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Battle Possible Over Library

by Charlie Shafer and Patrick English

A struggle seems to be developing between the faculty of the Rutgers Law School and the central administration of the University over the law library. Charging at the last faculty meeting that Virginia Whitney, the head librarian of the university system, was "destroying" the law library, several faculty members demanded that control over the law library be taken from her.

Prompted by learning that the head librarian had appointed a committee to advise her in planning the law library in the Fireman's Fund Building (to which the law school will move next summer), the faculty made it clear that they considered themselves, not Whitney, to be responsible for planning the library in the "new" building.

Will Name Expert

Dean Peter Simmons announced at that time his intention to hire an outside expert to advise the faculty in planning the new library, noting that he would inform the head librarian of his action "out of courtesy." Commented Simmons, "We aren't going to ask Virginia Whitney's permission to hire an outside expert. We are going to do it." When questioned regarding the probable reaction of Rutgers University President Edward Bloustein to such a move, Simmons drew an analogy to the hiring of an outside engineering expert when the move to the Fireman's Fund Building was first proposed. "He was outraged and appalled." The expert's figures, according to the dean, were later admitted by the central administration to be substantially correct, as the figures of their own experts proved to be wrong.

Whitney, when contacted by the **Law Record**, commented in response to the criticisms that those on the law school faculty "are entitled to any view they want." She made it clear, however, that she considered her authority paramount in deciding matters of policy regarding the library. She pointed out that, per enrolled student, about four times what is spent on undergraduate library facilities is spent on the law library.

"I'm sure that laboratory costs on the physics Ph.D. program exceed undergraduate laboratory costs," retorted Dean Simmons upon learning of Whitney's comments. "Does that mean that the Ph.D. program is overfunded? We start with the expectation that we are doing something different (in law school) than is done in freshmen physical education classes."

Deep Dissatisfaction

The issue of who will have control over the planning of the new planning facility is merely symptomatic of a much deeper faculty dissatisfaction regarding the library. Many have become increasingly concerned regarding what they see as a steady deterioration in the quality of the library, a decline which is the direct result, in their view, of a combination of ignorance on the part of head librarian Virginia Whitney regarding the importance which a law school library holds in relation to the curriculum, and a callous disregard for the needs of the law school when they are pointed out to her.

According to published statistics, the Rutgers - Newark law library in the top twenty schools in the level of its funding during the late 1960's. Last year the school was 111 out of 161. In fact, the budget, last year was approximately 30 per cent less than was the budget in 1969, while during those years enrollment jumped by more than 150 students and a high rate of inflation in the publishing field ate into the purchasing power of the library. Last year, due to the budget crunch, the library discontinued the state and local digest systems, state Shepard's, a high percentage of the foreign law publications, and was initially unable to purchase any new monographs, treatises, or texts. Only a last-minute grant from the Provost's office allowed resumption of selective purchases of treatise material. This year the tentative budget is estimated at $132,000, roughly the equivalent of the amount allocated last year (including the grant by the Provost).

A.B.A. Standards Violated

As a result of the relative decline in the funding of the library, many on the faculty want to remove the law library from the control of the central university structure altogether. Under this proposal, the library budget and policies would come under the direct control of the law school administration and faculty, as is the curriculum. Proponents of this plan point out that the current allocation of responsibility seems to be in direct violation of American Bar Association Standards, which mandate that, " . . . The dean, law librarian, and faculty of the law school shall be responsible for determining library policy . . ." and that, "The budget for the law library shall be determined as part of . . . the law school budget." Currently, more than 75 per cent of the law schools in the nation meet this autonomy requirements.

Critics of Whitney point to past actions on her part to document what they term as either profound ignorance regarding the function of a law library or hostility towards the law school. For instance, they note that she had once proposed that the law library be merged with the Dana Library, with a single reference staff to handle both undergraduate and law needs. Only the lack of space in Dana and the move to the Fireman's Fund building ended consideration of this proposal. Further, Whitney's critics point to the fact that two years ago she ordered a drastic cutback in the hours which the law library was to be open, apparently in order to dramatize the university's budget plight. Alfred Blumrosen, then the acting dean of the law school, intervened at the urging of law librarian Cameron Allen, and ordered the library kept open. A confrontation was avoided only when the entire library system received additional funding from president Bloustein, and the order for the cutbacks was lifted.

