip O'Neill was reported as being now certain that Kennedy would enter (formerly he had evinced serious doubts) and Democratic Party Chairman John C. White, who was appointed by the President and serves at the President's pleasure, was saying that a Kennedy challenge would serve to stimulate the party spirit, rather than destroy the party, as White had heretofore been contending. These new positions indicate that only recently there has been strong evidence that the Senator truly intends to run.

If Kennedy does so decide, it is more likely than not that the President would bow out. The effect would be to assure Kennedy of the nomination and send moderate Democratic voters in droves, to flood the

Republican primaries, thus effectively barring a Reagan nomination and revivifying the hopes of moderate Republicans (John Connally, Howard Baker, Jim Thompson).

If Kennedy runs and the President decides to stay in the race, then there will be no crossover (moderate Democrats voting in the Republican Primaries throughout the midwest and South) and Ronald Reagan is virtually assured of the Republican nomination and the Democrats keep the big house (but may lose their Senate majority—see discussion below).

If, however, Kennedy stays out of the race, the Brown v. Carter contest may prove of sufficient interest to prevent a large crossover and Reagan again gets the nomination while the Democrats maintain their Senate majority.

The situation is anomalous if one buys this "crossover determinism." Kennedy will clobber Brown and probably beat the President but will be faced with a tough, well-financed moderate Republican in a Proposition 13 environment (i.e. get beat). If Kennedy stays out, the Democratic Primary

becomes uncertain (i.e. interesting, assuming Governor Brown doesn't appoint any more dope dealers to the District courts), the crossover slight, and Reagan's chances are better.

The pressure on Kennedy to make a decision is intense. If his "contender appearance" was designed to merely close out the opportunity for a leftist challenge, he was too successful. The left merely coalesced to draft him despite his known intentions. Given the massive draft-Kennedy effort which has already been organized, his decision not to run would seriously damage his relations with his most ardent supporters (Remember 1976). He only gets "one free bite."

I am convinced that Kennedy's entrance has more to do with the possible make up of the Senate after 1980 than with the timing of his bid for the Presidency. In effect, Kennedy feels that the circumstances necessitate his running. The 1980 ballot will be riddled with Senatorial campaigns and western liberal incumbents are the vulnerable spots—Sen.

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## Mr. Hobbs Takes A Vacation

By Sara Dysart

Although autumn is upon us, it is never too late to ask about your summer. In fact, it might even be a pleasant break from the routine of books, briefs, and deadlines to stop and reminisce about those crazy, lazy days which pass too quickly between the spring and fall semesters. Undoubtedly, many and varied stories could be uncovered. In an exclusive interview for the *Witan* one individual disclosed

such episodes as being told how to behave by the United States State Department; the discovery of a new, developing body of law; and being held suspect for the mysterious carrying of Newsweek magazine.

Too fantastic to be believed? As likely as any other law school rumor! Possibly, but not when you consider the source. Professor Bob Hobbs experienced these and many other interesting escapades this past summer on a People-to-People

Foundation-sponsored trip. Accompanied by his wife and thirty probate attorneys and their spouses from throughout the United States, Mr. Hobbs visited with probate judges and lawyers and government officials in Brussels, Frankfurt, West Berlin, East Berlin, Moscow, Stockholm and London. Attending meetings, sightseeing and socializing with the various authorities, the general purpose of the trip was to promote friendship and

understanding between the individuals and countries involved.

Focusing upon the insight to probate law which Mr. Hobbs gained from the trip, he indicated that he was most impressed with how much simpler these countries probate systems are in comparison to ours. As a general rule estates are handled by the individuals involved and the courts do not intervene unless a real controversy arises. A feature

peculiar to the Civil Law countries is varying degrees of forced heirship. For example, a father in Belgium, Germany or Sweden may not completely disinherit his child. Between spouses the law is very similar to community property law. Surprising is the fact that Russia has a system of probate law. Although the people may not own land they are permitted to own personal proper-

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## Wales

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oars). This floating party boat took the law students and professors down the Thames for a night out on the river. After the party got a little boring one student decided to take a dare. It seems some students bet this legal scholar 25L (pounds) he wouldn't jump off the boat. Being an enterprising lad interested in a quick \$50 he proceeded to strip down to his underwear and to everyone's amazement dove off the boat into the polluted river. With the cries of "man overboard" the boat's engines quickly came to a halt. The stu-

dent had only one thing in mind and that was getting to shore. The captain realized he was O.K. and proceeded with the trip as planned. But the half-naked scholar was not to be thwarted in this task of collecting his bounty. He quickly ran to the next bridge and waited for the disco boat. For some unexplained reason this student contemplated plummeting off the bridge and landing on the deck of the boat. The thought of the "reasonable man" quickly changed his mind. The reasonable man proceeded on his obscene journey to the nearest underground station (tube stop). Having no money he politely walked up to a pretty English woman and asked her if she would lend him a pound. Astonished and blus-

ing she was quick to oblige. He had enough to pay for the train and buy the evening paper. With paper under arm he took the train to the boat's final destination. When the boat docked our half-naked scholar was found sitting on a bench on the dock reading the paper (or at least pretending to). The professor who head the summer program was the first one off the boat with clothes in hand. He silently walked up to the student and said "Dumb, really dumb" and then walked away. The next day the professor was heard laughing about the incident as he explained it to one of the other professors that hadn't gone on the trip.

What I'm saying is that I had one heck of a time and even learned some law. Up until this

summer I thought fun and law were mutually exclusive. I don't anymore. So if you want to earn law credits and visit

another part of the globe contact the placement office about the summer law school programs in England.

## Faking It

(Continued from Page 6)

planational sentences should be used like, "The law," Cardozo once wrote, "is a cruel mistress who is really into S&M and bondage."

RULE No. 9. If you cannot raise your grades, then lower everyone else's. The ways to accomplish this are only limited

by your imagination. My personal favorite is taking down the official final schedule and replacing it with one of my own, listing the wrong day, time, and room number — guaranteed one-half will fail.

RULE No. 10. Law students may be amateurs in Faking It but they will turn pro upon graduation.

## Kennedy

(Continued From Page 7)

George McGovern (Dem., S.D.); Frank Church (Dem., Idaho); Warren Magnuson (Dem., Washington)—are all up for reelection. In 1978, although the Democratic party only lost a net of a few seats, they lost them in the Senate primarily and the left of center incumbents got clobbered—Dick Clark (Dem., Iowa); Floyd Haskel (Dem., Colorado); Wendell Anderson (Dem., Minnesota); and Clifford Case (Rep., N.J.). In 1980, Kennedy is needed to provide a sufficient coat to sustain the tails, so it goes.

If all these vulnerable Senators lose reelection along with a couple of others (for instance, Herman Talmadge is up), then the Senate could go Republican. That would make, among other things, Sen. Strom Thurmond (Rep., S.C.) Chairman of the Judiciary Committee (Kennedy's Committee). Those who follow the rating organizations, Sen. Thurmond has been awarded a zero (zip) record by the Americans for Democratic Action and Public Citizen, never pierced a twenty (20) from National Farmers Union and AFL-CIO COPE; and consistently gets an A-(90-100) from Americans for Constitutional Action (e.g. Messrs. Cascarelli's Young Americans for Freedom) and the National Security Institute. In 1948, he was the States Rights Party candidate for U.S. President. He lost!

Really, though, it's not that bad. If Strom Thurmond wasn't there to take the helm for the Republicans then the unanimously selected "King of Dumb" Senator William Scott would become Chairman (poll taken of 200 congressmen, journalists, congressional staffers, lobbyists; see New Times, May 17, 1974). Of course, the above is just one committee. In truth, the chances that the Democrats would lose eight seats to the Republicans in the Senate alone is incredulous to me.

It appears that the consequences of losing a majority are ever-present on Kennedy's mind. If not, be assured that Senators Jackson, McGovern, Church and Magnuson are reminding him. "Remember Dick Clark" is no doubt the indelible refrain among the group. But, Kennedy's entry

being of assistance to these Senators reelection chances presumes that the President bows out which is not a given: the President is a scrapper. If the President stays in, the Democratic Party will most assuredly split in factions during the primary with the loser voting Republican in the general. The above-mentioned vulnerables would be good as gone.

As political prediction scenarios go, this one is usually narrow ("crossover deterministic") and should consider more factors but space does not permit. However, I think that most of those pushing Kennedy are failing to appreciate this factor, hence its elevation here.

Further, I think the off-year election polls are worthless (lengthy string of citations omitted). That the popularity of Kennedy reflects the "Lone Ranger" analysis (See Witan, "Leftovers", February) as does, reciprocally, the dissatisfaction with the President. Further, the assumption underlying a Kennedy surge is that the "Get the Country Moving Again" theme will sweep the country under the Senator's decided political talents. Recent events tend to discount the effectiveness of this theme (outright transpose rejected in California, Minnesota, Texas), unless the election day arrives during a mature and deep recession.

The good Senator would serve us well by staying out of the fray and hitting the Senate reelection campaign trails. The big house is his from 1984-92.

## FISL

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Point one of the borrower rights stipulates that "the loan check must be made payable to the borrower and require his/her endorsement."

According to Bierman, proposed changes to 45 CFR Part 177 which will go into effect in mid-October 1979, establishes precise procedures for a school to process a FISL check. This procedure insures a check, made payable to the borrower, is given promptly to him/her for endorsement.

Bierman also noted two factors: "(1) If the school receives the check after the student enrolls for the academic period for which the loan is intended, the school must promptly deliver the check to the stu-

dent. (2) If the school receives the check before the student enrolls for the academic period for which the loan is intended, the school must hold the check and deliver it to the student at the time of the student's enrollment."

The proposed rules, published in 43 Federal Register 66 state in 45 CFR Part 177.57 (c) (1) (a) "Neither a lender nor a school may obtain a student's authorization to endorse a disbursement check (FISL check) on behalf of a borrower." Bierman reiterated the point, "A school cannot withhold a check as a guarantee against payment of school tuition or fees nor may the school require the student to endorse the check over to the school."

The borrower has an absolute right to the FISL check if he has matriculated. Of course the

student may be jeopardizing his law school progress by failing to pay the required tuition and fees when due and he/she may jeopardize his/her eligibility for a deferment if he/she is under deferment of repayment. Nevertheless, as Subpart D—Guarantee Agency Program explains "The proposed regulation requires that each check carry the legend 'FISL—Payee Endorsement Required' (as per the Uniform Commercial Code because)... a check legend of this kind is the only means of ensuring that the student will personally endorse each loan check, as Congress intends." Since it is the student's loan and the student's responsibility to repay the loan, the student's right to prompt delivery of the loan check can be nothing less than absolute.

## Hobbs

(Continued From Page 7)

ty. Upon death personalty may be transmitted either by will or intestacy. For a thorough analysis of probate law the writer at this point defers to the three hour course on the subject taught by Professor Hobbs and elects to report instead on his extra-legal experience in the various countries.

In Belgium, the visiting attorneys spent time with various officials of the European Economic Community. Impressed by the power and size of the organization Mr. Hobbs noted that it has its own court system. Not only is the E.E.C. developing its own body of case law, especially anti-trust law, it publishes its own opinions.

In Russia, Mr. Hobbs and his traveling troupe met with officials of the Moscow Bar Association. During the discussions a gentleman from the K.G.B. (secret police) was present. Questions tended to be answered freely, but requests to visit a court room or an attorney's office or to meet with other attorneys were refused.

There was a definite concern for the type of literature brought in. Luggage left in a hotel room was searched, a lady's bible was confiscated, and all books and magazines were thoroughly checked—including Mr. Hobbs' Newsweek. The presence of closed circuit television cameras in a small bar and a guarded fence around the University of Moscow creates in Americans a deeper appreciation for basic American freedom. Although the visitors were well-fed and entertained, Mr. Hobbs said the standard of living in Russia is generally low. Long lines awaiting ordinary groceries and the fact that blue jeans, panty hose and cigarettes are cherished items makes even a student's lifestyle in the United States desirable.

In West Berlin the group had dinner with the United States ambassador to East Berlin, Mr. Bolen, whom Mr. Hobbs found most impressive. A noteworthy comment made by Mr. Bolen was to the effect that East Germany is doing a better job of making Communism work than Russia, and, in the same respect, West Germany is do-

ing a better job of making capitalism work than the United States. The visit to East Berlin was brief and well-structured. The atmosphere was oppressive and the Berlin Wall threatening. The briefing by the State Department in Washington prior to the group's departure as a realistic forewarning of what to expect and how to act—basically to keep quiet and view that which the East Berlin officials allowed to see.

Summarizing what he personally gained from the trip Mr. Hobbs stated that professionally, he achieved an appreciation for the relative simplicity of the various probate systems; economically, he acquired an awareness of the strength of the European Economic Community; and personally, he now has a burning desire to go back to Sweden. He found Stockholm to be a beautiful city and would like to spend more time exploring it as well as all of Sweden. Perhaps the comment he made about West Berlin and Stockholm having lots of pretty girls has something to do with his desire to return to Sweden!

