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The Specter of Anarchy
by Eugene V. Rostow

In his recent Annual Report, Ambassador Perez de Cuellar, the Secretary General of the United Nations, formally warned that anarchy is the greatest danger facing mankind. He called on the governments of the world community to recommit themselves to the principles of the United Nations Charter, and particularly to those which purport to govern the international use of force. The Secretary General’s ominous words echo statements made by President Reagan and other American and Western officials in recent years. They constitute a measured judgment on what is super-obvious and therefore almost invisible: that the state system we have inherited is collapsing before our eyes.

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The state system we experience every day has evolved in a radically new direction since the Congress of Vienna in 1815. Reacting to the anarchy of the previous twenty-five years, the men who met at Vienna reformed and rebuilt the old state system on the foundation of a revolutionary idea: that the conscious pursuit of peace should be the principal concern of great power diplomacy. The habits of restraint, compromise, and cooperation which were the hallmark of the Concert of Europe during most of the Victorian age gradually became the norms of modern international law.

Both the disastrous World Wars of this century were caused by a breakdown in the pattern of concert launched at Vienna. But after each war, the society of nations tried to restore and improve the methods which had been relatively successful in the century before 1914—in the name of the League of Nations after the First World War, and of the United Nations after the Second. Now it is clear that the search for peace under the Charter of the United Nations has failed as badly as the search for peace under the Covenant of the League.

Within a state or among the states, the disintegration of public order has always led to war or tyranny or both. People take order for granted until it is threatened. Then they react vehemently, and often with violence, in order to restore it at almost any cost. Both World Wars did abiding harm to the fabric of Western civilization. But the risks of international anarchy are far worse today than they were in 1914 or 1939, or in the time of Napoleon. In the small, contracting, interdependent, and unstable world of the late twentieth century, with mankind condemned to live in the shadow of nuclear weapons and other pathological achievements of science, continued anarchy is unthinkably menacing. More obviously than ever, a just and stable peace is the only rational goal for diplomacy. The United Nations Charter translates the modern world

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community's shared vision of peace into a legal code reflecting the necessities for cooperation among the states which constitute that community.

The principal cause for the breakdown of world public order since the United Nations Charter was adopted in 1945 has been the steady expansion of the Soviet Union and its influence, achieved by methods which openly violate the Charter rules against aggression. The Soviet Union takes the view that as a "Socialist" state it is exempted from those rules. When the issue is raised with senior Soviet diplomats, they reply, "You are asking us to give up a foreign policy rooted in our nature as a society and a state." To that position, the Western nations can only answer, "Not at all. So far as we are concerned, you are free to preach the virtues of Communism as widely as you like. But the state system cannot tolerate your claim of a right to propagate your faith with the sword."

The Soviet policy of indefinite expansion, based on the aggressive use of conventional force, proxies, and terrorism, and backed by a huge and minatory nuclear arsenal, has gone too far. It now threatens the balance of power on which the primitive safety of other nations depends, and has therefore touched nerves of great sensitivity from one end of the earth to the other. Moreover, the practice of aggression is contagious. It is spreading beyond the immediate area of Soviet activity: Argentina's attack on the Falkland Islands and Iraq's aggression against Iran are instances of this phenomenon.

Clearly, world politics is reaching a turning point. Unless the Soviet Union is required to respect the rules of international law against aggression, those rules will lose all their influence as a restraint on the behavior of states. The essence of a legal system, after all, is that its norms be widely and reciprocally obeyed. No state can claim to be above the law.

These aspects of recent experience constitute the background of the Secretary General's Report, and support his warning about the imminent dangers of anarchy. At some level of consciousness, they are universally understood. But Ambassador Perez de Cuellar's appeal has met with thunderous silence. No government, no leader, no citizens' group has made it the first principle of its foreign policy or the rallying cry of a political effort.

The explanation for this extraordinary reaction is not hard to discern: Vietnam. The revulsion of public opinion in the United States and Western Europe against the American and Allied campaign to repel aggression in Vietnam has sapped the foundations of the foreign policy for maintaining peace which the Western nations pursued since Truman's time, and nominally at least are pursuing still.

