

Center for Individual Rights

DOCKET REPORT

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ENOUGH !

We're not normally given to indignation. But in the case of *James B. Maas v. Cornell University*, filed on August 1, 1995 in Tompkins County Court, we'll make an exception. Jim Maas is a professor of psychology at Cornell University, where he has taught for 31 years. He is--or was--a beloved and esteemed member of what Cornell, hilariously, still calls its "community." To this day, he is intensely loyal to his institution, wretched though its conduct has been of late.

In 1994, Maas was hauled before the so-called Professional Ethics Committee ("PEC") of Cornell's College of Arts & Sciences to defend himself against charges of sexual harassment. The allegations, brought by four former female students of Maas's, can be described as overblown and contrived, although the word "ludicrous" comes more readily to mind. Cornell, though, is better than most universities at most things, and these include witch hunts. The PEC drummed Maas through a "proceeding" the likes of which we haven't seen in six years of toil in the academic vineyards.

In the end, even Cornell's Volksgerichtshof couldn't identify any particular charge that proved the case for sexual harassment. It nonetheless decreed that Maas had to be punished for having "in effect" committed that modern-day mortal sin. Meanwhile, participants in the ostensibly confidential hearing process leaked the complaints and the prosecutor's "findings" to the Cornell Daily Sun, from where they found their way into national and international papers. Bound as he was by the confidentiality requirements, Maas was unable to respond to any of the leaked allegations, even as they grew more lurid with each re-telling.

Cornell, for its part, refused Maas's repeated demands to stop the leaks. As the smear campaign continued, Jim Maas suffered grave damage to his reputation, and otherwise. The sexual harassment craze has reached the point where one of the nation's most prestigious universities feels free and indeed compelled to trash an eminent member of its faculty-- without feeling particularly bad about it: Cornell thinks it can walk away from this train wreck without so much as an expression of regret, never mind meaningful relief to the victim.

We'll see about that.

L'AFFAIR MAAS

James B. Maas is a professor of psychology. His expertise lies in the causes and effects of sleep deprivation. He has spent 31 years on the faculty of Cornell University, and is one of its half-dozen most prominent professors. He is a big promoter of Cornell and a faculty advisor to its hockey team, the women's tennis team, and several sororities and fraternities. Maas is that rare commodity--an accomplished scholar who cares about his undergrads, as opposed to fobbing them off on befuddled graduate assistants. Maas actually teaches his own courses, and his Introduction to Psychology (Psych 101) plays each year to overflow audiences of up to 1,900 students. Maas has taught well over

40,000 Cornellians in the course of his career.

Cornell has recognized Maas's contributions by bestowing numerous awards on him. Recently, in 1993, Maas was awarded the Stephen H. Weiss Presidential Fellowship, a prestigious award which carried a citation praising Maas for creating an "atmosphere of intimacy" in the classroom and in his interactions with students. In 1994, on the eve of being declared a menace by his "colleagues" on the Arts College's Professional Ethics Committee, Maas received a student body award as the College's best teacher, and the Cornell Daily Sun's annual poll of undergrads found Psych 101 the most popular course on campus, and Maas the best professor.

Maas also disseminates his research findings through documentary films, and he has produced numerous award-winning documentaries and educational segments for the major TV networks, as well as for PBS and the BBC. As his career blossomed in the 1970s, and as the demand for his films escalated among universities, corporations, and television networks, Maas began to train students as members of his film crew. These positions are in high demand, since they offer pay, travel, and valuable experience.

Jim Maas is a warm, affectionate person who takes a personal interest in the students who work with him, often inviting his assistants to share in the life of the Maas family. Many of his students have attended birthday parties for his wife and children and exchanged holiday gifts with the Maases. Some have served as nannies to the Maas children and accompanied the family on vacation trips.

Hundreds of students have appreciated and benefitted from Maas's attention. Even the Committee that hung Jim Maas acknowledged his "generosity," the "exceptional quality of his teaching and advising," and his "habitual use of his influence to benefit his students." And even Maas's accusers were profoundly grateful for his affection--until they changed their minds.

The Charges

On May 31, 1994, two days after commencement, Maas received a mailing from Isaac Kramnick (Government), who was then temporarily serving as one of two Sexual Harassment Counselors within the Arts College. Enclosed were four rambling complaints, alleging sexual harassment by James Maas. They were accompanied by a cover letter, in which Kramnick informed Maas of the filing of the charges. Foreshadowing the procedural travesty that was to follow, Kramnick declared that he had found the charges meritorious, (even without investigation) and that the College's Professional Ethics Committee (PEC) should sanction Maas.

