The Justinian

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Article 1

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The Justinian

Justinian

"... a function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or stirs people to anger."

Mr. Justice Douglas

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Nightingale: No Comment

Recycled Questions Cloud Property Final

By HOWARD COHEN

"I have nothing to say on that score," was Professor Eric Nightingale's response when he was asked by **Justinian** to comment on the ongoing furor regarding his Property I final exam for last semester. The problem, which involves possible academic dishonesty by students and the question of academic freedom for teachers, has caused great concern for students, faculty and especially Dean I. Leo Glasser.

The Facts

The facts, as known at press time, are these: In the fall of 1976 Nightingale gave his Property 1 class a midterm consisting of essays and true-false short answers. The essay questions had been on file in the library but the short answers had not. After grading these papers, Nightingale returned the papers to the students for class discussion. After the discussion, the essays and the short answers were not collected. The short answers were never placed on file in the library.

Recognizing that Nightingale has been known to repeat exam questions, (a quick check of Nightingale's old essay questions, on file in the library, reveals that many questions in both Property I and Property II have been repeated several times over the past few years), unknown students circulated their copies of the midterm among their friends about to take Nightingale's 1977 Property I final. Although it appears no student had any advance knowledge of the 1977 exam, many students were very pleasantly surprised when they sat down to take the test and discovered that the 1976 midterm which they had used as a study guide now appeared as the 1977 final. Students who took the test report that a substantial amount of the 1976 questions were repeated.

Word of the unexpected windfall spread quickly. Many students who were not fortunate enough to have had friends with the old midterm soon began expressing annoyance and anxiety over the fact that some of their peers (and competitors for class rank, law review and jobs) had gained an unfair advantage in preparing for the exam. At the same time, students who had seen the midterm expressed relief and pleasure over the fact that they had, as a result, probably done well on the exam. Eventually, the unrest caused by this incident was brought to Dean Glasser, who was quite perplexed over how to deal with this sensitive, multifaceted issue.

Glasser's Concern

At press time, Glasser did not know how many students had access to the old midterm. Although he does not want any students to gain an unfair advantage, since it is possible that only a handful of students may have had access, he is not sure whether the unfair advantage is sufficiently material to warrant disregarding the short answer portion of the exam. At the same time, Glasser is mindful of the fact that many students who may have done poorly on the essay portion of the exam, might possibly have genuinely done well on the short answer portion, and would be penalized if the short answer portion were disregarded. At present the Dean intends to withhold all action until he sees the results of the tests taken. At that point he will decide whether any further investigation should be made. Glasser is not presently in favor of holding another exam.

The issue of what to do about grades, though, is just one of the problems in this case. The question of academic freedom regarding the propriety of professors repeating exam questions is also raised, in light of the fact that had Nightingale not chosen to repeat questions, the whole incident would have been avoided.

Academic Freedom

On this issue, Dean Glasser is "not in favor of professors using the same questions year after year" and is "certain that that view is shared by the faculty and is generally observed by them." With respect to the "autonomy exercised by professors in their own classrooms and as to their own courses," the Dean recalled the language of Judge Cardozo in **Hamburger v. Cornell University**, 240 N.Y. 328 (1925). Sustaining the immunity from liability of a school for the errors of professors, Judge Cardozo characterized the professor-school relationship as follows: "There is indeed a duty to select [professors] with due care. That duty fulfilled, there is none to supervise day by day the details of their teaching. The governing body of a university makes no attempt to control its professors and instructors as if they were servants. By practice and tradition, the members of the faculty are masters, and not servants, in the conduct of the classroom. They have the independence appropriate to a company of scholars." 240 NY at 336.

Blame Nightingale

Despite the opinion of Judge Cardozo, many students affected belive that Professor Nightingale is just as much to blame for the incident as are the students who obtained the old exam. Said one student, who for obvious reasons chose to remain anonymous, "In a way I feel guilty, but in a way I feel no culpability at all because I didn't know it (the old exam) was going to be the test." Said another anonymous student who saw a copy of the old midterm, "If a teacher is so naive as not to believe that second year students will help first year students, he is really living in a vacuum. He cannot claim that he didn't know what practices really go on." Generally, the position of most students was best summarized by one student who did not see the exam, who stated, "You can't blame the people who had the test. They had no way of knowing that the same questions would be on this final, but I don't want my mark to be affected by the trouble and I don't want to take another test."

SBA Clips Students

Photos and Montage by Ken Shiotani

By ILEANE SPINNER

On Wednesday, February 8, 1978 Glemby International and Abraham & Straus sponsored "A CUT-A-THON" at Brooklyn Law School. Glemby approached Chuck Goldman, vice-president of the Student Bar Association with the idea: Glemby would send professional hairdressers to BLS as a promotion for the Glemby Salon located at A&S Brooklyn.

