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## Caveat, November 6, 1978

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# CANOEAT

GOLDEN GATE UNIVERSITY SCHOOL OF LAW

Vol. XIV, No. 11

November 6, 1978

## ROSE BIRD UNDER FIRE

A vicious and deceitful campaign has been launched to unseat Chief Justice Rose Bird, the first woman ever appointed to the California Supreme Court. The challenge is based on calculated misinformation regarding her opinion concerning rape and "great bodily injury".

After appointment by the Governor, supreme court justices must stand for confirmation to their 12-year terms. No Justice has ever failed to win this public endorsement. As a result of the efforts of State Senator H. L. "Bill" Richardson (Rep.-Arcadia), Chief Justice Bird may lose in the November election. Relying on the public's unfamiliarity with the law, Richardson has based his campaign on misleading information about Bird's work on the Court. Because her position on the Court prevents her from responding effectively to Richardson's charges, it is critical that others speak out on her behalf.

Richardson had originally hoped to unseat three of the four justices up for election - those he felt were "too liberal." He recently announced, though, that his "anti-Court" campaign would focus exclusively on Chief Justice Bird, supposedly for financial reasons.

Richardson has attempted to turn the public against Chief Justice Bird - particularly by distorting the opinion she wrote last summer in the case of People v. Caudillo. Media coverage of the case mistakenly suggests that Bird arbitrarily and unilaterally decided that rape is not "great bodily injury." A closer examination of the Caudillo case reveals the half-truths that Senator Richardson's right-wing movement is spreading in the name of feminism.

In this case, the trial court found the defendant guilty of forcible rape, sodomy, oral copulation, 1st degree robbery, and 1st degree burglary. The jury further found that while committing the burglary, the defendant, inflicted "great bodily injury" on the victim. This finding automatically increased the defendant's prison term for burglary by three years.

On appeal to the California Supreme Court, the defendant argued that there was insufficient evidence to prove that he had inflicted "great bodily injury" on the victim during the burglary.

Because "great bodily injury" is defined in the Penal Code only as "Significant or substantial physical injury," Justice Jefferson, writing for the majority of the Court, gave a lengthy analysis of the legislative history for the Penal Code provisions concerning "great bodily injury".

Basically, the Court concluded that the Legislature had not intended that a rape occurring during a burglary would automatically be deemed "great bodily injury." Nor, said the Court, had the Legislature intended that rape,

sodomy and oral copulation together, committed in the course of a burglary, constitute "great bodily injury." In order for an injury to be considered "great bodily injury", the Court determined that the Penal Code required it to be severe and/or protracted in nature. Although the victim had been cut twice by the rapist, the cuts were "superficial" and did not require stitches. Therefore, the Court felt such injury was not severe enough to be classified as "great bodily injury."

Chief Justice Bird wrote a separate concurring opinion, which stated that despite her personal views, she felt compelled to sign the majority opinion, because the legislative history clearly indicated the Legislature intended that rape, in and of itself, could not be labelled "great bodily injury." She wrote:

"This court has no choice in this matter. It must accept the Legislature's intent despite any personal feelings to the contrary... However, the Legislature is the proper governmental body to consider whether rape per se is a basis for the enhancement of punishment and to so provide if they deem it appropriate."

The Legislature has since responded to her invitation for legislative reform, by introducing several bills to amend the Penal Code.

Senator Richardson's attack on Rose Bird is totally misplaced. The blame properly lies with the Legislature, which passed a law to the effect that rape per se is not "great bodily injury".

It is crucial that we rally to Rose Bird's side - by voting "yes" this Tuesday and by talking to others to correct misconceptions and enlist support - or else we may well lose the only woman on the high court.

Kathleen Quenneville  
third year student

## ETHICS

### ETHICS I - PROFESSIONAL RESPONSIBILITY

On the morning of October 6, 1978 about 80 students took the class exam for Professional Responsibility given by Professor Henderson. The class exam consisted of 15 multiple choice, five true-false, and three short answer questions. After the exam, the rumor started.

About a week before the class exam, some members of the Professional Responsibility class attended bar review courses in preparation for the California Professional Responsibility bar exam. Some students took BRC's review, others, BAR.

The students who took the BAR review course were given a sample bar exam. Rumor had it that fifteen questions from the sample bar exam given to BAR review students were identical to the 15 multiple choice questions on Henderson's class exam.

If the rumor were true, it meant that those students had a substantial advantage over the students who did not see the questions before the class exam. If the rumor were true, what would be done, after the fact, to equalize the advantages?

Cont'd Page 2.

