The Conspiracy

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THE
CONSPIRACY
When Tyranny Is Law, Revolution Is Order

National Lawyers Guild * Bay Area Regional Office * April, 1975 * Volume V, Number 5 * 25¢

FAMILY LAW SEMINAR

by Mary Vail and Claudia Wilkin

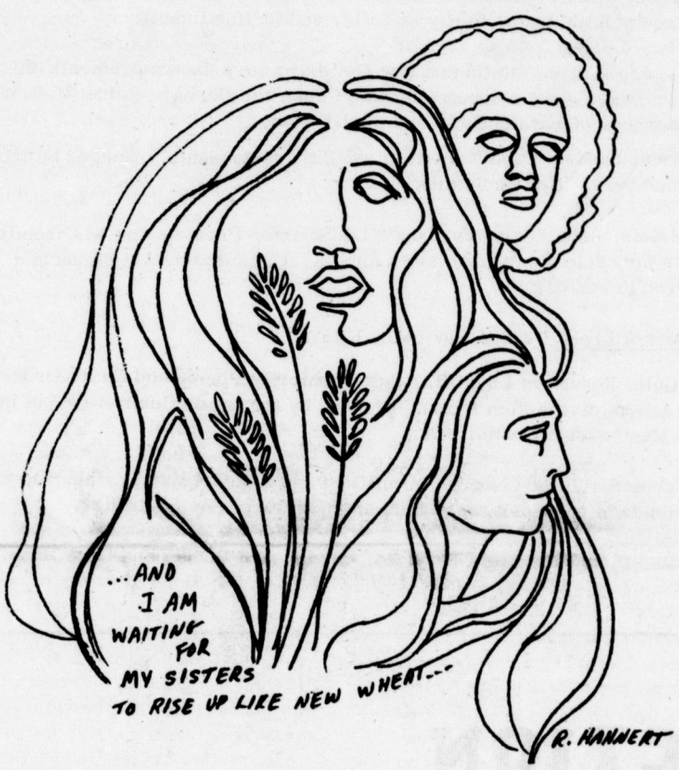
A day-long seminar on family law from a feminist perspective will be given on Saturday, April 19th, from 9:00 a.m. to 5:00 p.m. at Boalt Hall, U. C. Berkeley. Sponsored by the Finance Committee of the Bay Area Chapter of the Guild, the seminar is being planned by a group of Guild women: lawyers doing family law, legal workers, and law students. All interested women and men are invited to participate.

The topics for discussion at the conference will include issues in child custody, spousal support, and alternatives to traditional marriage arrangements. The seminar is not planned as a comprehensive treatment of family law, but as a discussion of selected topics with current practical interest and feminist ramifications. The conference will consist of four segments: the format of each will be a brief lecture by someone familiar with the subject area, followed by small group discussions led by speakers and members of the seminar planning committee.

The speakers and small group discussion leaders will attempt to focus discussion around a feminist response to the issues as they might come up in a family law practice. Hypothetical situations will be prepared to facilitate discussion.

The two morning sessions will deal with issues in child custody. Faye Stender and Margot Hagaman will discuss concepts of fitness of mothers (for example, judicial prejudice against working mothers, lesbian mothers, and certain lifestyles). Susan Cohen and Camille LeGrand will discuss varying views on the role of the father in child custody, especially the rights of unwed fathers, joint custody arrangements, and enforcing fathers' responsibilities.

The first afternoon session will be on alternatives to traditional marriage arrangements, focussing on pre-nuptial and post-nuptial marriage contracts, and on unmarried heterosexual and homosexual couples, and other group living arrangements. Also to be discussed will be the possible legal consequences of these alternatives on such issues as property, support, and child custody, especially in the light of Cary v. Cary, 34 Cal. App. 3d 345. Carmen Massey, who has recently written a book entitled Sex, Living Together And The Law, will speak and lead one of the small discussion groups on alternatives.



The last session of the day will involve spousal support, against concentrating on feminist aspects such as womens' conflicts about receiving support, new spousal support revocation legislation, and the special problems of older women, women with no job training or experience, and women who want to go back to school. Speakers will include Zaide Kirtley of San Francisco and Mildred Inwood of the N. O. W. Task Force on Older Women.

Women and family relations in socialist countries will be the topic of a luncheon program during the conference. Women who have spent time in Cuba, China, and North Vietnam will speak and answer questions on their experiences and study. Cuba's new family code is a particular area of interest. Lunch will be available for advance registrants, or people can bring their own.

Women on the seminar planning committee feel that the area of family law is very relevant for people concerned with the interaction between sexism, personal relations, and the law. Family law affects and reflects society's sexist assumptions, and gives these assumptions the force of law in regulating personal relationships. Guild involvement in seminars such as this one is important in attempting to increase sensitivity to sexism and to deal with it on a continuing and effective basis.

There will be registration at Room 170 of Boalt Hall on April 19th between 8:30 and 9:00 a.m., but advance registration would be appreciated by the planning committee. Fees range from $5.00 to $30.00, depending on income and Guild membership, with a $2.00 discount for all advance registrants. Lunch is an additional $2.00; child care will be provided at no additional cost for anyone requesting it on advance registration. Advance registrations must be received in the Guild office no later than April 11th.

To register, remit the form on page 15, or, for more information &/or brochures, call the Guild office at 285-5067

Mary is an attorney with the Women's Litigation Unit of SFNLAF; Claudia is a third year student at Boalt Hall.

558 Capp Street San Francisco, California 94110

Articles

The Conspiracy Editorial Board regrets that the March issue was delayed in reaching the readers. We intend to continue publishing comments from members and friends regarding the February NEB for one more issue following this one. Rather than continuing to evaluate the merits of particular decisions, however, we feel that contributors should try to address the organizational/structural questions which form the basis for our work.

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ELECTION

RESULTS

The results of the Chapter election, held at the membership meeting of Feb. 5, 1975 are as follows:

Chapter Officers

President	Jennie Rhine
Vice President	Lynne Gellenbeck
Vice President	Bill Monning
Treasurer	Dan Siegel
Secretary	Art Simon

"At Large" Executive Board Members

Bob Baker
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Gordon Gaines
Barbara Hanfling
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Judy Leiken
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Suzanne Mounts
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Gordon Gaines
Paul Harris
Susan Hutcher
Jim Larsen
Bill Monning
Suzanne Mounts

NEB Alternates

Emily DeFalla
Lynne Gellenbeck
Marsha Meyers
Fred Rosenberg
Fran Schreiberg
Dan Siegel
Art Simon

PEOPLE THIS ISSUE

Steve Kaus
Robin Levine
Art Simon
Fred Rosenberg
Bob Calhoun
Sally Dandridge
Peter Rubin
Bob Heidt
Dobbie Levine
Marty Fassler
Larry Weiner

Jan Faust

SERVING THE COMMUNITY

ASIAN LAW CAUCUS

by Dale Minami

For three successive nights, ghetto residents were stopped, frisked and questioned by the San Francisco police. Some were handcuffed and taken to Central Station for mugshots and fingerprints. No violence had occurred on those evenings and no crimes were committed; probable cause was black hair and dark eyes. This was not "Operation Zebra" but a scene from Chinatown, San Francisco, in October, 1972. The similarities between these sweeps and the Zebra modus operandi 18 months later were striking, yet the public outcry was strangely muted. There was no ACLU protesting the unwarranted intrusion into constitutional rights; there was little media exposure and there was little concern even in the "progressive" communities.

A class action civil rights suit to enjoin the "sweep" tactic filed by the Asian Law Caucus, Inc. was the only reaction, but the lack of political support, and the immediate abandonment of the sweeps, eventually rendered the case moot. The lessons, however, were clear: The general public knew little about Asian-American communities -- their problems, politics and personalities, and the Asian-American communities lacked aggressive legal resources to represent their interests to the larger White society.

With the understanding that the legal system was insensitive and inequitable toward the poor and Third World people, and that the legal delivery system did not deliver for Asian-American communities, a group of law students, attorneys and paralegals formed the Asian Law Caucus in Oakland, in August of 1972.

With one staff attorney, several law graduates and law students, we hoped to build a unique legal entity dedicated to serving people and not pocketbooks. We wanted to train law students and paralegal workers in community law practice, educate Asian-American communities about the true nature of the legal system and their rights under law, assist progressive community organizations -- all the while remolding the creaky hierarchy and sexism of traditional firms into a more egalitarian model.

Trying to practice while reaching for those goals has been a humbling experience. With the help of two older Asian-American attorneys in Oakland, Ken Kawaichi and Joseph Morozumi, we began practicing our theory. Handling both criminal and civil cases for poor and near-poor Asian-Americans, we began to develop co-ordinated legal-political approaches to cases. One of our first cases involved the arrest of a Chinese newsvendor of progressive Asian and Asian-American literature in San Francisco's Chinatown, on charges of obstructing the sidewalk, peddling without a permit, battery on a police officer and resisting arrest. Ten witnesses disputed the police version of the arrest and helped to form an ad hoc defense committee to mobilize community support. Legal motions, signed petitions demanding the dismissal of the charges and a march by Chinatown residents on the Central Station, carried into the homes of the District Attorneys courtesy of the T. V., persuaded the prosecutor to drop the three most serious charges in exchange for a nolo contendere plea on the peddling without a permit charge. In the same breath, the judge imposed a $10 fine and granted us $10 in interpreter's fees.

Later cases pushed us into uncharted areas of law which tested severely our law school education and meager experience. We negotiated a settlement of a Title VII job discrimination suit with California Blue Shield on behalf of Asian-Americans. The settlement brought back pay, training, company-financed language improvement classes for both Filipino and Spanish-speaking employees, community and internal monitoring committees and attorneys' fees.

A Title VI administrative complaint bottled up a $1 Million Grant from the feds to the School of Social Welfare at U. C. Berkeley until their recalcitrant administration hired a more representative teaching staff and offered a more relevant curriculum (which they still refuse to do; the curriculum remains unchanged).