Their services would be free and the SBA could set the price and keep the profits. The price for a "Spritz 'N Cut" was set at $3, the total amount going to the SBA in hopes of reducing the budget deficit.

A beauty salon, of sorts, was set up in the music-filled third floor lounge and approximately 60 students availed themselves of Glemby's professional services at a minimal expense. Patrons seemed quite pleased with the low cost and excellent haircuts provided by the seven Glemby haircutters.

SBA President, Joe Porcelli, while under the haircutter's scissors himself, extended his thanks to Chuck Goldman for doing "a great job" on this fund-raising project.

Delegates To Consider Academic Calendar Change

By ROBERT ROBINSON

The Delegate Assembly held their first meeting for the Spring term on Thursday, February 2. An ad hoc committee was formed to investigate the possibility of re-scheduling the academic calendar at Brooklyn Law School, the Treasurer made his report and President Joe Porcelli briefly highlighted the matters which the Student Bar Association will confront in the coming months.

Delegate Rachel Roat and first year student Paula Schaap have been looking into the matter of re-scheduling the academic calendar. Many students think that three or four days vacation between the end of finals and the beginning of the new semester does not give them enough time to recuperate. Other law schools manage to meet academic requirements while allowing for longer intersessions. Hofstra Law School, for example, has a twenty-one day intersession period. Many students believe BLS could do the same.

However, as one might expect, there is no simple solution. Lengthening the intersession period might require adding a week to the beginning of the Fall term or to the end of the Spring term. This could affect persons with summer employment. Hofstra Law students take their exams before the Christmas recess, and without a study week between the end of classes and the beginning of finals. Some students at BLS might wish to retain that study week.

The ad hoc committee will investigate these various possibilities. The committee will also look into the scheduling of exams in general.

Treasurer Eric Brown reported $15,799 in the Treasury. Included in this figure is the $2,250 that has been collected from the book co-op, and most of that money will be returned to the students whose books have been sold.

President Joe Porcelli reminded the Delegate Assembly of an important matter which must be confronted by this April. There has been a committee working on revising the Constituiton of the Student Bar Association. To amend the Constitution, the Delegate Assembly must pass a "recommendation of amendment" by March. The student body will then be able to vote on the proposed amendments in the general election at the end of this academic year.

The nature of these revisions will be made known during the coming weeks.

ALSO — The Western New England School of Law will be conducting a basketball tournament for interested law schools. Intramural committee member Ira Miller will be organizing a team to represent Brooklyn Law School. Both men and women are welcome to try out. Contact your Delegate Representative for more information.

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(Editorials express the opinion of the Editorial Board)

Right To Know

The Brooklyn Law School policy of not allowing anyone with a grade above 75 to see his exam paper is nothing short of a disgrace. It is an accepted fact that reviewing the test and seeing where mistakes were made is an extremely valuable learning tool and serves to reinforce a student's acquired knowledge. One would think that a professional school grooming its students to go out into the world as well-equipped with legal knowledge as possible would do everything it could to insure that the best educational methods were practiced in its hallowed halls. Not so at BLS.

Excuses are given to students wishing to review their tests ranging from "It's not school policy" to "It would be too impractical to have a professor review tests with each of his many students and the push to have grades changed would be enormous." Where there's a will there's a way.

This policy simply protects the arbitrary and subjective grading methods of many of the professors at this school. And, without a student review of his or her test paper, who will check if the test grade was added up properly? It could conceivably make the difference between a 70 and a 90.

Undergraduate schools allow students to go over their exams. Why should the educational process take a step down from its quality in college? Shouldn't it take a big step up?

Editor's Note: The following editorial first appeared in JUSTINIAN on September 1, 1975. As you can see from today's lead story, the ideas expressed over two years ago are as valid now as they were then.

Lazy Professors

We are of the opinion that professors should refrain from using the same exam questions from semester to semester. The majority of professors at Brooklyn Law School take many hours, if not days, to prepare new and challenging exam questions for their pupils. Keeping old test questions on file and the use of similar exam formats are most helpful to students wishing to prepare for exams. However, the use of the same questions from year to year (or term to term in some cases) is unnecessary and promotes an unhealthy atmosphere of collusion between those taking the exams and upper classmen. We realize that over many years certain questions may be repeated but we feel that professors should strive to create new exam questions. We also suggest that a reluctance to create new exam questions should be given consideration when a professor is seeking continued employment with this school.

"Please, you've gotta take it . . . it's 14 karat gold."

Letters to the Editor

Abortion Rebuttal

To The Editor:

Rebuttal of "Viewpoint" Harry Hertzberg Dec. 22, 1977.