The elements of that policy are well known, but they are worth recalling: (1) the Marshall Plan and other programs which led to the successful reconstruction and integration of a dynamic capitalist world economy, an engine of progress for the Third World and the Communist nations as well as for the West; (2) the Point Four program and its progeny, offering assistance to the developing nations liberated from imperial controls; these programs have had a checkered history, although in number of countries they have been successful catalysts for development; (3) cultural cooperation and the liberalized movement of students, scholars, and artists to the great centers of Western intellectual life; and finally (4) the Baruch Plan and many other proposals—all important and all thus far unsuccessful—to bring the nuclear weapon under control and to promote the peaceful use of nuclear energy.

These constructive aspirations for Western foreign policy depend upon the fulfillment of the policy of collective security against aggression announced by President Truman in 1947, and developed since that time into a network of arrangements for collective self-defense throughout the world. For twenty years or more, that policy was successfully applied in a series of Soviet probes and tests, from Iran, Greece, and Turkey to Berlin and Korea. But the policy was not universally enforced. Eastern Europe was abandoned to the Soviet Union, and Cuba was treated as an exceptional case by President Eisenhower. Through a long series of efforts, the Soviet Union succeeded in establishing itself in the Mediterranean and in Africa, despite certain important reverses. Finally, there came the prolonged war in Vietnam and its tragic outcome.

When the Western policy of resistance to aggression was instituted, immediately after World War II, its presuppositions were accepted as truisms throughout the West. To the men and women who had experienced the Thirties and the Second World War, it was self-evident that if the Western Allies and the Soviet Union had been willing to use force to stop aggression in Manchuria, Abyssinia, Spain, and the Rhineland, the Second World War could never have taken place. Therefore when President Truman moved to resist aggression against South Korea in 1950, the entire Western World joined in the effort with enthusiasm. The symbolic meaning of the Korean War is embodied in the presence of an Ethiopian contingent among the Allied forces.

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The Author

Mr. Eugene V. Rostow is the Sterling Professor of Law and Public Affairs at Yale University, School of Law. He has taught at Yale since 1944 and was Dean of the School of Law from 1955 to 1965. Mr. Rostow served as a member of the Lend Lease Administration and the United States Department of State from 1942 to 1944. During 1949 and 1950, Mr. Rostow was the Assistant Executive Secretary to the Economic Community for Europe. He also served as Undersecretary of State for Political Affairs from 1966 to 1969. Mr. Rostow has concentrated his efforts in the areas of international law, trade regulation, antitrust, constitutional law, and jurisprudence.
But as time passed, a new generation came forward, a generation which knew not Pharaoh. For its members, the causes of the First and Second World Wars were a matter of school books, not of life itself. It was no longer obvious to them that "peace is indivisible," as a Soviet Foreign Minister proclaimed during the late Thirties. In the West, more and more people began to wonder whether the United States and the industrialized democracies really had an interest worth dying for in protecting Ethiopia, or South Korea, or South Vietnam against aggression. Was there a better way to achieve peace?

This change in outlook recalls the reaction of Great Britain and the United States to Hitler's apotheosis fifty years ago. At that time, British and American thinking about the problems of world power was dominated by the memories of trench warfare in World War I, and the prevailing mood, at least on the surface, was, "Never again." In March, 1934, one of the ablest British diplomats of the day commented that the potential danger to Britain implied by reviving German military strength had produced "quite an unusual amount of cerebration" in the Foreign Office. But, he said drily, the official cerebration was largely devoted to the possibility of negotiating disarmament agreements with the new German government. For exactly the same reasons which produced the pathetic faith of the Thirties in disarmament, Western opinion has been obsessed with arms control as a magical and aseptic way to assure peace, far less painful than the grim campaigns of Korea and Vietnam. Arms control agreements can be a useful adjunct to an effective Western foreign policy of collective security against aggression. But they can never be a substitute for such a policy. And poor arms control agreements can prevent the industrialized democracies from doing what is necessary to protect their security interests by peaceful deterrence rather than by war.

The impasse in the Soviet-American nuclear arms negotiations dramatized by the Soviet walk-outs in Geneva late in 1983 deals with precisely this critical set of issues. The differences between the two sides are simple and fundamental. They cannot be reconciled by verbal ingenuity or by a compromise which "splits the difference."