The complainants were former students of Maas's who had also, and variously, served as members of his film crews and as his family's nannies. All of them had graduated before Maas received the complaints; two of them, long before filing the charges. The allegations reached into the distant past.

The complaints are more properly characterized as harangues. They describe "incident" after "incident," few of them sexual, never mind harassing, in nature. (Random example: a former nanny to the Maas family "charged" that Maas's wife Nancy once asked her to push a luggage cart with the kid's bags through an airport. Sexual harassment? By Jim Maas?)

The remaining allegations fall into three categories:

* "Overly friendly" and "affectionate" behavior. The alleged offenses are best described as paternalism: hugs and occasional social kisses, typically in front of Maas's wife or other third parties--all of whom, in the PEC's words, considered Maas's conduct "innocuous or ... expressions of a warmly paternal affection." Little gifts of appreciation for hard work (such as fake Rolex watches) from Jim Maas or his family to the complainants-- and, it bears mention, from the accusers to the Maases, though the PEC would attribute no significance to this fact.

None of Maas's conduct was lewd or obscene; little of it was even arguably of a sexual nature. None of it was alleged to be propositioning, not to mention quid pro quo. Virtually all of it was, by all appearances, welcomed and appreciated at the time it occurred. Jim Maas did not dispute in the proceeding against him, and he does not now

dispute, that he displays his affection in all sorts of ways, including the physical. In this respect, he treated the complainants precisely the way he treats everyone else. Maas does dispute that the alleged incidents were sexual in nature, and protests that the complainants now, long after the fact, construe them as such. He further claims that he had no way of knowing that his behavior was unwelcome, since the complainants failed to give him an indication to this effect (see DEAR JIM, excerpted nearby).

* Sexual innuendo. That, for the most part, ain't harassment, and it ain't Jim Maas. Witnesses testified that the complainants either misheard or egregiously mischaracterized the alleged remarks. (The PEC believed Maas's witnesses, and still hung Maas on the charge. See "Findings" below.)

* Assault. The lone complainant alleged that Maas had touched her breast on a film trip six years prior to the filing of her complaint. That ain't Jim Maas, either. Maas fiercely denies the allegation, and there's no evidence to support it except the woman's ipse dixit, which is highly suspect. She shared with the PEC intimate letters to her mother, which cover minute details of her relation to Jim Maas at the time but make no mention of the allegedly traumatic incident. She subsequently accompanied Maas on four extended research trips, and several witnesses testified to her jovial mood during this period. (The PEC eventually considered the charge unproven, and still--you guessed it--hung Maas on it. See "Findings" below.)

The complaints would have given a half-way sensible administrator great pause before pressing formal charges. They were transparently not the grievances of preyed-upon co-eds; they were readily discernible as the centerpieces of a political campaign to raise public consciousness about sexual power relations, or some such mantra. (See MOTIVES, page 4.) Cornell eagerly cooperated in this venture, the consequences to Jim Maas be damned.

The "Process"

In July 1994, the complaints fell into the hands of Professor David Lyons (Philosophy and Law), a character straight out of *The Possessed*. Lyons had resumed his duties as Senior Sexual Harassment Officer, relieving Kramnick of his temporary assignment.

At this stage and, indeed, throughout the proceedings, Maas expressed a strong interest in mediation: he had not meant to give offense, had no way of knowing that he had given any, and would readily apologize for any he might have given. Lyons, though, would have none of it. Instead, he prevailed upon the complainants to make their affidavits "more focused." And sure enough: complainants who had stated originally that they did not want to see Maas punished now demanded his removal from the faculty. So revised, the complaints reached the Professional Ethics Committee--four months after the original filing, and only two days before the PEC's first hearing on the matter.

(The PEC is different and separate from Cornell's ordinary judicial system. Its bizarre origin, questionable authority, and egregious procedures are described on page 6.) In October 1994, the PEC commenced hearings on the matter. The proceeding was a farce even by the modest due process standards of higher education.

* All of the PEC heard testimony concerning incidents that allegedly occurred seven years earlier. Under Cornell's ordinary procedures, charges must be brought within six or twelve months, depending on the alleged offense.

* All of the complainants had graduated from Cornell before filing their final allegations. The Sexual Harassment Counselors are supposed to receive complaints about sexual harassment from "members of the University community," but the PEC conveniently interpreted this language to include former graduates.

However, when Maas later protested that the complainants were breaching the confidentiality of the process, Cornell proclaimed itself powerless to rein them in because the complainants, as "non-employee participants," were outside Cornell's jurisdiction. Hotel Cornell: You can check out any time you want, but you can never leave.