Hertzberg's pontificating is a perfect example of inept analysis and superficial treatment leading to the most illogical of conclusions. Regardless of which position one supports on either capital punishment or abortion, both contain subtle and complex problems which Mr. Hertzberg chooses to ignore.

Although a fetus is undeniably living, eminent authorities in science and religion have reached differing conclusions as to whether a fetus is a human being. A person awaiting capital punishment, however, is undeniably a human being. The significance of this will eventually be discussed, but it suffices for now to point out that Mr. Hertzberg does not view the difference between life in general and life existing as a human being as relevant.

I agree in the obvious point that one must first grant the state the right to take a life, but thereafter I diverge upon a different course of thinking. Mr. Hertzberg's fear of opening a Pandora's Box is not a reason for ending the dialogue on these or any other issues by maintaining that one person can only stand one way on both abortion and capital punishment. It is my belief that as reasoning individuals, this nation and its elected officials can fathom the depths of these complex problems and conclude that a life — but not necessarily all life — can be taken under specific conditions. Or, after careful analysis, it could be concluded that a life can never be taken.

Query: does the fact that most people support the taking of enemy lives in wartime necessitate the same support for capital punishment and/or abortion? Certainly not, although it would seem otherwise under Mr. Hertzberg's reasoning. Conversely under Mr. Hertzberg's logic, one's opposition to capital punishment would not only extend to abortion but to the above example as well.

But why draw other issues into this when Hertzberg's arguments fail all by themselves? His viewpoint does not really concern abortion or capital punishment, but actually expresses a frighteningly confused way of thinking.

In touching upon the constitutionality of capital punishment with respect to its cruel and unusual nature, Hertzberg extends this to necessarily result in the same conclusion for abortion. But declaring capital punishment cruel and unusual does not declare life to be "so sacrosanct as to be beyond the province of man to end it." A declaration of unconstitutionality with respect to capital punishment pertains to the lives of human beings, which brings us back to the relevancy of whether a fetus is a human being. Notwithstanding Mr. Hertzberg's dismissal of the arguments concerning the commencement of life, whether a fetus is a human being is nevertheless crucial to the issue of constitutionality. If not, Hertzberg's "logical" connection between capital punishment and abortions as it relates to the constitution fails.

Although one can condone both capital punishment and abortion, it does not follow that both must be condoned. An extreme example may shed some light on this: I dare say that had Adolph Hitler been captured alive, there would be countless millions supporting his being put to death, but these same millions would not fail to be logically consistent in opposing the abortion of a two week old fetus.

On the other hand, one could rationally oppose the killing of an Adolph Hitler as being cruel and unusual, but nevertheless support an abortion if a fetus is not viewed as a human being. This is the major flaw in Hertzberg's logic, and indeed shatters his hypothesis.

It is important for all of us to remain wary of superficial treatment of important issues and not to be swayed by the absolute conclusions drawn from faulty reasoning. It is unfortunate that Mr. Hertzberg dismisses the differences between capital punishment and abortion so lightly and chooses instead to create a hodgepodge of confusion.

Stewart Orden
2nd Year Day

Exam Anxiety

To The Editor:

In recent weeks I have become profoundly disconcerted with the way in which students are being treated by the Administration. The fall exam schedule stood out as a prime example. In a period of twenty-four hours, many students had to take three finals totaling as much as 9 credits. Obviously, this presented great hardships to those of us affected. Whereas school ranking has become an important aspect of a legal education, such a horrenduos schedule serves only to affront student intergity. Three weeks are allotted to the examination period and it is absurd that three finals or more should have to be taken in a twenty-four hour period. More thought should be given to making up the exam schedule not just by the Administration, but by the students as well. A few ideas which might serve as guidelines for future scheduling are the following: (1) that each day of exams be separated by an off day where no tests are given (i.e., that exams be programmed on Monday, Wednesday and Friday only); (2) that a maximum of two tests be taken by one student in any one day with a minimum rest period of at least 2 hours between each exam; (3) that exams of subjects which are of greater difficulty (i.e., the 4 credit courses), be given towards the latter part of the exam schedule; (4) that the use of computers be studied with the aim of achieving the fairest and most equitable exam schedule for all students; and (5) that the subjects which are only offered in one semester or the majority of whose sections are only offered in one semester (i.e., Federal Income Taxation), that these exams be adequately spaced apart (for the spring semester, this would resolve the current dilemma faced by those taking Corpoarte Taxation and Wills, two course which currently are only given in the spring, but whose exams will be taken within a 24-hour period).