The United States is seeking agreements based on the principle of Soviet-American quality. It believes that such agreements would be compatible with true detente, and would permit the United States to maintain a credible and effective nuclear deterrent as a shield for an effective policy of collective security against aggression. The Soviet Union is seeking agreements based on what it calls the principle of "equal security," an Orwellian phrase which means that the United States should concede to the Soviet Union the right to have nuclear forces equal to the sum of all other nuclear forces and potential nuclear forces on earth—American, British, French, Chinese, Israeli, Indian, and so on. In short, the Soviet Union is seeking an American and Western acknowledgement of its right to nuclear superiority, especially in the field of ground based ballistic missiles, the most destructive, swift, and accurate of nuclear weapons, and the ones most nearly immune to defense. The present Soviet lead in ground based ballistic missiles is the source of the nuclear anxiety now transforming political attitudes in the West. Nuclear arms agreements of "equal security," the Soviet leaders believe, would deprive the American nuclear guaranty of all credibility as a deterrent.

What is at stake in the Geneva talks, therefore, is whether the United States can have a foreign policy at all, or will be forced to withdraw from Europe and other forward bases in the Atlantic, the Pacific, and the Mediterranean, and retire to Fortress America, isolated, impotent, and enraged.

Having failed to stampede European opinion, the Soviet Union is now relying on the pressures of the American election to make President Reagan sign agreements which would allow the Soviet Union to preserve and even increase its present advantage in ground based ballistic missiles and other weapon categories as well. Under different circumstances, Presidents Nixon and Carter signed agreements which permitted the Soviet Union to achieve its present posture of superiority in ground based ballistic missiles. Those agreements turned out to be grave and costly mistakes. The United States cannot afford another such error.

The Georgia Society of International and Comparative Law

The Georgia Society of International and Comparative Law enjoyed an active 1983-1984 academic year. The Society sponsored panel discussions on current international events such as the downing of Korean Airlines Flight 007 and the military events in Grenada and Beruit, Lebanon. The panel discussions included appearances by Professors Dean Rusk, Louis Sohn, and Gabriel Wilner of the Law School, and Professor Martin Hillenbrand of The University of Georgia Department of Global Studies.

The Society and the Rusk Center also co-sponsored numerous talks featuring outstanding international scholars. These included talks by Professors G. Roth, G. Jones, H. Soell, and practicing attorneys D. Buffenstein and K. Gustafson. Topics ranged from export law to the English legal system. In addition, the Society sponsored a reception in honor of a visiting delegation from the Chinese Ministry of Education.

For further information on future activities of the Society, contact: Alan Sutin, President, Georgia Society of International and Comparative Law, The University of Georgia School of Law, Athens, Georgia 30602.
Rusk Center Activities

The Center conducts research, presents conferences, promotes teaching, and provides information concerning international and comparative law. Through these activities, the Center seeks to place scholarship at the service of the decision makers, including governmental officials and private sector leaders; to provide a sound basis for policy judgments for the improvement of the lives of the people of the State of Georgia and the nation; to increase international understanding; and to contribute to the solution of problems and issues of international significance.

The activities of the Center include the following:

—On April 23-26, 1984, Dr. Thomas J. Schoenbaum, the director of the Center, participated in a conference on U.S.-Japanese law in Tokyo, Japan.

—Dr. Thomas J. Schoenbaum has published a book entitled Admiralty and Maritime Law. Dr. Schoenbaum coauthored the book with Professor A.N. Yiannopoulos of Tulane University. Information regarding the book can be obtained from Michie, Bobbs-Merrill, P.O. Box 7587, Charlottesville, Virginia 22906.

—Dr. Louis B. Sohn, the Woodruff Professor of International Law at the Law School, was recently appointed chairman of the United States delegation to the March 1984 Conference on Security and Cooperation in Europe by Secretary of State George Schultz. Dr. Sohn will head the U.S. delegation to the international conference on peaceful settlement of disputes. The conference is one of a series of follow-up meetings from the Madrid Conference which involved several years of meetings for discussion of implementation of the Helsinki Final Act. The six weeks of discussion will be devoted to studying various means for settling disputes, from negotiation to arbitration. Delegates will try to reach an agreement on some of the means for settling disputes between the 35 representative countries.