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# GAS (Continued from Page 1)

been supported by the Sierra Club and other environmental groups, on the theory that higher prices would force conservation of the fuel. About 20 trillion cubic feet (Tcf) of natural gas is consumed annually in the United States.

In discussing price, the unit normally used is 1,000 cubic feet (Mcf), an amount of gas with the same energy as one-sixth of a barrel of oil. Thus, the energy in a barrel of oil selling for \$12 could be replaced at the same cost by natural gas "reserves" will be taken up. The question of natural gas "reserves" will be taken up later, but suffice it to say that according to almost all estimates, it is now believed that there is more natural gas still underground than anyone imagined a few years ago. According to the Pitts Energy Group (of independent producers) in Dallas, "vast supplies" of natural gas remain to be produced (the word produced in gas industry parlance means "taken out of the ground"). The Pitts study reports that "over 20 years of low prices have left 98 percent of Prospective sediments untouched by drilling." Writing in a recent issue of *The Public Interest*, Rep. David Stockman of Michigan noted that 97 percent of the natural-gas resource base "has yet to be disturbed by a production well bore."

Natural gas was first discovered in conjunction with oil-well drilling after the first world war, primarily in Texas, Oklahoma, and Kansas; but it did not become an important source of energy until after World War II. In the early years it was simply "flared off" at the wellhead, because without pipelines and a system of

distribution, there was no way the gas could be used. Toward the end of the 1930s, however, such a distribution system was under construction, and in 1938 Congress passed the Natural Gas Act, which brought interstate pipelines under the control of the Federal Power Commission (FPC), since consumers obviously could not easily switch to a different utility company, the FPC was empowered to regulate pipeline and utility

**"natural-gas production never was anything remotely resembling a monopoly, nor is it today..."**

prices. But the *wellhead* price—the price of the gas coming out of the ground—was not regulated.

This changed in 1954, with the *Phillips Petroleum Co. v. Wisconsin* case, a landmark decision embedded in the consciousness of oil-and gasmen everywhere. Phillips Petroleum wanted to raise the price of natural gas to 4 cents per Mcf—up from 3 cents (an almost unbelievably low price, showing how Americans easily became accustomed to the idea of energy as a practically free commodity). The city of Milwaukee objected to this increase, however, and appealed to the FPC. The commission ruled that it could not control well-head prices, but this decision was appealed to the U.S. Supreme Court, which reversed the finding and ruled that the FPC did indeed have the

authority to control the wellhead price.

Almost immediately, there was a move in Congress to amend the Natural Gas Act specifically to exempt the gas producers—i.e., those who were out in the field drilling for oil and gas—from price regulation. The desired amendment, called the Harris-Fulbright bill, duly passed Congress in 1956. Then came another development that the gas industry looks back on with a good deal of wistfulness. President Eisenhower vetoed the bill. The problem was that the Republican Senator from South Dakota, Francis Case, told the Senate that he had been offered a \$2,500 campaign contribution by a representative of the Superior Oil Company of Texas—payable on the understanding that he would vote for the bill.

Eisenhower like the idea of natural-gas deregulation, he emphasized, but he nevertheless vetoed it, pointing out as he did so that "a body of evidence has accumulated indicating that private persons, apparently representing only a very small segment of a great and vital industry, have been seeking to further their own interest by highly questionable activities."

In the next twenty-two years, attempt after attempt would be made to deregulate natural-gas prices, in almost every Congress. But never again would the measure pass both Houses.

In Senate debate of the Harris-Fulbright bill, Sen. Thomas C. Hennings of Missouri, who opposed deregulation along with thirty-seven others, including Sen. John F. Kennedy, pointed out that "the greatest enemy within the country of a truly competitive free enterprise is the creeping, and hidden, and camouflaged monopolist who, year in and out, has sought to fix prices. That is what the real originators, within the big oil companies, of the pending measure aim to do..."

There was a double irony here, and indeed there still is, because much of the same "big oil monopolist" rhetoric is heard today, and in fact has never ceased being a part of public oratory ever since oil companies came into existence. The irony was that to avoid an alleged monopoly, that of "big oil," the Senator urged refuge

in a *true* monopoly, that of government pricing.

The other irony, and it is a sad one, is that natural-gas production never was anything remotely resembling a monopoly, nor is it today (even if it is true—as it is—that the largest natural-gas producers are also oil companies). It is important to clarify this because the image that we all semiconsciously tend to share when the words "natural gas" are uttered is the cartoon image of...the hand on the valve. A pipeline is heading off into the distance, a cactus beside it, perhaps, or a sand dune, and in the foreground there is a big wheel valve, and standing nearby there is a large Texas smoking a cigar (or more likely, these days, an Arab wearing a bur-noose)—with his hand on the valve. And you understand that he is shutting it off. Then he will wait for the price to go up. (Similar fantasies have long been entertained about shipping magnates ordering their freighters to wait off-shore for a month or two.)

Now, as far as the Arab countries are concerned, where monarchs with medieval power run the whole show, the hand-on-the-wheel image undoubtedly has a good deal of truth to it. But for Texas—or Louisiana, which is now the most important natural gas-producing state—the image of the single pipeline with the strategically placed valve is utterly wrong. It would be more accurate to think of the pipeline systems in the Gulf-states area as resembling the diagram of the New York subway system metastasized a hundredfold: shut one valve off and there are still a thousand alternative ways the gas can flow to its destination.

It is instructive that no one knows exactly how many natural-gas producers there are in the United States—there are so many of them. It is estimated that in the 1950s, however, before the wellhead price was effectively regulated, there were 20,000 independent producers. With price regulation, this number dropped to about 10,000 in the early 1970s; today the number is up again, to perhaps 12,000 independents (defined as companies that produce less than 10 billion cubic feet annually).

The industry is highly competitive, with an entry cost voters of the truth of this in recent years—especially voters with a college education. This really is the "crisis of capitalism": until we can perceive that the independent driller whose goal in life is to become a millionaire works to our advantage more effectively than the selfless "consumer advocate" in Washington, whose true goal surely is the attainment of personal power (even if he does call it "fairness"), then we will always have an energy crisis in our hands.

that is low compared with that of many industries—\$4 or \$5 million, according to David Foster, president of the Natural Gas Supply Association in Washington, D.C. "All you need," he said, "is enough capital to buy a lease, hire a geologist, a rig, and a drilling crew." By 1960, there were 5,600 producers selling gas to the interstate pipeline system. The twenty-two largest sellers in 1961 sold 55 percent of interstate gas, which is a lower level of concentration than is found in the average manufacturing industry. Sales by the largest producer have never exceeded 9.2 percent of the market (achieved by the Humble Oil Company in 1971).

Despite these facts, the Federal Power Commission (following orders from the Supreme Court) set about the task of regulating the wellhead price of gas, and was so successful that the price of new gas contracts actually was somewhat lower in 1968 than it had been in 1960. The inevitable result of rigid price controls was soon felt.

By September, 1968, Robert B. Helms noted, in a booklet entitled *Natural Gas Regulations: An Evaluation of FPC Price Controls*, that

*the commission was slowly becoming aware of a looming shortage of natural gas. In fact, 1968 was the first year the American Gas Association reserve data showed annual consumption to be larger than additions to reserves... By 1971 the FPC had gone to great lengths to document the shortage situation brought about by declining exploratory drilling and growing demand.*

But there was another element to the story, and it is what has made natural gas a favorite topic for students of government regulation. As long as the gas did not leave the state in which it came out of the ground, it was not subject to price controls. This was called intrastate gas: produced, for example, in Morgan City, Louisiana, and sold in Baton Rouge, Louisiana. Thus, by the late 1960s a dual market had developed: a market for gas that crossed state lines (regulated); and a free market for gas that did not. Until the mid-Sixties, the interstate price of gas was about 2 cents per Mcf higher than the intrastate price (16 cents and 14 cents per Mcf respectively). This ensured that new gas discoveries were constantly committed to the interstate market—i.e., were "signed up" for delivery to the big consuming areas of the Northeast. The critically important changeover occurred in about 1970, when, because of growing

(Continued on Page 10)

Natural-Gas Prices: Inter- and Intrastate Market

INTERSTATE PRICE: AVERAGE OF TOTAL RANGE (in which gas sold at old contract prices is "rolled in" with new, more expensive gas)		INTRASTATE: TEXAS (approximate price paid for new gas)
1960	14.0¢	\$ .10
1965	16.0	.14
1970	18.0	.20
1972	19.8	.60
1974	26.7	1.50
1976	44.6	2.10
1978	63.9	1.90

# GAS (From Page 12)

are attempting to regulate, they are unable to act quickly enough in response to movements in the market. By no means are all legislators to blame. Many Representatives and Senators—and in recent years this has meant almost exactly half of each body—instinctively realize their shortcomings, and these are the ones who vote to deregulate. Having satisfied themselves that the industry in

are then prepared to let it get on with the job.

But the other half, the dangerous half, is really of a more totalitarian cast of mind, believing in their hearts that a monopoly indeed is a good thing: a *government* monopoly. They don't know as much as the oil and gas men, they may concede, but they are possessed of purer motives and therefore deserve to prevail. They are concerned about consumers, not profits. They have good intentions, they know, and

characteristically they find it very, very hard to believe that good intentions can produce anything but excellent results. And so they vote themselves the power to interfere—just enough to keep supply and demand out of whack.

The evidence is by now overwhelming that self-interested producers competing with one another end up serving the customer far more handsomely than idealistic legislators ever can, but unfortunately it has been difficult to persuade

## GAS (Continued from Page 9)

demand in the producer states (especially the movement of many petrochemical companies to Texas and Louisiana), the free-market price of gas (by then about 20 cents) moved above the regulated price (18 cents). At that point, new gas was rarely committed to the interstate market. It was kept in its home state whenever possible. That was really the beginning of the "energy crisis."

This dual market is of particular interest because it has in addition had the unintended effect of creating a "controlled experiment in the realm of government regulation. The effect of price regulation in the interstate market could be compared with the behavior of a free market in the same commodity.

### The dual market

The threatening energy crisis of the early 1970s was hastened along because many of the long-term contracts that interstate pipeline companies had signed with the gas producers in the 1950's were beginning to expire as the '70s progressed. The dual market meant that the pipeline companies began to encounter considerable difficulty in buying new gas to replace the old—not because it wasn't there to be found, but because the gas producers did not want to sell it to the interstate pipelines at a lower price when they could see it within the state at a high price. By 1974, for example, the disparity between the two markets was equivalent to a factor of four: 26 cents per Mcf interstate; more than \$1 in the free market. Little gas began to flow through the interstate pipelines, therefore, and shortages developed. Demand for the fuel nevertheless remained because of its artificially low price.

In the realm of natural gas, then, this dual market and its inevitable economic effect simply became the "energy crisis." That was all there was to it. But this was rarely understood because whenever someone began to suggest that the energy crisis was not "real"—in a way it was not if it was merely the product of government folly—then many people would interpret this to mean that the crisis was not real in the sense that the gas producers were "withholding" the fuel from markets. This was perfectly true, of course, but not in quite the way that the skeptics imagined. But before examining these two senses of "withholding," it is important to realize that there was another cause of the energy crisis as it affected natural gas: the quadrupling of prices in 1973 by OPEC.

Many people have failed to understand the psychological effect of this, because they have imagined that whatever oil and

natural gas is still underground in this country is no doubt "owned" by some half-dozen huge oil companies. (People are inclined to believe this because when they say "fill 'er up" at the gas station, they are likely to be dealing with Exxon or Texaco or any one of a small handful of large companies.) But, in fact, oil and natural gas "in place" are own-

**"The effect of the OPEC Price increase was for these landowners and leaseholders...to mentally join OPEC."**

ed by a combination of landowners and those who own mineral rights to these lands. Many of these rights are indeed leases owned by "big oil." But many are not. It is estimated that as many as 1.2 million Americans are "royalty owners" of oil and gas: people who own the geologically appropriate land or have leased such land (about one-third of these royalty owners are in Texas).

The effect of the OPEC price increase was for these landowners and leaseholders—often lawyers or otherwise fairly wealthy people who were not in desperate need of ready cash—to mentally join OPEC. They knew that their own oil and gas, even though still under the ground, was now "worth" the new high price. There was, however, a strong incentive for them to keep it under the ground, because the government in its wisdom was telling them that they could sell it only for a fraction of what they perceived its true value to be. (They perceived correctly, too, in view of the subsequent failure to produce "alternative energy" below OPEC prices; this is another way of saying the OPEC's price increase itself was not, as some seem to think, "excessive.")

This outlook—mentally joining OPEC—applied to oil as well as gas, of course, because oil's price had been frozen domestically in the wage-price controls imposed by President Nixon in 1971, and these price controls were still in effect at the time of the OPEC price increase. Precisely because of this price increase, it then became politically difficult to remove the domestic price controls on oil, which remain in effect to this day—President Ford, having refused to avail himself of an opportunity to remove them in 1975 (perhaps

the most serious economic error of his Presidency). President Carter has now promised to decontrol oil over the next two years. He also wants to tax away much of the "windfall profits," on the peculiar theory that Americans will feel better about paying more for oil if the money goes to the government rather than to oil companies.

