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## Caveat, March 5, 1979

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# GATE

GOLDEN GATE UNIVERSITY SCHOOL OF LAW

Vol. XIV, No. 22

March 5, 1979

## FSC MEETING

FSC APPROVES BASIC FORMAT TO CREATE SMALL SECTIONS FOR FIRST YEAR STUDENTS

Two motions presented by Bob Calhoun at the FSC meeting on Feb. 22nd set forth the basic guidelines to begin the formation of smaller sections for next year's entering class. First, the maximum number of first year students in a large section shall be no more than 100. Second, the small sections will be no larger than 33 students and will be provided in the first semester only.

Within these guidelines, Dean Judy and Marge Holmes will develop the implementation program and study its feasibility for the fall of next year. There are numerous elements that must be considered in arriving at a suitable plan, among which are the additional instructors required, the increased expense of teaching the first year class, the inevitable reduction in upper division offerings, the problem of available classroom space, and the task of course coordination and continuity over the school year.

To meet the class capacity constraints mandated by the FSC there will be a minimum increase of two sections in the night class and four sections in the day class. With a bottom figure of 6 new sections, members of the Council estimated that it would require the substantial time of at least an additional 3 full-time instructors for adequate coverage.

The additional cost of the sections will require that a reduction be made in the number of upper division course offerings. For that reason the small sections will only be for the one semester next year. The student representatives felt it was a fair trade-off, knowing how crucial the first year experience is to a person's entire performance in law school. Neil Levy expressed his concern as a member of the Admissions Committee with the possible drop in the quality of next year's admittees. He opined that there will be a growing demand for more intensive, individual instruction to prepare the new student to adequately handle the law school curriculum. To this end, he predicted that small sections in the first year class would quickly become a necessity in the effort to maintain an acceptable level of academic competence.

On available classroom space, Dean Judy listed the rooms that are to be at our disposal for the coming year. On the third floor we will have one room with a capacity of 100+, two with a capacity of 60, four with 50+ seats, two with 40 seats, and two with 27+ seats. There will be one classroom on the 5th floor with 110 seats. The three new auditorium rooms are also available with a capacity of 200 each, but a number of students and instructors voiced their disapproval of them because of the acoustics which dampen class dialogue. In addition, Room 205 is presently available, but Dean Judy stressed that space requirements for the faculty and administration might preempt its use. Whether this room configuration can accommodate the small section program has yet to be determined.

Finally, there was a lengthy discussion by Myron Moscovitz, Larry Jones, and others about maintaining course continuity over the school year. Valid questions were raised about the de-



## GOLDEN GATE UNIVERSITY LAW REVIEW

# Writing Competition

The Law Review will conduct its annual writing contest from Wednesday, March 7 until Wednesday, March 14. One-half the staff members for next year are selected on the basis of this contest; the other half are selected on the basis of grades.

Successful candidates will be given the opportunity to choose which issue they wish to write for: Women's, Survey, or Notes & Comments; subject to the needs of the Review. It should be impressed on all potential candidates that Law Review membership represents a substantial time commitment -- it is not a mere honorarium. Two academic units are available for writers (they are not free), and can be withheld by the Board of Editors for lack of performance.

Members who come on the Review through the writing contest should be prepared to spend a few days after final exams for an orientation and training program. "Write-on" members will be given assignments over the summer (if feasible) thus having an advantage over "grades" members because of early topic selection, issue selection and earlier discharge of assignments. A second orientation and training program will be set up for "grades" members. (Staff member(s) will be conducting brief informational meetings in W&R classes during February 15-22).

First and Second Year Day students, and Second and Third Year Night students are eligible to enter. Quotas are weighed in favor of the selection of "first time eligibles" (First/Day and Second/Night).

Contest rules will be available at the library desk on Wednesday, March 7 at 3 p.m., and due back in the Law Review office by Wednesday, March 14, 7 p.m.

trimental effects that section consolidation might have on the students' second semester. If cost had not been such a restrictive overriding factor, everyone agreed that a full year of small sections would be far superior to the one semester plan. However, for this initial program it was obvious that there must be extensive coordination between the instructors involved. Neil Levy commented that the instructors would have to compromise in their course arrangement to insure a smooth transition in instruction and course material. It was tacitly understood that if there could not be effective course coordination, the value of the semester enterprise might be lost. Nevertheless, Bob Calhoun believed that exposure to more professors and teaching styles would augment the first year students' basic grasp of the curriculum.