—Professor Gabriel M. Wilner recently returned to the Law School after conducting research abroad. Professor Wilner was a Visiting Scholar at the University of Delhi, India.

—The Rusk Center sponsored a course on Japanese law entitled "Introduction to the Japanese Legal System" taught by Professor Nobuo Kumamoto of Hokkaigakuen University in Sapporo, Japan. Professor Kumamoto is a well-known Japanese authority on administrative and public law.

—Dr. James Buck of the University of Georgia faculty, is teaching an introductory course on Japanese language and culture. The course is sponsored by the Rusk Center and represents the initiation of the teaching of Japanese language at The University of Georgia. The course will attempt to provide the student with a broad orientation to Japanese culture as well as provide elementary instruction in the Japanese language. The student will learn basic sentence patterns, develop a vocabulary of approximately 300 words, and learn to write the cursive syllabary.

—The Rusk Center is sponsoring a course entitled "European Community Law." Dr. Bernhard Schloth, legal advisor to the Council of Ministers of the European Community in Brussels, Belgium, is the visiting professor who is conducting this course.

—Professor Wei-hou Zhao of Wuhan University, China, is currently spending six months at the Center studying international trade law. Professor Zhao is a Distinguished Visiting Scholar sponsored by the United States Committee on Legal Educational Exchange with China.

—On March 29-30, 1984, the conference "Exporting in the '80s: The New Economic Challenge," was held at the Law School. The program co-chairmen were Drs. Thomas J. Schoenbaum and Gabriel M. Wilner. The conference included sessions covering the topics of U.S. and international regulatory law, agricultural exports, international sales transactions, and exporting to Japan.

—On February 24, 1984, Mr. Alan Gottlieb, the Canadian Ambassador to the United States, visited the Rusk Center and the Law School. Mr. Gottlieb spoke to students and faculty on the status of U.S.-Canadian relations.

The Georgia Journal of International and Comparative Law

The Georgia Journal of International and Comparative Law anticipates the publication of Volume 13, Issue 3 in April 1984. This issue includes an article by Robert C. Effros, Assistant General Counsel for the International Monetary Fund, concerning standby letters of credit in international transactions. The 1983 Dean Rusk Award Paper, entitled "Displaced Persons: The New Refugees" and written by David Hull, also appears in Volume 13, Issue 3.

Work on Volume 14, Issue 1 of the Georgia Journal is currently in progress, and publication is expected in late April. This issue includes a special section on the law of foreign sovereign immunity in the United States.

The Georgia Journal is published three times a year at the School of Law, The University of Georgia, Athens, Georgia 30602, U.S.A. Telephone: 404-542-7289. Subscriptions, inquiries, and manuscripts should be sent to the above address.
International Developments

A group of Cobb County, Georgia educators and businessmen are forming a center to teach American companies and developing nations how to improve technical service abroad. The World Technology Center will be located in the Atlanta area and will utilize the skills of corporate and university personnel from Southeastern states. The new technology center will provide technical assistance to underdeveloped countries, both to help American businesses and to assist the poorer countries.

One of the problems American businesses encounter in exporting is finding people who are knowledgeable in technical areas in the countries targeted for exportation. To address this problem, the center will utilize the training skills of the staff at diverse corporations and universities such as the agrarian talents of professors at The University of Georgia or the medical skill of teachers at Emory University. Teams of experts will train Americans seeking work abroad and technicians from foreign nations who need to learn to maintain and service American products.

Center coordinators hope to teach American companies to set up the permanent sales and service organizations abroad that are necessary to enter foreign markets successfully.

Blue Circle Holdings will move its United States headquarters from Birmingham to Atlanta in preparation for the company's North American expansion. The British cement manufacturer is a subsidiary of Blue Circle Industries which is one of the top three cement manufacturers in the world with anticipated gross sales of nearly $1.5 billion in 1984. The Atlanta-based company is expected to have gross sales of $150 million in 1984, with about 1,200 employees across the country.

The British company officials noted that the Southern part of the United States offered the most attractive location because it combines potential growth with political stability. The company decided to move the head-}

quarters from Birmingham to Atlanta because of accessibility.