## AFF'V ACTION TEACH-IN, Wed.

# Letters

UNITED COALITIONS SPONSOR AREA-WIDE TEACH-INS

Ten years ago today on November 6, 1968, one of the major affirmative action struggles of the 1960's began at San Francisco State University. Those struggles never ended. For example, most law schools in Northern California have seen attempts over the last year have seen attempts to cut-back important aspects of their affirmative action programs. Last spring, Hastings' faculty voted to change LSAT requirements and to eliminate effective student input in its admissions committee. Only after students struck for two days did the faculty rescind its decision. At USF Law School, the dean proposed lowering the number of special admits by almost 50%. After a number of demonstrations and weeks of lobbying, USF students succeeded in persuading its faculty to reject the dean's plan. Even so, many problems remain at that school.

This fall, in light of the commonality of their concerns, many of the affirmative action oriented coalitions in the area law schools have banded together to form the United Law School Coalitions. In commemoration of the historic S.F.S.U. strike, the ULSC is sponsoring teach-ins this Wednesday and Thursday at Hastings, U.C. Davis, Santa Clara, and at G.G.U. Our teach-in will be Wednesday, noon to 1:30, room to be announced. The teach-ins' purpose is to familiarize students with affirmative action issues and problems at their school as well as at other Northern California law schools. Third-World Coalition and NLG representatives will be visiting other teach-ins at Hastings, Santa Clara, Davis, and USF. Participating in G.G.U.'s teach-in will be members of Hastings Third World Coalition and Santa Clara's People's Coalition. All students and staff are invited to attend.

## ETHICS...

I talked to Professor Henderson who explained how he happened to prepare the exam and what he proposed to do about it. Henderson said that he had intended to prepare an exam that would combine philosophy with "real world" ethical problems. But, a tenured faculty member persuaded him to administer a test that would mirror the California Professional Responsibility bar exam. By taking a multiple choice test, the faculty member reasoned, students would be better prepared to take the CA Professional Responsibility Bar. (The CA Prof. Resp. Bar exam was given the day after the class exam).

So Henderson scrapped his plans and resurrected a five-year old sample bar exam. Coincidentally, BAR selected the same five-year old exam for their review students. Henderson agreed that the test gave an unfair advantage to some and said no grades were to be given for the course. Students will receive a pass or a fail only. The other alternative, he said, would be to administer a new test. He wouldn't mind doing that, but thought the students would object.

Interestingly, the December 1977 edition of the Golden Gate Univ. Law School Bulletin, page 48, addresses itself to Prof. Responsibility grades. "All Bar courses and required courses, except Writing and Research and Professional Responsibility are graded by a letter grade".

More Ethics next week.

Sheila D'Amico

Dear Caveat:

As a smoking student, I'm writing to express my great alarm--and anger--at the recent announcement by the law school administration that this year separate exam rooms for smokers will not be provided (meaning that smokers needing to smoke will have to step into the corridor to do so).

I urge the administration to reconsider this in light of its inherent hardship on smoking students, not only from a standpoint of comfort but, more important, from a standpoint of academic fairness.

If the administration's announced policy is to stand, this means that smokers will have only two options during their final exams, both of which place nonsmokers at an academic advantage to smokers in taking the exams. Smokers are being faced with the following Hobson's choice:

- (1) To try to do without cigarettes during a long period and thereby suffer the resultant high degree of neurological anxiety, tension and distraction while attempting to write their exams; or
- (2) To step out in the corridor when the need to smoke arises and thereby lose valuable minutes of exam writing time.

Both of the above options have the effect of putting smokers at a distinct academic disadvantage as compared to nonsmokers. Nonsmokers are not required to take their exams in a state of neurological anxiety and tension, nor are they required to sacrifice valuable minutes of exam writing time.

Of course I am not urging that smoking be allowed in the general exam rooms. I have no desire to be unfair to nonsmokers by forcing them to take exams under difficult conditions. But I do urge that fairness dictates that smokers be given the same consideration, namely, the right to take an exam without having to undergo distracting and debilitating hardship.

We have the same amount of space as we had last year, and no appreciably greater number of students. I can see no rational reason why separate exam rooms cannot continue to be provided for smokers. Certainly the attempt to provide such rooms should be of the highest priority considering the palpable academic unfairness that would result from not providing them.

Every smoking student pays \$3,600 tuition just as does every nonsmoking student. There seems to be little equity in adopting a policy which is solicitous of the needs of nonsmokers but is utterly indifferent to the needs of smokers (and which actually penalizes smokers academically).

I urge everyone involved with this decision to reconsider it, and to make every possible effort to provide separate smoking rooms for as many exams as possible.