Government policy has therefore skewed the oil market in favor of foreign rather than domestic production (there are additional, complex reasons for this), but government policy even more seriously skewed natural-gas production in favor of the free rather than the regulated market. Leaseholders and landowners who wanted to sell their wares were quite happy to do so—as long as the pipeline to which the well was connected did not cross a state line. For example, in 1973 Gov. Edwin Edwards announced that a large natural-gas field had been discovered in Plaquemines Parish, in southern Louisiana. It contained enough gas to fill all New Orleans's energy needs for fifty years. The problem was that the only pipeline anywhere near the field went heading straight off to Washington and New York. The governor announced that the field would not, therefore, be developed until it could be reached by an intrastate pipeline. Why send the gas to the very people who were ordering that it be sold at a fraction of its value?

The South had lost the other war between the states, but this skirmish they were determined not to lose. Since the most important producing states were in the South, government policy had indeed created new hostilities. The way many residents of Texas, Oklahoma, and Louisiana saw it—and not just oilmen in those states but almost anyone who read the newspapers—the people up there in New York and Washington and Boston were reluctant to look for oil and gas themselves, especially offshore, because to do so might spoil their view or pollute the beach or make the air dusty. "Thanks, but no thanks," the northerners were perceived as saying to the South. "You go on drilling up your bayous or swamps or whatever it is you have down there, and go on sending us the stuff at one-eighth of its true value!"

One might interpolate here the basic point that the energy crisis has often not been understood because people find it hard to believe that quite ordinary economic incentives (sometimes disparaged as "lemonade-stand economics") apply on the large scale of the natural same way, as on the small scale of the individual. The problem has been that a number of quite influential people—Congressmen, for example—believe this *ought not*

to be the case, even if in fact it is. Pro-regulation liberals in Washington—people who may in some instances have arrived in the capital during the Kennedy Administration, bought a house there in 1961, and since seen the value of that house increase by a factor of eight—would perfectly well understand that a "housing shortage" would result if President Carter, taking pity on newcomers, were somehow to decree that no house in the capital could be sold above a certain (low) price. Houses would not be sold, and a "housing crisis" would ensue. In the same way—just the same way—there was an energy crisis. With energy, however, the advocate of regulation is inclined to say that things ought to be different. Perhaps he is right, but in reality they are not different. Nor will they be until the day comes when the government passes laws compelling landowners to extract their natural gas, compelling them to sell it on the interstate market, and so on. Perhaps, then, the problem has been that some lawmakers have not fully appreciated how much the economic system depends on—and is at the mercy of—voluntary behavior.

As a result, bumper stickers began appearing in the South recommending that Yankees should be allowed to "Freeze in the Dark." Congressmen, "consumer advocates," and a new breed of "energy activists" from the big consuming regions of the Northeast then began retaliating with accusations that natural gas was being "withheld" from the market. Perpetual confusion has surrounded this point, since there are two senses in which "withholding" can occur. To their own detriment, the oil and gas companies have not done a satisfactory job of explaining the difference between the two.

### "1001 years of natural gas"

The confusion arises because the companies have denied (truthfully, as far as anyone has been able to show) that any illegal withholding of gas resulted—that is to say, "shutting in" wells that were already delivering gas under contract. But there was another sense in which of

course withholding occurred, in which newly discovered gas was committed to the intrastate market (as nearly all new gas was) or simply was never taken out of the ground at all. Gas industry spokesmen call this "economic withholding," and it has been widely practiced ever since the disparity between the two prices opened up in the early 1970s.

The moral here seems to be that as long as government has only a tenuous or partial grip over an industry (as was the case, of course, with the FPC's control over the natural-gas industry) the result is likely to be chaotic. Better to have a complete grip (which in this case would involve the power to order people to take oil and gas out of the ground), or no grip at all (which would have entailed deregulation of the wellhead price).

The deregulation "option" was continually resisted, however, by many Congressmen and consumerists, who had by this time become falsely persuaded that we were "running out" of natural gas (in which case rationing, not the free market, became the moral imperative).

To many people, the conclusion that we were running out of fossil fuel has always seemed reasonable, because it is based on a premise that is self-evident although misleading. Natural gas is "finite" and "nonrenewable" (so the argument runs), therefore we are running out of it. No one seems to have pointed out what a coincidence it was that we should find ourselves to be "running out" of natural gas just at the time when a large gap opened up between the regulated and the free-market price.

Again, the industry did not help its own cause here by casually releasing figures dealing with "natural-gas reserves"—figures that the industry understood, but that journalists, many of them grappling with "energy" for the first time, did not. Typical of many such cases was a cover story in *Newsweek* in January, 1973, complete with photographs, headlined: U.S. Fuel Reserves: How Long Will They Last?

(Continued on Page 11)

Natural-Gas Reserves and Consumption

YEAR	PROVED RESERVES TCF	CONSUMPTION TCF	YEARS' SUPPLY
1967	292.9	18.2	15.9
1968	287.3	19.6	14.8
1969	275.1	21.0	13.3
1970	290.7	22.0	13.2
1971	278.8	22.5	12.6
1972	266.1	22.7	11.8
1973	249.9	22.5	11.0
1974	237.1	21.4	11.1
1975	228.2	19.2	11.6
1976	216.0	20.2	11.1
1977	208.9	19.6	10.7

SOURCE: American Gas Association "Gas Facts"

## GAS (Continued from Page 10)

Superimposed on a picture of a natural-gas pipeline was the figure: Eleven Years. (In the main text, the reader was admonished that "with but 6 percent of the world's population, the U.S. guzzles 33 percent of the globe's energy.") The reader was not told what the word *reserves* meant, however. The problem with it is that it suggests to the unwary a known quantity, arrived at after every conceivable subterranean cavity has been reconnoitered, measured, and its contents quantified.

There are three categories of reserves—"proved," "probable," and "possible"—and the figures that we hear whenever the energy crisis is discussed are proved reserves: very conservative figures that describe a *working inventory* of natural gas in wells that have *already been drilled*. As the cost of drilling a gas well is now more than a quarter of million dollars, on average, and as with any given bore there is only a one-in-ten chance of finding gas, it does not come as a surprise to learn that the vast majority of potential gas-bearing sediments have not been drilled at all. The misleading nature of the figure given in *Newsweek* (and in many other journals at that time) becomes apparent when one considers that now, six years later, U.S. proved reserves amount not to a 5-year supply but to a 10.74-year supply.

The point is that, as with any other commodity, producers and sellers do not need to keep more than a certain amount of "inventory" on hand. It is not economical to do so. Reserve figures therefore tell us not so much about what is underground so much as about what projected future demand will be; this results in the producers' drilling only enough to have a sufficient supply "in reserve," just as A&P managers must decide how large a supply of Yuban or Maxwell House they shall have "in reserve." When all of this is taken into account, and especially when the incentive provided by market prices is included, the *Wall Street Journal's* 1977 estimate of "1001 years of natural gas" seems closer to the mark.

### The Congressional debate

This, then, was the situation when the Carter Administration came to Washington: a lot of natural gas available—at a price—in the producing states; a growing scarcity in the consuming states. In 1976 Carter had made a campaign promise to deregulate natural gas, but in retrospect it seems clear that he just said that because he was in Oklahoma that day. Most probably he didn't understand the issue at all—the world of oil independents, roughnecks, and

wildcatters being about as remote from his safe little squared-away, government-regulated, government-subsidized world of peanut storage as it is possible to imagine. And to the extent that Carter might have understood the oil and gas industry he would have thoroughly disapproved of it as a manifestation of entrepreneurial recklessness very much akin to gambling: fortunes made or lost at the turn of a drill—a fundamentally immoral world, not at all like the safety incremental climate of civil servitude (5 percent per annum increase for everyone) in which he had spent his entire life. Not surprising, then, that he soon perceived the energy crisis to be the moral equivalent of war. He smote the oil companies hip and thigh, denounced the special interests, and vowed to veto anything resembling a deregulation bill that might come out of Congress.

He brandished a Natural Energy Plan, in which the intention was to do away with the dual natural-gas market by extending price controls to the intrastate market. Professor Edward Mitchell, a frequently consulted expert on energy matters, has called this a "shortage policy." Carter, of course, was by this time surrounded by advisers for whom shortages were a dream come true: *nice* shortages. (Now you see why this is such an ideological issue!) With shortages, people could be exhorted to make sacrifices; taxes could be imposed to encourage conservation; and then these taxes could be repaid to the needy or the worthy—people who insulated their houses, for example. At any rate, the Carter team would have a lot of tax money to redistribute, by way of favors. In short, energy could be made into another income redistribution program.

There were, it was true, one or two clouds on the horizon, such as the director of the U.S. Geological Survey, Dr. Vincent McElvay, who did a naughty thing, giving a speech in Boston in which he said that domestic natural-gas reserves were huge ("about ten times the energy value of all (previous) oil, gas, and coal reserves of the United States combined"). He was fired shortly after that (they implied he was too old), as was Dr. Christian Knudsen, the author of a study released by the Energy Research and Development Administration concluding that a \$2.25 per Mcf the nation would be "awash" with natural gas.

The only problems remaining were to get Congress to approve the taxes, and to pass a bill extending price controls to the intrastate market. Sen. Russell Long put a stop to the taxes after the House had gone a long way toward approving

Carter's plan: the nation will remain permanently in the Louisiana's Senator's debt for this achievement—a rare instance in which Congressional seniority was actually put to good purpose.

As for the extension of price controls, this turned out to be difficult, too. The price in the intrastate market had by now risen to about \$2 per Mcf, and at this price more and more drilling and more drilling rigs were being set up—in fact there weren't enough rigs to go around—and more and more gas was being found. More states were becoming "producer" states, too—not just in the South. Several Western states were finding a lot of gas: Montana, Colorado, and

**"In 1976 Carter had made a campaign promise to deregulate natural gas, but in retrospect it seems clear that he just said that because he was in Oklahoma that day."**

Wyoming, for example. Thus, political support for deregulation was inevitably growing with time.

Nevertheless, the House of Representatives took Speaker Thomas P. ("Tip") O'Neill's advice and passed the natural-gas bill as the Administration had proposed it. The Senate went in the opposite direction, however, despite tremendously delaying tactics by Sens. James Abourezk of South Dakota and Howard Metzenbaum of Ohio, who kept the Senate up all night at one point, so fearful were they that a deregulation bill would pass. But pass it did. Thus, the House-Senate conference committee would have to reconcile two bills that wholly opposed one another: one removing price controls, the other extending them nationwide.

Meanwhile, there was an interesting development in Texas. By the end of 1977, the high intrastate price had produced so much new gas that the price "turned around" and started to drop well below the \$2 mark. The market system was working exactly as it was supposed to, in other words, but this had its alarming aspect, as Congress by this time was debating a compromise bill that would unify the two markets at a regulated price of \$1.75 (as of April 20, 1977, the price would be adjusted for inflation so that by 1979, when would run to approximately \$2 per Mcf). If, however, the free market price fell much below this, there would be a danger that Congress would perceive it

was not setting the regulated price too high: a "floor" price, in other words, rather than a "ceiling" price. There would inevitably be a move by the liberals in Congress to lower the legislated price below the new intrastate level. (Indeed, there was such a move.)

The Texas Railroad Commission, which has authority over oil and gas production rates in the state, came to the rescue at this crucial hour, putting into effect a "conservation" measure limiting output of gas, thus shoring up the price. (The rationale for this, as natural-gas industry spokesmen never tire of explaining, is that for obscure geological reasons more gas can in the long run be extracted from a well if it is taken out of the ground slowly.)

Be that as it may, the intrastate price then held steady at about \$1.95, and the Congressional debate continued undisturbed by distant price fluctuations. A coalition of centrists led by Sen. Henry Jackson of Washington supported the new Natural Gas Policy Act, which was in turn opposed by an unusual alliance of conservatives from the producing states (who didn't want the government interfering with their—comparatively—free markets), and those on the ideological Left, such as Senators Metzenbaum and Edward F. Kennedy (who thought the proposed new regulated price was too high).

**Consumer versus producer**  
The transcript of the natural-gas debate in the 95th Congress covers hundreds of pages of the *Congressional Record*. But one frequently heard argument deserves to be rescued from the archives and examined before it is entirely lost from view. This is the claim by those who opposed deregulation—and Senator Kennedy was typical in this respect—that they were

looking out for the interests of "consumers" by preventing the price from climbing.

The significant point is that when a customer in Massachusetts, for example, buys natural gas, only 20 percent of his bill pays for gas; the rest helps to pay for the pipeline that brought the gas almost 2,000 miles to his home. Thus, an increase in the wellhead price of gas adds only a small fraction to domestic gas bills. But—because the pipeline must be amortized anyway—if gas supplies are interrupted or reduced, as they were in the 1970s (because of the diversion of new supplies to the intrastate market), then the consumer's bill will rise considerably because the constant pipeline costs must be "loaded" onto a diminished number of customers. Therefore, regulated prices have hurt the consumer, not helped him.