Though consideration of the small section's program was lengthy, the task of developing the program, now in the hands of the administration, has just begun.

Michael Pitts

# ANNOUNCEMENTS

## NATIONAL LAWYER'S GUILD: Upcoming events

Thursday, March 8, film and discussion on Justice Warren's decisions at Noon, room to be announced.  
 Tuesday, March 13, film and discussion on Justice Douglas' decisions at Noon, room to be announced.

NLG SUMMER PROJECTS: The NLG is sponsoring projects which will give students work experience with political issues. (battered women, anti-nuclear issues, prisoners rights, and many more). The basic stipend will be \$1,000 for the summer. For more information this pamphlet will be on reserve. Deadline for applications is March 5. These projects are located all over the country.

NLG MEETING: Wednesday, March 7, 12 noon, Rm. 203.

FIND OUT WHAT YOU ARE GETTING INTO: Phi Alpha Delta will present a speaker, (Senior Partner in a San Francisco law firm). He will be speaking on the economics of practicing law. Thursday, March 8 at Noon in Auditorium B. Everyone Welcome

BALLET LOVERS! Last chance to get your orchestra seats at a great price. S.F. BALLET production of 1) Scarlatti Portfolio 2) Medea 3) Stravinski Capricio for piano & orchestra 4)Trilogy. Thurs. March 22, 8:00 p.m. at the Opera House, S.F. \$6.95/ticket. Last day to submit your checks is March 7 (Wed.) in the Dean's Office. Watch Caveat for ticket pick-up information.

ROBERT E. DAUBER MEMORIAL SCHOLARSHIP: A \$1,000 scholarship will be awarded again this year. The scholarship is available to any student who fulfills two requirements. First, he must be a student attending an accredited law school in the State of California and the second condition is that he must be a resident of the County of Riverside, California. Applications for the 1979 scholarship should be made to the Riverside County Bar Association office, located at 3765 Tenth St., Riverside, CA 92501. With each application the applicant should submit a letter setting forth his or her academic, civic and employment achievements; a certified transcript of their scholastic effort for the last two preceding years of education and a statement of the L.S.A.T. score indicating the test score results. These applications should be submitted on or before July 31, 1979 and it is anticipated that the scholarship award will be made in September of this year.

## U.S. ATTORNEY'S OFFICE: JURY TRIAL TACTICS

Mark L. Webb, Assistant United States Attorney and Golden Gate University School of Law Alumnus, is coordinating a series of trial tactics seminars to which all Golden Gate University students and alumni are invited. The seminars are part of a recently-developed criminal litigation externship program between the United States Attorney's Office and the law school's clinical placement services under the direction of Marc Stickgold.

The seminars focus directly on the dynamics of jury trials. They begin with the pretrial phases of legal proceedings, including written motions and pretrial testimony which will eventually have a bearing on the trial itself, and proceed step-by-step to the culmination of trial. More specifically, the seminars will address opening statements, direct examinations, objections and evidence, cross examination, summation, and judgment and sentencing.

Each of the above-mentioned topic areas will be dealt with in individual workshops, and each session will be video-taped for later review. Particular attention will be directed toward student participants' personal styles in court.

Essentially, the course is designed to develop the various skills necessary for effective presentation of a case to a jury. In this regard,

communication skills, body awareness, and vocal textures will be studied and discussed. The schedule for the seminars is as follows:

<u>Day</u>	<u>Date</u>	<u>Time</u>	<u>Location</u>	<u>Topic</u>
Wed.	3-07-79	6:00-8:00p.m.	Aud. B	Opening Statements
Tue.	3-13-79	6:00-8:00p.m.	Aud. B	Direct Examination
Wed.	3-21-79	6:00-8:00p.m.	Aud. B	Objections & Evidence
Tue.	3-27-79	6:00-8:00p.m.	Aud. B	Cross Examination
Wed.	4-04-79	6:00-8:00p.m.	Aud. B	Summation
Sat.	4-07-79	10:00-12:00a.m.	Aud. C	Open Seminar: Jury Trials
Wed.	4-12-79	6:00-8:00p.m.	Aud. B	Judgment & Sentencing

The three full-time externs for Spring 1979 are Patricia Cummings, Paul Fitzgerald, and Jim Molesky. Each extern is assigned to one Assistant U.S. Attorney in the Narcotics Section of the Criminal Division, U.S. Dept. of Justice. They work directly with their attorneys on current federal narcotics prosecutions, and participate in each seminar workshop. Additionally, each extern is responsible for prosecuting approximately five misdemeanor offenses in Federal Magistrates Court during the semester.