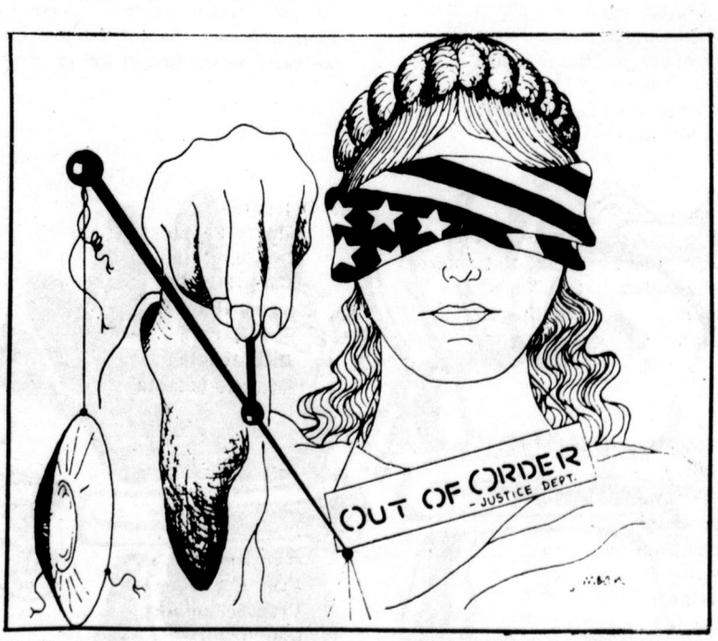
A class action suit to clarify the status of Chinese "confession" immigrants was dismissed with orders from the judge to the Immigration and Naturalization Service to begin processing requests for permanent resident status. (The "confession" immigrants are those who, by provision of a 1962 law, acknowledged an illegal entry into the United States, in exchange for a government promise of citizenship and no deportation. Citizenship status was never granted, despite the confessions; Hence, the suit).

A sex discrimination suit against the Sumitomo Bank is currently pending, notwithstanding their gift to us of a free clock and free checking account.

With the San Francisco Neighborhood Legal Assistance Foundation, Chinatown office, we sued Attorney General Evelle Younger for a violation of civil rights in his publication of a half-baked, deprecating and racist Criminal Intelligence Bulletin implicating Chinese as Fu-manchu criminals. Early on, we found an ally in Dennis Roberts who offered consistent support, most recently, along with Dick Duane and ourselves, in obtaining the dismissals of seven picketers arrested while protesting the retaliatory firing of 42 Chinese workers of the Lee Mah Electronics company, in San Francisco.

Through our legal practice in suing public institutions and defending against the state we recognize the political context in which legal institutions operate, as well as the predetermined and generally unsatisfactory relief those legal institutions concede. Thus, in public interest cases we have attempted to work closely with community organizations not only to build up the pressure levelled

Continued on page 12



Dale is a former member of the Asian Law Caucus, now in private practice, and is an instructor in the Asian-American Studies Dept., at U.C. - Berkeley.

NEB ADDENDA

by The Conspiracy Editorial Board

Below are reports about two aspects of the February meeting of the National Executive Board of the Lawyers Guild which were not reported in last month's issue: first, the discussion, to be continued at the next NEB meeting, in August, of the relationship between the Guild and the prison newspaper, The Midnight Special; and second, the creation of several Guild "Task Forces" to study difficult areas of political and legal work, and to report back to the August NEB.

THE MIDNIGHT SPECIAL

The Midnight Special was started as a prisoners' newsletter by the New York City Chapter of the Guild in November, 1971, in response to the Attica rebellion and the general rising level of struggle in the prisons. The original staff of the paper consisted of Guild lawyers and legal workers and others doing prison work.

Since 1971, the Midnight Special has grown from a six page newsletter to a twenty four page newspaper. With its growth in size and circulation the paper has also seen a shift in staff: the original Guild members who worked with the paper moved on to do other work and were replaced by new staff people, including several ex-prisoners.

While the paper has continued to share office space with the staffs of the New York City Chapter and National Offices of the Guild, the communication and working relationship between the paper and the two Guild staffs has weakened. The National Office and New York City Chapter Office will be moving on May 1st, and the question has arisen as to whether the Midnight Special should move into their new offices with them, which the Special has indicated it clearly wants to do. The Guild currently provides the Special with free rent, free telephones, and the use of typewriters and other equipment: resources the Special says are necessary if it is to survive.

The more basic questions of whether the Midnight Special is and/or should be a Guild project, and the meaning of being a Guild project, are called into play. Presently, the National Office clearly views the Special as a project of the New York City Chapter, while the New York Chapter has indicated that it is undecided as to whether or not Guild resources should continue to support the paper.

In view of the fact that outside of New York little is known among Guild chapters about the Midnight Special or about its relationship to the Guild, a resolution was passed at the N. E. B. setting up a Task Force, to be chaired by a member of the National Executive Committee, whose job it will be "to provoke analysis and discussion within the organization and the Midnight Special... and to offer resolutions reflecting that work to the August NEB." The same resolution also calls for continued financial support of the Special, in the form of rent and phones, until August, when a better informed organizational decision about the paper's status can be made.

In the spirit of the resolution, Guild chapters across the country are asked, before the August NEB, to consider such questions as:

1-Does The Midnight Special reflect the base of the prison movement?
2-Does it reflect our jailhouse lawyer membership?
3-What should be the relationship of the Midnight Special to the Guild? A national project? A joint project which we will work on with other groups?
4-What kind of control, if any, should the Guild exert over the Midnight Special?
5-What are the politics of the Midnight Special? What should be the politics of any Guild publication?

TASK FORCES

A much criticized past practice of the Guild has been our tendency to adopt abstract resolutions that contain no concrete method of integrating the political positions they suggest we take into our actual practice, and our "biting off more than we can chew" in passing resolutions that commit us to work that our resources cannot meet.

A concept that attempts to change this pattern is the "Task Force", introduced at the NEB primarily by the National Office staff. The Task Force resolutions generally include proposals that the Task Force be chaired by a member of the National Executive Committee, that it investigate and politically analyze the past work of the Guild and other progressive groups in the specific area it is concerned with, and that it report back to the National Executive Committee with recommendations on the best ways to implement the specific suggestions for action contained in the Task Force proposals themselves.

Resolutions on the creation of Task Forces that were passed at the NEB include: A Resolution For A Task Force Against Police Crimes, On Support For Development of Third World Legal Resources, On Military Justice, On Prisons, and For the Evaluation of the Relationship Between the Midnight Special and the Guild.

Another resolution was passed directing the National Executive Committee to function, through the next NEB, as an anti-racism committee, whose duties shall include overseeing the development and work of the Task Forces, bringing to the national organization programmatic and other decisions of the Task Forces and Guild members, and investigating the possibility of developing Task Forces in areas such as welfare, health care/forced sterilization and community education.

The Task Force solution seems to be a realistic one. It prevents us from pledging support to positions on which we are uninformed and provides for a concrete manner in which the amount of work the Guild can and should devote to a certain area can be determined.

POLITICAL PRISONER

THE TRIALS OF MARILYN BUCK

by Susan B. Jordan

Two years after her arrest and a year and a half after her San Francisco conviction on federal firearms act violations, Marilyn Jean Buck is being held in Bexar County Jail, San Antonio, Texas. Marilyn is awaiting trial in Austin, 90 miles from San Antonio, on another federal gun violation.

Marilyn was convicted in San Francisco in 1973 of two counts of exhibiting false identification for the purchase of 60 rounds of ammunition. She was tried and sentenced by Judge Samuel Conti, known for his utter lack of compassion and unyielding law and order attitude. The trial was a mere charade of justice, staged for the sole purpose, it seemed, of reaching the sentencing stage so that Marilyn would receive the maximum penalty on the two charges, ten years.

Marilyn was convicted of gun violations but she is doing heavy time because the government believes her to be a member of the Black Liberation Army (BLA). The Justice Department continues a nationwide prosecution of her because of the political associations they allege.

In the two years since her arrest on gun charges, Marilyn has been treated in a manner reserved for political prisoners in this country. To begin, she was admittedly wiretapped illegally in the late sixties and early seventies. The FBI maintains a file on her said to be over 1000 pages long, which they persistently refuse to make available to either Marilyn or her attorney.

Since her arrest (she never was able to make bail), the conditions of Marilyn's confinement have been calculated to break her unusually strong spirit. After being sentenced, she was housed at Terminal Island, California, one of the two federal institutions for women in the country. After a brief stay there, the warden "refused" to have her there any longer. A government agent who had spoken with the warden told me that they were refusing to have her there because she was a "troublemaker," and she was labled such because a lot of "the girls there came to the window of her (isolation) cell to talk with her."

Susan B. Jordan is a San Francisco attorney who represents Marilyn Buck.

After leaving Terminal Island, she spent a period in Maricopa County Jail, Phoenix, awaiting sentencing on a guilty plea she entered to another gun charge. While she was there the entire women's facility was kept on lockdown. The other inmates were told that the lock-down was in effect because Marilyn was there, and that she was dangerous. The lock-down was eased after a while, but the animosity against Marilyn continued.

After Phoenix she was designated by the Bureau of Prisons to commence the service of her ten year federal sentence in Cook County Jail, Chicago, Illinois. The federal prison system often contracts with county jails to hold prisoners awaiting trial in cities where there are no federal detention facilities. Occasionally a federal prisoner will do federal and state time running concurrently, in a state penitentiary. Very occasionally the federal prison system will designate a state penitentiary as the place where a federal prisoner will do time. But never have I or anyone else I have spoken with heard of assigning a federal prisoner to do time in a county jail. The only conclusion is that it was done to increase the punishment.

On the eve of the filing of a lawsuit to terminate her assignment to Cook County Jail, Marilyn was transferred to Alderson Penitentiary for Women, Alderson, West Virginia. Compared to some institutions, Alderson, for most inmates, is a fairly loose place. The women wear street clothes, they have access to the grounds of the institution, there is dormitory housing and visiting occurs without screens or bars, for the occasional visitor who will make the long trip into the Virginia Hills where Alderson is situated.

Few of these privileges were allowed Marilyn. She was initially placed in isolation, which was later relaxed to semi-isolation. During this time she was required to attend therapy sessions to "improve her attitude." People who wrote her there had their letters returned, marked "not on approved correspondence list." There is no such list. The two women who tried to visit her there had their applications for permission to visit held up beyond the date when they intended to visit. Ultimately they were admitted to the prison but their visit with Marilyn was specially supervised.

I spoke to the warden, Mrs. McLaughlin, about the special treatment Marilyn was receiving, despite her clear behavior record behind bars. "She's a troublemaker," Mrs. McLaughlin told me. "She gets the other girls all riled up with her ideas. I know what that girl reads. It's not just Marxism, it's a lot of violent stuff. She just gets the other girls all riled up and they don't know what they're getting into. She's a ringleader."