This was pointed out in Warren T. Brookes in a column in the *Boston Herald-American*. He described a case in which "the total price of gas to the consumers rose in two years from \$1.72 to \$3.38, while the price of the raw fuel went up only 20 cents. Of the \$1.66 increase, \$1.44 was in the rising cost of the pipeline service. The main reason for this rise was the decline in the flow of natural gas through the nation's major pipeline... This is why a study done by Brooklyn Union Gas Company in 1975 showed that if new natural gas were deregulated, and the pipelines were kept full by new gas costing \$2.50, Brooklyn Union's cost to the consumer would be \$3.98; but if regulation remained and the downward trend in natural gas production from the West continued, the consumer price would be \$4.45." (Continued on Page 12)

**OPPORTUNITY**

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## GAS (Continued from Page 11)

Despite uncontroverted arguments such as this, Senator Kennedy persisted in his denunciation of higher well-head prices, saying that they have been "burdening consumers directly and indirectly with billions of dollars in higher costs. I could not vote to saddle them with additional billions of dollars in still higher costs." A typical statement by someone favoring regulation, which the dollar-and-cents reality obscured by the rhetoric of billions.

Similar arguments were made by Senator Kennedy's former aide James Flug (who runs a well-financed anti-oil company operation out of Washington), Ralph Nader, Reps. Toby Moffett and Rev. Robert Drinan, and many others, all of whom alleged that they had the consumers at heart. This may legitimately be doubted, however, in view of the facts about pipeline costs. If only these men had taken more interest in the price paid by the consumers, rather than the price charge at the wellhead, it would be so much easier to believe their consumerist rhetoric. As it is, one is left with the distinct impression that they are more interested in making life difficult for the producers than easy for the consumers.

In any event, the "conference report" compromise passed the Senate by a vote of 57-42 on September 27, 1978, and the House later concurred by a margin of 231-168. President Carter signed the Natural Gas Policy Act into law on November 9, 1978. It extended price controls to the intrastate market, with the distant promise of deregulation in 1985—but, of course, by then a new Congress would be in

Washington, and one in no way bound by the actions of its predecessors.

The new act is a lawyer's dream and a legal nightmare—sixty-two pages of fine print establishing twenty-four different categories of gas. Here is Category 6, for example:

*"New Onshore Production Wells Deeper than 5000 feet: gas from new wells in an old reservoir within 2½ miles of an old well provided that new well is outside existing proration unit (applied to well begun 2/19/77 and thereafter capable of commercial production)."*

As Sen. Ernest Hollings of south Carolina said in the course of the debate, "We all could become gas lawyers." According to one report, some of the independents, unable to afford the necessary legal advice, have given up in disgust and gone into other lines of business—bowling alleys, for instance. The majors, of course, can easily afford the lawyers, and so one undoubted effect of the bill, as with so much of what Congress does, will be to make life harder for the small-business entrepreneur. At the same time, of course, it will make life relatively easier for the majors, all of which have plenty of lawyers on their payrolls and which will therefore be in a position to pick up any pieces of the market abandoned by the independents.

Earl Turner, executive vice-president of the Texas Independent Producers and Royalty Owners Association, says that as of March, 1979, the new gas act has been "a little short of

disastrous." There has been a 15 percent decline in drilling, he said, "because of confusion in meeting requirement obligation," i.e., red tape. He said that there were 300 unused drilling rigs "stacked up," with "about 250 new rigs coming on line from the manufacturers." Before the bill passed, of course, rigs had been hard to find. Independents, Turner explained, drill 90 percent of the exploratory wells in the United States. Most of these companies employ only half-a-dozen to a dozen people most of the time. "Now they've been asked to look at a complex law," Turner said, "and most of them simply threw up their hands."

Another fear is that it will

### CONSUMER VS. PRODUCER

take a long time for the new, higher regulated prices allowed under the act to take effect. By a 3-2 decision earlier this year, the Federal Energy Regulatory commission (which has now replaced the old FPC) ruled that the price-escalator clauses written into old natural-gas contracts would not be automatically "triggered" by the new ceiling prices now allowed. "What this means," said David Foster, of the National Gas Supply Association, "is that the decision wiped out what some say is 70 percent of the price incentives we thought we were getting. The matter then came up for rehearing, and Energy Secretary James Schlesinger sent over some testimony saying that Chairman Curtis of FERC had been wrong. Then the commission, by a 4-1 vote, did modify its interpretation somewhat. But lawyers believe it will take three years of legal maneuvering for ceiling prices to be applied to existing contracts."

The interesting thing is that if and when these "ceiling prices" are arrived at, they very probably will turn out to be higher than the free-market price would have been. Then and only then will Senator Kennedy and his friends come out of deregulation, just as they did last year with the airlines.

There are already indications that the wellhead prices under the new act are turning out to be higher than the free-market price. The Oklahoma legislature, for example, has now passed a bill keeping the price of some gas sold within the state below the price ceiling allowed by the new act. Cal Hobson, the Oklahoma state legislator who introduced this bill, says that under the Natural Gas Policy Act "price ceilings are turning out to be price floors, because whenever they can, the producers have been claiming the highest price." There is little incentive for the state regulatory agen-

cies responsible for ruling on these price claims to turn them down, because the higher the prices are (in some cases) the higher the state "severance" taxes are—taxes on oil and gas taken out of the ground. Most people seem to agree that this is the eventual fate of the regulated price; it becomes a price that no producer has any incentive to undercut. In the end, then, prices turn out to be higher than they would have been without regulation.

Meanwhile, there is still another provision of the new act that seriously disturbs the gas industry. This is the so-called incremental-pricing requirement, which is a plan to charge large industrial users of gas more than domestic users. A few years ago, of course, this seemed like a good idea. We were then still mesmerized by the Club of Rome and the "era of limits." But after the inter- and intrastate markets were unified, a "bubble" of one trillion cubic feet of excess supply was discovered in the intrastate market. At that point, Energy Secretary Schlesinger tried to get the industrial market back. SCHLESINGER URGES SHIFT TO GAS USE was the surprising *New York Times* headline in January this year. But the act was passed by this time, the damage was done, and plans go ahead to charge industries using natural gas a higher price.

The fear is that many industries may already have turned to oil—fed up as they are with interrupted gas supplies, low priority if it is short, and now the threat of higher prices. Rush Moody, a former FPC commissioner, spoke before the Gas Men's Roundtable of Washington in November, 1978, and he said: "I have an intuitive feeling that a substantial portion of the traditional natural-gas industrial market has already disappeared and is not likely to return even though more gas has now become available." He attributed the surplus gas "bubble" to a fall-off in demand resulting from this "pressure against the industrial gas user," adding: "Though the commission is oft-times accused of inconsistency, I would have to say the one consistent philosophic guidepost which has remained steady through changes in commission personnel over the past eight years has been the very simple notion that boiler fuel consumption of natural gas is inherently immoral and must to the maximum extent of the commission's abilities be eliminated."

The result of this policy has been to force the industrial user into the market for imported crude oil. Petroleum has moved from 21.9 percent of the industrial market in 1973 to a 26.7 percent share in 1977. "How ironic," Moody concluded, "that a government avowedly dedicated to reducing U.S. dependence on imported

fuels is engaged in policies which have had as their only result a greater U.S. dependence on imported fuels."

The worst effect of a continued shift of industrial users away from natural gas, however, will be once again to force domestic consumers to pay greatly increased prices for the diminished quantities of gas traveling in the pipeline. (At present, only one-third of the natural gas consumed is put to domestic use.) In effect, then, households rather than industries will be compelled to amortize the enormous cost of pipeline construction, which, incidentally, has gone up from \$120,000 per mile in 1965 to \$1.7 million per mile in 1977. It was for this reason, then, that James Schlesinger recently urged industries to go on burning natural gas in their boilers.

It may be seen, then, that the government involvement in natural-gas pricing has been a disaster. It is particularly discouraging to consider how much larger the natural-gas market might have grown, as a percentage of U.S. energy needs, if the rigid price controls of the 1960s had not been in place, resulting frequently in the shunning of new gas customers. And if the market had grown, we would now be that much less dependent on foreign oil. A large part of the problem, it is now apparent, stems from the clamorous activism inherent in the word *policy*. Time and again, in recent years, we have been told that the United States must adopt an "energy policy." Somebody must do something about energy, and nobody seems to have appreciated that for years and years thousands of people in the oil and gas industry have been doing something, namely delivering oil and gas to U.S. consumers at the lowest price in the world. But small, and then larger, interferences in the market resulted in inequalities of supply and demand, which in turn led to the appeal that government should do even more. A Department of Energy was formed, thus creating jobs for a lot of people who had been crying out for an "energy policy," and these policymakers will be almost bound to introduce further distortions in the market. Because of their high salaries, they will not be content to do nothing, although that would probably be the best energy policy the government could adopt.

When one reads the protracted legislative debate on natural-gas pricing, it becomes apparent that the main reason legislators are unable to do anything useful in this realm is that they do not know what they are talking about. They do not have enough information at their disposal; they do not understand the business they

(Continued on Page 9)



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# Witan



## Dean's Report

### State of the Law School

The following is the "State of the Law School" report written by Dean Castleberry and mailed to all St. Mary's Law School Alumni. In it Dean Castleberry outlines some of the enrollment, financial and physical plant problems facing the Law School.

It is my special privilege and pleasure to present to the Advisory Council of the School of Law and Alumni of the School of Law of St. Mary's University of San Antonio, Texas, this first annual report on the present "State of the School of Law." The purpose of the report is to apprise each of you of those important facts and circumstances which reflect the present state of affairs and well-being of the School of Law, and provide a prognosis for its future. Each of you are also entitled to know and share my deep concern for the present "State of the Law School" as it prepares for its regular seventh year reinspection for accreditation by the American Bar Association and the Association of American Law Schools, scheduled for April 14-16, 1980. While there have been some important changes made since I became Dean on June 1, 1978, there are significant changes which remain to be accomplished.

I have tried by way of this report to provide you with an honest, forthright, and candid assessment. I feel a duty to share with you, as a member of our immediate family, the many facets inherent in such a report, the failures as well as the successes, the disappointments and frustrations as well as the satisfactions, and, of course, the goals and hopes for the future.

I know that you will understand and agree that this report should be treated as a strictly private report. I intend to make the report available only to such other persons as may have an official relationship to the School of Law.

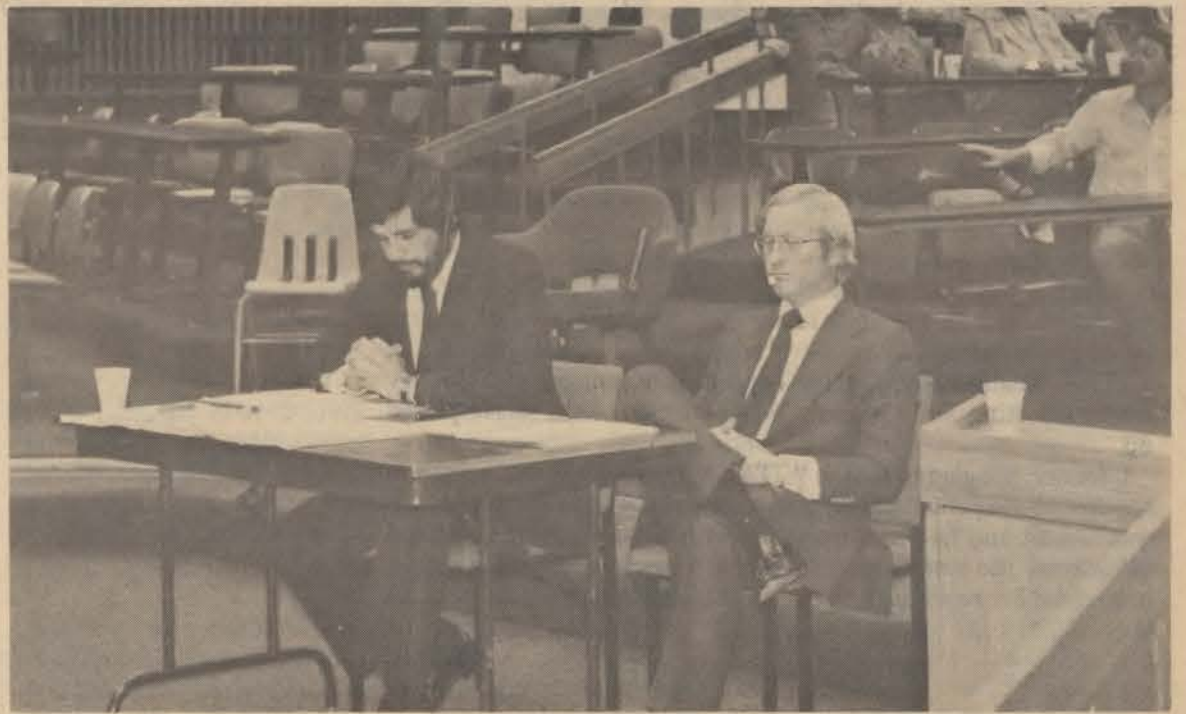
I will appreciate receiving your constructive comments and recommendations. Your genuine concern for and continuing enthusiastic support of this school of Law is vital to its progress and success.