* The PEC procedures provide for a right to a "friendly advisor," though not to representation by a lawyer. When Maas selected Professor Faust Rossi, a member of the Cornell Law School faculty, as his advisor, the PEC nixed his choice. Referring to a secret (!) 1993 ruling that the PEC would determine the eligibility of faculty advisors who also

happen to be lawyers on a case-by-case basis and in accordance with the "spirit" of the procedures, PEC chairman Victor Koschmann (History) declared that Rossi was "too much of an expert", and that "he would make the women uncomfortable." (Prosecutor Lyons--like Rossi, a member of the Law School faculty--was not seen to fit either description. This was to remain the only thing Koschmann got right.)

* Maas was barred from questioning the complainants, and wasn't even allowed to be present at the hearing when they testified. (Yes. It would have made the women uncomfortable.)

* Although the PEC has jurisdiction only in sexual harassment cases, it happily entertained a host of totally unrelated charges. A committee member raised a charge--out of the blue, unrelated to anything, and totally false--that Maas had failed to honor a verbal commitment with one of the complainants to share the sales proceeds from a co-authored book. On the other hand, Jim Maas produced witnesses--female students--who testified that they had very much welcomed his attention, much as the complainants had welcomed it before their conversion. This testimony was ignored, and Maas's witnesses later complained bitterly at the PEC's abusive treatment.

The complainants had an easier time of it. The alleged come-ons and innuendos occurred in front of third parties, including Maas's family? Naturally! Complainant C responds to allegedly severe harassment at the hands of Jim Maas by introducing her close friends (and co-complainants-to-be), B-1 and B-2, to the perpetrator ("Jim, meet the B's. B's, meet my harasser!")? Naturally!

What's the probability of selling this garbage to a random group of six people with a nanogram of common sense? Cornell's PEC bought it.

The Findings

After five days of hearings and months of deliberation, the PEC reached its foregone conclusion and found Maas guilty of sexual harassment. Cornell's definition of sexual harassment tracks applicable federal regulations, which require unwelcome conduct of a sexual nature that is sufficiently severe and sustained to create a "hostile environment" for the complainant(s). This language is notoriously woolly by ordinary legal standards.

But it was far too precise for the PEC's use. Instead of applying (even vague) rules to facts, the PEC proceeded by judicial finger-painting: no single splash means anything, but the whole picture may leave an impression. Such artistic creativity may go a long way: why not remark, impromptu, that the complainants' "remarkable physical similarity both to each other and to Professor Maas's wife" (who never appeared before the PEC) suggests "erotic overtones"? A titillating insinuation will beat a boring fact any day.

In the same spirit, the PEC declined to examine each individual complaint. Instead it considered them all at once--the theory being that so long as Maas harassed one of the complainants, he might as well have harassed all of them. Nor did the PEC explain which actions in particular were "unwelcome," or "sexual in nature," or sufficiently "severe" to constitute harassment. And why should it have? Where there's smoke, there's smoke. The PEC emerged from this fog with the conclusion that liability should be determined not on the basis of Maas's actions but on the basis of the complainants' subjective and never-expressed feelings. As to gifts and social hugs and kisses:

"[Maas] habitually gives lavish and often very thoughtful gifts to many people and uses his influence generously on their behalf. He also habitually expresses his affection in physical terms. It is precisely because of his generosity with time, attention, gifts, and influence, however, that students who feel uncomfortable or intimidated find it difficult to understand what is going on, to sort out their own responses, and to disengage themselves from relationships with him."

To be sure, the complainants never communicated their discomfort to Maas, and the PEC acknowledged that this was "very unfortunate and misleading". But it was Maas's problem.

Ditto with the allegations of innuendo: the PEC thought it "likely" that the complainants misheard or misinterpreted what Professor Maas said. But we believe that they did think that there was sexual innuendo (emphasis added).

That being settled, the PEC turned to the complainants' roles as students, film crew members, and nannies:

"While such overlapping, complex relationships might not necessarily be reprehensible, in all cases before the committee ... they created a climate in which it was hard to detect when the line between proper and improper behavior was being crossed.

Since English teachers signed off on this, we can't attribute the passive voice to evasion or awkwardness: it was not Jim Maas but "they" and "the climate" who crossed and created things. But the PEC let these culprits off the hook.

Next, the PEC was being migrated from harassment to propriety. While this might not necessarily be reprehensible, the PEC declined to explain how, where, and with respect to whom that line had been crossed. All the same, it concluded that Maas "repeatedly behaved both unprofessionally and inappropriately in his relationship with these students and [wandering back to harassment] that in effect this behavior constituted sexual harassment." (Emphasis added.) Quod Erat Demonstrandum.