Dennis Kruszynski  
1st year law student

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# CURRICULUM COMM. NEWS

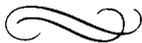
## Writing Contests

THE LETOURNEAU AWARD: American College of Legal Medicine, 1979 Letourneau Award, given annually to the law student authoring the outstanding paper on the subject of legal medicine. The Award carries a \$250.00 cash nonorarium, the paper will be considered for publication in the Journal of Legal Medicine; and the author's expenses will be paid to attend the 1979 International Conference on Legal Medicine to be held at the Hyatt-Hilton, Hilton Island in South Carolina, May 9-12, 1979. Cash awards of \$250. and \$150. respectively will be given to the papers placing second and third. Papers must deal with any aspect of legal medicine, no less than 3000 words. Contact, Betty Hanna, Executive Secretary, American College of Legal Medicine, 1340 North Astor St., Suite 2608, Chicago, Ill. 60610. Details in Dean's Office.



ENVIRONMENTAL LAW ESSAY CONTEST: Sponsored by the ABA's Standing Committee on Environmental Law. Deadline: Feb. 1, 1979  
Prize: \$500., together with a Certificate. Travel expenses incurred by attendance at the conference will be reimbursed by the Committee.  
Subject: The general subject matter for the 1979 contest is "Are Clean Air and Economic Considerations Compatible?" May choose specific aspect of this topic, e.g. trading or sale of clean air rights, incentive for the development and implementation of new control technology, implications of the Clean Air Act and Amendments, etc.  
Eligibility: 2nd and 3rd year students.  
Format: Typewritten and double-spaced, 8-1/2x11". Not to exceed 50 pages including quoted matter, citations and footnotes.

If questions arise or more information is needed, write or phone: Katherine McG. Sullivan, Staff Director, Standing Committee on Environmental Law, k800 M St., N.W., Washington, D.C. 20036 (202) 331-2278. More details in the Dean's Office.



NELPI ENERGY LAW ESSAY COMPETITION: The National Energy Law and Policy Institute (NELPI) of the University of Tulsa's College of Law. Prize is \$300. for the author and \$200. for the author's school.  
Eligibility: Any full-time or part-time law student. Only essays prepared between Feb. 1, 1978 and Jan. 31, 1979 are eligible.  
Topic: Any legal subject related to energy, e.g. oil and gas law, federal regulation of natural gas, federal price controls, development of energy resources on state and federal lands, private coal development, nuclear power, utilities, solar energy, or other topics. The essay need not be restricted to case law. No restriction on length.  
Deadline: February 1, 1979  
Send to: Professor Kent Frizzell, NELPI, The Univ. of Tulsa College of Law, 3120 E. 4th Place, Tulsa, Oklahoma 74104. More details in the Dean's Office.

The members of the Curriculum Committee have extended the deadline to submit proposals for new courses to be taught at Golden Gate. Proposals will be accepted until January 15, 1979 and must include the following in writing:

1. Name, Address, and Phone Number of person submitting the proposal.
2. Course Description.
3. Syllabus or Outline for the Proposed Course. In addition please include the following information, if known:
  1. Other schools offering the proposed course, the texts used, and the number of credits given.
  2. Possible instructors for the course.
  3. How often the course is to be offered.

It is helpful to contact professors of other law schools to procure the above information. Catalogues of other law schools, which are on reserve in our library, also provide source material for those writing proposals. A meeting with members of the curriculum committee will be scheduled in the next couple of weeks to discuss potential proposals and/or answer any questions. Watch for the announcement in the next issue of the CAVEAT. If you have any other questions, ideas, etc. regarding proposals, contact any of the members of the committee. They are: Bill Weiner, Larry Jones, Charles Smith, (faculty) and Margaret Petrie, Natalie Modro, Leslie Warder (students). Leave a message with Alice Montgomery or call 556-6087 and ask for Leslie.

## Placement News

The STUDENT/ALUMNI PROGRAM is happening now. Here's how it works:

We have a notebook in the Placement Office which contains responses to our mailing to local graduates. The people who responded to us are practicing attorneys who have volunteered to meet with students to discuss the nature of their practices, how to prepare for specialization, helpful hints on job hunting, etc. Approximately 50 grads have signed up to donate their time to you through this program. This is your opportunity to ask the kinds of questions you can't ask in an interview. Use it.

CORRECTION: Mark Cohen's letter printed last week should have read "...those in positions of power who created such programs, in effect, took away opportunities from one group of oppressed peoples (namely lower middle and working class white) and gave to another group of peoples that were more oppressed (namely blacks and other third world minorities)." Mr. Cohen points out that with this correction a very different meaning is conveyed, one which he intends.

COMMUNITY CELEBRATION --- La Casa de las Madres, SF Shelter for battered women and their children is celebrating 3 yrs. of community service & wants everyone to come to their party. Come to Delancy St., 8th Ave. & Fulton, Nov. 11th, 8:00 on. 3 big bands, no-host bar, refreshments at a nominal cost, free child care w/RSVP (626-9337). Tickets at the door for \$2.50-\$5.00 on a sliding scale. Proceeds to help support La Casa.