The lack of autonomy of the law library is highlighted by the fact that it is forbidden even to catalogue its own books. All must be sent to New Brunswick to be catalogued. This results, according to law librarian Cameron Allen, in delays often running into months and in an inability on the part of the law library to "plan priorities according to the need for the book." Further, the decisions regarding what materials are to be classified at all are also made in New Brunswick. At one time the decision was made that New Jersey documents were not to be catalogued. According to Allen, no alternative catalogue was available, thus this decision (which was later rescinded)

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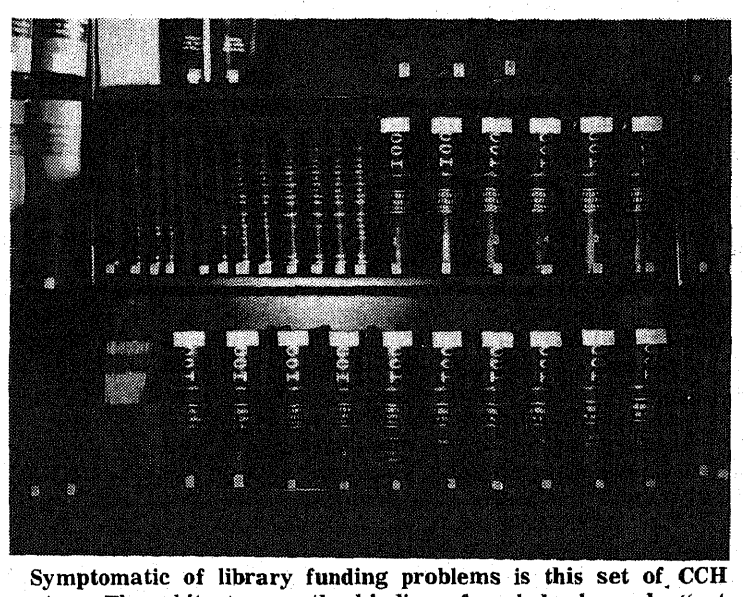

Symptomatic of library funding problems is this set of CCH reporters. The white tag on the binding of each book reads "not current."

Requirement Dropped

At a special faculty meeting held in mid-September, the requirement that all third year students take a course in the "Legal Profession" was rescinded.

The meeting, originally called to discuss Student Bar Association President David Rubin's request that the requirement be waived for one year due to scheduling conflicts, quickly turned into a debate regarding the merits of having the requirement at all. Professor Arthur Kinoy expressed dismay at what he saw as the implicit assumption by some of his colleagues that "the evils of Watergate are soluable by a course on the legal profession." Kinoy continued, "I stand on the record of this law school." He then indicated his belief that those who graduate from the Rutgers Law School have ethical records which are as good as graduates from any other law school in the country.

Course Termed "Cheap"

Professor J. Allen Smith seconded Kinoy's comments, charging that, "The course (in the legal profession) is a cheap attempt to promulgate cafeteria-line service for a very complex moral problem."

Rubin informed the faculty that the American Bar Association had no requirement that a course on ethics be mandatory, as long as students received "pervasive exposure" to moral questions through their regular classwork. Several faculty members indicated that this had not been their understanding when the requirement had initially been voted on last spring. Professor Gerald Moran, the law school's representative to the A.B.A., confirmed the accuracy of Rubin's statement.

Several faculty members, alluding to poor attendance at faculty meetings, contended that the requirement should not be dropped so soon after its adoption "merely" because a different group made up the quorum than the group which had been present at the faculty meeting last spring when the requirement had been adopted.

Despite their pleas, a motion to drop the requirement passed on an eleven to seven vote.

Illegality Cited For Delay

by Jeff Kuschner

Forty candidates seeking election to twelve first year class representative positions within the Student Bar Association had to wait a little longer as SBA President David Rubin announced the postponement of the election, originally scheduled for September 27 and 28, in order to avoid any question about the constitutionality of this election.

