

**CRIMINAL CODE AND BILL OF RIGHTS**

**- NO CONFLICT**

**THE 1974 SMITH SHIELD**

By Frans Slatter

Each year in October the Dalhousie Law School, as a part of its academic program, holds a series of Moot Courts. All second year students are required to argue a point in law arising out of a factual situation created by third year students, who also sit as judges in the simulated courts. The four second year students who perform best (based on the evaluation of student and faculty markers) are then invited to complete in the following year for the Smith Shield.

The Smith Shield Competition, named after the former Dean of the Law School who later became Secretary of State for External Affairs, operates along the same lines as regular Moot Courts, with the exception that the bench consists of Supreme Court Judges and local barristers. The Shields is one of the most sought after prizes in the School, and to be asked to argue for it is considered a great accomplishment.

The participants in this year's competition, which was held on October 4th, were:

Jonathan Stobie and Joel Fichaud, Solicitors for the Appelant,

Maureen Green and Brian O'Leary, Solicitors for the Respondents.

The Bench was:

The Hon. Mr. Justice A.L. MacDonald, Supreme Court of Nova Scotia.

Mr. R.J. Blois, Q.C., President of the Nova Scotia Barristers society and

Mr. J.E. Pink, of Stewart, MacKeen and Covert.

The factual situation out of which the case arose was developed by Professor J. Ortego. Mary Noble, an

undercover R.C.M.P. officer, pretended to befriend John Roe, a suspected member of an auto theft ring. One night, after the two of them had been drinking at a cocktail party, Officer Noble persuaded Roe to race his car down University Avenue. An accident resulted. When the police arrived only Mary was in the car (which it turned out, had been stolen). Roe later claimed he was in Toronto visiting his sick mother. The Crown brought a charge against him of "conspiring to effect an unlawful purpose", that is, that he and Noble had conspired to breach the Motor Vehicle Act. Roe was found not guilty and the Crown brought forward another charge, this time for "dangerous driving", on which Roe was convicted and sentenced to six months.

Roe appealed this conviction to the Supreme Moot Court of Dalhousie, where argument was heard on the following four points:

1. Is the mens rea

requirement of dangerous driving advertent or inadvertent negligence? (The court held that it is advertent).

2. Does Section 233 (4) of the Criminal Code (the dangerous driving section) conflict with the Bill of Rights? (held: No)

3. Is the court stopped from considering the defendant's alibi defence of agent provocateur? (held: No)

4. Is this prosecution an impermissible abuse of process? (held: No)

Mr. Justice MacDonald, in reading the judgement of the court, remarked on the skill shown in the drafting of the problems, as several controversial and undeveloped areas of the law were raised. He also praised all four counsellors for the quality of the arguments presented.

The winners of the Smith Shield, chosen by the bench on their speaking ability and the strength of their legal arguments, were Brian O'Leary and Jonathan Stobie.

**INDIANS GO WEST**

OTTAWA (CUP)--The federal government is trying to make it easy for Indians who wish to return home from the building they are presently occupying in Ottawa.

It's a very touchy issue and the less said the better," said one official when contacted about possible funding to help the Indians return west.

Another official, however, admitted that Indian Affairs is ready to put up the money.

The Indian Affairs spokesman said the department was contacted Monday for assistance by the Toronto Indian Friendship Centre.

"They indicated a number of these young people wanted to go home, and we indicated to them that we were prepared to do whatever we can to help them in the process."

Some of the Indians cannot go home even if they want to. Five were remanded October 8 to October 30 on charges stemming from the incident on Parliament Hill.

There has as yet been no official comment on the native demand that the federal government should also pay some of the caravan's expenses in coming to Ottawa to present Indian claims.

**BLACK FORUM**

by Ainsley Crawley

Black Forum is a summer project sponsored under the federal government's Student Community Services Program. The organization through which it was sponsored is the Canadian Council of Christians and Jews. The project has set out to produce a series of five video-tape programs on various aspects of black life in Nova Scotia.

Materials on the black communities in this province are hard to find and even more scarce is information presented in a way that many people can understand. Much of the material used by Black Forum has been gathered in the communities that were visited. It will be put together in such a way as to help produce greater awareness among all Nova Scotians of the historical background, the cultural lifestyles and social and economic disadvantages faced by the black people in Nova Scotia.

All participants in the Black Forum project are black university students attending school in the Halifax area. Our plans are to create the broadest possible exposure of the tapes to the population of Nova Scotia. It is hoped that they will be of great assistance if used in the educational system, by the many organizations with which we have worked and possibly by the cable television systems.

At the present time, one program has been completed and work will continue on this project until all five programs have been completed.

Two weeks ago the Dalhousie Student Union Grants Committee donated \$500 to help pay two students to work on the project on a part time basis.



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