#### STUDENT BODY

There are approximately 650 full-time students currently enrolled in the School of Law for the Fall Term 1979. This enrollment figure results from a good-faith effort on the part of the law school to meet the enrollment target of 600 full time students which has been established by the Administration of St. Mary's University.

The current enrollment of 650 full-time law students creates a serious over-crowded situation at the law school. The present physical facilities were originally designed to accommodate what was then hoped to be an eventual student enrollment of 350 to 400 students, and an absolute maximum enrollment of 575 students. Because of the over-crowded conditions, students suffer from grossly inadequate facilities. There is insufficient seating capacity in the Law

(Con't. on Page 7)



Pensive Mock Trial Winners Ruben Pena (L.) and Shelton Smith.

## Verdict: Smith-Pena Triumph

by Colleen McHugh

Two second year students took the \$500 Tinsman & Houser Award in State Mock Trial Competition Finals Feb. 28, 1980. Shelton Smith and Ruben Pena won as prosecution in the match judged by Judge Tom G. Davis, Texas Court of Criminal Appeals.

Smith and Pena rose to the top of field of 29 teams, competing in preliminary, quarter, semi-final, and final rounds. The winners met John Blair and Gary Davis in the final round.

"It's an incredible experience to argue for the first time

before a judge of the court of Criminal Appeals," said Pena.

The Mock trial problem entailed a murder by stabbing allegedly prompted by the decedent's tearing up a picture of the defendant's son, a Vietnam hero. The defendant, Carol Davis, pleaded self-defense.

Judging the final round with Judge Davis were Terrence McDonald and Larry Souza. McDonald teaches Criminal Law and Criminal Procedure at St. Mary's, and practices Criminal Defense Law in San Antonio. Souza practices with the Bexar County District At-

torney's office. John Younger of the law firm of Tinsman & House, presented the \$500 award.

Judge Davis interrupted his campaign schedule in his current race as incumbent judge, Texas Court of Criminal Appeals to attend the final round. Judge Davis has won acclaim as one of the best legal minds in the country. Recently, the Judiciary of Corpus Christi, Texas, announced their unanimous support for his candidacy.

"Working with the students in our Texas Law Schools provides a special interest to me," said Judge Davis.

## Scott Files For Texas Supreme Court Seat



Prof. Scott has been a member of the St. Mary's faculty since 1971.

Early this winter, St. Mary's Professor L. Wayne Scott announced his candidacy for the Texas Supreme Court seat being vacated by Judge Zollie Steakley. He faces two democratic opponents in the May 3 primary and recently explained why he should be the one to replace Judge Steakley.

"To maintain its position as a great court, and it is a great one, the people who are appointed or elected to the court must be of diverse backgrounds, each adding something unique to the court. I think I can do that. I can bring a younger and fresher view to the law. I am not a politician—my background is that of a practical problem solver—as a lawyer, as one who trains

others to be lawyers, as a writer and commentator on the law.

"Few people stop to realize that in terms of population, Texas is now larger than the United States was under Andrew Jackson. The problems which face the government, and particularly the courts, are a more complex than those faced by the historic shadows of those times.

"In the day of Jackson, expansion and self dependance were the only way to survive. Today, interdependence is the watchword and learning to live with less appears to be accepted. I personally do not believe that this has to be, at least no in the area of personal rights and freedoms.

"The threats to Texans today are not those of the vast frontier where one could be lost forever, but of being lost in a nameless world of bureaucracy. The attacks no longer come for Indians but from inflation, from the degrading sense of becoming a number and from a sense that nothing can be done.

"The people of Texas are entitled to public servants of the stature of Jackson and the people who came before Jackson such as Jefferson and Franklin. Those people lived in another time, but they were only individuals serving fewer people than live in Texas today. Each citizen today is entitled to expect leadership equal to or bet-

(Cont. on Page 8)

## WITAN RE-NEWS

Some of you may have noticed that February, with its 29 days, rolled by without the appearance of the WITAN.

Sorry, but as far as the staff was concerned, the adage "No news is good news" was, to say the least, apropos we have observed since the beginning of 1980 an overwhelming lack of interest in the WITAN. Methinks such void is due to a combination of the Freshmen's Jonestownian Course in legal methods and the sophomore suicidal Journal experience plus a third year apathy syndrome, which is most prevalent in Spring. There were, as in most situations—the notable exception. Yet, in the main, the February WITAN suffered from the same malaise as did "Assault and Flattery", notably, a pervasive "Don't give a Damn" attitude. The WITAN received some material, however, what we collected was sufficient for perhaps two or three pages, at most. None of the staff had the time or talent to simply create news for the sake of an issue. Had it not been for the sudden accreditation crisis, the March WITAN might have followed its no-show successor.

Suffice it to say Dean Castleberry was kind enough to provide us with an article on the State of the Law School, at a most critical time; and around this we have been able to jig-saw the March WITAN. Realistically, nothing happened in January or February worth reporting. Only recently has the tempo of the school picked up.

I, for one, am glad to see the WITAN's Renaissance, and am sad to see the one-year entombment of assault and flattery. The WITAN as was assault and flattery, is plagued with a dearth of material and volunteers. The bottom line is this: No News-No Paper. We pre-empted the February issue of the WITAN and we are just sick about it.

W.S.H.

## Graduation Balk Home

So you say you're tired of pomp and circumstance at the Health Science Center? So you say you'd rather wear your robe and Mortar Board *Au Natural*? Well have they got a deal for you.

Yes—it's graduation time again and this year it will be different. The graduating class of 1980 will hold their graduation ceremonies outside here on the St. Mary's Campus and not on foreign soil.

This year's ceremony will be held on Saturday, May 17 at

2:00. Plans are for the show to be held on the lawn area between the Law Library and the parking lot.

A Champagne Reception without tamales will also be held outdoors immediately following the ceremony. The SBA believes the Law Alumni Association will donate funds toward the expenses of the reception.

As yet, the identity of the keynote speaker remains unknown.

## Freshman Moot Court

By Jad Stepp

The Board of Advocates will sponsor the annual Freshman Moot Court competition March 31 thru April 3, 1980. Preliminary registrations for this event will be held March 13 & 14 with final sign-up on March 21, 1980.

As in the past, second and third year students are invited to aid in judging this competition. Those interested should complete an application form and return it to the envelope located on the B.O.A. bulletin board to any BOA members.

In conjunction with Freshman Moot Court a

seminar on Appellate Advocacy will be presented by LeRoy Jahn at 7:30 p.m. on March 17, 1980.

Topics such as preparing for oral argument and Federal Court etiquette will be discussed followed by a question and answer session.

All first year students interested in competing should contact any BOA member for further details. BOA highly recommends participation in this competition, as it is the only avenue for development of advocacy skills for first year students.

## PERSONNEL

Editor-in-chief . . . . . William Hayes  
 Managing Editor . . . . . Colleen McHugh  
 Articles Editor . . . . . Martha Warren  
 News Editor . . . . . Erwin McGee  
 Features Editor . . . . . Jeff Babcock  
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Staff: Mrs. Palsgraf, Richard Klitch, Pat Turner,  
 T.C. Gallucci, Mark Daniel  
 Contributor: Mercedes Kutchen, Carter Thompson,  
 Ed Schroeder



# Witan



## Editorial

# PROSE . . .

### JOURNEYS' END

In the early days I was a wanderer.

My heart was ever with the wind and my love was blown to and fro between all the lonely places.

I was a proud tower filled with the visions of high youth. The stars shone strange in my dreams, I let the moon take me of her pleasure.

And you too were never long in one place but cast your nets in divers seas.

It was only chance that brought us together, one road, two travellers, only chance.

Now let us join our journeys. We will wander together and dwell together. To this end with all my worldly goods I thee endow.  
 With this road I thee wed.

Edward Schroder

Written and recited for the wedding of Jimmy DePetris and Mary Jo Trice, class of 1979.

### JULIAN, A Fragment:

The burning of the ships before the walls of Ctesiphon

From hand to hand the torches passed down to the beach  
 Until the flames greedily licked the sea-worn wood of the first ship.

Then ship to ship the fire spread and set the sky aflame.

Edward Schroeder

Witan is published by students of St. Mary's Law School, monthly except June and July. The views expressed herein are those of the individual writers and do not necessarily reflect those of the WITAN, its editors, the administrators, or faculty, unless otherwise stated. The Editor is responsible for the views express in unsigned articles.

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Mary Rudolf, Denise Voigt and Kathy Leach prepare for San Francisco trek.

## Frisco Frolic

by T.C. Gallucci

Three third-year students were enroute to San Francisco, California on February 27.

Mary Rudolph, Denny Voigt and Kathy Leach spent three days attending seminars, lectures and speeches at the 11th National Conference on Women.

Rudolph Voigt and Leach attended seminars in such areas as women and girls in the Criminal Justice System, Domestic Law, Professional Women and the Law, and Employment Discrimination. Students and attorneys from throughout the country participated in the Conference. Substantive law and litigation techniques emphasize issues affecting women.

The Women's Law Association initiated, and the Women's Law Center sponsored a fund-raising drive to help defer expenses for interested members of the W.L.A. Through donations and designated W.L.A. funds, each student received approximately \$80 to assist with over \$500 expenses.

The 10th National Conference was held in San Antonio last Spring, co-sponsored by the Women's Law Association and the University of Texas Women's Political Caucus. Attending by over 3,000 persons during the three days, Rudolph, Voigt and Leach were instrumental in contributing to the success as representatives of St. Mary's School of Law.

## Law Student State Bar Formed

By L. Kurth

The State Bar of Texas recently authorized the formation of a new division of the State Bar. To better serve the needs of law students, the Law Student Division of the State Bar of Texas has been formed Texas State Bar Law Student Division (T.S.B./L.S.D.). This Division is headed by a Board of Directors consisting of one member from each accredited law school within the State and is the governing body of the Division. Membership in this newly formed division will be available to students currently enrolled in accredited law schools within the State of Texas. Dues will be \$6.50 annually.

Law students joining the newly formed Law Student Division of the State Bar of Texas will reap many of the same benefits as attorney members and will initiate their Lawyers Weekly Digest, rent-a-car discounts, insurance, cer-

tificates of membership, free attendance at certain State Bar continuing legal education association with the State Bar.

Benefits offered include the Texas Bar Journal, Texas courses (not including Practice Skills Courses and Advanced Courses), and a discount on CLE materials. In addition, members will be able to attend the annual convention at a reduced rate.

The Division will orient law students to the State Bar and its services, and through its own section of the Texas Bar Journal will communicate with members of the State Bar and with all law students in Texas.

There are several other proposed benefits being discussed and concurrently with this organizational effort the State Bar of Texas is soliciting ideas from the students of each law school. Students are encouraged to offer suggestions as to possible services that this Division can provide for member

# Predicate To Wage/Price Controls

By Erwin McGee

In a trial by jury, both parties are entitled to a jury instruction which presents their theory of the case if that issue is supported by competent evidence. Some evidence, before it can be introduced in trial, must be predicated with circumstances which demonstrate the admissibility of that evidence. Presidential campaigns may be likened to a trial by jury where the Eastern press is the bench and rules on the admissibility of evidence. More importantly, it is this bench which draws up the jury instructions. This author fears that the Eastern press is quickly embarking upon a path which will lead to fundamental error. The issue-wage and price controls.

Room is being made on page one for the currently number one issue in the polls, the economy, by relegating the Afghanistan and Iran crisis to inside pages. The recent page one headlines involve the President's withdrawal of the budget for trimming and the Congressional positioning to receive the same. No doubt lobbyists are scurrying, but the press is quite clearly bored. No one believes the projected budget deficit of sixteen billion dollars will be reduced in an election year. In fact, smart money would be placed on that projected deficit being doubled.

Wage and price controls is the follow up story, already being adopted by some of the most influential members of the Eastern press. The President suggests controls won't

work. His statements indicate our current inflationary problem is cost-push rather than demand-pull. More specifically, it is the rising costs of uncontrollable crude oil which is ratcheting price pressure throughout each sector of the economy. If the President is right, controls won't work.

Although controls prevent rising prices, they don't stock grocery shelves and gas supply tanks. If the costs of providing a good or service loom larger than the price which that provider is allowed to receive for the good or service, that good or service won't be provided. As they say about Russia, there is no such problem as inflation or recession, only shortages and gluts. A wage and price board would have to be granted the power to authorize price increases when mandated by the oil cartel alone. Such as pervasive "authorized increase" item, questions the

potential integrity of a control scheme, if not rendering it wholly unworkable from the outset.