As for the alleged breast-touching six-plus years ago, the PEC could "reasonably be sure only that something occurred in Kyoto which [the complainant] found very upsetting at the time." This was sufficient for the PEC to find the complainant's "case convincing and especially significant because it suggests a pattern over time," a "pattern" being a single data point that may or may not exist. On this score, the PEC found Maas's conduct "especially egregious," even though unproven. Quod Erat Especially Demonstrandum.

While the PEC ignored Lyons's intemperate demand that Maas be fired, it issued ten "recommendations"--most of which Maas, in light of his experience, would henceforth have followed in any event. (E.g., "Maas should be prohibited from bestowing on an individual student a gift of substantial value (\$15), although he may, for example, provide jackets, sweatshirts, etc., for his entire film crew.") The PEC further recommended that Maas be prohibited from having female advisees, and that his "record of sexual harassment be taken into account in determining any merit increases" and the like for a period of five years. In a final act of consummate pettiness, the PEC recommended that Maas's Stephen H. Weiss Presidential Fellowship be rescinded.

Confidentiality

The PEC process, Maas was assured time and again, was strictly confidential. Fat chance. Maas's persecutors mounted an all-out publicity campaign, principally by way of handing the Cornell Daily Sun selected documents, including Lyons' indictment and transcripts of their own testimony before the PEC.

The Sun went public after the PEC's decision on December 9, 1994. Stories and cartoons throughout spring semester 1995 portrayed Maas as a sexual aggressor and took Cornell to task for not firing him. The Sun refused to run all but one or two of the many letters it received supporting Maas, while printing "anonymous" complainants' diatribes about the PEC proceedings. For good measure, David Lyons weighed in with his own reflections on the issues in a letter to the Sun.

From the Sun, the affair found its way into The New York Times, Time Magazine, and The Chronicle of Higher Education, and onto the AP wires, which aggravated the damage. Still considering himself bound by the rule of confidentiality and not wanting to endanger his chances of obtaining a favorable decision on an appeal to higher Cornell authorities, Maas could not respond.

The breach of confidentiality and its collateral damage were entirely foreseeable. The PEC had constructive notice that the complainants wanted the affair to be public: they had said so in their complaints. And the protection of confidentiality was in good part entrusted to David Lyons and Sandra Bem, both of whom have denounced secrecy as an odious obstacle to the fight against sexual harassment.

Maas tried to impress upon the PEC and upon University Deputy Counsel Thomas Santoro that the complainants' breach of confidentiality was a serious abuse of the process, and that the damage to his reputation and career constituted greater punishment than anything the PEC had itself recommended. But Cornell did nothing to prevent the

smear campaign, nothing to stop it once it got underway, and nothing to set the record straight. Santoro eventually replied that the press leaks may have originated with Maas. Santoro to Maas: you're not only a suspected harasser; you're also a suspected moron.

Appeals

The Pocks findings and recommendations, along with Maas's response, went to Don Randel, a former music prof and, at the time, Dean of the Arts College. Randel's role in the disaster went well beyond a mere review of the Pocks handiwork. Throughout, Maas had worried about subjecting himself to a process that was stacked against him--only to be assured by Randel that the process would be fair (right!) and confidential (right!); that a professor who's taught some 40,000 students was bound to encounter "five felons" (no comment); and that Maas had nothing to fear because his case would be handled by a "jury of his peers." (Wrong. Enemies, actually.)

In the end, Randel sided with the string-up quartet of accusers and the PEC conviction choir. He did reject the proposed revocation of Maas's Weiss fellowship, the most serious of the Pocks sanctions. He also rejected the proposed restrictions on Maas's having female advisees, thus implying that Maas wasn't a clear and present co-ed danger after all. Still, and incongruously, Randel affirmed the Pocks factual "findings," averring that any attempt on his part to revise or review them would interfere with faculty autonomy. He similarly disavowed any authority to review the PEC procedures; and besides, he said, he had reviewed them, and they were fine.

A final appeal to University Provost Malden Nesheim proved equally futile. No surprise here, either. Weeks earlier, Nesheim had asked Jim and Nancy for their "sympathy": Surely, they would understand his terrible predicament, should the case reach his desk? Surely, they wouldn't expect him to set aside the Pocks and the Dean's findings? Etc. On May 24, 1995, Nesheim informed Maas by letter that he was rejecting Maas's appeal; that the sanctions imposed by Randel would stand; and that there would be no further appeal. Cornell University summed up its decision in a June 23 press release, reading in relevant part:

After extensive deliberation of this case over a period of several months, the Professional Ethics Committee determined that Professor Maas had engaged in conduct that constitutes sexual harassment in violation of University policy ...

Professor Maas was not found in the present proceedings to have either had, or sought, an intimate sexual relationship with any of his students nor to have engaged in the physically abusive behaviors often associated with the term "sexual harassment." Nonetheless, any conduct that constitutes sexual harassment is an affront to the entire Cornell community and will not be tolerated.