This winter, as the government began to proceed on the two charges still pending against Marilyn, she was moved to the Bexar County Jail. When a prisoner is transferred the United States Marshal apparently gets a card on the prisoner. Marilyn's card is marked "escape risk," despite the fact that she has never tried to escape. Marilyn was driven by car from West Virginia to San Antonio, a four day journey, handcuffed while riding in the car all day, followed into the women's johns by a female marshal (or more often, the wife of the male marshal, who gets paid to ride along), and housed in county jails at night. Airline regulations forbid flying a prisoner in chains, or handcuffed. So, because of her marshal's card, Marilyn is driven back and forth across the country.

When she got to Texas, it was contemplated that she would enter a guilty plea in exchange for light concurrent time. However, the already slim hopes of fair treatment were dashed when one of Marilyn's lawyers there was told by the judge's secretary that she had heard that Marilyn was one of the "founders of the SLA." Maybe they've got the initials of the two groups mixed up (BLA and SLA), or maybe they are serious. In any case, trying to enter a guilty plea in hopes the judge will be fair in sentencing seems out of the question.

So two years later, Marilyn is awaiting trial again. Originally she had five outstanding gun charges: San Francisco (conviction after trial, ten years), Arizona (guilty plea, five years concurrent time), New Mexico (dismissed), Oregon (pending),

Continued on page 15

THE MILITARY LAW OFFICE WANTS YOU!

by Aaron Zaretsky

The Military Law Office, a project of the National Lawyers Guild, is once again looking for attorneys to work at G.I. projects in Japan and Okinawa.

Japan is the keystone of the U.S. empire in Asia. There are about 170 bases there, with a total of about 100,000 active-duty people and even more "dependents." Most of these bases are actively engaged in preparations for the next wars in Asia - especially in the Philippines, Korea, and Southeast Asia. It is also a rear area for the current military expansion into the Indian Ocean.

About half of these bases are on Okinawa, headquarters of the Third Marine Division and a central point for tropical training for troops to be used in Southeast Asia. B-52s are refueled by tankers out of Kadena AFB, and SR-71 spy planes are still launched for overflights of Korea and other "trouble spots." Okinawa is also a storage area for all sorts of munitions, including nuclear weapons, that are deployed throughout the Pacific.

On the Japanese main island, Iwakuni Marine Corps Air Station is the rear area for activities in Thailand and more recently, in the Philippines. Yokosuka Naval base, homeport of the carrier Midway and eight other warships, is central to the control of countries along the Pacific Rim.

Conditions for enlisted military people are bad, even though Japan is more developed than other Asian countries. G.I.s enlist because they are unable to find work elsewhere. There is very little to do, and most G.I.s use whatever drugs they can find to relieve their oppresion. People are questioning the mission of the U.S. armed forces in Asia, especially as anti-communism weakens as a viable rationale. Imperialism is much clearer. No intellectual abstractions are necessary in Okinawa where 50% of the arable land is taken up by the U.S. military. People are very open to analysis tied to their direct experience. The poverty and degradation of Asian peoples under imperialism is very obvious and deeply affects many military people.

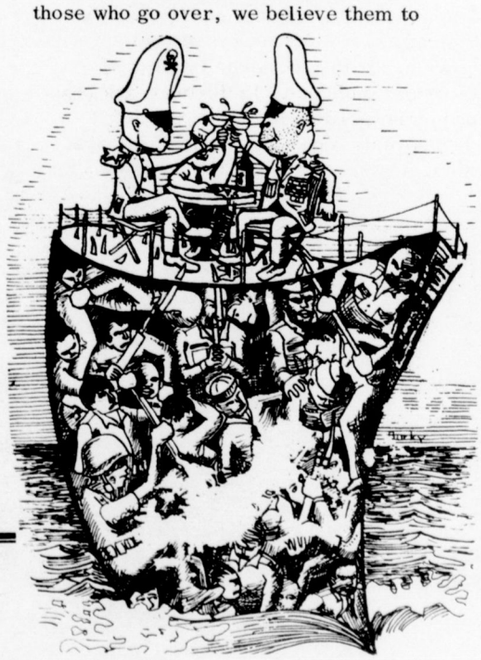
Under these conditions, legal work takes on an importance and a political relevancy which is seldom found stateside. Lawyering takes place fully integrated into the G.I. movement. One example of the potential that legal work has shown is to be found in the recent walkoff from the Midway of more than 60 G.I.s who raised issues of imperialism, racism, homeporting and ship conditions. Over 20 of the Midway cases were taken on by M.L.O. attorneys in Japan. Aside from the G.I.'s charges, the issue of nuclear weapons aboard U.S. warships in Japan came out of the trials. Within two weeks there were 2.2 million Japanese people demonstrating in support of the men and against the illegal presence of American Nuclear Weapons in Japanese waters.

The M.L.O. was set up in 1971 primarily to provide legal support for the growing number of G.I.s who were opposed to the war in Vietnam. During the last four years, project attorneys have been involved in supporting G.I.s and so-called "dependents" around a number of issues. A tremendous amount of legal work has been done on behalf of Black and other third world G.I.s subjected to the blatant and institutionalized racism of the Armed Forces; in support of the human and civil rights of active duty people who have been deprived of those rights and who are subject to arbitrary command discipline, and in defense of those men and women in the military who are in opposition to the imperialist policies of the U.S. government. The fact that these servicepeople are in the position of having to implement these policies makes it especially imperative that their resistance be supported.

Our lawyers live and work collectively with people sent over by Pacific Counseling Service. M.L.O. attorneys function as part of an organizing project. As racism and sexism are two dominant features of military life, we expect people to have a certain degree of consciousness around those issues, and to be willing to enter into struggle with their own and others' attitudes and practices.

We are looking for people who have a good understanding of the working class and who will be sensitive to the ways in which professional elitism effects their work and their interaction with others.

While the projects demand a lot of those who go over, we believe them to be well worth the effort. Politically, they have made a substantial impact - judging from the number of attempts by the military to keep G.I.s from coming by the centers or enlisting the services of our lawyers, we have become something of a "problem" for them. Not only are many people attracted to the projects, but the aggressive legal defense made by our attorneys has clearly effected a military court system accustomed to a "country club" atmosphere for the Brass, and the speedy disposition of cases.



At the same time, they have been tremendously important to the civilian staff as well. Everyone who has been at one of the projects has commented on the ways that the experience aided their growth as political people, and their development in working and living collectively. There is precious little other legal work around where the legal work is so intrinsically tied to the ongoing political work. People live and work together along with G.I.'s, and women and children "dependents". Legal skills and services are urgently needed, and can produce immediate results for those around you. There is the chance to work closely with movement people from Japan and Okinawa who are strongly in support of the projects. Finally, there is the existence of a vital G.I. movement, and the beginnings of such a movement with women with whom the project links up.

But, for everything just described to keep going, we need people willing to work at the projects. Prior experience in Military Law is not required, but some trial experience is. The cases we have taken in the past have ranged up to charges of murder (fragging) and we are looking for people with courtroom experience. As important as this experience, is a willingness to wage an aggressive defense in the face of the machinations of military injustice. We expect people who are going to Asia to make a one year committment, since anything less than this really hurts the overall effectiveness of the projects and greatly increases costs. We urge both men and women to apply. No salary is paid but all expenses (travel, living, legal, etc.) are covered by the San Francisco office.

If you have any other questions about the nature of the projects and the work, please feel free to write or call. We also encourage people who are not yet sure about their plans to begin the application process right away, since it does take some time. If you can't go but know about people who might be good, please talk to them and tell them to get in touch. Write to: Military Law Office, 2588 Mission St. Rm. 220, San Francisco, California, 94110.

Aaron Zaretsky is a staff member of the Military Law Office.

RECENT CASES

Jury selection

By Ruth Astle, Emily De Falla, and Steffan Imhoff

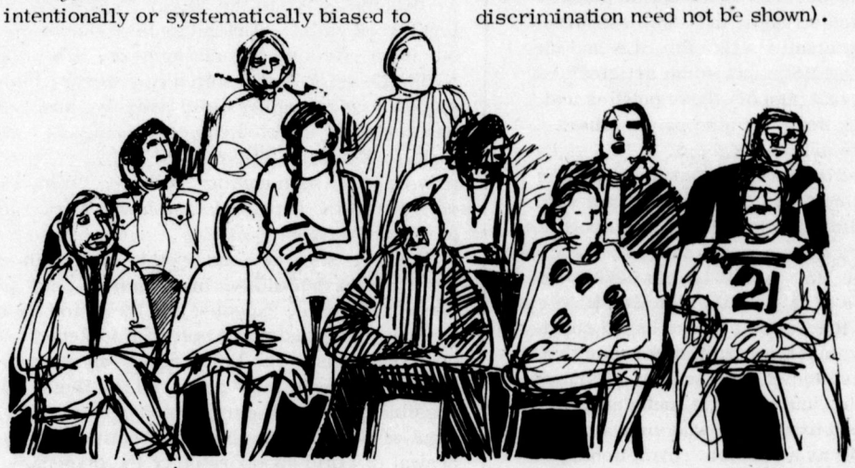
Although the grand jury system was originally envisioned as a mechanism for the protection of criminal defendants, it has recently been utilized by the state as a tool to deny a defendant's basic constitutional rights. Examining and attacking the composition of grand juries can be done to raise the consciousness of judges, juries and prosecutors. In some rare instances indictments can be dismissed, if a sufficient showing of discrimination can be made.

The grand jury challenge can be seen as a legal re-examination of the various constituent parts of the body politic in America. Grand jury challenges began during reconstruction, as an immediate offshoot of the Fourteenth Amendment, and for many years were used primarily to challenge the exclusion of blacks on Southern grand juries. The leading case in this era was Strauder v. West Virginia 100 U.S. 303. Beyond that use, the challenge was not used, extensively, for decades. At the turn of the century, when again there was great political turmoil around working conditions and the economy, and the labor movement was gathering momentum, interest in the grand jury challenge re-emerged. An attempt was made to use the challenge to fight the inequality rampant in the application of the laws in an effort to gain rights for disenfranchised people. However, the only successes seen were in the areas where blacks had been systematically excluded from participation.

