

Letters To The Editor

All letters should be addressed to the Editor, c/o Excalibur, room 111 Central Square. They must be double-spaced, typed and limited to 250 words. Excalibur reserves the right to edit for length and grammar. Name and address must be included for legal purposes but the name will be withheld upon request. Deadline: Mon. 5 p.m.

Police cannot enter home without warrant

We note with some concern an apparent misstatement of law in your front page article "Police Hunt Grass in Winters Residence" (Excalibur, November 21, 1974). We understand that this misstatement arises from a misconception as to what Mr. Campbell actually said.

An explanation of the law pertaining to Search and Seizure, suggested that "under Canadian law, police do not need a warrant in order to enter a private residence".

While not wishing to undermine any legitimate work done by the police in the lawful execution of their duty, we feel a strong obligation to point out that the Criminal Code and the Narcotic Control Act specifically enjoin the police from entering "a dwelling house" unless invited by the occupant, or under the authority of a search warrant or a writ of assistance.

For example, the Criminal Code provides that:

s. 103(1)

"Whenever a peace officer believes on reasonable grounds that an offence is being committed or has been committed against any of the provisions of this Act relating to prohibited weapons or restricted weapons he may search, without warrant, a person or vehicle, or premises other than a dwelling-house, and may seize anything by means of or in relation to which he reasonably believes the offence is being committed or has been committed.

and the Narcotic Control Act provides that:

s.10(1)

A peace officer may, at any time, (a) without a warrant enter and search any place other than a dwelling-house, and under the authority of a writ of assistance or a warrant issued under this section, enter and search any dwelling-house in which he

reasonably believes there is a narcotic by means of or in respect of which an offence under this act has been committed;

While the phrase "a dwelling-house" may be subject to interpretation, we suggest that the case law on the subject appears to place the Winters College residence within the "dwelling-house" exception.

We further feel a responsibility to point out that while the entry and search of a dwelling-house without a warrant, or a writ of assistance may be illegal, the Courts have generally held that evidence seized during such an illegal search is admissible against the accused at a criminal trial. Of course, there are remedies available against the police for their actions, but these possible remedies are in a separate action.

We would appreciate your assistance in clarifying this situation to the community.

Community Legal Aid Services
Programme,
Criminal Law Division,
Osgoode Hall Law School.

Tutor corrects misleading story

Re: "Police hunt grass in Winters residence", page one, Excalibur, November 21.

Please be advised of the following:

1. The plants which were observed from the street were, we were advised from the beginning, clearly visible in a second floor window, not first floor.
2. The police officers, both in full uniform, were requested by the don, Pamela Clark, to speak to me on the telephone before proceeding further into any specific resident room.
3. When asked by me if either of them had a search warrant, they readily said "no": I asked them to leave and return with a warrant if they wished.

4. The two officers left immediately and did not return.

5. I am given to understand that the university department of safety and security was unaware of this incident until informed the following morning.

It is the custom and not a legal requirement that the police officers concerned communicate with the department of safety and security when first entering the campus.

6. My office received a telephone call from your office at approximately 11:30 a.m. and a message was left. I returned the call upon my return from court at approximately 3 p.m. the same day and was advised that the reporter was not in and that, in any event, the article had already written.

NO ANSWER

Notwithstanding, I left a message asking the reporter to discuss the incident with me and left my residence telephone number. No telephone call was ever returned either to me personally or to the answering service on that number: unfortunately, therefore, no discussion ever took place.

7. During a house meeting, I explained that in Canada, even if police enter a residence without a search warrant, and thereby commit an "illegal" search, nevertheless any evidence obtained would be admissible in a criminal court to support any charge. A citizen may seek redress against any police officer for such a wrongful search in another court at another time, but the practical significance of such a separate procedure is questionable to a convicted person.

8. I have no idea from where the point originated about police officers worrying lest each report on the other: the subject was never raised by me.

It does not seem necessary to underline the reasons for the errata and misleading content of the article: I



Colin Campbell

think the above paragraphs suffice. It does seem necessary, however, to ensure that such important subject matter be reported correctly if only out of a regained sense of obligation to your readers.

Colin L. Campbell,
Senior Tutor
Winters College

Reporter Oakland Ross replies: I apologise to Mr. Campbell for misrepresenting his comments concerning Canadian law and police behaviour in my article last week. My information was provided by Pamela Clark.

If, in fact, Mr. Campbell had returned my call by 3 p.m. (as stated in article five of his letter), the misunderstanding could have been avoided. However, he did not call until 8 p.m. I regret that this was too late to reach me.