The German Trade Center Corporation has opened an office in Atlanta. The private company represents a consortium of 10 German firms and expects to represent more than 30 German firms during 1984. The Center is the largest consortium of German firms to enter the United States at one time.

The German Trade Center will work towards establishing a two-way trade between the Southeast and Germany. The center will provide a temporary base of operation for German firms entering the U.S. market. Domestic companies interested in exporting to Germany can work through the office to find out more about the European market.

Enso-Gutzeit Oy, a giant forest products firm headquartered in Helsinki, Finland, has announced plans to locate its new United States subsidiary in Atlanta. Enso-Gutzeit currently has worldwide sales in excess of $1 billion. Enso joins 24 other foreign forest products companies with operations in Georgia, including five other Finnish companies.

Former Georgia Governor George Busbee will head a new bipartisan coalition which will attempt to make exports a key issue in approaching congressional races. The new political action committee includes business leaders, farmers, and labor union officials from across the nation. The group emphasized that 5 million American workers owe their jobs to exports and that a more enlightened and aggressive export policy can add to this job market while improving the national economy. The organization plans to make proposals in such current legislative battles as the Reagan administration's trade reorganization plans and the renewal of the Export Administration Act.

A committee of prominent business and union leaders is proposing the creation of a new, government-business-labor board to help American manufacturing meet foreign competition. The proposal calls for the establishment of an Industrial Finance Administration to provide loans and other assistance to companies and industries that are threatened by foreign competition and cannot obtain sufficient funds from the private banking system.

The group is headed by AFL-CIO President Lane Kirkland, financier Felix G. Rohatyn, and Irving Shapiro, former chairman of E.I. du Pont de Nemours & Co. The group is seeking $5 billion in federal financial support in order to establish the administration. The administration would then borrow five times that amount from pension funds, banks, and other lenders.

The proposed financing organization would concentrate on the problems of a few industries considered central to the vital interests of the nation. However, the main mission would be negotiating packages of actions by management, labor, and government to strengthen competitiveness not promote protectionism.

American copper producers filed petitions seeking trade protection under a federal law that allows import quotas in industries hurt by foreign competition. Eleven copper companies asked President Reagan to cut imports by as much as 45 percent because of sharp increases in the amount of foreign copper. The industry contends that imports have surged 140 percent since 1979 with 54 percent of the increase in 1983. The bulk of new imports is coming from Chile which accounted for 55 percent of the 1983 increase.

In the petition, the copper producers blamed the surge of imports for losses of $623 million in 1982 and $258 million from January to September of 1983. The petition requested that imports should be limited to between Continued
International Developments (Cont.)

294,000 and 343,000 tons, down from 539,000 tons last year.

Initial responses from importers have been extremely critical of the proposals. The European Economic Community urged the Reagan administration to resist protectionist demands which have adverse effects on world trade in general.

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The International Trade Commission is considering whether foreign goods can be excluded from the United States because the goods look too much like domestic products. For years, the basic Tariff Act of 1930 has been interpreted to block imports that infringe United States patents or include false designation of the origin of the merchandise either directly by mislabeling or by inference in copying the common law trademark of a domestic company. The new interpretation of the Act would extend protection by blocking imports with designs or shapes closely resembling the design or shape of an American producer. The new interpretation could become an important weapon for U.S. manufacturers seeking protection from increasing imports.

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The American footwear industry asked that the Reagan administration protect domestic companies and workers by placing quotas for five years on shoe imports. In 1983, shoe imports accounted for two-thirds of the national market. The footwear coalition consists of the Footwear Industry of America and two labor unions, the Amalgamated Clothing and Textile Workers and the United Food and Commercial Workers International. The coalition claims that domestic shoe production dropped 13 percent over the last two years because of increased imports. Import limits in the footwear industry were discontinued in 1981. The industry also contends that many countries have refused to open their markets to American shoe exports.