Again a period of inactivity followed, and the challenge was not used again until the Civil Rights movement of the 1960's began to have an impact on the thinking of left legal people. The late fifties brought the grand jury challenge to California, which had remained largely unmoved by reconstruction and by the earlier efforts of the labor movement lawyers. There were scattered attempts to make the California grand jury more representative, and a beginning awareness of the need to challenge the exclusion of other people besides blacks from the grand jury, especially Mexican-Americans and people with Spanish surnames.

The past ten years have brought numerous challenges in California, especially in political cases where defendants felt particularly alienated and under-represented, both in terms of those people who actually served on the grand juries that were indicting them and the people who selected those grand jurors. Some of the recent cases in which challenges were brought were: People v. Hoiland, 22 Cal. App. 3d 530 (the Bank of America arson in Isla Vista case); People v. Newton, 8 Cal. App. 3d 359 and In re Wells, 20 Cal. App. 3d 640 (Black Panther Party members); People v. Sirhan, 7 Cal. 3d 710; and People v. Pinell, 43 Cal. App. 3d 627 (the San Quentin Six case). The grand juries were selected by Superior Court judges who were, almost without exception, older, affluent, white, professional males, with similar acquaintances and biases. The jurors were, quite naturally, much more representative of the selector/judges than of the community which, by law, they were supposed to reflect.

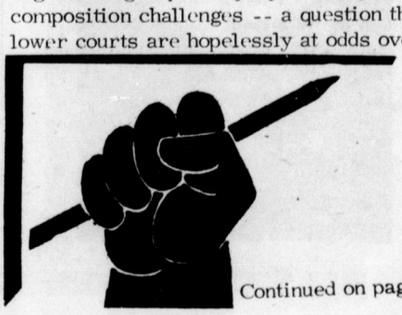
Today, the grand jury challenge is still a small calibre weapon in the arsenal of the defense attorney, despite recent events. The traditional way to go about challenging a grand jury's composition is to analyze statistically both the composition of the jury (gender, race, ethnic background, age occupation, income, etc.) and the method of selecting. If the composition is un-representative of the community, or if the method of selection was intentionally or systematically biased to esclude a cognizable group within the community, then the court should rule the jury unconstitutional and dismiss the indictment.



However, there are many procedural and secondary questions which render a challenge complicated to prepare and difficult to win. For example, legal standing to challenge composition has been an issue raised repeatedly by the government, in order to limit the scope of relief granted by the court. For a period of time, cases held that one had to be a member of the excluded class in order to raise the issue of those exclusions. In the landmark case of Peters v. Kiff, 407 U.S. 493 (1972), the Supreme Court ruled, however, that white defendants had the right to raise the exclusion of blacks from grand juries which indicted them. More recently, in Taylor v. Louisiana, ____ U.S. ____, 43 U.S. Law Week 4167 (1975), the Supreme Court found that the exclusion of women was unconstitutional. This challenge was brought by a man, and the Court, citing Peters v. Kiff, gave the man standing to challenge the exclusion of women. Although this decision was not made retroactive and was a petit jury case, it is almost unquestionable that this holding will be extended to future grand jury selection cases. In questions of composition and selection methods, grand jury and petit jury law is virtually identical.

A recent setback in the area of grand jury law in the California Court of Appeals has been the decision in People v. Pinell, supra, reversing the trial court's finding of unconstitutionality and order dismissing the indictment. In this poorly-reasoned opinion, the court appears to demand that the defendant show intentional (meaning overt) discrimination in the selection process. This is a much higher standard than has ever been used in the past. It seems to require a standard that will be almost impossible to meet, since most of the discrimination in California grand juries has been institutionalized and subtle. Other Courts of Appeal disagree with this standard (see People v. Superior Court (Dean), 38 Cal. App. 3d 966 (1974), which stated, in dicta, that intentional discrimination need not be shown).

The question of the necessity of showing intentional discrimination also at issue in People v. Navarette and Peraza, now pending in the Court of Appeals, First Appellate Division. In that case the trial court ruled that there had been systematic, statistically documented discrimination against women on the Santa Clara grand juries of 1969 through 1973. The indictment was order quashed. The government has appealed, on the contention that intentional discrimination was not shown. The decision in that case may help to clarify the question. However, the final word will have to come from the California Supreme Court, which, up till now, has shown a disinclination to accept grand jury cases for hearing. That court will also eventually have to settle the question of whether or not youth and blue collar workers are cognizable groups for purposes of jury composition challenges -- a question the lower courts are hopelessly at odds over.



Continued on page 15

To the Conspiracy:

At the recent NEB a political struggle took place that many Guild members were, and still are, unaware of. The particular question involved is the future relationship between the Guild prison paper Midnight Special(MS) and the NLG. But the struggle goes beyond the MS and raises the more basic question of the role of political prison work within the NLG.

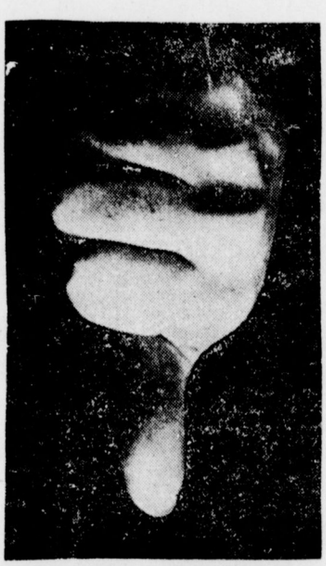
The resolution itself voted on by the NEB is secondary to the questions raised by the debate over the MS. What follows is an attempt to lay out some of those questions and to present some answers. It is hoped that those with different or critical views will respond. What is most important is that Guild members understand the basic political issues raised by the debate over the MS and that we struggle over these issues so that the Guild can make a knowing political choice at the next NEB.

The MS prints the politics of the prison movement. The staff does not write the articles, but prints what prisoners around the country send to it. Since the politics of the prison movement necessarily includes the politics of armed struggle and some support for organizations like the BLA and the SLA, the MS prints some articles and poems that support these politics and organizations. It also prints others that are critical of them.

What became clear at the NEB was that some Guild members did not want the Guild associated with these politics and thus did not want the Guild associated with the MS. And it is this issue that must be debated within the Guild: should the Guild, a broad based political organization, publish a paper that prints statements in support of armed struggle, and should it include within its broad base those who view armed struggle as a possible revolutionary tool?

Clearly no one is arguing that the Guild should support the use of armed struggle. Rather the question is should the Guild be associated and struggle with prisoners who do support it.

--Stu Hanlon



Dear Conspiracy:

We are members of the University of San Francisco chapter of the NLG. We would like to convey our views concerning the NEB's decision to condition the Guild's summer project with the UFWA. We feel that the NEB's decision was wrong for many reasons, but in this letter will limit ourselves to discussing three reasons that most affect law students.

First: We have all been active with the UFWA since entering law school. We have provided both legal skills, and engaged in non-legal activities, such as maintaining a Friday afternoon picket line at scab stores in San Francisco. It was through this work with the Union that we became active in the NLG. At USF, legal work with the Union has been one of our most effective organizing tools. The NEB's decision has resulted in several students rejecting the Guild entirely, and has seriously affected our organizing efforts in general. When the NEB displays a large sign saying "Build the Guild," does it realize that its decision will work to defeat that goal?

Second: Several of us hope to work with the Union in the Valley, this summer. Many strikes are expected and the Union is very concerned about potential violent confrontations. The Union needs as many as sixty students to be prepared for this possibility and still carry on on-going legal work. With the NEB's effective withdrawal of Guild sponsorship of the project, and with it the stipends available to students, many of us who planned to go to the Valley will be unable to do so for financial reasons. The NEB must realize when it claims support for "95%" of the summer work that their decision will mean far fewer students to do that "95%."

Third: Those of us who will be in the Valley this summer are sad that when we meet farmworkers we will not be able to say we are from the NLG. We think it is very important to show visibly our organization's solidarity with the workers in the fields. Because of the NEB's decision, we will simply be individual law students working for the Union. Evidently, the NEB does not find it important visibly to show our solidarity with the workers' struggle.

To conclude, although we firmly feel that the NEB's decision was wrong we do not intend to resign from the Guild. We do question, however, how much work and energy we should devote to an organization that is apparently becoming more isolated from workers' struggles. We hope that the Guild will recognize its error and reverse its decision.

In continuing struggle:

John Radin
Ron Goldman
Steven C. Johnson
Patty Gates
Patrick Gileau
Dale Brodsky
Robin Grieve
Lynda Martyn
Frederick C. Roesti
Jim Marable
Vickie Steinheimer
Roger A. Carnagey
Daniel R. Fritz.

READER

(The following letter was sent in response to the letter sent to the UFWU by Doron Weinberg, excerpts of which appeared in the last issue of this paper.)

Dear Mr. Weinberg:

We must reject your offer of conditional assistance. We feel that a group of law students, legal workers, and lawyers cannot substitute their judgment for that of the workers.

We will continue to welcome assistance from individuals who support us. I hope you understand, however, that at this time we must sever formal ties with your organization.

Sincerely,
Jerome Cohen

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Patty Gates
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Sincerely,
Jerome Cohen

To The Conspiracy:

It is with sorrow, political and personal, that I sit down to write this letter of resignation from the National Lawyers Guild, an organization to which I've belonged to for the past 8 1/2 years.

I have been working in the San Joaquin Valley for almost two years, so I have not been involved with the Guild on an organizational level, with the very important exception of working with many Guild people on Union work. But when I emerged from the country to attend the NEB and participate in the debate on the UFW policy on "undocumented workers", I was shocked and dismayed at its direction and tone.

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I have been working in the San Joaquin Valley for almost two years, so I have not been involved with the Guild on an organizational level, with the very important exception of working with many Guild people on Union work. But when I emerged from the country to attend the NEB and participate in the debate on the UFW policy on "undocumented workers", I was shocked and dismayed at its direction and tone.

The fact that so many delegates to the NEB came bound from thousands of miles away, bound on a decision with important and complex ramifications for the relationship between the Guild, the UFW, and various Chicano groups who currently devote much of their time and energy to attacking systematically the UFW. They decided they knew whether the UFW was "correct" on a policy it sees as necessary for its very survival, on the basis of having read two position papers in the Guild Notes, and possibly having talked to some Chicano law students and/or a UFW boycotter from one of the Eastern cities. They had never seen the San Joaquin Valley; they knew little or nothing about the history of labor struggles in that Valley or the history of the UFW; they knew little about the subtle differences in outlook between rural and urban Chicanos; they knew little about the relationship between the UFW and other Chicano groups, either those who support them or those who don't; they even knew very little about the delicate organizational relationship between the Guild and the UFW that existed before the action they took.