'Rape' headline missed the point

It is always sad to see a newspaper go the way of offensive, unreflective, small-time triviality. The Excalibur is no exception. Nothing could crystallize more clearly the potential of a university press being once again thwarted than your insert of 14 Nov. 1974 Rapists Dubbed Philanthropists. (p.13)

The title you chose was trite and obviously reflects your feeling that the article was merely anecdotal. Its position on the page indicates that it was used as filler, the issue considered secondary to the major feature (ramblings on a stroll through the streets of London-derry: the failure of this piece to make its point was in inverse proportion to the effectiveness of the bried piece on rape). And the entire piece was balanced neatly a la Toronto Star, by an ad for 'soul travel'.

The fact of rape in our society is too important to be treated in such a trite fashion. Rape is committed on the average of every 14 minutes. It is one of the most brutal and degrading crimes that can be committed against one's person and yet very often it is the victim's integrity that is on trial — not the rapist's.

Rape is not taken seriously by the law enforcement officers or the courts of Canada. And there are people at York who are concerned about this.

GOOD TIME

The article, in the best style of 'objective journalism', pointed beyond the juror's own attitude. But your handling effectively missed the force and point of the critique. It turned us back, ironically, to the 'good time' view.

Even if this was done unthinkingly, in a last minute rush to press, it is nonetheless inexcusable. The issue is simply too important. And this is not

an isolated incident.

The Excalibur obviously aspires to a philosophy of 'objective journalism' which, given the brute facts of our social order, is perverse — if not impossible.

Perhaps it is too much to expect the staff of a university press to be other than dull, pompous, humourless people, hacking out poor imitations of 'real' newspapers.

Once again, you missed the opportunity to present a crucial piece of 'news', as well as the important and instructive editorial that ought to have accompanied it.

Once again, potential is negated.

We challenge you to respond!

C. M. Montgomery
J. E. Blackwell
S. Waring

We are sorry you felt that the piece, which we also considered forceful and pointed, suffered from the headline. We felt the sarcastic head underscored the ignorant and brutal comments of the juror quoted.

For the record, juror Samuel Rhone's full comment was, "A guy who rapes someone isn't trying to kill her. He's just trying to screw her and give her a good time. The guy would have to do her bodily harm and giving a girl a screw isn't doing her bodily harm."

Custodian piece juvenile, racist

I'd like to protest as strongly as possible the sophomoric and racist piece in last week's Excalibur, Teach yourself Custodian. I had hoped that Excalibur, righteous defender of the oppressed, was above class bias and making fun of Italian accents.

Clean up your own act first, please.

Robert Adolph
Associate Professor
Division of Humanities

We have re-read the article in question, and can find no hint of either racism or mockery of Italian accents. If we had, we would not have printed the article.

Grad assistants lose vacation pay

Thank you for the article on the Graduate Assistants' Association in your last issue. I'm afraid there is already need of a postscript.

Early this fall the university asked its TAs and part-time faculty to sign a letter of agreement containing the following clause: "It is understood that the above-noted compensatory arrangement provides for full payment of any statutory holiday, vacation, overtime, or termination or other benefits payable by custom, statute, or policy". Most TAs signed the letter — and now find that the university is refusing to pay them vacation pay for this year on the strength of it.

We feel that this letter is unclear (since when does "provides for" mean "includes"?), unfair, and probably against the Employment Standards Act. It also leads to an illogical distinction between TAs and part-time faculty, since only part-time faculty will be getting vacation pay.

We'll let you know whatever happens next.

Mark Golden
President, GA

Amphitheatre would be cluttered by 'minimal-cost' chapel proposal

We wish to express our considerable anguish at some of the aesthetic implications of the latest chapel proposal (Excalibur, September 19, 1974), in particular the idea of placing it atop the central square amphitheatre. Whatever one may think of the architecture of central square plaza, it already seems to us to have a completeness about it, to which the addition of anything else, including the "dome-like structure" proposed, would contribute only clutter.

This campus has already begun to acquire more and more minimal-cost solutions to architectural problems and the effect of these will soon become tragic if we let the process continue. If we can't afford to do it right, then let us either build a partial structure which is amenable to being completed in an aesthetically pleasing way later, or simply leave the Scott donation in the bank to collect interest for a while longer.

A useful example may be the original design which won the architectural competition for a York chapel several years ago. This building included a central "quiet space" (our terminology) with lots of glass in the roof to let in sunshine, to be placed near the center of the open space



Architect David Horne, posing in 1968 with initial chapel design.

southwest of Scott library and surrounded by a series of water-covered terraces with cascades from each to the next, ending at the pond.

The reflection of sunlight from water onto interior walls was intended to be a major architectural feature; anyone who has visited the MIT chapel in the United States will be aware of the attractiveness of such an arrangement.

The real benefit of having a pleasant place on a university

campus, suitable for meditative purposes of whatever kind, is probably overlooked by many people who would be unlikely to use it for formal religious activities and who therefore may tend to downgrade its value.

J.G. Laframboise
Associate Professor
Physics Department
D.K. Bohme
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