Given the information available to the executive branch, such a contention cannot be summarily ignored by our bench/Eastern press. The only time we have administered the severe remedy of wage and price controls has been during wartime, demand-pull inflation. If it is cost-push, and more importantly, energy pushed, wage and price controls with authority to pass-through energy price increases would be frustrating bureaucratic boondoggle.

To the thoughtful reader, it should be obvious that budget tightening is a Keynesian fiscal remedy to demand-pull inflation also which will have a pitifully insignificant effect on the overall inflation rate although it will severely im-

See Wage/Price Controls Page 5



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# Law School News

by Mark Daniel

The Three Law Fraternities on campus Delta Theta Phi, Phi Alpha Delta (P.A.D.), and Phi Delta Phi would like to announce their plans to hold a combined rush party on Friday evenings, March 7, 1980. The fraternities have secured the services of the band "Black Mountain" thanks to the efforts of Tom Root. Beer and food will be served. Plans are still pending as to the location. Keep Posted.

The fraternities hope this party will not only wind up the rush party season but also send us into rush week which starts the next Monday, March 10th and runs through that following Friday March 14th, 1980. The fraternities urge all first year students to please make plans to attend. Hopefully things will get completely out of control.

In Delta Theta Phi news, a few congratulations are in order for past Vice-Dean Mac McClure. Mac is St. Mary's newest husband, having married Julie Bryan last December 28th. Julie is Sandee Ryan's younger sister. Also, a number of Bickett Senate members have been awarded membership in Who's Who in American Colleges and Universities. Among those chosen were Rex Easley, Mary Rudolph, Sandee Ryan,

Christine Tharp, Carter Thompson and Denny Voigt. These awards are based on over-all student activities and service to the student body, and are chosen by faculty members. Considering only ten awards are given each year, Bickett Senate is doing alright by having six members receive them.

Special mention can be made of Denny Voigt and Mary Lou Ryan. Denny was named chairman of the Board of Advocates last December, and Mary Lou was just elected S.B.A. senator last month. Of no small coincidence is the fact they have both served as Clerk of the Rolls in Delta Theta Phi.

Delta Alpha Delta, St. Mary's University Student Law Wives, selected two law students as recipients of their annual scholarship awards. Accepting the awards from Linda Blackman, President, were Gina Aaron and Traci Alley on behalf of their husbands, Alan Aaron, a second year student and Rick Alley, a first year student.

Also honored by the organization were members whose husbands graduated in the Class of December, 1979 from St. Mary's University School of Law. These were: Kim Barbour, Connie Dolezal, Anne Davidson, Tonya Martin, Pam

Paine, Terry Thetford, Barb Turton and Marilyn Weathers.

Freshmen Representatives to the Executive Board of Delta Alpha Delta have been chosen. They are Jan Adkins, Kathy Byrd and Delia Leibowitz.

Phi Delta Phi the Spring semester with the election of the following officers: Hal Walker, Magister; Mary Brennan, Vice-Magister; Suzanne Langford, Clerk; Sara Dysart, Exchequer; Ed McCarthy, Social Chairman; Frank Giunta, Rush Chairman; Gerry Lozano, Parliamentarian; Marilyn Hammond, Historian. Our first venture last month was the Annual All-School Party at the Pearl Brewery Jersey Lily Room. We thank Tom Sisson and Nev Shaffer for the highlight of the evening: a model show featuring disposable coneheads, only \$10.00 per pair.

Upcoming events include efforts to throw a Tri-Fraternity Party kicking off Rush Week. The blast is tentatively set for the second weekend in March. Members of all three fraternities agree that pooling resources and attendance will most likely result in the best party of the semester. Phi Delta Phi is also hoping to sponsor a marathon run or to repeat the successful Tennis Tournament held in the Fall. A float down the Guadalupe River for members and guests is a late Spring possibility.

## Honor Court

### One is either here, or, One is somewhere else

1. The Honor Court, St. Mary's University School of Law, heard one complaint during the Fall Semester of 1979.
2. The complaint involved the signing of class attendance rosters, indicating class attendance, and then leaving the class before being dismissed by the class instructor.
3. The Honor Court interpreted such behavior to be a violation of the Student Honor Code, Section 3.02, which states "...it shall be a violation of the Honor Code to engage in any conduct or behavior which tends to gain an unfair advantage for any student in academic matter." Academic matter is defined by Section 2.02 of the Honor Codes as "...any activity which may affect a grade or in any way contributes toward satisfaction of the requirements for graduation."
4. Attendance in class at St. Mary's University School of Law is mandatory, and is a prerequisite to graduation, as set out by the Law School faculty and the Supreme Court of Texas. Class attendance rosters are official documents reflecting a true representation thereon, whether by the instructor or the student, is an official statement of fact representing attendance or absence.
5. A student indicating his presence on a class roster is stating that he attended the entire class period, unless otherwise indicated in person to the class instructor. Signing the class roster and leaving the classroom and not returning before being dismissed, was held to be a violation of the Honor Code.
6. Pursuant to Section 4.04 (b) (5) of the Honor Code, a unanimous vote of all Honor Court members resulted in a finding of guilty in the above matter. Considering extenuating circumstances and pursuant to Section 6.01 of the Honor Code imposed the following penalty:
  - a. Class attendance rosters were adjusted to reflect a true representation of student attendance.
  - b. A written reprimand indicating a violation of the Honor Code and an exercise of poor judgement was placed in the student's official Law School file.
7. In addition to the above report, the Honor Court feels compelled to remind students that indicating the presence of a student in class who is actually absent is a false representation on an official document, and such activity will not be tolerated. Any indication of presence in class is to be made by the student himself, or the instructor, and not by anyone else.

#### MEMBERS OF THE HONOR COURT

Mary Jane Fowler - 3rd year      Mike Ramsey - 2nd year  
Roy Carper - 2nd year              Rocky Friend - 1st year

## Punto

### THE CHALLENGE

Now comes the Women's Law Association  
To serve our faculty citation  
That on the sixteenth day of March  
We shall confront our rivals arch.  
The softball field will be our court.  
We shall not argue crime nor tort;  
St. Mary's U. the place of trial,  
W.L.A. v. Faculty the style.  
We charge our mentors to appear—  
Or if they must, default in fear,  
For it's well known our fame is glorious,  
Be fooled not by our good looks and charm:  
We're fleet of foot and strong of arm.  
Shrink not behind an academic shield.  
Confront us on the softball field.  
Cast down your books and drop your chalk  
And meet your match. We will not balk.  
And know beyond a shadow of a doubt  
That we shall conquer—we have clout!  
The time is ripe: Be present, Teachers,  
On the field and in the bleachers.  
And meet your doom once and for all—  
The W.L.A. challenges you to PLAY BALL!!!

LET IT BE KNOWN TO ALL WOMEN (AND MEN)  
PRESIDENT THAT THE W.L.A. HEREBY CHALLENGES  
THE LAW SCHOOL FACULTY TO ONE GAME OF SOFTBALL  
ON THE SIXTEENTH DAY OF MARCH, NINETEEN HUNDRED  
EIGHTY AT TWO O'CLOCK IN THE AFTERNOON.  
WE OF THE WOMEN'S LAW ASSOCIATION ARE  
EXPECTING A PROMPT RESPONSE.

-Kris Beckwith

## Contra Punto

### A REPLY TO THE CHALLENGE

Ho, dost thou challenge us to duel  
On the diamond, harsh and cruel,  
Where thrice before your struggles have been  
Tragically fruitless without a win.

Oh, good women of the law,  
Ye realize not your fatal flaw.  
For we be fueled by the mind,  
Even though some are part blind.

Indigenous to our fortitudinous crew  
Is the grit produced through years of law  
Like a tumor on our very soul  
That torments us toward our every goal.

Beware, ye stand within our view  
The game is ours, it's what we do  
Now light your candles and pray for snow  
Or protect your pride and fail to show

David Dittfurth  
Team Captain (by default)



Some call it home. Some would prefer not to. Criminal Law Association members found it a nice place to visit, however....

## Settlement Institute

As was done so last year—the SBA is co-sponsoring a Continuing-Education Seminar with the State Bar. This "Institute", concerning the subject of "Settlement" will be Friday, March 28, from 9 a.m. until 4 p.m. No classes will be held that day.

Joe Greenhill, Chief Justice of the Texas Supreme Court will be the principal speaker.

At the conclusion of the institute at 4 p.m., the SBA is having an all-law school sausage and beer party. All Law students as well as institute participants, are invited.

Saturday, March 29, designated as Law Day, will begin with the presentation of Student Achievement Awards at 2:00 p.m. in the classroom building that night at the Oak Hills Country Club, the Law School will present it's annual awards to outstanding judges,

lawyers and alumni.

The Law Day Banquet begins with cocktails and 6:00, followed by dinner at 7:00. Graduating seniors are admitted free and all others are \$12.00.

The awards and recipients for 1980 are:

1) Twenty-third annual Gavel award to honorable Sears McGee, Assoc. Justice, Supreme Court of Texas.

2) Twenty-four annual St. Thomas More Award to Dean Charles E. Meyers, School of Law, Stanford University.

3) Eighth annual outstanding law alumnus award to honorable H.P. Garcia, Judge 144th Judicial District Court, Bexar County; class of 1951.

The Norvell Moot Court Award will also be presented during the banquet to the winners of this semesters Norvell Moot Court Competition.

## Criminal Law Members Tour Prison

The Texas Prison System is 118 yrs. old, but it has not held such high prestige until quite recently. It has only been since 1947, under the auspices of

such concerned figures as Governor Beauford Jester, Director O.B. Ellis, Governor Price Daniel, Governor Allan Shivers, and Director Dr. George J. Beto, that the prison system sublimed from an estate of embarrassment to a plateau of prouddness. Recently, fourteen members of the Criminal Law Association of St. Mary's University School of Law toured tow of the prison-farms located just outside of Huntsville and were allowed to judge for themselves.

Under the direction of Mr. Collins, Mr. Ware, and Mrs. Gaines, all employees of the Texas Department of Corrections, our group was informed as to the prison lives within the two farms of Gerouson and Goree. Gerouson is an institution specifically designed to house male inmates between the ages of 21 and 25, whereas Goree is currently one of only two female institutions within the sixteen-unit system, which tentacles out within a 130-mile radius of the city of Huntsville. The complex stretches as far north as Palestine and back south to Freeport. One unit is in Gatesville, diverging somewhat from the geographical guide, and presgery constitution is underway for four more units design-

ed for future housing of the female inmate population. Goree will soon convert to a male institution, and one of those planned units near gatesville is preparing for the transfer of the female inmates. This particular unit will be entitled Mountain View.

The overall perception of the Texas Prison System was necessarily and admittedly limited due to the confinement of our tour to two pre-selected units. The tour was arranged by there personnel, and there were fleeting thoughts inquiring as to this limitation — indeed, were we only allowed to see the trustees or were we exposed to life in the prison just as it is? Mr. Ware responded directly to this innuendo with a guarantee that should the C.L.A. sold another tour, whether in the spring, as has been proposed, or in the fall which is customary, he would personally see to it that we be allowed to visit any of the units we so choose, be it Ellis, often referred to as "hard time" or any of the remaining thirteen units. Ellis houses the maximum security inmates and figures would dictate the average sentence per inmate to be between 50 and 60 years.

One of the most unique characteristics of the Texas Department of Corrections, and the one which juvenates awe in most every other correctional institute, is the fact that the Texas Prison System is virtually self-sufficient. The average cost per day per inmate lies somewhere between \$1.00 and \$2.00! That is almost unlimited of throughout the nation where some correctional

institutes neighbor the figure of \$20-\$25 per inmate per day.

This Self-Supportive System begins with the return construction of the buildings, which is done by inmate work crews. It does not stop there, but rather parlays into virtual-

ly every imaginative area. The department has an agricultural division producing good commodities sufficient to feed the inmate and employee population.

The inmates manufacture their own clothes and shoes. They have furniture shops, mop and broom factories, sawmills, bus repair facilities, dental labs, woodworking sites, textile mills, and other like craft & educational set-ups.

For an ideal of the lifestyle, it is important to see what the housing units contain. Common to all of them are dining areas, landry rooms, visiting rooms, a library, a legal library, interview rooms, medical facilities, regilious facilities, recreational area, craft workshops, employee housing, administrative offices, and maintenance units.

Currently the inmate population ambivates at the 22,500 mark, and the 1985 prediction is that housing will be required to accomodate approximately 37,500 or a 637% increase since the year 1947. Growth thus provides one of the primary challenges of the future for the Texas Department of Corrections. Between 1970 and 1975 paroles granted had a net gain of 94%. Yet, in that same interim, inmate population increased 33%!