# ANNOUNCEMENTS

From the Dean's Office

Pre-registration for the Spring Semester 1979 will take place the week of November 13. Class reservation forms will be filled out at that time and the registration process will be completed when classes resume in January. There will be no payment of fees or tuition in the pre-registration. Schedules and informational materials will be distributed this week. Watch for signs in the hallways announcing the exact date.

EXAM CHANGE: Tax 1C will be held on Wednesday, December 20, 1:00-4:00 p.m.

ABA/LSD NEWS: We now have 169 members at GGU. That is over 20% of the entire student body. Thank you and welcome to all of the new members. It has been brought to my attention that many of us do not know who the other members are. A remedy for this unfortunate situation would be for us to meet and be recognized. A sign up sheet has been placed on the ABA/LSD bulletin board in the hallway for you to list the best day and time for you to meet. Night students, you will not be forgotten or left out. If it is more convenient for you, we will hold evening meetings in addition to the daytime meetings.

Please note the new notices concerning the writing competition, oral advocacy competitions, and VITA (Volunteer Income Tax Assistance) program which are posted on the bulletin board for your information.

Should anyone wish to contact me concerning any information or membership problems, or ABA/LSD activities, please leave me a note on the student message board or in the ABA/LSD mailbox in the faculty center.

Judy Middlesworth

ABA/LSD MEETING: General meeting on Wed. Nov. 8 at 12 noon, in Room 205 to discuss the date and location of our party, film topics for the next few months, and whatever would be of interest to the students.

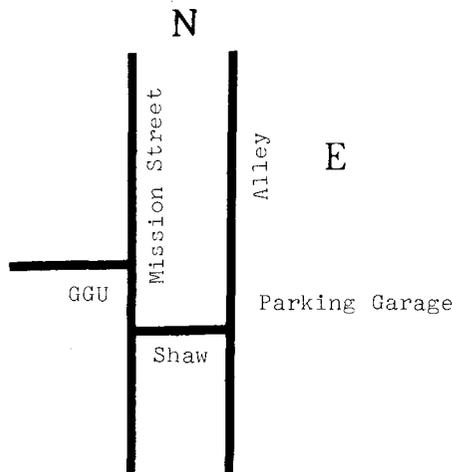
CAL PUBLIC INTEREST LAW CONFERENCE: Hastings, Nov. 10-11. Speakers include, Ramsey Clark, Willie Brown, Michael Tigar, James Lorenz, Rhoda H. Karpatkin. Topics to be discussed include civil liberties, housing, environmental law, consumer law, problems of the elderly, and starting and maintaining a public interest law firm. \$5.00 for students (includes lunch). Contact Ray Bonner or Trina Ostrander at 557-3079.

NATIONAL LAWYERS GUILD: General meeting Thurs. Nov. 9 at Noon in Room 407, to discuss:  
1. Nov. 7th election results.  
2. SBA Budget allotment to NLG  
3. General Business

NATIONAL LAWYERS GUILD: USF Chapter is showing a film entitled "Attica", a documentary of the prison rebellion in 1973. This is a benefit for Attica Committee to free Daca Jewlah, only remaining prisoner still held. Friday, Nov. 17, 8:00 p.m., USF Moot Court Room. Donation of \$1.50.

# PREZ'S 7 CORNER

BICYCLE PROBLEM: STARTING TODAY, STUDENTS MAY PARK THEIR BICYCLES FREE AT THE BRIDGE TERMINAL GARAGE. The SBA and Dean's office have rented a bicycle rack in the garage until December 6th. All you have to do is park your bike - you do not need to check in, get a ticket, etc. Below is a map showing you where the garage is located:



I have shown most of the bicyclists where the ramp is located in the garage. If you have trouble finding it, ask an attendant, or see me and I will show you where it is. If you have any questions, give me a call (863-7880). There will be a bicycle rack in the new building next semester.

VOLLEYBALL TEAM UPDATE: 18 students have expressed an interest in playing volleyball with the faculty on a regular basis. I have spoken to the Physical Education Director at the Y and he said we should be able to arrange a time to play. However, he has been extremely busy the last 2 weeks and had to cancel a meeting we had set up to work out the details. I will try to see him again this week. Sorry it's taking so long folks.

SBA MEETING: I have tentatively scheduled a meeting for this Tuesday, 5:00 p.m., room TBA. This meeting will only take place if we are unable to approve final budget allocations for organizations on Sat., 11-4. Check vending machine to see if meeting is scheduled or cancelled for Tues.

Alice M. Montgomery

## ATTENTION STUDENTS

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