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The Commerce Department has proposed toughened regulations for companies that want a single license to cover multiple exports of the same potentially strategic product to non-communist nations. The new rules are designed to keep U.S. high technology from reaching the Soviet Union. The proposed rules are in response to a highly publicized case in which customs agents discovered that a computer with possible military use was being diverted to the Soviet Union via South Africa. The rules would affect 700 holders of multiple licenses, many of them major American exporters. The biggest change would limit sales under the multiple licenses of high technology products to the United States' NATO allies and Japan who are members of the Coordinating Committee for Multilateral Export Controls (COCOM), a group of nations that control exports to the East bloc, and to Australia and New Zealand.

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A new generation of trade disputes is erupting between the United States and Japan, with the focus shifting to high technology products such as computer software and satellites. The Reagan administration is pressing opposition to policies which they say are aimed at limiting American sales in Japan of high technology products. The U.S. presently holds a competitive edge in these high technology products. At stake is a worldwide market in information products and services that could reach $932 billion by 1990.

One of the more volatile issues is a plan by the Japanese Ministry of Trade and Industry to place a 15 year limit on any company's rights to protect its computer software and to require compulsory licensing of any company's system whose public disclosure is deemed in the Japanese public interest. Large American software companies consider this a threat to their business designed to help Japanese software makers gain a competitive edge.

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A team of top Japanese businessmen allege that tax laws in 13 American states are thwarting increased investment by Japanese companies in those states. The group is against the unitary tax system. Under the unitary tax system, a state bases its corporate tax on a share of the worldwide income of a corporation and its subsidiaries to determine the income that company makes in the particular state. Japan and nations of Western Europe have been among the most vocal opponents of the unitary tax system. Sony moved its plants from California to Alabama in 1977, because of the California unitary tax. Presently, Sony is pressuring Florida to repeal its recently passed unitary tax law.

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The Japanese Ministry of International Trade and Industry reportedly imposed export quotas on eight Japanese automakers. The quotas limit the number of exports that each automaker may export to the United States during 1984. The quotas represent a setback to General Motors which had counted on importing a large quantity of Japanese-built sub-compacts. Several U.S. automakers and union officials are urging Japan to impose further export quotas.

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Last December, the Canadian government, in effect, nationalized its East Coast fisheries. Now, the threat of an enormous, government-subsidized company dumping cheap fish on United States markets is prompting complaints from American East Coast fishermen, Congress, and Federal regulators.

Canada is the largest exporter of seafood in the world, with about 80 percent of its catch exported. Some 60 percent of its catch goes to the United States. At issue now are the scallops and groundfish including such species as cod and flounder. Canada exports these predominantly in frozen form, but the growing exports of fresh fish are the most agitating to United States fishermen.

As a result of continuing complaints, the International Trade Commission is investigating the impact of Canadian imports, estimated at $200 million annually, on the fish business of the Northeastern United States. The inquiry could lead to such actions as countervailing duties.
Selected Recent Acquisitions


*Environmental law reporter*. Environmental Law Institute, monthly. Rusk Center.


Western Europe and the development of the law of the sea. Edited by F. Durante W. Rodino. Dobos Ferry: Oceana, 1979-. JX4411.W4

American Bar Association
Section of International Law and Practice

Recently, the American Bar Association/Section of International Law and Practice established a scholarship to sponsor a student member of the Section at one of the two summer sessions at the Hague Academy of International Law. The two summer sessions are offered each year at the Hague Academy and include one session on public international law and the other session on private international law.

Each session is comprised of seven courses taught by renowned scholars and leaders in the field of international law. Participants represent over eighty different nations.

The annual scholarship consists of one thousand dollars which covers airfare, tuition, room and board. Students applying for the scholarship must be members of the Section of International Law and Practice. Selection of the scholarship recipient will be based on the following requirements: a formal piece of writing in the international law area, a short statement of interest in international law not exceeding five hundred words, two letters of recommendation, a resume, and a law school transcript. The writing requirement can be fulfilled by any work from a brief to a "write-on" piece for a journal, written at any time in the past, published or unpublished.

Applications must be submitted by April 28, 1984. The scholarship recipient will be announced on May 3, 1984. For information or submission of an application, contact: Miriam A. Hollar, 1907 S. Milledge Avenue, Apartment F-8, Athens, Georgia 30605.

The application process for the 1985 session will begin in September 1984, and the closing date for application will be January 15, 1985.