I have heard it said that the inflammatory broadside attacks on the UFW made by some of the Chicano speakers at the NEB did not help their cause. But I did not hear a single remark by a non-Union spokesperson during the debate that criticized the vicious public attack on the Union made by several speakers, an attack that went far beyond the "undocumented workers" issue.

Could it be that we (white Guild members) are still afraid to contradict a Third World speaker face to face? Are we immobilized still by our white-skin privilege? Are we ever capable of telling a Third World self-proclaimed revolutionary that her or his politics are for shit, if they smack of personal feuding, ego-tripping, nationalism, and plain, simple, rhetorical untruths?

In addition, there was no recognition in the debate that the campaign for the conditional summer project was mounted and waged by CASA forces and their allies in a well-organized fashion. People were so concerned with their "principles" and ideological purity, that there was no open consideration of the ramifications of the Guild allying itself, publicly and visibly, with an organization going out of its way to lock itself in internecine and public battle with the UFW. Nothing can serve the ruling class interests better than this type of fight between Third World groups.

The fact that for the first time since I've been in the Guild, it expressed public opposition to the policy of another progressive organization and conditioned its support on that opposition. And which organization is chosen for this valient stand? The only mass working class trade union movement with Third World leadership that is functioning in this country today. The UFW has all the elements searched for so painstakingly under the general theme of the Guild and racism at the NEB, yet the action taken means the tie between the Guild and the Union is now broken. For those of you who think the break is just because of the Union's intransigence, or inability to accept "critical support", let me ask you--was it worth it? Do you feel better now because you're sure you're right?

I remember participating in the Guild program of sleeping-in at the Panther headquarters when they were being attacked by the police in the Bay Area, on the theory that if they knew a lawyer was in there and killed her/him they'd be in big trouble and the hope that this would have a deterrent effect. In other words, it involved "Guild Program", we put our lives on the line--and who among us doesn't have serious political differences with the Panthers, then and now. Why didn't we condition the program on not treating the women lawyers who went in a sexist fashion? On not getting involved in a political debate with other black organizations so destructive that it led to killings over the issue of nationalism? On not allowing members to exalt petty criminal activity with revolutionary labels? We didn't because we wanted the Panthers' trust, and we knew better than to think that we would be more able than they to fashion a mass organization in the black community. Well, now the Guild has lost that trust from the Union.

The fact that the Guild is becoming more and more prone to the same infantile, self-important, leftwing sectarianism that has so often characterized the American left in the past, and is threatening to do so now. There are many who participated in the debate on this issue and feel it was a principled one, of high political quality. Well, I don't know of one person with the Union who saw it like that.

So, I am leaving the Guild until this changes. Because I work more than full time with the Union, and there can no longer be any formal organizational ties between the two organizations, I do not have the time or energy to stay and try to improve things.

I welcome any of you out to the Valley, to spend some time learning more first hand about the conditions that have led to the UFW's current position. I welcome continued help and support from individual Guild members. I hope that the day will come soon when the Guild's attitude toward the UFW will change, and the organizations can once more benefit from mutual interchange.

-Barbara Rhine

SOUP SANDWICH OR NLG

by Don Jelinek

"The hungry judges/ soon the sentence sign/ And wretches hang/that jurymen may dine." (The Rape of the Lock by Alexander Pope - 1712)

Those hungry judges and jurors may now satisfy their palate around the corner from the Alameda County Superior Court at the BENCH & BAR, a restaurant partially owned by Guild lawyer Joe Morozumi, while one half hour away in Berkeley, the Muni Court crowd may nosh at MOISHE'S partially owned by Guild lawyer Shel Otis.

Why are these lawyers, while actively practicing their profession, moonlighting as restaurantrepeneurs? Inflation? Dropping out? A secret desire to earn an "honest" living?

BENCH & BAR

Running an eating place for the lawyer trade was the last thing on Joe Morozumi's mind some 33 years ago when as a teenage Californian of Japanese ancestry, he was imprisoned ("interned") for the duration of World War II in a Utah relocation center. (How doyou ever get over internment?, he was asked. "My wife said I never did.")

Some twelve years later, the "suspected belligerent" was licensed to practice law in Wisconsin and later he was admitted to the California bar.

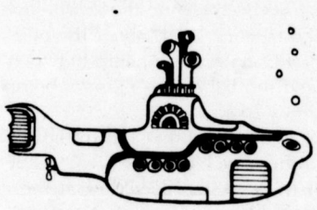
Morozumi is the rare individual who can trace the genesis of an idea to a specific moment: November 19, 1965. Approximately 11 pm. He was "killing time" in a cold, bleak bar, awa iting the return of an Alameda Jury, then deliberating the fate of his client charged with murder. He longed for a fireplace, a warm room with comfortable seats, someone to talk to, maybe a place to work, or a lawbook or two.

The jury returned -- Not Guilty! -- and the idea was forgotten.

Five years later, Morozumi was jogging along Lake Merritt when he glanced across and spied a FOR RENT sign on the Court side of the lake. His memory jarred to that cold night in 1965. He sought out the agent and began negotiations. Eventually, he and 14 other people bought the BENCH & BAR building at 120 11th Street.

Morozumi is now President of Res Ipsa Inc. which owns a shoe factory converted into a two-story office building with space for eight law offices plus the BENCH & BAR, a restaurant with rare leather lawbooks over diningroom tables as its motif.

Jury-waitors and others can now enjoy -- from 11 am to Midnight (1 am on weekends) -- moderately expensive meals (Hamburger and potatoes from $1.95 to a broiled lobster tail dinner at $7.95) and drinks in a redwood-panelled, exposed brick room which co-exists with a functional law library, six 5' X 8' cubicles with chair, table and waist-high pay telephones, and, of course, a big brick fireplace in a sunken room with comfortable lounge chairs.



MOISHE'S DELI & RESTAURANT

From redwood and brick to storefront with three 4' long challah in the window, from the shores of Lake Merritt to downtown Berkeley, from sophisticated cuisine to Jewish deli -- MOISHE'S.

The man you see behind the counter cutting corned beef could be Shel Otis, a Guild lawyer who at 42 has over 20 murder trials under the belt behind his apron. Or, slicing the lox could be a partner, lawyer Chuck Rothbaum or lawyer Dave Rosenthal.

So what's a nice Jewish boy like you doing running a deli instead of writing briefs?

"Well, first off, I still write briefs... and try cases," says Otis, a Michigan licensed lawyer who tries cases all over the country while he is seeking admission to the California bar. "But, well, it's just fun, great fun. The Deli turns me on; it's weird but true."

Otis remembers growing up in Detroit. "Everything centered around food; in fact, my memories of my family only rlate to eating. That was when the major conversation took place and decisions were made. On Saturday nights, we ate out...at the Deli." Often at Detroit's famous Darby's (MOISHE'S is now owned by Darby's West Inc.).

Years later, after spending a late evening in Wayne University Law library, Otis would stop off for a midnight snack at, of course, the nearby all-night deli.

But is this any way to make a living?

"I don't see us earning much," Otis says. "The idea is not to make money, it's a diversion, it's therapy. If we can break even, provide a place to eat good Jewish food, provide jobs for some worthy people and have all this pleasure for ourselves, we're satisfied. If we can make money too, we won't object -- but that's not the main goal."

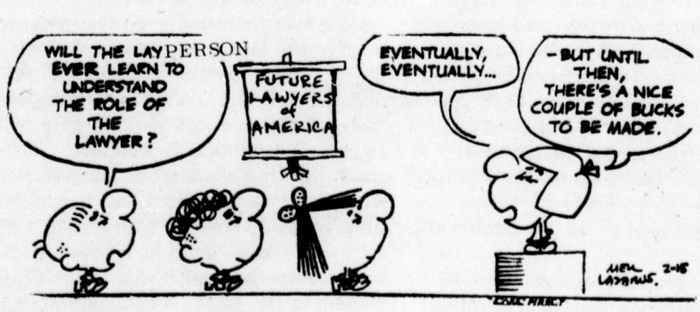
MOISHE'S , which the lawyers purchased in November of 1974, now prepares almost all its own food --from struddle and knishes to gefilta fish and stuffed cabbage -- courtesy of a full time chef and the three owners, wives and children. The night I visited, Otis had baked the brownies offered for desert.

MOISHE'S has five tables and a counter with seating capacity for 40 at Shattuck off Channing Way in downtown Berkeley.

"Come in some weekend and cut some corned beef," I was offered while departing.

I probably will.

Don Jelinek is a Berkeley Guild lawyer and a member of the CONSPIRACY editorial board whose journalistic impartiality may have been compromised by a gratis glass of wine at BENCH & BAR and a free pastrami and corned beef sandwich on onion roll at MOISHE's/



BRIEFS:

NLG SUMMER PROJECTS

The Summer Projects Committee is pleased to announce that the brochures describing the 1975 Summer Projects of the National Lawyers Guild are ready. Law Students should attempt to obtain copies from their school chapters, which have each been given a supply.

In addition, the Regional Office of the Guild, 558 Capp Street, San Francisco 94110 (415) 285-5066), has additional copies.

This summer's projects include: the Appalachia Project, with the Black Lung Association; an Attica Project, in upstate New York; a Boston Anti-Racism Project; a Gay Rights Project, in Los Angeles; the Georgia Power Project, in Atlanta; the Hampton-Clark Project, in Chicago (working on the federal court trial on behalf of the survivors of the police raid which killed Mark Clark and Fred Hampton, leaders of the Chicago Black Panthers); an Immigration Project, in Los Angeles; a National Labor Project, in Chicago; a National Prisoners' Rights Project, in Atlanta (jointly sponsored with the National Conference of Black Lawyers); a New Jersey Housing Project, there; a St. Louis Women's Project, also there; a Texas Valley Legal Project, in San Benito, Texas; a Women's Labor Project, in Oakland, California; & a project with the Wounded Knee Legal Defense/ Offense Committee, in the three or four cities where legal work is being done.