If you have questions about the program or the seminars, please contact Mark Webb, Marc Stickgold, or one of the full-time externs (Externs may be reached at 556-9101).

## LAW LIBRARY COMMENTS UPDATE

1. Temperature control - overheating in the library continues to be the greatest problem and the source of the most complaints. The latest information is that when the construction company completes the heating/cooling system at the end of this month, it will be possible to cool down the library.
2. Photocopy room - the problem has been that the machines and their users are too noisy to leave the door open, but the room is too stuffy when the door is closed. More air vents have been opened and an exhaust fan will be installed. Eventually, an automatic closer will be attached to the door. To alleviate crowding in the room, the paper cutter, holepunch, etc. have been moved to the hallway just outside the photocopy room.
3. Front doors - several students have raised the possibility of putting a double hinge on the entry door so that it will open inwardly. This has been checked and is not possible under the fire code.
4. Telephone booth - we have been assured that soundproofing material will be affixed to the walls of the telephone booth.

Other student comments indicate that the following reminders are in order:

- . smoking should be confined to the designated areas.
- . all books should be reshelfed after use.
- . please avoid excessive talking and noise-making in the study areas - show consideration for other students and make the library a good place to work by keeping this in mind.

The suggestion box is still on the Circulation Desk. Please continue to let us have your comments.

Nancy Carter

Note: Handicapped students who need to use the elevator to move between the Plaza and basement levels of the law library should contact Nancy Carter or Joyce Harmon at the Law Library.

# Letters

Dear Caveat Editors:

Last Thursday I submitted information to the Caveat which answered some of the questions students have raised about the new law library. I was later told that the article would not appear in the February 20 issue because I had submitted it too late and because there was too much other copy. For the late submission, I take full responsibility (it was Thursday afternoon before I could get some of the information that I wanted to include). I understand your need to set deadlines, so this complaint in no way relates to that reason for not running the article.

The second reason--that too much other copy was to be published--is obviously invalid. In an issue that presumably editorializes (the piece to which I refer is neither signed or identified) about lack of communication on the new building, I find it surprising that an entire page was available for inane cartoons, rather than the very type of information termed as lacking. Admittedly, the law library is a small portion of the new building. Additionally, there was nothing earth shattering in the information I submitted. Still, it was a straightforward response to the legitimate questions and complaints of a number of students about the new law library. It contained information your constituency requested.

This incident, as well as the reading of past issues of Caveat, raises a question in my mind about your responsibility as Caveat editors in the communication gap. It may have made sense to spend some extra time to include an article handed to you somewhat late. It would definitely make sense for you to adopt an affirmative, investigative approach to your duties as Caveat editors and seek out answers to the questions that concern law students.

Sincerely,  
Nancy Carol Carter  
Director of Law Library  
Services

Dear Nancy Carter,

Your letter of Feb. 21, 1979 shows a general insensitivity and understanding of the problems faced by the CAVEAT and the student body. While I agree with your comment that the editors should take a more "investigative" role, I cannot agree with your characterization of our paper and role of the editors. I find your comment as to the cartoons insulting. They are the efforts of a very talented law student. While you may think them inane, many students, especially first year, liked them very much. As far as your charge that the Caveat's editors are editorializing, to a large extent, I see that as our job.

Further, I agree that the major reason for not running your announcement is, plainly, that it was too late. The deadline is Wed. afternoon of the preceding week. This has been publicized widely, and I'm sure I've told you of it many times. I cannot promise that anything submitted late will be published. In fact, if the paper is already filled, layed-out, and ready to go, I won't tear it apart and type up and lay-out something that comes in late unless I feel its very important. Since I didn't receive your announcement until Friday, and even you agree that it was not earth-shattering, it wasn't run.

