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Moot points argued in self-defence

"The Attorney-General is not bound by the acts of his agents. If so, are they not responsible to anyone?"

"(What you're saying) is this - that it is (The Court's) responsibility to police the Attorney-General?"

The latest inquiry into government wrong-doing? Nope. This was the scene Wednesday night as 70, mainly first-year law students packed into the Law Faculty Moot Court Room to hear the appeal of the strange case of Freddy Fizzle and Dissy Drizzle. Before the Honourable Mr. Justice W. A. Stevenson and two "Judges for the evening" Alex Pringle, and Stirling Sanderman. Two teams of second-year law students debated the existence of "Abuse of Process" and "Excessive Self Defence" in Canada.

Kevin Guidera and James McGinnis argued fervently that Dizzy's conviction was wrong because he killed Harry Hibbs in self-defence.

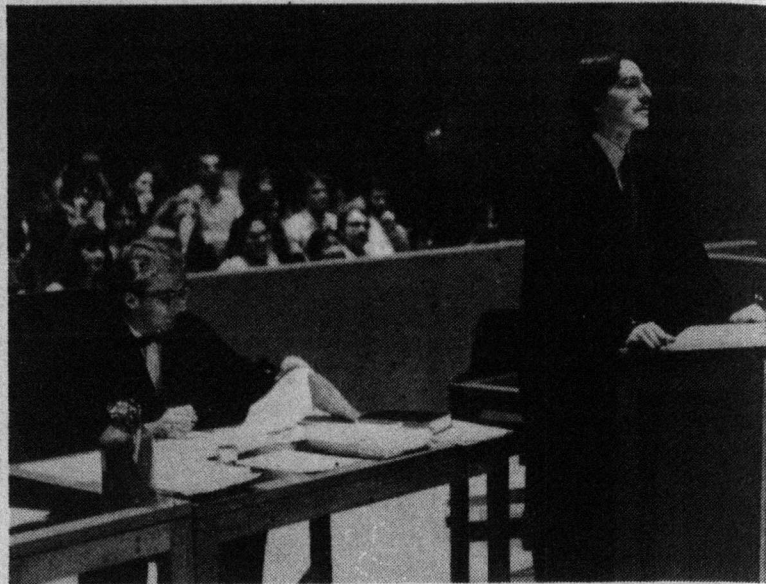


photo by Mike Cheng

It's not The Devil and Daniel Webster but it's a start.

"The maliciousness of someone who kills in self-defence is not that of a cold-blooded second degree murderer."

"I thought it was first degree murder that was cold blooded?"

"Second degree is as cold blooded, it's just less premeditated."

They also protested the conviction of Freddy, who made a deal to testify in return for withdrawal of the charges. The Crown Counsel reneged on the deal. In Common Law jurisdictions the Court has the power to quash a conviction made in this manner as a matter of public policy.

Ron Reimer and Gordon Sombrowski, acting as the Crown counsels, argued just as fervently that these actions do not exist in Canada's codified Criminal Law.

The judges put everybody through the wringer, interrupting at will to force speakers to back up their stands all the way from the BNA act up to modern social policy concerns.

"Are you suggesting *Bourke* overrules *Carnapple*?"

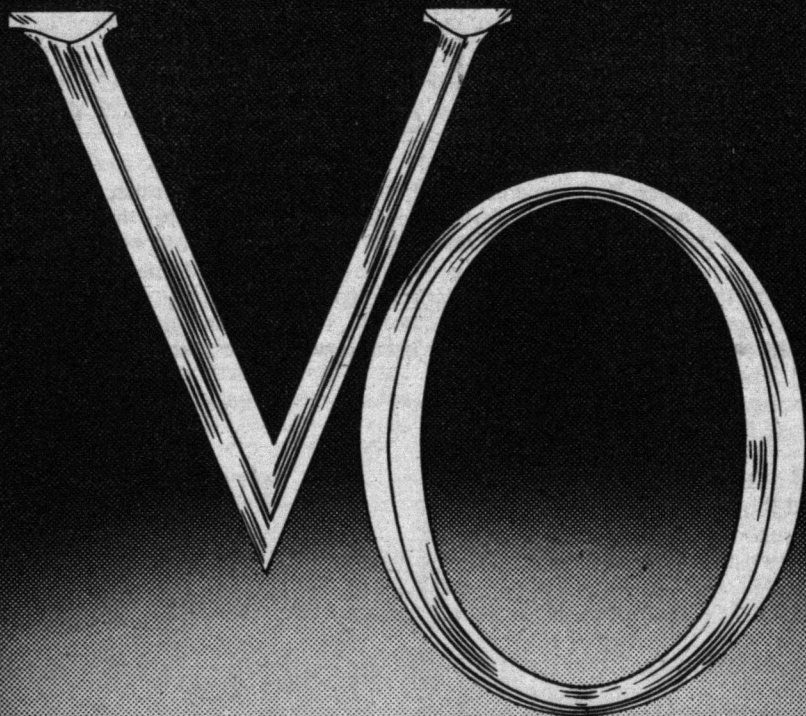
"I would submit it, uh...tempers it?"

At one point there was a lot of suppressed laughter as one of the Crown counsels was brought up short for characterizing the Government's actions as "mere oppression", and in response to the question of whether the courts "would be sanctioning misbehaviour of the Attorney-General's Department?" - "The misbehaviour of the Crown is, ah, slight."

All in all is was an entertaining evening with a number of interesting questions raised. Do we Albertans have the common law defence of "abuse of process" against "slight misbehaviour" of the government? Well, that's a moot point. Freddy and Dizzy gained a new trial based on the self-defence argument.

At the Edmonton Bar Moot Court Competition - This is the Law.

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by Walter H. Johns

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Students' Union Bookstore

Friday, 27 November

10 A.M. to 4 P.M.

Coffee will be served

Published in July, *A History of the University of Alberta* was sold out in August. Dr. Johns will be signing copies from a new printing released this month. Price: \$25.