The Application Form is included with the brochure. As applications are to be filed by April 15th, time is of the essence. If you can't obtain a copy of the brochure easily, call or, better still, stop by the Regional Office as soon as possible.

NLG JURY SELECTION SEMINAR: APRIL 12, SAN FRANCISCO

On April 12th, the National Lawyers Guild and the Criminal Jury Trial Project will sponsor a seminar on "Jury Selection: Law and Techniques," at Golden Gate University Auditorium (5th Floor, 536 Mission St., San Francisco), from 9 AM to 4 PM. The seminar will provide a comprehensive view of jury selection in criminal cases. Speakers will be: Charles Garry, Michael Kennedy, Richard Christie and David Kairys.

Fees are $20 for attorneys and $10 for students. NLG members will receive a $5 discount. Included in the registration fee is a comprehensive manual on criminal jury selection prepared by experts working with the Project, in Los Angeles.

For further information call Susan at the Regional Office of the Guild: 285-5070.

STOP THE EXTRADITION!!

Two young Americans, William Roger Holder, 26, and Catherine Marie Kerkow, 23, were arrested in Paris on January 24, 1975. They were charged with having hijacked a Boeing 727 to Algiers on June 2, 1972. **They are currently awaiting a hearing on the demand for extradition to the United States.** Presently, they are incarcerated in Fleury-Merogis Prison, Paris.

SexuaLaw Reporter

The SexuaLawReporter, a bi-monthly newsletter which started publication on April 1, covers a field that has been long neglected by the general news media and the specialized press.

In an age in which sexual awareness is developing rapidly, there is a strong impetus toward sexual law reform that requires a reliable line of communication if it is to grow and be successful.

The SexuaLawReporter is developing a nationwide communications network that will, through the newsletter, inform sexual law reform activists, members of the bench and bar, law school professors and students, and others, of judicial and legislative efforts -- both successes and failures -- on the federal, state and local levels.

In addition, the SexuaLawReporter will cover related fields, such as sociology, theology, literature, medicine and psychology, among others. The newsletter will explore how various disciplines contribute toward strengthening or loosening current sexual laws and attitudes -- and what role they play in reshaping those laws and attitudes.

This newsletter, published by a non-profit corporation, is not a totally neutral publication. While it will not take positions on legislation or lobby for specific changes, its editorial policy contends that many legal sexual restraints, as currently written and enforced, are often detrimental to the exercise of democratic rights.

The first issue of the SexuaLawReporter -- April/May, 1975 -- is indicative of the direction it will take, although it must be stressed that the newsletter will cover the entire country and all sexual categories -- heterosexual, homosexual, ambisexual. In fact, it will cover asexual and transsexual, when appropriate.

For further information, contact: Thomas F. Coleman, 3701 Wilshire Blvd., Suite 700, Los Angeles, CA. 90010 -- (213) 386-7855, or Joel S. Tlumak, 4215 Army Street, San Francisco, CA. 94131 -- (415) 647-8000.

ANTI-GAY CUSTODY DECISION

In blatantly anti-gay language, Justice Fleming of the Court of Appeal, Division 2, Second District, denied a gay woman custody of her two children. (Chaffin v. Frye, 2 Civ. 43862).

Lynda Mae Chaffin, who lives with the woman who is her lover, sought to regain custody of her children from her parents, who had been granted custody in 1969, as part of a marriage dissolution proceeding.

Justice Fleming stated, "In exercising a choice between homsexual and heterosexual households for purposes of child custody, a trial court could con-clude the permanent residence in a homsexual household would be detrimental to the children and contrary to their best interests."

In the past, courts denying custody to lesbian mothers have found other "reasons" for denying custody, other than homosexuality. Although in the Chaffin case the court does cite other factors, the language used will be harmful in future cases.

Film Review :

MEN'S LIVES

By Peter Ujlaki

In the Movement of the '60's, the male leaders who were asked about the role of women in their organizations said things like "The only positions for females around here is prone," (SNCC) and "Let them eat cock" (SDS). Women's Liberation has helped silence many such outrages, but who has helped the misguided men who felt sufficiently macho, or sufficiently frightened, to utter such counter-revolutionary bullshit? The hope, for now, seems to lie in that extension of feminist consciousness known as Men's Liberation.

While the print medium, with "The Male Machine," "Unbecoming Men" and more finally appears to be catching on to the significance of this more profound '70's radicalism -- not men changing some thing, but men changing themselves, the true sine qua non -- other media like the cinema have been uncharacteristically silent. All that may, happily, be now ended with the arrival of MEN'S LIVES, a 43-minute documentary introduction to the critical matter of male emancipation.

While it may be rough to be second, and to have your film compared with a trail-blazing pioneer who came ahead of you, it's worse to be that pioneer when that subject is, like this one, delicate, explosive and crucial to every human. Then the comparisons are with the ideal picture in each person's head as to how such highly-charged material should be treated; no actual work of art can stand up to that.

The man who listens resignedly to all the complaints born of too great expectations is filmmaker Josh Hanig who, along with Antioch classmate Will Roberts, produced the documentary, with minimal resources, last year, in Ohio. To those who voice regrets that it is just an introduction to the material, Josh insists that that is all they were after -- a first-year primer, a conversation starter, something to break the ice.

MEN'S LIVES does not touch all the bases, nor does it tie it all together in a neat package. The fact is, though, that despite an extremely modest budget and no cinema prototypes to draw from, the two have succeeded -- by means of the varied techniques of interviews, animation, film clips of traditional male heroes, and a voice-over narration of typical street, factory, home and office scenes -- in clearly evoking many of the psycho-socio-political aspects of what it means to be male in the U. S. A. today. On top of this, the whole thing is polished, well-crafted and even entertaining, in a slightly disturbing way. All in all, what the critics would call an extraordinary first effort.

Needless to say, the film works beautifully as a catalyst in men's (and women's) rap groups. Few are left indifferent and the flood of feeling and material usually starts as soon as the projector stops. The value in these discussions lies in the fact that all present are proceeding from a common experience, the film, no matter how varied the political sophistication levels of the people present. Let us all be thankful that the films on men's liberation now number one.

In the San Francisco Bay Area, MEN'S LIVES can next be seen at the San Francisco Museum of Art on Friday, April 11, at 8 PM. For more information on the film and additional local screenings, you are invited to contact Josh Hanig personally, at (415) 826-2371. Nationwide, the film is distributed by New Day Films, P. O. Box 315, Franklin Lakes, N. J. 07417, a feminist film group that has many similarly stimulating items in its catalog.

ASIAN LAW CAUCUS

Continued from page 3

against the other party, but primarily because we understand that the nature of the particular issue requires a political solution. Our legal tactics, therefore, are only a part of larger political strategies. We have several times spearheaded an attack on a problem with a lawsuit only to look around and discover the political support deteriorating. Arguing a legal point in court in such a situation is both lonely and ineffectual, in the long run.

But our work at the Caucus has not been a steady diet of delicious "political" cases -- the bulk of the caseload is strictly meat and rice, involving poor pe people with the problems thrust on them because they are poor and Third World -- criminal, immigration, landlord-tenant, employment discrimination and certain contract cases. To serve adequately the 600-odd cases and consultations we have handled since 1972 we have depended on a steady flow of committed law students, super-volunteers and help from our consulting attorneys. Wages for staff are low and funding trickles in from foundations, contributions and fees based on the ability to pay. Furniture and supplies are hustled and the book shelves are stylish brick and board.

The spirit, however, runs high because the work is satisfying and relevant to the people's needs. Working closely with community organizations on problems somehow energizes the spirit more than probating estates. While internal problems of sexism, elitism and poor work styles continue to exist, the Caucus has begun to deal constructively with those issues. On another level, we are expanding. Several staff attorneys have moved into government work or private practice, including myself; former paralegals have entered law school and law graduates are working for or with the Caucus in some capacity.

On another front, the Caucus is trying to firm up relationships with the Asian-American community. Through the recent election of members of Asian-American community organizations to the board of governors of the Asian Law Caucus, accountability and responsiveness will be enhanced. And, through our increasing contacts with Third World legal organizations, both in the Bay Area and in other parts of the country, and with the National Lawyers Guild, we hope to become part of a stronger movement toward a more equitable and humane society.

Next time the police sweep Chinatown, there will be a fight.

★★★★★

NLG Forum

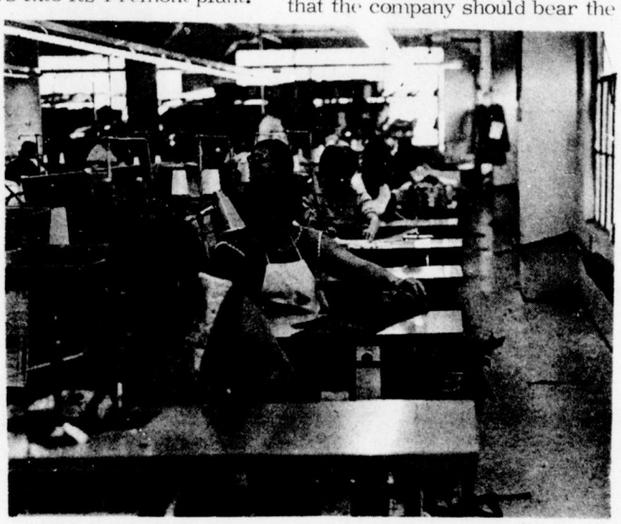
Lay-offs and Job Discrimination

By the Labor Law Committee

(Editors' Note: On April 18, the Labor Law Committee and the Membership Committee will present a seminar discussing legal and political aspects of the subject of this article. Details appear at the end of the article)

When General Motors lays off its workers, it makes front page news all over the United States, and its been making the news a lot lately. G.M. has been leading the rest of the major corporations in this country by laying off workers, shifting the burden of the present crisis in overproduction off of the backs of the corporations and onto the rest of us.

In 1968 G.M. hired the first women production workers into its Fremont plant. When G.M.'s Buick Monte Carlo stopped selling and G.M. cut back production in January, 1975, they laid off over 2,000 people, including all of the women. Some of the women filed a suit against G.M. alleging sex discrimination. The basic legal issue in the suit is who should bear the burden of G.M.'s previous and continuing sex discrimination -- the women or the company?



