

Known for his brilliance, his wit, and his devotion to his family, Lewis (also known as Lew in the Office) played major roles in the revision on the Copyright Act in 1976 and in the decision for the United States to adhere to the Berne Convention in 1988. He was the senior copyright advisor to the U.S. delegation during the TRIPS negotiations at the Uruguay Round of the General Agreement on Trade and Commerce (GATT). He served on virtually every Committee of Experts convened by the World Intellectual Property Organization (WIPO) from 1984 to 1992 to deal with the Berne Convention and the Universal Copyright Convention, and he was influential in negotiating the final texts of the Geneva Phonograms Convention and the Brussels Satellite Convention. More recently, his work was critical in the adoption of two important intellectual property treaties in December 1996, the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.

It was not only the incredible depth of his knowledge of copyright law that made him an important resource in negotiations, but his role as a "peacemaker," as former Register of Copyrights Barbara Ringer characterized him.

During the revision process, the lengthy period leading up to the passage of the 1976 Act, Lewis came up with "brilliant solutions" enabling "innumerable compromises," said Ringer. He was essential "in putting out all those brush fires."

"He was a man of ideas," said Register of Copyrights Marybeth Peters. "He was brilliant at strategies. He could talk about any subject in a way that bound his audience to his ideas."

"Because of his unsurpassed copyright expertise, his deft diplomatic touch, and his legendary ability to forge compromises, the United States spoke with a strong voice at the international bargaining table," said Ralph Oman, a former Register of Copyright.

A native New Yorker, Lewis was a 1964 graduate of the City College of New York and a 1967 graduate of Georgetown Law School. That was the same year he began his career in the Copyright Office, when Barbara Ringer hired him as an examiner, though she says her primary purpose in bringing him on board was to get a project underway at the Library for the preservation of motion pictures. A mutual friend had recommended him to Ringer, who talked with him twice before passing him along to Former Examining Division Chief Art Levine for the actual hiring interview. "As I recall, we talked nothing but movies," she said. "Nobody knew more about movies than he did."

He served the Office in various positions: senior examiner, attorney-advisor in the General Counsel's Office, special legal assistant to the Register, International copyright officer, and policy planning advisor.

In speaking with his friends and colleagues to write this piece, what comes across in his complete uniqueness.

"I've never known a more brilliant person, but he covered it with his wild, modant humor," said Ringer. "That's what people remember him for, but he had a great deal of depth."

"The most remarkable thing about Lewis was that time was of no relevance to him," said Neil Turkewitz of the Recording Industry Association of America (RIAA) who has known him since 1987. "It was the real genius of him; it allowed him to explore the very details of things. He learned from everything, because he was so patient. . . . What really set him apart was his ability to learn."

"He would recognize the little nugget tucked away" that others overlooked, said Ringer. "He was a fantastic legal technician; he could grasp things that would take others

weeks to see, and he could see all the ramifications."

Furthermore, she said she knew she could rely on him to "tell things like they are. He'd tell you if he thought you were off on the wrong track. . . . So many people have their own agendas or they just tell you what they think you want to hear. You could always trust what Lewis said—he always saw both sides of the picture."

Said his wife, Frances Jones, who was his partner for 31 years, "He had a strong sense of ethics. . . . a sense of fairness."

To a person, everyone mentioned his wit. "He had keen insights into people, and he was always a wonderful and entertaining person to be around," said Art Levine. "I'd introduce him to some of my clients at WIPO [meetings], and they would always be eager to get together with him again."

"He could be very funny, trotting out a variety of voices, especially Yiddish ones, that left his listeners laughing in the aisles," said David Levy, former attorney in the Examining Division.

"He was the funniest person I ever met," said Eric Schwartz, a former policy planning advisor who worked with Lewis. Schwartz recounts a story of how Flacks met comedian and actor Jerry Lewis in Paris—where Jerry Lewis is revered—in 1987 at a meeting on moral rights. "Lewis (Flacks) approached Jerry Lewis and introduced himself as Jerry Lewis' 'only American fan,' since only the French really appreciate Jerry Lewis' films. Jerry Lewis thought it was the funniest thing he'd heard."

"He was a perfect colleague—smart, funny, and bluff; a much sought-after dinner companion, he always had the best jokes, the hottest news, and the latest photographs of his beloved son, Paul," said Ralph Oman.

His love and devotion to his son Paul, who is now 14, is something else that no one failed to mention in talking about Lewis. As Peters said, "His son was one of his greatest joys."

His wife mentioned another important role that Lewis played in private life and in the Office—that of teacher. Said Schwartz: "He was a great teacher. He taught me international copyright law in a series of long talks in his office, which, combined with our love of films and his sense of humor, made it fun to come to work." Said Peter Vankevich, head of the Public Information Section, "Lewis made copyright come alive, after talking with him, you felt really proud to work in the Office."