Professor Maas has had a long history of dedicated service to Cornell University and to its students, faculty, staff and alumni. It is the University's hope that with the conclusion of this proceeding, that service will continue.

Translation: You're guilty, although we won't say of what. You're not a rapist, but you are an intolerable embarrassment to this institution. But hey, no hard feelings. And how about another fundraising trip?

IT AIN'T OVER ...

... although they wish it were.

Frank Rhodes has retired, and gone back to teaching geology. Provost Malden Nesheim has also retired, and gone back to teaching nutritional science. Dean Randel is now Provost Randel, and living proof of the Peter Principle.

David Lyons has moved on to Boston University, which would be well advised to keep him far removed from anything resembling an administrative duty.

Deputy Counsel Thomas Santoro has not been promoted. Throughout the Maas proceeding, Santoro destroyed a half-

dozen opportunities to settle the matter on terms that would have averted damage to Cornell and to Maas. He stated at the outset that he would rather be sued by Maas than by the women; now that he has his wish, we hope he feels lucky.

The PEC squadrons have run into trouble. In May 1995, the committee that mothered, nursed, and potty trained the PEC reported to the Arts College faculty on its accomplishments. Having heard, however vaguely, of the Pocks conduct in the Maas proceeding, faculty members expressed grave concern.

And who could blame them? After the Maas secret show trial, no one knows any better than before what constitutes "harassment." "There but for the Grace of God..." said Don Randel to Jim Maas. "Amen," said the Assistant Professor of Sociology: if the PEC can hang a member of Cornell's aristocracy, imagine what it could do to the peons.

The PEC people were aghast. Victor Koschman protested that the PEC had evaluated itself, and found itself fine. David Lyons proclaimed the procedures excellent, except that the Pocks findings and sanctions shouldn't be confidential. Sandy Bem enthused that the process was working because everyone accused before the PEC had been found guilty. The faculty didn't buy it, and voted for an independent evaluation of the PEC and its procedures. That's to the good.

Meanwhile, though, Jim Maas stands convicted as a sexual harasser; and much as Cornell would like to consider the case closed, this can't be the end of the matter.

One can argue that Maas's conduct was "inappropriate"--so long as one recognizes that it is inseparable from the conduct, and in fact the same conduct, that has made James Maas a widely beloved and revered teacher. And one can argue that Jim Maas should have seen it coming: that sooner or later, some disoriented undergrads would turn up among his proteges. That the gender zealots, given half a chance, would hang him. And that a feckless administration would let him hang, regardless of his distinguished service. Jim Maas, in other words, sat out the harassment craze. We'd all be better off if the rest of the country had joined him. But it didn't, and James B. Maas was convicted of a crime-- unknowable, undefined, but bad enough to ruin his career.

Jim Maas has gone to court as his only means of vindication. His complaint demands damages of at least \$1.5 million, along with further appropriate relief, for the following:

- * Breach of contract and good faith;
- * Breach of promise of confidentiality;
- * Negligence in fulfilling contractual duties;
- * Breach of fiduciary duties;
- * Intentional interference with economic advantage;
- * Violation of duty, arising under Title IX of the Education Amendments of 1972, to provide procedures for the fair and equitable resolution of student harassment complaints. Jim Maas holds no grudge against Cornell. Neither does the Center for Individual Rights, which is serving as Maas's counsel. Some of CIR's best friends are Cornellians; in fact, some of us are Cornellians. We'd rather do without litigation, and instead don funny hats for reunion.

That said, the zealots at Cornell are in need of some restraint. The witch hunts must end. And there must be justice for Jim Maas. When it is done, 'twere well, it were done quickly, and we will entertain any reasonable offer of reconciliation.

But no justice, no peace.

MOTIVES

In an indictment generally devoid of reason, David Lyons urged that the complainants' charges should be presumed

true. The women's willingness to come forward, Lyons averred, was "best explained by their veracity and their desire through these proceedings to recover their self-respect and prevent further harassment." But this contention rests on willful ignorance of the evidence.

The principal instigators of the campaign against Maas were twin sisters, both film crew members. The twins (let's call them B-1 and B-2) had what they called a very "fun" and harmonious working relation with Maas--until they served as teaching assistants to Andrea Parrot (Human Ecology), who preaches that anyone who feels "pressured into sexual contact on any occasion is as much a victim [of rape] as the person who is attacked in the streets." Lo, the B's came to suspect that Maas's affectionate conduct might actually constitute "harassment."