The women of G.M. are not alone in fighting layoffs which have a discriminatory effect. At least four other suits, alleging race discrimination are in the courts, two in the south and one in the east. The first and most famous is Watkins v. Steelworkers. There the company laid off according to seniority and in the process all the black workers were out. The District Court held that the company should bear the burden of its discrimination against blacks after 1965 when discrimination in employment was made illegal under Title VII of the Civil Rights Act. That court ordered the company to hire back the number of black workers needed to make the black-white proportion in the work force equal to what it was before the layoff. No white workers were to be laid off, the company was to bear the extra expense.

The Watkins court is the only court to have gone that far. The other courts have denied that remedy or modified it. All the cases including Watkins are on appeal. The G.M. suit, among other things, asks for the Watkins remedy.

Watkins has been much criticized, from the right, center and left. The EEOC apparently supports it, most unions do not. Do "special seniority" rights divide minority workers from white workers, women from men? How do we resolve the apparent contradiction between the goals of two hard fought struggles in the U.S. labor movement: the battle for seniority and the battle for job rights of women and minorities? Does it matter that most white men do not have any legal remedy against layoffs, but that minorities and women possibly do? What about the time and energy put into the law suit by the workers involved -- does this place too much reliance on the court system to deal with the problems in our economic system?

The Labor Law Committee of the National Lawyers Guild Bay Area Chapter, seeing the importance of all these questions and of understanding the various positions that are

Continued on page 15

Jung Sai Trial Victory

By Lee Adler

On Monday, January 6th, 1975, four people were arrested in front of the Plain Jane clothing factory, on Mianesota St., in San Francisco. They were picketing Plain Jane, the parent company of the Jung Sai sewing factory on Washington Street, in Chinatown.

For almost six months, over 140 women, many of whom only speak Cantonese, had been waging an organizational strike at Jung Sai. Refusing to recognize the women's right to organize a union, Doug Tompkins, the super-hip boss overseeing both plants, shifted scab operations from Chinatown to the main plant on Minnesota Street.

The Jung Sai plant was known throughout the Asian community for its sweatshop conditions. Its policy seemingly was to hire immigrant Chinese women, figuring that they would be the most desperate for work and the least able to fight lousy working conditions. But Jung Sai was wrong.

Following the arrest of the four strike supporters (originally for felony-assault on a peace officer, lowered to misdemeanor battery (243 P.C.) and interference with a peace officer (148 P.C.)), a legal defense committee was formed. Bill Carder, formerly a UFW staff attorney, and Richard Mazer, a San Francisco criminal attorney with considerable trial experience, were chosen to represent all four defendants. Trial strategy was collectively developed by the defendants, defense committee and lawyers.

The Jung Sai 4 went to trial after rejecting a disturbing the peace plea offer ($25 fine). The prosecution's case was surprisingly weak, since the witnesses, all cops or scabs, presented contradictory accounts of the defendants' "criminal acts."

In contrast, the defense presented a strong case through the use of a convincing set of sequential photographs depicting police pushing and shoving and through the testimony of credible witnesses. Especially important was the defendants' ability to communicate to the jury the appropriateness of militantly supporting the right of workers to organize.

After three days of deliberation, the jury was unable to reach a verdict; a few days later all the charges were dropped. The defense considers the hung jury a significant victory as the jury was unable to accept prosecution testimony that defendants kicked or punched a number of police officers.

This case cannot be separated from the increasing number of actions taken by people in the Asian community to assert control over their own lives. Chinatown is an area of the city in political ferment. The residents (mostly elderly Filipinos) of the International Hotel, on Kearny Street, and the community groups therein, have been waging a battle for many years to save the hotel from the "downtown interests." Now the Jung Sai garment workers, and the Lee Mah electronics plant workers who went out on strike last Fall over similar issues, have served their bosses with the warning: "No more sweat-shops here -- and if you try it, working people, even immigrant working people who don't speak English, are ready to fight back."

Lee Adler, a law student at Golden Gate, was part of the defense team during the Jung Sai trial.

BAR DISCUSSES LEGAL SERVICES

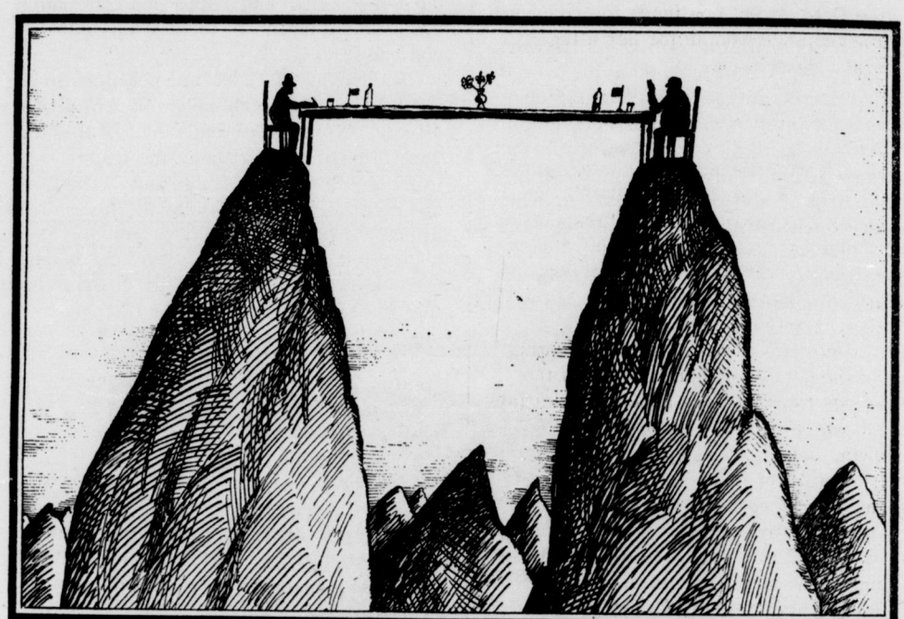
by Howard DeNike and Dede Donovan

[Ed. Note: Because the Guild generally has been weak in the area of support for our members who work in the various public legal services programs, both civil and criminal, The Conspiracy solicited the following article in the hope that the problems illustrated therein might stimulate discussion and analysis leading to some creative work in this area.]

A recent meeting of San Francisco lawyers concerned about delivery of legal representation to the poor, permitted a brief inspection of the nine years of federally-sponsored legal services and the sense of direction which the "establishment" bar carries out of that experience.

On the morning of March 8, 1975, approximately 40 lawyers (noticeably few private practitioners) and legal workers gathered at Hastings Law School to discuss "Legal Services: Current Needs and Future Directions," in response to an invitation from the San Francisco Bar Association. As lawyers primarily involved in delivery of civil representation to poor people, the directors of San Francisco Neighborhood Legal Assistance Foundation (SFNLAF), the NAACP Legal Defense Fund, Inc., the Mexican-American Legal Defense and Education Fund (MALDEF), the Lawyers Committee for Urban Affairs, San Francisco's Legal Aid Society, and the Lawyers Referral Service each gave a description of their agency's activities.

Tom Mack, Director of SFNLAF, painted a bleak picture for the future of his organization. Funding levels for the past several years have remained the same (approximately one million dollars) despite rising salaries and overhead. Accordingly, the experience factor among SFNLAF attorneys has dropped constantly and a smaller number of attorneys in the neighborhood offices find themselves swamped with large caseloads they are unequipped to handle. Thus, as the "law reform" function (with the prominent exception of welfare law) has passed to other organizations, SFNLAF increasingly runs the risk of becoming exclusively a routine handler of "service cases" or, alternatively, sacrificing the neighborhood concept through consolidation. Mack pointed out that new funding under the Legal Services Corporation is unlikely to benefit San Francisco, because his program is considered a "rich" program, while even more populous parts of the state are extremely un der-funded.



Eugene Mihaesco

J. Anthony Kline, who formerly worked for Public Advocates, Inc., and who recently was named by Governor Jerry Brown as his legal affairs advisor, spoke to the assembly about the task now faced by the new Governor in the appointment of 80 vacant judgeships. Kline stated that, in the past, judges have been drawn primarily from the ranks of the private - establishment - bar. He indicated an interest, however, on the part of the Governor, to entertain for consideration in making future appointments, the names of lawyers from the legal services and public advocacy sectors of the bar.

Kline also discussed the implications of La Raza Unida v. Volpe, 57 F. R. D. 94 (N. D. Cal. 1972) (opinion of Peckham, J.), which held that attorneys' fees should be awarded to plaintiffs in certain types of public interest lawsuits, even absent specific statutory authorization for such an award. In La Raza Unida, one of the real parties in interest was the State of California; Peckham rejected defendants' suggestion that notions of sovereign immunity prevented a court from awarding costs and fees against the State. Id., fn. 11, at page 101.

The basic rule is, of course, that attorneys' fees are not ordinarily recoverable as costs, absent an express statutory authorization. However, the courts have recently developed exceptions to this rule for situations in which "overriding considerations" indicate a need for exercise of the court's equitable power to award fees. These exceptions fall into three categories: the "obdurate behavior" situation, the "common fund" situation, and the "private attorney-general" situation.

Peckham found that the La Raza Unida suit to enjoin construction of a state highway project fell into the "private attorney-general" exception. The three necessary factors were present: (1) the lawsuit effectuated a strong Congressional policy (environmental protection and relocation assistance); (2) the lawsuit benefitted a large class of people (indirectly, all California residents); and (3) private enforcement of the Congressional policies in issue was both necessary and financially burdensome to plaintiffs. Id., at 98-101.

As Kline pointed out, the effect of the La Raza Unida decision will hopefully be to encourage members of the private bar to engage in public interest litigation in those heretofore neglected areas where there is no specific statutory authorization for awards of attorneys' fees. Note, however, that such motions for fees are addressed to "the sound discretion of the trial court." Further, the "private attorney-general" doctrine has not yet been applied in the California state courts. See D'Amico v. Board of Medical Examiners, 11 Cal. 3d 1, at 27 (1974).

An open discussion brought out a diversity of views regarding priorities and methods of extending legal representation to presently unrepresented segments of the population. In a continuation of a theme which has been discussed among legal assistance people since the federal program was initiated in 1966 -- the merits of "service" versus "test" cases when the resources are limited -- was brought up repeatedly. The interest in

Continued on page 16

Both authors are attorneys practicing in San Francisco. Dede is a member of the Chapter Executive Committee. Howard is the Guild representative on the SFNLAF Board of Directors.