Lewis had many passions—among them books, wine, theater, and more recently, music. He was teaching himself to play the guitar, Chicago-style blues. But above all, he was passionate about movies.

"He knew more about film and film preservation than anyone I've ever met, except for Barbara Ringer," said Schwartz, who served as the Library's counsel to the Film Preservation Board. "I incorporated many of his ideas about film preservation into the legislation creating and reauthorizing the National Film Preservation Board (1988 and 1992) and Foundation (1996). His suggestions really helped the cause of film preservation, and he was very highly regarded in the Motion Picture and Recorded Sound Division."

Admittedly, Lewis was not perfect. He was famous—or notorious—for not meeting deadlines. "People had to flog him to get him to finish," said Ringer. "It could be infuriating," said Levin, "because he'd never get anything done on time. But then, when he finally produced a piece, it would be so brilliant, he'd get away with it."

"Lewis did everything slowly," said Turkewitz. "He even walked slowly. You had to be careful or you'd be three blocks ahead of him. . . . He was someone who just de-

cidated that the decline of western civilization was being caused by its frantic pace, and he wasn't going to live that way." Turkewitz said you might think that would mean Lewis was, in terms of technology, a dinosaur, "but he was just the opposite. He was very interested in technology. . . . He was a true renaissance man. He was complete sui generis."

Or, as Ringer said, "I never met anyone like him. He was utterly unique."

Or, as Jason Berman, head of IFPI said, "The legacy of Lew Flacks remains the legions of friends and admirers he made around the world in a distinguished 30-year career."

The Copyright Office is holding a memorial program for Lewis Flacks on September 24 in the Mumford Room of the James Madison Memorial Building.

## COLLEGE MISERICORDIA ANNIVERSARY

**HON. PAUL E. KANJORSKI**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, September 23, 1999*

Mr. KANJORSKI. Mr. Speaker, I rise today to bring to the attention of my colleagues the 75th anniversary of a fine institution of higher learning—College Misericordia of Dallas, PA. I am honored to have been asked to participate in the kickoff event of the anniversary on September 24.

Founded and sponsored by the Religious Sisters of Mercy in 1924, Misericordia was the first 4-year college, the first Catholic college, and the only all-female institution in Luzerne County, with 37 young women in its first freshman class. Offering both bachelor of arts and bachelor of science degrees, the college boasted 22 faculty members, 16 of them Sisters of Mercy. Today the bustling campus is home to more than 1,700 students, 83 full-time faculty and 65 part-time faculty. Misericordia offered its first summer courses in 1927 and began its graduate program in 1960. In 1975, Misericordia opened its enrollment to men and began to offer continuing education courses.

Mr. Speaker, College Misericordia is an integral part of the Northeastern Pennsylvania community. In 1972, when Tropical Storm Agnes caused the Susquehanna River to overflow her banks, more than 100,000 people were left without food and shelter. College Misericordia became a shelter and hospital, with the benevolent Sisters of Mercy administering aid to the victims of the disaster. Mercy Hospital, totally inundated by raging flood waters, evacuated its patients and staff to College Misericordia.

The college annually offers community-based cultural and athletic programs. Each summer, former members of the National Players, a Shakespearian theater company, present Theater-on-the-Green, bringing the wit and wisdom of William Shakespeare to the area. The college boasts an outstanding art gallery, the MacDonald Gallery, and the Anderson Sports and Health Center, which offers community-based, health-related activities for young and old.

Still under the sponsorship of the Sisters of Mercy, the college currently has a lay president, Dr. Michael A. MacDowell. A liberal arts college, it is especially known for its Education, Health Sciences, Humanities, Social

Work, Business, Mathematics, and Natural Sciences programs.

The kick-off of the anniversary celebration is the dedication of the Mary Kintz Bevevino Library on Friday, September 24. A 1987 graduate of College Misericordia and later a Trustee until her death in 1993, Mary saw a real need for a new library at Misericordia. Her family has helped to make this dream a reality in Mary's honor. Beginning with one building 75 years ago, the college now proudly boasts 13 beautiful buildings.

Mr. Speaker, many alumni, students, faculty, staff and Sisters will pay tribute on Saturday to the spirit of giving which was the ideal of the Founding Sisters. They will volunteer their time and efforts around the community in various projects of Habitat for Humanity, St. Vincent Soup Kitchen, Catherine McCauley House, and Mercy Center, just to name a few. It is a fitting start to an anniversary year and a fitting tribute to an order of religious Sisters whose very purpose is to help others. I am extremely pleased and proud to have had the opportunity to bring the history of this fine institution to the attention of my colleagues. I send my sincere best wishes for continued success to College Misericordia.