## Everything You Ever Wanted to Know About Rush, but Afraid to ask a Rush Captain

by Mark Daniel

It's that time of year again when the law school is besieged with FRATERNITY RUSH PARTIES each and every weekend. For the unknowing and unsuspecting first year student this period brings about many questions and inquiries. Perhaps the following summary can bring an end to some of the confusion surrounding the fraternity rush here at St. Mary's:

**HOW MANY FRATERNITIES ARE THERE ON CAMPUS AND WHAT ARE THEY?** There are three law fraternities here at St. Mary's. They are (listed alphabetically): Delta Theta Phi, Phi Alpha Delta (PAD), and Phi Delta Phi.

**WHAT ARE THE REQUIREMENTS TO JOIN EACH FRATERNITY?** To be eligible to join any fraternity you must be at least a second semester 1st year student and have an average of 70 or better. Phi Delta Phi requires a top 20% class standing.

**HOW DO I KNOW IF I AM**

**SELECTED TO JOIN?** Formal bid letters will be sent out to first of March. Phi Delta Phi sends bids only to those students in the top 20%. Delta Theta Phi and Phi Alpha Delta (PAD) send bids out to all first year students. It's not like undergraduate school, everyone receives a bid, including women. The law fraternities at St. Mary's are for both men and women.

**WHEN DO I JOIN?** The fraternities have set aside the week of March 10th through 14th to be RUSH WEEK. Each fraternity will have a table in the classroom building where prospective members can stop by ask questions, learn about, and hopefully join a respective fraternity.

**WHAT DOES IT COST TO JOIN A FRATERNITY?** Delta Theta Phi costs \$40 to join and \$20 every semester thereafter. Phi Alpha Delta (PAD) charges \$45 for initial membership and \$15 for every semester thereafter. The weight of the initial cost of each fraternity goes largely to their national chapter initiation fee. A you

can see, the cost is low.

**IS THERE ANY HAZING INVOLVED?** None whatsoever. The fraternities feel that if a student can get through St. Mary's registration (although it is better now), class changes, the business office hassle, or try to secure financial aid through the Financial Aid Office then that has been through enough hazing for a lifetime.

**WHY SHOULD I JOIN A LAW FRATERNITY HERE AT ST. MARY'S?** There reasons are numerous: alumni relations, important placement contacts, and professional legal development. All the above sound good, but speaking realistically the advantages of being in a fraternity include social functions and parties at a bargain price, the statistic that 78% of practicing attorneys in the United States were in law fraternity during their law school careers, valuable law school friendships, and last but not least...it helps add filler to and looks good on the old resume.

## Wage Price Controls, (From Page 3)

pact on those who are least able to tighten their belts. The pertinent remedies available to combat energy led inflation is quite clearly cutting oil imports and expanding foreign markets.

To combat that component, if any, of our inflation problem which is demand-pull, the remedies lie with the federal reserve in restraining the growth of the money supply and in selectively curtailing consumer credit.

In the long-term, the answer is to promote the ascension of a third world middle class which will provide the necessary demand for American industrial goods. This can be started by eliminating U.S. import restrictions on third wrold labor-intensive goods. Such free trade measures would have the concomitant advantages of improving relations with Latin America and cooling inflationary pressures in produce, beef and textiles. Instead, the Congress is in a protectionist m

Without laying the proper foundation that the economy is suffering demand-pull inflation, wage and price controls are clearly inadmissible as being irrelevant and highly prejudicial to the producer. Further, budget restraints lack the same predicate and are highly prejudicial to the conviction of the poor.

### Client Counseling

National Client-Counseling Competition winners Wendall Hall and Ann Vanderbeck compete in Regional Competition the weekend of March 7, 1980 at Baylor University School of Law in Waco, Texas. Good Luck!

### Summer Rental

Fully-furnished (including washer/dryer) apartment; 2 bedroom; to rent for summer; available during May, 681-3686.



# The Fifth Column

## ALUMNUS ANALYSIS

# A PERSPECTIVE ON PRACTICE

by Richard Klitch

When St. Mary's School of Law has occasion to boast of its many successful graduates, one name surely to be spoken of would be that of Mr. Clem Lyons, a graduate of the class of 1962. A brief look into his life and practice reveals why.

Mr. Lyons' academic career actually began when he graduated in 1954 from St. Johns University College of Pharmacy in New York with a B.S. in Pharmacy. While at St. John's he was published and was frequently on the Dean's list.

After graduation, military service claimed two years, thus in 1956, Mr. Lyons moved to San Antonio and established a practice as a Registered Pharmacist. Though he practiced Pharmacy for ten years, Mr. Lyons decided in 1959 to attend law school. Working at night and attending St. Mary's by day, Mr. Lyons received his law degree in 1962 after which he immediately went into private practice.

In 1963, Mr. Lyons left this practice to become an assistant



Lawyer Clem Lyons.

District Attorney. An experience incidentally which, in retrospect, he cites as invaluable with respect to gaining trial experience. Starting as a Criminal Investigator in Medical Malpractice, Mr. Lyons then became Prosecutor for the Unlawful Practice of Medicine.

In 1966 Mr. Lyons re-entered private practice being a senior partner in several firms culminating with the present firm of Southers & Lyons, at 126 Villita.

Interestingly his partner,

Mr. Frank Southers is also a St. Mary's graduate, specializing in workmans compensation, is writing a book on the subject and is part of the Special Instructional Staff at St. Mary's teaching the very subject of his book.

The firm Southers Lyons is a trial firm with emphasis on plaintiff litigation with both partners certified in Personal Injury Litigation. Mr. Lyons says 80% of his time is spent on Medical Malpractice with the remaining time spent on products liability and general personal injury litigation. Owing to his pharmacy background it is no small wonder that Mr. Lyons elected to make a career out of Medical Malpractice.

A conversation with Miss Elizabeth Lang, Mr. Lyons' personal secretary and administrative assistant, reveals that he has a very heavy workload consisting of approximately 200 cases. Mr. Lyons states that after reviewing each case, he will probably accept around 20%, rejecting the remaining cases for a variety of reasons including no cause of action and lack of adequate damages. Of the ones he accepts he will prepare each case for trial prior to filing suit and will actually only file 20% of these.

Mr. Lyons states investigative, administrative and research preparation for trial is only part of it, as there are also great physical demands. "When you are in trial all day and then must spend an equal number of hours in preparation for the next day, a great deal of stamina is required." Thus Mr. Lyons advises all prospective trial lawyers to take care of themselves physically, keep in good shape, and not

participate" too much.

For those of us who may aspire to become involved in trial work, Mr. Lyons advises us to learn the library very well because ability to use it significantly increases our effectiveness. Further he suggests we learn equally well the material contained in the courses of evidence, procedure and legal bibliography.

The same applies for those who wish to specialize in Medical Malpractice except you should add Legal Medicine to your curriculum.

Of interest to some of us, Mr. Lyons firm is a steady employer of St. Mary's students as clerks. Mr. Steve

Dittlinger, an associate of the firm and an honors graduate of St. Mary's oversees the clerk program.

Mr. Lyons says when evaluating applicants for clerk positions he particularly seeks recommendation from our professors for he and Mr. Southers both have a great deal of respect for members of our faculty.

Further Mr. Lyons indicates

that like most firms they maintain a flexible schedule and work around the students particular needs.

Besides attending to and in conjunction with a permanent and well respected career, Mr. Lyons shares of his time and knowledge freely. He is a member of the American Board of Trial Advocates, American Trial Lawyers, Texas and San Antonio Trial Lawyers Association, American and Texas Bar Association, S.A. Bar Assn., American Pharmaceutical Society as well as the Texas and Bexar County Pharmaceutical Society.

Additionally and attesting to the professional communities respect for Mr. Lyons, he is frequently requested to be guest lecturer for such organizations as the Bexar County Medical Society, San Antonio Surg. Society, Bexar County Pharmaceutical Society, Legal Secretaries Association and the Texas Nursing Association.

Is there life after law school? You bet there is if we can use Mr. Clem Lyons as a standard by which success is measured.

## SBA March Schedule

Fri. Mar. 28—No law classes.

There will be a law institute on "Discovery and Settlement," which is sponsored in conjunction with the State Bar of Texas. The event runs from 9:00 a.m.-4:00 p.m. Details on agenda will be forthcoming. And all law school party follows the institute, to be held on school grounds. All students are invited to attend.

Sat. Mar. 29—Law Day to be held at Oak Hills Country Club. Many preliminary

tasks are being performed by current SBA Members and Alumni, but more information and details will be announced as they develop.

Note: SBA meetings are currently held every other Monday at 6:30 p.m. in library classroom 103-104. The next one being on February 11, 1980. Any interested students are urged and welcomed to attend. Any changes in this curriculum and/or the dates and times can be found posted on the SBA Bulletin Board.

## Token Team

by Mercedes J. Kutcher

It was Friday. The pungent smell of steaming hot chili and the sight of a beer truck drew you out of the library and over to the Pecan Grove. No, you were not hallucinating—before or after the bowl of red was placed before you. Yes, indeed, there were women law students out there dressed in chili team tee shirts.

Tom Root, Head Cook of the formerly all-male organization, has announced that the Chili Team has invited the following students to participate in the team's preparation of the internationally famous Volenti Non Fit Injuria Chili:

Terry Edwards, Michelle Frawley, Debbie Venezia, Mercedes Kutcher, Marilu Ryan and T.C. Galucci.

**barbri**  
BAR REVIEW

### IF YOU DON'T READ THIS YOU'VE JUST LOST FORTY BUCKS

As of March 20th, 1980 the price of a Bar/BRI Bar Review course goes up \$40. A deposit of \$35. Now will insure that you can receive BRI for only \$250. (Price increases to \$290, on March 20th) (These prices include the \$75 discount).

You say you're only first year, and hadn't planned on taking a Bar Review course? Don't kid yourself. Just think how much money you'll lose in retaking the Bar, not to mention the delay in starting practice. Sign-up now and receive both the Texas and multi-state outlines to use as supplements in studying your courses for the next two years. Why not play it safe, and save \$40, by calling one of the BRI representatives!

Just Call: Don Bodenhamer, 681-4563; Jim Hoffman, 494-0123; Richard Klitch, 822-7095; Suzanne Langford, 736-0898; Bob Mannas, 436-3487; Robert Hirschhorn, 434-6538; Charlie Mitchell, 433-0914; Christine Tharp, 736-2529; Lisa Vance, 695-9340; Larry Kurth, 691-0777; Tony Blazi, 435-8407.

Two years from now you won't regret it.

**barbri**  
BAR REVIEW

# DEAN'S STATE OF SCHOOL, (Cont'd From P. 1)

Library, insufficient basic library materials for students to use in their research and study, diminished student access to professors for consultation, and excessively high class enrollments which result in students being unable to adequately participate in classroom discussions on a daily basis. In eight elective courses this Fall Semester, our classroom space was insufficient to accommodate students who desired to enroll in those courses. In addition, our current student faculty ratio is 35 to one, and is in serious violation of the ratio of 20 to one, recommended by the Accreditation Standards of the American Bar Association. In September this year, I recommended to the Planning Team of the University that the University approve the recommendation, which I also made last year, to reduce the enrollment target for the law school from 650 students to 575 students, and that this be implemented no later than the Fall Semester 1980 by reducing the maximum enrollment for the first-year class to 200 students. I hope to be able to report to you at an early date that this proposed reduction in the enrollment target has been approved by the University.

I want to emphasize that the proposed additional physical facilities which are discussed subsequently in this report have been planned to assist in accommodating a maximum target enrollment of 575 students. The additional library seating capacity, classroom space, library materials, and offices for six additional full-time teaching faculty members, will help bring the School of Law within the standards for accreditation

adopted by the American Bar Association and the Association of American Law Schools.

Enrollment during the Summer Term has been decreasing significantly recently due to several factors. Many students find it desirable to work at full-time employment during the summer, rather than part-time during the academic year, to earn the funds required to attend law school. Some of our second-year students attend attractive "Summer Abroad" programs offered in many parts of the world by accredited American law schools. However, most of our students decline to attend the Summer Term in order to accept summer internships which are offered by law firms, judges, companies, and state and federal agencies. These internships provide excellent levels of compensation, and an opportunity to gain an insight into "the real world" of the legal profession. More importantly, most of the lawyer employment offers are made to those who have held an internship with the employer. An internship is almost essential to a good job offer upon graduation. Our current summer enrollment is now down to only about one-third of the enrollment for the fall and spring semesters. If the trend continues, we may find, as many other schools already have, that it is simply not economically feasible to operate a summer program for students.

### FACULTY

The current faculty of the School of Law is composed of nineteen full-time teachers, four administrators (Dean, Associate Dean, Law Librarian, Director of Placement and Alumni Relations, all of whom also teach part

time), and twenty-two adjunct (part-time) professors. The Law Library also employs three full-time Assistant Librarians.