MARilyn

Continued from page 5

and Texas (pending). Two charges remain now. In most cases the government will dismiss outstanding prosecutions when they have gotten one conviction; almost without exception they will dismiss when they have two. Not so with Marilyn. Despite the demise of Nixon and Mardian, the Justice Department continues to prosecute this 27-year-old woman for her alleged political associations.

No one - judges, prosecutors, marshals, wardens, guards, social workers - will say what is really going on, that Marilyn is being subtlely tortured by the criminal justice system because of its belief that she is a white revolutionary in association with a black revolutionary group. I have begun a correspondence with the Attorney General and the criminal division of the Justice Department trying to document their treatment of her. It is interesting that in the upper left hand corner of the responses to my letters appear the initials "GLG" which can only stand for Guy L. Goodwin, once head of the Internal Security Division (ISD) of the Justice Department. Having been responsible for all political prosecutions, intelligence gathering and grand juries, ISD was allegedly disbanded during the Watergate revelations. The public line may be that ISD has been disbanded, but my letters to the Justice Department about Marilyn Jean Buck still go to Guy Goodwin.

Marilyn has endured two years of government harassment. There is more in store. But to see Marilyn in court or in jail is an inspiring experience. In court, she enters the room calmly, and with absolute dignity. Quite often she will enter into discussion with the judge. Even an occasional judge is impressed. One judge is said to have remarked: "Well, that charming young lady doesn't seem so dangerous to me."

Her spirits are high, despite ill health resulting from her confinement. She had become a dangerous myth among her captors, and they treat her severely. Even though her mail is severely censored and much of it never gets through, Marilyn remains in touch with people throughout the country. She gets the news and continues to grow. Despite the efforts of the prison system, Marilyn has made many friends behind bars.

She is a beautiful, strong and inspiring sister.

(Marilyn's San Francisco conviction is on appeal and its outcome will be known shortly. We are optimistic. Support and funds are urgently needed for current legal problems. Marilyn Buck Defense Committee, c/o Cumings and Jordan, 96 Jessie Street, San Francisco 94105.)

Jury Selection

Continued from page 7

There are two other California cases now pending at the trial court level, still undecided, but in which good records have been made on the question of grand jury composition: People v. Wong is a San Francisco case, and People v. Castro is a challenge to the composition of the San Joaquin County grand jury. In each of these cases a statistical showing was made concerning race, occupation, income, education and gender which compared the composition of the grand juries with that of the communities. A comparison of the two figures in each case revealed various levels of under-representation or exclusion from the indicting grand jury.

Another interesting, and probably a positive development in the law of grand juries in California, is Assemblyman Z'Berg's bill, A. B. 352. Essentially, it would mandate for each county a bifurcated grand jury, one for criminal matters and another for civil. The criminal grand jury would have to be chosen at random from the community. A few criticisms of the bill we see are: All grand juries should be chosen at random, if public business is to be conducted; There should be guidelines set out as to what kind of cases could be brought to the grand jury (for example, sex-related offenses); the grand jury proceeding should be recognized as an essential stage of the criminal process for the purpose of extending the right to counsel to those proceedings and deliberations. Assemblyman Z'Berg seems open to suggestions, and we would urge defense attorneys to send him criticisms and suggestions of his bill. Since this bill falls short of abolition of the grand jury system in criminal cases, it is not perfect, in our opinion; it does move in the right direction, however.

Grand jury law is confusing, at present, and is in a period of rapid change. However, at present, should you have a case involving an indictment in a county where there are cognizable groups substantially under-represented on the grand jury (almost everywhere, that is), a challenge should be considered if the resources can possibly be mustered. And, in the future, even if all grand juries are selected at random through voter registration lists, it remains to be seen whether that method would assure the degree of protection to criminal defendants which the history of the grand jury would seem to require.

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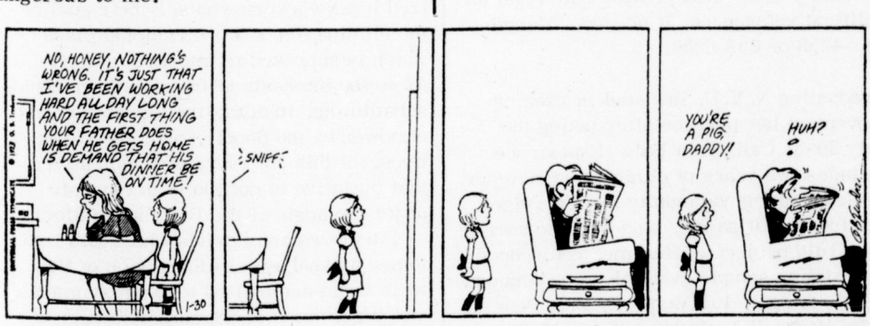
Title VII

Continued from page 13

held on seniority and Title VII, as they affect our legal work and work-place organizing, is presenting with the Membership Committee a political/legal educational forum on this topic. Speakers will include Alberta Blumin from the law office handling the G. M. suit, and other people from the United Auto Workers caucuses within the plant and the plaintiffs in the suit. The presentation will be at 7:30 p.m. on Friday, April 18th at Hastings Law School, 198 McAllister Street, San Francisco.



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less than $5,000	$5.00	$10.00
$5,000-$12,500	$10.00	$15.00
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DISCOUNT:
There will be a $2.00 discount off all fees for everyone registering by April 11, 1975. All other registration will take place at Room 170 of Boalt Hall on April 19 between 8:30 and 9:00 a.m.
REMEMBER: Anyone wanting child care and/or lunch MUST register by April 11.

CALENDAR

MEETINGS * EVENTS
ANNOUNCEMENTS * ADS

April 2 Bay Area Chapter Executive Board Meeting, 8:00 p.m., 1606 Bonita, Berkeley.

April 7 Conspiracy Editorial Board meeting. 7:30 p.m., Guild office, 558 Capp St., San Francisco.

April 11 Committee for National Liberation in the Middle East presents "Middle East Night", a play and cultural presentation. 7:30 p.m., Washington Auditorium, 32nd Ave. and Anza St., San Francisco.

April 12 "Jury Selection Law and Techniques" Seminar. 9:00 a.m. - 4:00 p.m., Golden Gate University, San Francisco.

April 16 Bay Area Chapter Executive Board meeting, 8:00 p.m., 1256 Market St., San Francisco.

April 18 Title VII v. Seniority Forum. 7:30 p.m., Hastings College of the Law, 198 McAllister St., San Francisco.

April 18 Deadline for all Conspiracy articles. Send to Guild office, 558 Capp St., San Francisco, 94110.

April 19 Family Law Seminar. 9:00 a.m. to 5:00 p.m., Room 170, Boalt Hall, U.C. Berkeley.

April 21 Conspiracy Editorial Board meeting. 7:30 p.m., Guild office, 558 Capp St., San Francisco.

April 26 Conspiracy lay-out. 10:00 a.m., Guild office, 558 Capp. St., San Francisco.

April 27 Conspiracy lay-out. 12:00 noon, Guild office, 558 Capp St., San Francisco.

Paralegal with 1 1/2 years legal services experience seeks position with progressive law office or community organization. Call Art, evenings, 863-2673.

R.V.P. wanted: The Northern California Region of the National Lawyers Guild is currently seeking a Regional Vice President. We are looking for a one year committment (till the National Convention in Feb., 1976) from someone who is either financially secure or, with the help of the various Guild Chapters in the region, could raise his or her travel expenses. Flexible schedules are as important as financesin that an R.V.P. attends either an N.E.B. or an N.E.C. in various parts of the country once every three months. An understanding of and some experience with the National structure of the Guild are also required. Time is of the essence-someone is needed as soon as possible to help plan the West Coast Regional Conference scheduled for the end of May. All those interested should contact Gordon Gaines at 557-3964.

I finish Hastings in May but am not taking the Bar this summer. I need work, full or part-time or occassional. My writing and research skills have been well-honed by work most recently at Bayview-Hunters Point Community Defender. Before that, at Prison Law Collective. I have written several criminal appeal briefs and habeus corpus petitions. Christopher Bello, 826-4216 (evenings), 285-6200 (messages).

Second year law student, member of Guild, needs summer job. Will do research, type (not wonderfully), write, deliver things to the courthouse and dig ditches. Looking for work in criminal or military law fields, but willing to do any type of political work. I have been active in radical politics for several years. Will provide both legal and political references, if needed. Margie at 843-4255 or 653-8800.

Graduating N.Y.U. law student seeking movement law position after taking the July 29-31 California Bar. Experience includes two years of clinical and summer work involving community legal services and federal litigation, plus work on various Guild projects. Resume, references and writing sample available upon request. Dan L. Siegel, 101 Monterey Dr., New Hyde Park, N.Y. 11040. Tel. 516-627-0971.

legal services

continued from page 14

this debate springs from a basic conceptualization of the role of the legal services lawyer as an interpreter and monitor of the interests of the poor, rather than as an activist engaged in the transfer of power. Only sporadically did the discussion turn to "preventive law," legal education for lay people and the de-mystification of the law.

A number of recommendations were made, such as training for legal services lawyers by the private bar, volunteer lawyers for neighborhood offices, and "downtown" lawyers for poor people's class actions. The suggestions for the most part re-traced old ground, highlighting the possibility that the legal services boom which ten years ago prompted such a vigorous response from young lawyers and law students may be "played out."

Now the active discussion centers on the prospect that appellate rulings will make it economically feasible for non-government sponsored public interest firms to represent previously un-represented interests through the award of large legal fees under the rationale of the La Raza Unida decision. Absent, however, is an analysis of how such a new approach to delivery will bring about the redistribution of wealth and power in the society which, even ten years ago, was a staple part of the "war on poverty" rhetoric. A solid impression was taken away from the gathering that there is little awareness of, or desire for, change which would fundamentally alter the relationship of the poor to those who "speak for them" -- whether they be modern lawyers or old-fashioned philanthropists.

Clearly, the initiative lies with those segments of the organized bar and organized legal workers who see their goal as the elimination of a professional class which is supposed to interpret and enforce the interests of the disenfranchised, substituting, instead, the direct exercise of power by the people, over their own lives. If this gathering was indicative, that initiative is not likely to emanate under the aegis of the Bar Association.

[Members and friends who would like to see an analysis or discussion of this topic begin are invited to send comments and suggestions to the author in care of the Regional Office, 558 Capp Street, San Francisco, 94110.]

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