Finally, I find your preoccupation with writing memos disturbing. The paper has changed little from the first of the year. You were not inspired to say anything before. While under different conditions I might have taken your criticism as constructive, now I can only take them as insulting, and displaying irresponsibility. I think, in the

past, the CAVEAT (I have at least) has been very supportive of your staff and special concerns. I have tried to be sensitive to your problems, and tried to avail the CAVEAT as a means to helping you to get some things done. I don't feel that you, or your staff has shown that same degree of concern for the Caveat.

Yours truly,  
Edward P. Garson  
The Caveat

P.S. J. Kerwin prefers to remove himself from this particular squabble by noting he functioned as reporter for the first half of the semester and made no decisions editorial. However, he has now assumed the mantle of editor-in-chief and all abuse may be appropriately directed his way for the balance of the semester.

Dear Caveat:

I'm writing to encourage people who don't usually think about joining law review to enter this years writing competition. I don't think of myself as a 'law review type' but I'm very glad I was able to write for this year's law review.

In addition to the usual reasons people give, learning writing skills, impressing future employers, I want to add some reasons for joining.

First, I think that Law Review articles can have some impact on legislation, litigation and public policy. They're read by legislators and included in briefs. There is a considerable body of conservative and reactionary research, including Law Review and Bar Journal articles, already available to opponents of progressive movements to use to support and legitimate their positions. I feel that progressive people should also contribute scholarly research for use by groups we support. Certainly much work has been done but more is needed.

Secondly, my experience is that the staff of Golden Gate Law Review is not the alienating, snobbish kind of group that one usually associates with law reviews. People here are generally supportive and unintimidating. Writing an article is still an individualistic, lonely and alienating experience; but it is made bearable by the decency of the staff.

Along the same lines, I think it's important that programs like the Law Review become more representative of at least the student body, if not the general population. The traditionally elitist mentality of a program like law review is continued in part because people outside that mentality stay away from the program - not because a more diversified group is not available from qualified people.

The writing competition gives people who don't qualify through grades a chance to participate in law review. People who enter through the competition are in no way distinguished from people who qualify by grades. (I should add that everyone doesn't assume that grade point average is a good indication of a good law review member - Boalt chooses its staff solely through a writing competition.) People re-examining or on probation may also participate in the competition.

As I recall, last year about one quarter of the people who entered the competition were invited to join. (20 out of 80) If anyone has any questions, they should come by the law review office on the lower level of the library.

Liz Hendrickson

## WHY I REJECTED LAW REVIEW

It was weird rejecting Law Review. I didn't go to Law School to get good grades or a fat job, but when I was invited to join the Law Review it almost seemed too good of an opportunity to pass up. My ego is strong and I worry about my future. But a deep part of me was repulsed at the idea of joining Law Review because it would endorse a system that completely alienated me for an entire year. This article is a personal attempt to clarify my thinking and is submitted to the Law School community in the hope of sparking a dialogue or debate.

We should be honest about why we're here. In our society, labor power is reduced to a commodity that is bought and sold, and how well you can sell yourself on the labor market determines the quality of your life. We're here because Law School improves our labor power and allows us to sell ourselves at a higher price, thus providing us with a better life-style than is offered most Americans. Behind our parents rhetoric to get "a good education first" is a basic recognition that life is a drag for most Americans.

I've tried to critically examine "legal thinking" because in my first weeks here I was told that we aren't here to learn to THE LAW but are here to learn to "think like a lawyer." Reserving comment on the assumption that there are different kinds of thinking, let me just say that "thinking like a lawyer" actually corresponds to what is commonly called "sophistry". Plato criticized the Sophists because, while indisputably brilliant, their emphasis was on breaking down and winning arguments, rather than discovering the truth.

In the legal profession, sophistry comes under the code-word "advocacy". The best rationalization for the adversary system goes like this: if two equal advocates (sophists) take opposing sides before a neutral third party and attack each other's arguments, "the truth will emerge." Shallow as this concept is as an intellectual abstraction, it is positively absurd when applied to the concrete realities of our society.

The truth is that our society is divided along sexual, racial and class lines. In America, advocates are not equal; the quality of one's advocate depends on one's position in society. The very idea that an advocate's brilliance is sold for money shocks the conscience.