October Stipulated

The question of the constitutionality of the election was raised after the SBA election committee had selected the September dates, and then became aware that their action was contrary to Article IV, section 2, (a), of the SBA constitution, wherein it is stated that election for SBA class representatives is to be held during the month of October. Mr. Rubin gave no reason as to why the clause hadn't been considered earlier, although he did suggest that the desire of the SBA to begin the work of allocating its budget to the various eligible student organizations as early as possible might have led to the accidental non-consideration of the clause. First year representatives must be on hand to vote on budget allocations, and the practical necessity of getting money to organizations that need and expect it weighed heavily in the decision to hold early elections. On the other hand, there has been considerable criticism that both the electorate and the candidates are, as yet, ignorant regarding the issues facing the SBA, and that therefore early elections are ill-advised.

Mr. Rubin said that the new dates of the election will probably be October 5 and 6. Rescheduling the elections into October will not only avoid the immediate Constitutional problem but may prove helpful for those students who complain they know neither who the candidates are nor what the candidates stand for. The **Law Record** earlier this week distributed a special issue in which each first year candidate was given an opportunity to state positions and give a brief personal history.

Present SBA Questionable

The constitutionality question does not end with the current election. Present SBA representatives, elected in the late spring, may also be in non-compliance with Constitutional provisions. Mr. Rubin said the opinion of SBA parliamentarian Mike Sherman was that upper class elections held in the spring are not barred by Article IV, section 2, (a). If the constitutionality of the upper class spring election is successfully challenged then the present SBA and the first year elections it is running may be unauthorized and thereby void. At present, the assumption is that unless someone presses a challenge the current SBA members will continue operating as the constitutionally authorized representatives of the student body.

Schedule Reactions Vary

by Gill Leeds

Student and faculty reaction to the new 90-minute modular system ranged from highly favorable to somewhat critical, according to an informal news poll conducted by the Record Staff. The flexibility the new system affords was cited most often by the many students who welcomed it.

"Four credit courses can now meet only three times a week," one student remarked, "and professors can accomplish just as much, if not more, with fewer class meetings." And while some students felt that the half hour lag time between classes was a sort of twilight zone, too long to pass and chat and too short to settle down to study, most students reacted favorably to the larger gap. Some are utilizing the extra time to talk to professors, a desirable result which the old system could not accommodate. Others have found the extra time enables them to relax for coffee, prepare for the next class, or run a short errand.

Early Classes Criticized

Much of the negative reaction to the new system concerned the scheduling of classes as early as 8:30. "This is a commuter school, not a campus school, with only limited parking," voiced one student, "and 8:30 is too early to begin the day here." Other students felt that the extra class time, when spent with professors they viewed as uninspiring, made boring classes almost intolerable.

Reactions of professors were by and large favorable. "The half hour in between classes permits me to talk more freely with students after class without feeling pressured by the incoming class," remarked Professor Jane Zuckerman. "It is also much easier to schedule make-up

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Who Should Control Library?

The faculty seems to be taking the first steps towards stopping the deterioration of the library by deciding to exert control over the planning for the library facility in the Fireman's Fund Building. We applaud the faculty for doing so, but seriously question why their attention was not directed towards the library sooner.

For the past several years the library has been slowly starved through inadequate funding. The emaciation, reflected by discontinued material and the absence of important works which could not be purchased, has been clearly visible to any regular user of the library. Yet it took the impending move to the Fireman's Fund Building to force the faculty to confront, at least in part, the problems facing it.

The library is the heart of the law school. Proposals such as those made to move it to the undergraduate Dana Library or to cut back upon the hours in which it is open indicate a willingness to let that heart die. Continued inadequate funding and neglect, though not as dramatic, are no less such indications. The question remains open whether the faculty will allow the library's demise.

The time has come, we believe, for the faculty to assert that degree of control which is necessary to assure that the library be restored to a level of funding which will enable it to remain one of the better libraries in the nation. We believe that it is the responsibility of the faculty to ensure that responsibility for making policy decisions affecting the library, whether those decisions entail planning for the future or involve the more mundane questions which arise from daily operation, resides primarily within the law school itself. The American Bar Association has promulgated guidelines to this effect, based upon the understanding that library policies are essentially curriculum decisions due to the unique importance which a law library has for law students. It is time that the faculty recognize this.