#### THE HIGH COST OF PRESCRIPTION DRUGS

SPEECH OF

**HON. BARBARA LEE**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 22, 1999*

Ms. LEE. Mr. Speaker, I rise to join my colleague today in strong support for implementing legislation to substantially reduce the exorbitant prices of prescription drugs for Medicare beneficiaries. Our current Medicare program drastically fails to offer protection against the costs of most outpatient prescription drugs. H.R. 664, the Prescription Drug Fairness for Seniors Act of 1999 aims to create an affordable prescription drug benefit program that will expand the accessibility and autonomy of all Medicare patients. This bill will protect Medicare beneficiaries from discriminatory pricing by drug manufacturers and make prescription drugs available to Medicare beneficiaries at substantially reduced prices.

Currently, Medicare offers a very limited prescription drug benefit plan for the 39 million aged and disabled persons obtaining its services. Many of these beneficiaries have to supplement their Medicare health insurance pro-

gram with private or public health insurance in order to cover the astronomical costs not met by Medicare. Unfortunately, most of these plans offer very little drug cost coverage, if any at all. Therefore, Medicare patients across the United States are forced to pay over half of their total drug expenses out-of-pocket as compared to 34 percent paid by the population as a whole. Due to these burdensome circumstances, patients are forced to spend more of their limited resources on drugs which hampers access to adequate medication needed to successfully treat conditions for many of these individuals.

In 1995, we found that persons with supplementary prescription drug coverage used 20.3 prescriptions per year compared to 15.3 for those individuals lacking supplementary coverage. The patients without supplementary coverage were forced to compromise their health because they could not afford to pay for the additional drugs that they needed. The quality and life of these individuals continue to deteriorate while we continued to limit their access to basic health necessities. H.R. 664 will tackle this problem by allowing our patients to purchase prescription drugs at a lower price.

Why should our patients have to continually compromise their health by being forced to decide which prescription drugs to buy and which drugs not to take, simply because of budgetary caps that limit their access to treat the health problems they struggle with? These patients cannot afford to pay these burdensome costs. We must work together to expand Medicare by making it more competitive, efficient, and accessible to the demanding needs of our patients. By investing directly in Medicare, we choose to invest in the lives, health, and future of our patients. By denying them access to affordable prescription drugs, we deny these individuals the right to a healthy life which continues to deteriorate their well-being and quality of life.

The House Committee on Government Reform conducted several studies identifying the price differential for commonly used drugs by senior citizens on Medicare and those with insurance plans. These surveys found that drug manufacturers engage in widespread price discrimination, forcing senior citizens and other individual purchasers to pay substantially more for prescription drugs than favored customers, such as large HMO's, insurance companies and the Federal Government.

According to these reports, older Americans pay exorbitant prices for commonly used drugs for high blood pressure, ulcers, heart problems, and other serious conditions. The report reveals that the price differential be-

tween favored customers and senior citizens for the cholesterol drug Zocor is 213 percent; while favored customers—corporate, governmental, and institutional customers—pay \$34.80 for the drug, senior citizens in the 9th Congressional District may pay an average of \$109.00 for the same medication. The study reports similar findings for four other drugs investigated in the study: Norvase (high blood pressure): \$59.71 for favored customers and \$129.19 for seniors; Prilosec (ulcers): \$59.10 for favored customers and \$127.30 for seniors; Procardia XL (heart problems): \$68.35 for favored customers and \$142.21 for seniors; and Zoloft (depression): \$115.70 for favored customers and \$235.09 for seniors.

If Medicare is not paying for these drugs, then the patient is left to pay out of pocket. Numerous patients are forced to gamble with their health when they cannot afford to pay for the drugs needed to treat their conditions. Every day, these patients have to live with the fear of having to encounter major medical problems because they were denied access to prescription drugs they could not afford to pay out of their pocket. Often times, senior citizens must choose between buying food or medicine. This is wrong.

Reports studying comparisons in prescription drug prices in the United States, Canada, and Mexico reveal that United States individuals pay much more for prescription drugs than our neighboring countries. In 1991, the General Accounting Office (GAO) revealed that prescription drugs in the United States were priced at 34 percent higher than the same pharmaceutical drugs in Canada. Studies administered on comparisons between the United States and Mexico also reveal that drug prices in Mexico are considerably lower than in the United States. In both Canada and Mexico, the government is one of the largest payers for prescription drugs which gives them significant power to establish prices as well as influence what drugs they will pay for.

Many Medicare patients have significant health care needs. They are forced to survive on very limited resources. They are entitled to medical treatments at affordable prices. H.R. 664 will benefit millions of patients each year. This bill will address many of the problems relating to prescription drugs and work to ensure that patients have adequate access to their basic health needs. Let's stop gambling with the lives of Medicare patients and support this plan to strengthen and modernize Medicare by finally making prescription drugs available to Medicare beneficiaries at substantially reduced prices. It is a matter of life or death