Faculty advisors suggested that the twins maintain their relationship with Maas, while monitoring his behavior. During the 1993-1994 school year, the twins kept a log of suspect gestures or utterances, and went out of their way to encourage physical contact on Miosis part. ("They were totally trying to entrap him," said a fellow film crew member.) The scurrilous allegations of sexual innuendo were also based on the B-logs.

Toward the end of the school year, the twins recruited C (Class of '93), a close friend and film crew member who had introduced them to Maas. Throughout her undergrad career, C had developed a close relationship with the Maas family. C's mother, worried about her daughter's lack of self-esteem, repeatedly asked Maas for assistance. The Maases reached out to the troubled young woman, and hired her as a nanny. On the day of C's commencement, her family treated the Maases to a festive graduation dinner--the culmination of a long friendship between the two families. C thanked Maas effusively for all he had done for her (see DEAR JIM, page 3).

Alas, following her separation from Cornell, C became depressed, and began seeing a social worker "therapist." The therapist, who submitted written testimony to the PEC, attributed her patient's conflicted emotions to sexual harassment by Maas, and eventually persuaded her patient that the very acts of kindness and affection for which she had expressed gratitude were in fact the transgressions of a sexual predator.

With the aid of C's boyfriend, B-1, B-2, and C contacted scores of current and former female associates of Maas--film crew members, students, and secretaries. They told their targets that they had heard from a reliable source that she, the target, had been sexually harassed by Jim Maas.

The fearsome foursome contrived to call Maas associates from as much as 17 (!) years ago. Most of the targets were astonished at the mere suggestion of sexual harassment by Jim Maas, and many were outraged. Finally, though, the telethon brought in an accomplice: a 1990 graduate and a former member of Miosis film crew, said that Maas touched her breast on a 1988 filming trip to Japan. This single, unproven and implausible allegation was to become the linchpin of the case against James Maas.

DEAR JIM

From a card one of the complainants wrote to James Maas on the occasion of her commencement in 1993:

Jim, I can't thank you enough for everything you have done (and continue to do) for me over the years. You have made my Cornell experience an invaluable treasure. Knowing that you will always be a source of encouragement and support for me is the only thing that makes leaving Cornell bearable.... I am especially flattered to have been "adopted" by you, Nancy and the boys. You are such a special family and I am thrilled that I have gotten to know you all so well.

A year later, the "adopted" daughter joined the campaign against her teacher and mentor.

LET'S BE REAL CAREFUL

As we were preparing the Maas case, we stumbled upon the Spring 1995 issue of the alumni magazine of the University of Massachusetts at Amherst, containing letters by former UMassstudents (about half of them female) in praise of their teachers. From an alumna, about her favorite professor:

I can remember him hugging me when he heard that I had been elected to Phi Beta Kappa. ... At that moment, I was happier that he was proud of me than when I found out I had been elected.

From another alumna about another professor:

He became my friend, confidant, and a good shoulder to lean on. He sort of became a surrogate father to me...

From yet another alumna, about yet another professor:

He was always willing to respond to a young student's far-ranging but troubled questions ("Do you believe in an afterlife?") with exactly the seriousness and the personal "input" which the moment seemed to require. He was truly interested in his students.

Hang 'em high.

LEVEL AND LOCK

Cornell's Campus Judicial Code, a set of Trustee-approved procedures, is supposed to govern all student, faculty, and staff complaints against professors and administrators, including sexual harassment complaints. It affords a fair measure of due process and confidentiality to protect the participants, including the accused.

The Maas case was adjudicated (if that's the word) under a different, highly irregular process designed by the Arts College. In 1991, the College had decided that the existing procedures were inadequate to the task of stamping out sexual harassment. An ad-hoc committee appointed itself, and assigned itself the task of designing more with-it procedures.

The committee was dominated by members of the Women's Studies Program. (For more on this Campus Ministry for Popular Enlightenment see PEC-TURE PERFECT, page 9.) It created the Senior Sexual Harassment Counselor and the Professional Ethics Committee that processed Jim Maas, along with procedures to "level the playing field" between powerless co-eds and omnipotent profs. "There are," in Lyons's words, "circumstances surrounding sexual harassment that require special measures," and the ad-hoc committee could think of quite a few such measures. For example, it abolished the right to confront one's accusers, the better to create "an atmosphere where one could come forward" (Provost Randel's words) and protections "for people who feel extremely vulnerable" (David Lyons's, again). To Lyons, the complainants remained "extremely vulnerable": they had "nothing to gain, and much to lose, from pressing charges" and should therefore be believed. But when Lyons put this language into his indictment against Maas, the complainants had been coddled, coached, and comforted for months. Their "privacy" was carefully protected, even while they were lobbing public hand grenades left and right. No word yet from Lyons on the vulnerability of the victims of frivolous charges and of breaches of confidentiality; there's no penalty for either. Talk about a free ride.