In short, we urge that the faculty, at long last, simply refuse to allow further deterioration of the law library. We believe that they have the power to do so, if they choose to exercise it. Though there would undoubtedly be opposition to such a move (for there are those in the central administration who see a boon in concentrating power among themselves) the stakes are high. If no action is taken this law school will slip into mediocrity as a result. If that happens, much of the blame will fall upon the members of the faculty who, collectively, had the power to avert such a fate for Rutgers, but chose not to.

First-Year Elections

"Hello, I'm running for the S.B.A., and I'd like you to vote for me!"

"Why?"

There have been a lot of long silences to that question among members of the first-year class. Because, if the truth be known, many first year students are running simply in order to have something to put on their resumés. Certainly they are not running on the issues, for only a few exhibit any knowledge of what the issues may be.

This is not at all surprising. Most first-year students have been far too busy meeting the day-to-day challenge of adjusting to law school to gain any perspective regarding overall issues. Consequently it is far too likely that the first-year elections will once again be merely a question of who has managed to meet the requisite number of people in the short time since school began.

It is no less than absurd to hold first-year elections this early in the semester. Running on the basis of how many people in torts class happen to know one's name is hardly a system designed to promote effective government. We consequently urge that a constitutional amendment be passed by the S.B.A. which would mandate that elections not be held until a reasonable period has elapsed for first-year students to become acclimated.

Letter: Editor Explains Procedure

To the Editor:

In June, 31 members of the class of 1978 were selected for the staff of the Rutgers Law Review. The Review wishes to clarify the mechanics of the staff selection process.

All students who had completed no fewer than two and no more than three semesters of law school were eligible to enter an anonymous competition in June. Competitors were given ten days to write a 3000-word case note on a recent decision which was selected because (1) it was in an area which was not included in the first-year curriculum but which could be understood without advanced courses; (2) it presented a number of issues in a well-written opinion; (3) strong arguments could be made both for and against the court's decision; and (4) no commentary had yet appeared on the case. Each competitor was given 158 pages of cases and commentary, and was instructed to use no other sources to write the case note.

One hundred case notes were submitted. Each was identified solely by a number chosen by its writer; writers were requested to use numbers five or more digits long to avoid duplicate entries. The papers were shuffled and renumbered from 1 to 100 for convenience. Only the editor-in-chief had access to the original identification numbers, and no one, including the editor-in-chief, knew the identity of any paper's writer.

All members of the editorial board studied the competition materials thoroughly before reading any papers. Each member of the editorial board read 30 to 35 papers, or approximately one-third of all entries. Thus, all readers were exposed to a reasonable cross-section of the papers. Finally, readers were cautioned to read their papers in random order to avoid any systematic bias which might affect readers' first or last papers. Each paper was read by ten editors; approximately 5 of the 10 had some special expertise in the competition subject. Subject to this constraint, readers were assigned at random; the average pair of papers had only three readers in common.

Each reader graded each paper from 1 to 5 on substantive accuracy, analysis and reasoning, organization and presentation, writing style, and citation form; the categories were weighted 5, 5, 4, 4, and 2, respectively. In addition, a reader could indicate that he or she considered a paper to be extraordinarily good or bad. All completed evaluation forms were placed in a sealed box.

At the selection meeting, the agreement of at least 7 of a paper's 10 readers was needed to either accept or reject a paper. Only the readers of a paper voted on it. No specific number of staff members was sought. Instead, each paper was discussed in terms of the ability to do law review work which it demonstrated. For a small number of papers, discussion and rereading did not lead to the necessary agreement among its readers. In such cases, three more editors read the paper, and the agreement of eight was required to dispose of the paper.

Although we realize that no system is perfect, we believe that this procedure was fair and objective, and that all papers were given careful consideration.

Ann Lesk
Editor-in-Chief
Rutgers Law Review

Battle

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would have made much of the New Jersey Collection unusable.

Extra Users

As a result of outside attorney usage, the possibility has arisen that the state bar association may become involved in support of more adequate funding and increased internal control of the law library.