As indicated in the preceding section on the Student Body, the current student/faculty ratio is seriously in violation of American Bar Association Accreditation Standards 201 and 401-405 as interpreted by the Consultant on Legal Education in American Bar Association Memoranda 7879-11, dated September 28, 1978. In my letter to the President of St. Mary's University dated January 12, 1979, I expressed my deep concern that our student to faculty ratio was then 37 to one, almost twice the maximum of 20 to one prescribed by American Bar Association Standards. My request for a reduction in the enrollment target for the fiscal year commencing June 1, 1979, together with an authorization for three additional full-time teachers to begin implementing a reduction of the student-teacher ratio was not approved by the University. The funds approved for the law school budget authorized the addition of only one full-time teacher. My proposed budget for the next fiscal year commencing June 1, 1980, will again contain a request for additional full-time teaching faculty members so that the School of Law can be brought within acceptable compliance with Accreditation Standards and also, at the same time, provide our students with the type and degree of individualized attention and instruction which they are entitled to reasonably expect to receive at a private professional school.

From the faculty standpoint, this excessive overcrowding and serious imbalance in the student-teacher ratio seriously detracts from the ability of our teaching faculty to teach effectively in the classrooms and to consult with students outside of the classrooms. It has also seriously detracted from, and interfered with, the ability of the faculty to devote the proper amount of time to legal research, to make significant contributions to legal literature, to participate effectively in local, state, and national bar association activities, and other professional organizations, and to appear as speakers and panelists on institutes and special programs. However, in spite of this situation, several of our full-time faculty have somehow managed to find the time to produce some very important contributions to legal literature.

One of the most critical problems is the level of faculty salaries. Compensation currently being paid to our full-time faculty is so grossly deficient that we are in serious violation of the Accreditation Standards of the American Bar

Association which provide:

(405) The law school shall establish and maintain conditions adequate to attract and retain a competent faculty.

(a) The compensation paid faculty members should be sufficient to attract and retain persons of high ability and should be reasonably related to the prevailing compensation of comparably qualified private practitioners and government attorneys and of the judiciary. The compensation paid faculty members at a school seeking approval should be comparably with that paid faculty members at similar approved law schools in the same geographical area.

The situation is not one which is new, but is one which has developed and matured during the past several years. Salary "increases", authorized by the University at annual rates ranging from 2.5 to 3% during the past four years, while inflation and costs of living increased at annual rate of 7 to 9%, have resulted in some of our senior faculty members receiving compensation which is 25% lower in purchasing power than four years ago. According to official reports from the American Bar Association, the median salary being paid during the current academic year to senior law professors at one of the private law schools in Texas is approximately \$15,000 per year more than the median salary being paid to senior law professors at St. Mary's University School of Law. These same reports show that the average salaries paid to the faculty of St. Mary's Law School continues to remain significantly lower than those paid at any of the other seven law schools in Texas. In a list of 162 reporting approved law schools, the average faculty salary and fringe benefits places us in the bottom 10%.

Summer compensation of our faculty is even worse. Our faculty receives only about one-half (1/2) of the compensation which most of the other law schools in Texas pay their faculty for teaching in the Summer Term.

No married member of our full-time faculty is able to maintain their standard of living solely on their faculty salary. Each one of them supplements their faculty compensation with income from other sources, such as retirement income from prior employment, part-time law practice, or a working spouse.

Remedial action on the grossly inequitable situation is long overdue. Our faculty deserves to be compensated at levels which are at least equal to the average paid nationally and at other Texas law schools. Their loyalty and devotion should be properly recognized and rewarded. Our grossly inadequate salary levels have prevented the School of Law from being able to employ legal

educators of outstanding ability whom we need and would like to add to the faculty. During the forthcoming process of evolving final approval of a budget for the School of Law for the next ensuing fiscal year, I will continue to urge the Administration of St. Mary's University and the Board of Trustees of St. Mary's University to approve a level of funding for the law school budget which will permit our faculty to be compensated at the level which is required by the Accreditation Standards of the American Bar Association.

At the last meeting of the Faculty Council of the School of Law on November 9, 1979, the Council approved a newly proposed promotion and tenure policy which will effectively take into consideration the rather obvious fact that the promotion and tenure of the faculty of a professional school should be based upon considerations which are obviously different from those of us in a non-professional school. The proposed new policy has been transmitted to the President of St. Mary's University with a request that the Board of Trustees of the University will give its early approval to the proposal.

Inadequate travel funds continue to prevent faculty members from attending all of the conferences, institutes, seminars, programs, and meetings which they should be attending in order to maintain and improve the level of skills needed in the areas in which they teach. In like manner, our budget for student assistants for faculty research continues to remain grossly inadequate. Last year, I requested an increase from the then budgeted amount of \$5,000 to a level of \$20,000 for the current year, but the request was denied and no increase was authorized. Fortunately, I was able to persuade a "friend of the law school" to contribute the sum of \$5,000 to help pay the cost of student research assistants on research projects by professors which were already underway. With the law school generating approximately \$2,000,000 in tuition income, our budget for faculty research (to pay student research assistants) should certainly be significantly higher than .0025 of its tuition income. It is seriously below Accreditation Standards.

### PHYSICAL PLANT EXPANSION

Early in the Spring of this year, the Law School Space Needs Committee appointed by the President of the University, submitted its report and recommendations proposing that a new two-story structure containing 22,000 square feet be built as an addition to the Law Center, and to be situated immediately West of the Law Library Building. The ground floor will contain all of the ad-

(Cont. on Page 8)

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**DEAN (Continued From Page 7)**

ministrative offices for the law school, four additional faculty offices, an informal student lounge area, and a formal lounge area for receptions and meetings. The second floor will contain additional space for expansion of the library to accommodate 250,000 volumes, space for microfilms and equipment, additional seating for students, space for a Lexis unit, rare books and a storage area. The second floor will be connected directly with the second floor of the existing Law Library by an enclosed walkway. A written proposal has been submitted to a foundation which has indicated its interest in providing all of the funds necessary for the construction and furnishing of the building, together with a permanent maintenance fund. We are now anxiously awaiting final approval by the foundation. At the present time, we literally have no more shelf space for books. Although we have a volume count (about 85,000) which is seriously inadequate for the needs of our students and faculty for their research and study, we have no space for additional volumes even if we could acquire them. As soon as additional space is available, one of our most important and urgent goals must

be to develop an adequate library. Our students and faculty should not be compelled to use the library of another law school in order to find, and use, the materials needed for their research, study and writing.

**FINANCIAL**

The current law school budget is clearly inadequate to provide the desirable level of funding needed to increase our library count from its present 85,000 volumes to the level of 100,000 which we should have at this time to employ the additional teaching faculty members needed to bring the student to faculty ratio into compliance with accreditation standards, to provide the level of staff support which the faculty needs, to pay faculty and staff salaries at a level which will enable the School of Law to attract and retain additional competent personnel, to provide adequate research and travel funds for our faculty, to acquire and maintain adequate equipment and to provide student services which are all needed—all of which are necessary to meet the minimum standards for accreditation.

At the same time, there is the undeniable need to immediately reduce the enrollment target for the School of Law from its present 660 down to 575 full-

time students. This will necessitate a realistic and reasonable increase in tuition charge which will enable the School of Law to generate a sufficient amount of income which, after paying to the University a reasonable charge for maintenance, overhead, and other services provided by the University, will enable the School of Law to retain a sufficient amount of such income to adequately fund the required budget. For many years, the tuition charge by our law school has remained in the bottom 15 of 20% level of tuition charged by accredited private law schools in the United States. Last year, the law school proposed a tuition increase from \$96 to \$124 per semester hour, an increase of \$28. The University approved an increase to \$110, only one-half of that requested. Another private law school in Texas charged \$149 per semester hour the previous year. If we expect to provide the level of quality of legal education which is required by accreditation standards, we must adopt and implement the premise that we must charge the level of tuition, which will generate the level of income, which will permit the law school to have the level of budget that is essential to that required level of quality. I will continue to advocate

that premise.

**CONCLUSION**

My first year as Dean of the School of Law has been a very busy one. It has been an exciting year, full of challenges, successes, failures, and frustrations. Much has been accomplished, and much remains to be accomplished.

I confess that I am deeply concerned, and disturbed, that the pleas of the law school to the University during the past year for a reduction in the enrollment target and a level of budget necessary to enable the School of Law to meet and satisfy the minimum requirements of the American Bar Association for accreditation were not approved. As a result, we are facing the regular seventh year and accreditation and reinspection scheduled for April 14-16, 1980.

with serious violations of Accreditation Standards in several significant areas: student-faculty ratio, library, equipment, secretarial staff, faculty salaries, faculty tenure and promotion policies, funds for faculty research and travel.

You may be assured that the entire law faculty shares my concern and frustration, and the hope that the University will treat the situation as one deserving and warranting emergency remedial action prior to the arrival of the Accreditation Inspection Team.

As fellow Alumni, we all share a common concern for the welfare of our School of Law. Its status, progress, and general reputation are matters of importance to each of us. I will keep you posted with respect to any significant developments.

**Scott Files****(Continued From Page 1)**

ter than the leadership of the past. At least they are entitled to people who recognized the challenge, who are willing to accept it, and who will try to better the past.

"I see the courts as the cornerstone of hope for the future (and I think it can be a bright future) restoring the family to its place of prominence, restoring the individual's feeling of control over their own destiny; serving as the buffer between people and people, and as the buffer between citizens and the government.

"Don't misunderstand me. I realize that some courts have intervened too much in some areas—but I don't believe that the Texas Supreme Court is such an offender. I do realize that as a society we turn to the courts too often to solve petty disputes, and that hair splitting has become a pastime for some.

"What I see clearly is the need to balance the rights of the individual and society, with the scale tipped for the individual.

"What I am saying is that I want this position, not as a place to retire with glory; not as a stepping stone to other office. I want to join the Texas Supreme Court to serve the people of Texas. I promise them only to give a fair day's work for a fair day's pay—to honor no special interest—to protect the rights of the people—to use plain old common sense—and to strive to live up to the past so that the future generations can look on this period of time, on we of this time, with pride."

Scott, 41, is a native of Lockhart, Texas, where his father sits as County Judge of Caldwell County. After graduation from Lockhart High School, he earned a Bachelor of Arts degree at Southwest Texas State University, a Juris Doctor degree from the University of Texas

School of Law and Master of Arts degree in American Studies from Baylor University. He has done post-graduate work at New York University School of Law.

Upon graduation from law school, Scott served as a briefing attorney for the court of Criminal Appeals and then as a Briefing Attorney for the Supreme Court of Texas, the first person to serve in this capacity for both high courts of Texas. From there, Scott went to Waco, Texas, where he ultimately became a partner in the firm of Sheehy, Cureton, Westbrook, Lovelace and Nielson (now Sheehy, Lovelace and Mayfield). While in Waco, he served four years as U.S. Commissioner for The Western District of Texas and as a lecturer in law at Baylor University from 1968 to 1971. Active in community affairs, Scott was a Deacon and elder in the Lakewood Christian Church, served on the Boards of Directors for the St. Paul's Episcopal School and the Campfire Girls and was a member of the Lions Club.

In 1971, Scott moved to San Antonio, Texas, to join the faculty of St. Mary's School and to become co-editor of The Texas Lawyers' Weekly Digest. Scott has been active in Bar activities, serving on numerous State Bar committees, including the committee which revised The Texas Code of Criminal Procedure. He has been vice-chairman of several American Bar Association committees, serving longest in this capacity on the Rules and Procedure Committee of The Insurance, Negligence, and Compensation Section.

In 1960, Scott married the former Patricia Pond of Lockhart, who subsequently died in 1976. A member of the Alamo Heights Christian Church, he is the father of three children, Kelly 15, Leonard 13, and Brad 12.

**Top Secrets Graymail**

The issue of what to do with intelligence officials who break the law and then use a new defense tactic called "graymail" has stirred debate on Capitol Hill. The debate has been fueled by a report from the Senate Intelligence Committee which shows that criminal investigations and prosecutions by the Justice Department of cases involving bribery, drug trafficking and even murder have been dropped rather than chance the disclosure of unspecified intelligence secrets.


The term graymail was coined to describe activity a shade lighter than blackmail. Generally graymail involves attempts by defendants (intelligence officials) and their attorneys to connect state secrets with their cases in the hope of finding something the U.S. government does not want revealed in a public trial.

The Justice Department has not always been the willing victim in these cases. It tried to fight back by introducing a closed pretrial hearing procedure in one conspiracy case, but this tactic was rejected both by the trial judge and on appeal. The department has now submitted antigraymail legislation which would give judges the authority to hold closed hearings and review secret documents. Under the proposed legislation judges would also have the option of withholding ultrasensitive

evidence from the defendants in some situations. However, that last proposal raises the eyebrows of civil libertarians.

Graymail was first used when the Justice Department sought to prosecute Richard Helms, former director of the Central Intelligence Agency. In Helm's case, the department wrestled for two years with the possibility of having secret information disclosed. The case

was settled after a deal was struck with Helms and his attorney that Helms would agree to plead nolo contendere to a two-count misdemeanor charge of refusing to answer a Senate committee's questions. This successful graymailing of the Justice Department enabled Helms to avoid the embarrassing felony perjury charges that could have been filed against him.



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