But wait--there's more! The ad-hoc committee recommended, and the Arts College adopted, a "locked box," containing allegations of sexual harassment against faculty members. Teachers are not informed, even at their request, of the existence of such charges, never mind their content or source; and there is no expiration date, meaning that ancient, unsubstantiated charges can be dredged up decades later--with the claimants' approval--as proof of a "pattern" of harassment.

It's true that these innovations aren't wholly unprecedented. Josef Stalin, for one, leveled the playing field between his henchmen and Trotskyite party members in a similar fashion. But show trial procedures do affect the ordinary rights of faculty members. For this reason, among others, revisions of the Campus Judicial Code must be approved, by New York law and Cornell charter, by Cornell's Trustees.

In creating the PEC--a revision of the existing procedures, if ever there was one--the ad-hoc committee dispensed with this nicety, and a few others along the way. What niceties remained, the PEC did away with in the Maas proceeding.

DAVID LYONS

left Cornell in June 1995, after decades of distinguished service. In 1969, when armed Black militants seized the campus student union and the administration declared that education might be pursued more profitably through, umh, argument than machine guns (though of course not always and under all circumstances), Lyons stepped courageously in front of the mob to profess his shame for the administration's racist position.

Lyons was also the Arts College's Senior Sexual Harassment Counselor, and he is a MORAL PHILOSOPHER to boot. His works are distinguished by the author's conscientious use of the generic female pronoun ("the judge--she") and by her unrivalled triteness. However, having mastered the art of tying his shoelaces, Lyons has instructed ordinary mortals, in article after pedantic article, WHAT JUSTICE REQUIRES.

For example, Lyons has argued ("Basic Rights and Constitutional Interpretation," Social Theory and Practice Vol. 16:3 (1990), pp. 337-357), that the authors of the Constitution were mostly racists. This goes to show that judges should follow not the Constitution they have sworn to uphold but the dictates of morality, as expounded by David Lyons. And yet, Lyons cannot help but stumble upon a good point now and then. On the subject of procedural justice in particular, he talks an exceptionally good game. Consider, especially in light of his conduct as harassment henchman, his pronouncements in Ethics and The Rule of Law (1984), pp. 198-204:

[To ensure procedural rationality,] we may wish to require that competent counsel represent each side of the dispute . . . Considerations of fairness and autonomy, for example, argue against penalizing people for doing what they had no reason to believe would be punishable. . . [A defendant] should not be able to complain that he could not understand the law . . . , that he was not informed of the complaint against him or the character of the reply, that he had no opportunity to present his case effectively, that the proceedings were biased against him. . . [O]ur ordinary notion of procedural fairness seems to imply that any denial of a full and fair hearing would be objectionable, even if it served some legitimate legislative end. . . [The denial of procedural fairness] often constitutes an identifiable insult to the individual--an expression of the notion that one need not be heard or given equal consideration because one is assumed to be unreliable or less worthy of equal concern and respect.

Indeed.

PEC-TURE PERFECT

L'Affair Maas would not exist without Cornell's Women's Studies Program (WS). According to Cornell's 1994 - 1995 course catalogue, WS is "an interdisciplinary program that seeks to inscribe women's lives, culture, and history, in all their complex multiplicities."

We have no idea what this means. But we're prepared to believe that women's multiplicities are perfectly deserving of inscription. We know, moreover, that WS domiciles some respectable scholars. (All members of WS must have appointments in regular academic departments.)

Unfortunately, though, WS also houses proponents of gonzo gender feminism. And it is they who played a dominant role in the Maas debacle.

* The more fanatical WS members dominated the self-appointed committee that created the PEC and the "procedures" under which Jim Maas was lynched. Among them was Sandra L. Bem (WS and Psychology), the Madame Defarge of the Cornell campus horrors. (Bem also serves as a Sex Harassment Kommissar alongside Lyons. As Miosis colleague in the Psychology Department, she purportedly disqualified herself from the case. But she showed up at the PEC hearings to berate one of Miosis witnesses.)

* Three of the six PEC members who sentenced Maas (Judith Ginsburg, Dorothy Mermin, and Hortense Spillers) are WS members. The fourth woman on the PEC, Danuta Shanzer, is a vocal advocate for a gay and lesbian campus dormitory.

* Two WS heavyweights, Mary Beth Norton and Kathryn March, served as the complainants' advisors, at the suggestion of (who else?) David Lyons.