"One pernicious aspect of the library funding situation is that the deterioration it causes isn't visible," concluded Dean Simmons in a **Law Record** interview. "Since it isn't a 'visible' issue, it is a difficult issue to fight."

Viewpoint

by Rick Foard
Committee Against Racism (CAR)

I would like to address this column to two important questions. Students at Rutgers-Newark have many different conceptions as to what racism is. I would like to formalize CAR's definition of institutional racism. Secondly, I would like to discuss the quality of legal education here and the relationship of that to the need for law students and lawyers to fight racism.

Some would say racism is outright bigotry and prejudice, for example, as expressed by Lester Maddox. Others would be offended by any inference that racism extends beyond the ideas in a person's head or slurs made on different ethnic backgrounds.

CAR feels that racism is not simply bigotry and prejudice. To be sure, bigotry and prejudice can plan an important role in strengthening racism. But racism is primarily the **interactive system** between discriminatory practices and ideas used to distinguish different groups of people, causing people who are members of one group to be treated differently because of their membership in the group.

The practices that make up this interactive system frequently disproportionately affect one group of people. For example, many state welfare agencies have two major classifications for workers: "case aide" and "caseworker." The latter class are predominantly white male workers, college-educated. The "case aide" class is mostly black women without degrees. There are large pay differentials between the two classes. Though both classes do relatively the same amount and same type of work, the more "professional" and "educated" caseworker class is more highly paid. This is racism, just like a system which pays blacks lower wages for the same classification of work. Implementation of cutbacks in services which disproportionately affect minority areas (e.g., those recently implemented in New York City) is racism.

Intertwined with practices that support racism is the spreading of false ideas which make different groups of people look down on each other. As an institutional phenomenon, the main effect of ideological racism within society is to convince whites that they have no common interest in unity with minorities to solve common problems (e.g., lousy schools, inadequate health care, social service cutbacks). Racism, therefore, hurts the large majority as well as the minorities it affects more directly. Multiracial unity, then, is crucial to fight and eventually eradicate racism.

How does the above apply to us? As we are law students and lawyers, racism will have harmful effects on many of us too. Students interested in progressive, antiracial legal work will be less able to fight effectively in court as the law becomes more restrictive (see **Bakke v. Davis**, California Supreme Court case). Other students are interested in the fight for social justice or progress, though perhaps not through antiracist legal work. But racism is the main barrier to the unity of black, Latin, white, Asian and immigrant people, which is why it is necessary for this fight to proceed. It will be the main thrust of attack on legal reforms already won. Racism is therefore a class question. A lawyer or law student who wants to advance the cause of justice for the rank and file needs to recognize the pervasive presence and tenacity of racism. We need courses here that will prepare us for this phenomenon, from both a legal and a political perspective.

Racism will also affect our education here at Rutgers-Newark. As CAR has pointed out in leaflets, the Minority Student Progarm (MSP) has much to do with the small reforms that have been instituted at Rutgers-Newark since 1968. Women's admissions, clinical education, contact with the Newark community, the less competitive atmosphere, and the construction of a curriculum which presents a modicum of diversity and opportunity for progressive legal work are all results of the struggle against racism and the institution of the MSP. Attacks on affirmative action and increased use of LSAT and GPA for admissions will hurt the quality of legal education here and eventually turn this school into another "Paper Chase."

This term, CAR is campaigning to abolish use of the LSAT, for more courses on (for example) busing, affirmative action taught from an antiracist perspective (like last year's De Funis seminar), and the possibility of an amicus brief for **Bakke v. Davis**. We think the Markham Report is correct in saying the LSAT is irrelevant to legal ability. We also feel the LSAT is a discriminatory test, and we hope to prove that by sponsoring a forum, which will probably be held October 16 from 12:30 p.m. till 2:30 p.m. We will be featuring speakers with expertise on this question.

CAR meets every week from 12:30 p.m. till 2:30 p.m. Look for signs around the Law School.

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This column, which is open to all in the Rutgers Law School community, is offered by the **Law Record** *in an attempt to ensure access of communication for all. To be considered for inclusion in* **Viewpoint**, *material need only be submitted (typed) to the* **Law Record** *by the posted deadline.*

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