This is only the tip of the ice-berg: it is amazing how much the intellectual life of Law School is based on pretending we don't know what everyone knows. Everyone knows that the tradition of English Common Law is based on a history of suffering and conquest of entire peoples until the sun couldn't set on the British Empire. America developed by slave labor on the lands of sovereign Indian nations, and today is stained with urban waste-lands where life is so miserable that throats are slit and women are raped at the drop of a hat. Everyone knows that America is dominated by huge concentrations of corporate power that squander resources stolen from around the world on an economy that is based on waste. The list is endless, and it's crazy to even try to raise such realities in Law School. The point is that the very intellectual framework of Law School is absurd and totally inadequate to even address, let alone solve, the very real problems that face our country.

Nothing expresses the absurdity of Law School as clearly as the grading system, a reflection of the petty, hierarchical and competitive values of the American Empire. It's amusing how seriously educated adults take Law School grades.

It angers me that most students will only consider my views because my grades were good enough to get me invited on Law Review. One of the reasons I got good grades is that there's a certain perversity to my brain that actually enjoys

legal problems in the same way that others enjoy a game of chess. The difference between chess and law is that real peoples' lives are at stake in the game of law.

The critique is aimed at Law School generally, not at Law Review specifically. If I believed Law Review was the problem, then I'd join it in order to change it. Law School itself is really nothing more than a symptom of the disease that plagues America. It's just that Law Review is a clear symbol of American Reality.

By Phil Worden

Reprinted from COMMENT, Boston University School of Law

## ALGER HISS SPEAKS

At age 74 (?), Alger Hiss displayed a wonderful grace and lucidity as he spoke to an almost packed Auditorium B last Tuesday. His topic was, "It is True That Holmes is a Fraud", evidently the result of Prof. DeVito's special social skills. Mr. Hiss began his talk by placing limitations on its scope: he wouldn't defend Frankfurter and Hand.

In 1929-1930, Mr. Hiss was Justice Holmes' legal secretary. His anecdotal insights into the character of Holmes were delightful. He spoke of Holmes as a "man of culture," his family being the product of proper Boston. He spoke of J. Holmes relating the story his grandmother watching the British march into Boston, and the family home being used as a command post. A Holmes family heirloom, a Queen Anne mirror supposedly reflected the visage of Lord Howell as it hung in the chambers of the Supreme Court.

Holmes was very much involved with the Common Law, saying "The life of the law is not logic, it's experience." His view of the law tended to de-mystify it. What Mr. Hiss called a stylistic grace, a gift for metaphors, he also criticized as being more cosmetic and confusing than enlightening. The term, e.g. in free speech, coined as "the free market place of ideas", Hiss pointed out was borrowed from laissez-faire economics. While the protection against governmental intervention is embraced by this term, it also denotes an aspect of survival of the fittest; that unpopular ideas will not survive due to their inferiority. Hiss pointed out that the idea of a constitutional protection for minority views is not really embraced in this term as used by Holmes. He maintained that the use of metaphors, understandable and precise in another field such as economics or mathematics, loses its precision when applied to the law.

Hiss also characterized Holmes as a legal and philosophical positivist; that he was a sceptic and believed that morality had little to do with the development of the law. He maintained that Holmes was a prisoner of his 19th century values, and changed very little in the manner of his thinking during the last fifty years of his life.

Finally, Hiss talked a little about his own defense, commenting on the books that had been written about him and some of the people involved in own personal drama. He stated that he had been under attack due to his involvement in International peace. He didn't regard his prosecution as the result of a conspiracy, but rather the result of an impersonal quest for political power by those involved in the House Committee on UnAmerican Activities. Within the last six months, he has filed a writ, similar to habeas corpus, in an attempt to absolve himself. He doesn't feel any richer for having had such an experience, but recognized that it had a tremendous effect on his life.

Edward Garson

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**WOMEN'S DAY CELEBRATION:** The annual Women's Day Celebration, sponsored by N.O.W., San Francisco, will be held this Saturday, March 10th, in Golden Gate Park. Bella Abzug will be the guest speaker -- a not-to-be-missed event! (Details are posted on the 3rd floor.)