The Maas disaster can't be blamed entirely on the more radical Women Studiers. The egregious David Lyons, Male Enabler, assisted mightily in the creation and the administration of the Pocks rules, and misbehaved consistently thereafter. (Being differently gendered, he can only be with WS, not of it.) The PEC panel that heard the Maas case was composed of members from only three (of 28) Arts College Departments (History, English, and Classics), and its two male members were hardly paragons of impartiality and integrity. Chairman Victor Koschmann (History) brushed off Maas's procedural objections by insisting that the PEC would "make up the rules as we go along," thus proving that historic events can be a tragedy and a farce at the same time. Michael Kammen (History), person of paradox, was a member of the PEC in its lone pre-Maas harassment proceeding, and blabbed about it at a cocktail party; despite this breach of confidentiality, he participated in the Maas case. Pass the peanuts.

Still, it's a fair question how the zanier members of WS could gain such prominence in running the Arts College.

It certainly helps that the WS radicals think of academic pursuits as little but a Hobbesian striving for power after power. They don't suffer from a conceit that research and teaching have to do with truth, objectivity, or some such quaint notion. It is an "overarching notion" of WS (and here, we quote from the description of WS in Cornell's course catalogue) that scientific knowledge "is not as impartial, objective, or neutral as has traditionally been thought but instead emerges out of particular historical and political contexts." Gravity, for all we know, may be a conspiracy among rich, white, and heavy men to oppress women who endeavor to inscribe a multiplicity.

Ditto with elementary concepts of sexuality, such as male and female. "Central to the [WS] curriculum," the course catalogue informs us, is the idea "that definitions of gender-- including those that privilege exclusive heterosexuality-- are not natural or universal but are instead social constructions" that, among other things, "serve political ends." What we have here is a frosh version of the incomparable Sandy Bem's theory that sexual categories are a mere cultural "schema," unrelated to anything real except genitalia. The schema, Bem says, produces an "androcentric social world," which "was built by rich, white, heterosexual men" and in which biological differences and cultural norms conspire to produce female disadvantage. (Bem, *The Lenses of Gender*, 1993, p. 191.) Need we mention that this brand of feminism requires the abolition of the oppressive schema?

Jim Maas actively supported gender equity issues. He developed proposals for documentaries on "Egalitarian Relationships" and "Female Empowerment" and he is married to an academic who considers herself a feminist.

But the Sandy Bems of this world aren't interested in pay equity or in studying heretofore ignored matters pertaining to women. Whatever "studying" they actually do is part of a larger enterprise--a long "Take Back the Night" march through the institution. Predictably, they've come a long way. Who, pray tell, has a stake in making academic governance and resource allocation a matter of ideology? Who has time for, and commitment to, committee meetings, procedure-writing, and harassment "counselling"?

Who, while Cornell's astrophysicists crunch data on Neptune's atmosphere, gets to run the place (Cornell, that is)?

You bet.

FRANK H. T. RHODES

was the President of Cornell University, at the time of the Maas case. He is also the Chairman of the National Science Foundation and, in that capacity, a defendant in a CIR lawsuit arising over racially segregated summer study programs funded by the NSF. (*Doe v. NSF*, et al.)

Until his recent departure, Mr. Rhodes was the longest-serving president of an Ivy League institution, an accomplishment attributable not only to his remarkable ability to solicit funds from wealthy donors with an edifice complex but also, and largely, to his resolute unwillingness to confront ethnic and gender zealots who populate Cornell. Example: Mr. Rhodes washed his hands of the entire Maas affair. Example: Mr. Rhodes built Native

Americans their very own campus home, to complement an existing African American theme house. In a fit of courage or embarrassment, he drew the line and said "no" to demands for a homosexual house, muttering something about "balkanization."

Then, some Hispanic students occupied his office and demanded their own theme house. Mr. Rhodes gave in, his administration having mollified the nervous Trustees with the clever formula that theme houses are okay so long as the constituency in question has a corresponding curricular course of study (as Blacks, Native Americans, and Latinos evidently all do).

In May 1995, the Cornell Arts and Sciences faculty voted unanimously to create a homosexual studies program. The rest is history, or will be shortly.

The Center for Individual Rights (CIR) is a non-profit public interest law firm based in Washington, DC. CIR provides free legal representation to deserving clients who cannot otherwise obtain or afford legal counsel.

CIR represents James B. Maas on a pro bono basis. To defray the substantial costs and disbursements that will be incurred in the litigation (for discovery, depositions, travel, etc.), CIR has established the Maas Defense Fund. All contributions to the Defense Fund are used exclusively for the purposes of this litigation.

CIR is a tax-exempt organization under section 501 (c) (3) of the Internal Revenue Code. CIR is funded through voluntary grants and contributions from foundations, individuals, and corporations. All contributions to CIR, including the Maas Defense Fund, are fully tax- deductible.

For additional information and updates on the Maas case, please contact: Robert Detlefsen or Michael S. Greve

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