The S.B.A., as our representative, should play a greater role in the administration of **all** affairs concerning the students. One can only hope that efforts are made to achieve a greater degree of student participation in our affairs. The student body should not be obliged to be abused by possible arbitrary and capricious decisions especially when the means exist to achieve fair and equitable dealings with the student body.

Signed,
Disenchanted

Justinian welcomes letters to the editor expressing student opinion on the issues. However, we believe that any work good enough to print should be good enough to sign. Hereafter, we will refuse to print any letters which are submitted unsigned. Requests to withhold names will be honored at the discretion of the editorial board. All letters must be typed and triple-spaced.

The Docket

Disco Party. Get your dancing shoes on. The first Disco Party of the Spring semester will be held Thursday, Feb. 16.

Basketball. BLS will participate in a Law School basketball tournament March 10-12 at Western New England Law School. All are invited to try out for the team. Check the bulletin boards for information or see Ira Miller or Eric Schultz.

Graduation Committee. Any third year day or fourth year evening students who want to serve on the graduation committee, see Joe Porcelli in the SBA office.

Government Jobs. The New York City law schools are sponsoring a Government Career Information Symposium on Friday, February 24. The symposium will run from 9:30 am to 5:00 pm and will be held at NYU Law School, 40 Washington Square South. There will be panel discussions and students will have the chance to chat informally with reps from federal, state and city agencies. BLS students **must** first sign up in the Placement Office.

Needed: writers and actors for the "Second Circus Revue," the annual spring show. Anyone interested please contact Toby Pilsner, 852-6259, or Todd Silverblatt, 852-6621.

Bar Exam. For those who like to plan early, the summer 1978 bar exam will be given on Wednesday and Thursday, July 19 and 20. Good Luck.

April Fools. If you've been told that you're funny, or if you just think you are, **Justinian** invites you to submit your creativity for our April Fools issue. Humorous articles, weird stories, sarcastic poems are welcome. If you are shy, psuedonyms will be allowed. Just leave your typed, triple-spaced stories in the 9th floor **Justinian** mailbox.

Legal Trends

Child Support Burden Shifting?

By KIM STEVEN JUHASE

Another barrier to full equality for women has fallen in the first and second judicial departments. In recent cases, the Appellate Divisions of both departments have held that men and women have an equal responsibility to support their children, reversing a long line of cases which stated that the father had the primary duty to support.

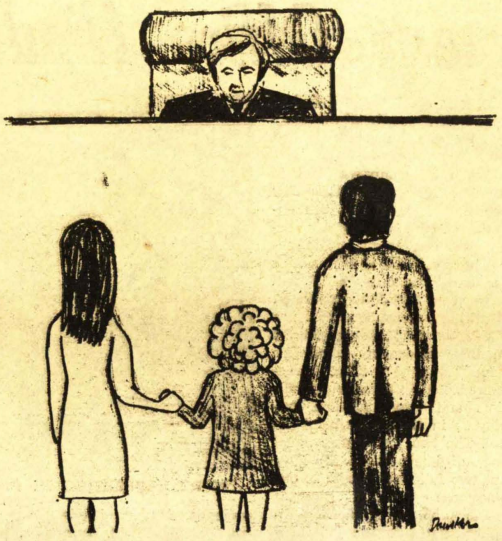
The Appellate Division of the Supreme Court for the Second Department led the way with **Carter v. Carter,** 58 A.D.2d 438, 397 N.Y.S.2d 88 (2d Dep't 1977). In that case, the divorced father of a child brought a petition against his former wife in the Rockland County Family Court, requesting that she be required to contribute to their child's support even though he admitted that he was fully capable of supporting the child. The petition was dismissed and the father appealed. The 2d Department, in an opinion by Justice J. Irwin Shapiro held that the petition should have been granted.

In so deciding, Justice Shapiro went against not only a long line of New York case law but also against legislative fiat. Under the common law, the father of a child had the primary responsibility of support. This mandate arose during a time when the husband had control over most of his wife's property. Like many common law rules, this law continued long after its raison d'etre had disappeared with the passage of the Married Women Act in New York. GOL§3-301. In fact, the common law rule has been codified in Family Court Act (FCA) §413, and §414 and Domestic Relations Law (DRL) §32.

The courts in the past have gone very far in putting almost the whole burden of child support on the father's shoulders. Regardless of the mother's financial resources, the courts have ruled that the father still has the primary duty to support his children. **Drazin v. Drazin,** 31 A.D.2d 531, 295 N.Y.S.2d 183 (1st Dep't 1968); **Siegel v. Hodges,** 5 A.D.2d 571, 222 N.Y.S.2d 989 (2d Dep't 1961) (dictum); **Santasiero v. Briggs,** 278 A.D. 15, 103 N.Y.S.2d 1 (3d Dep't 1951). As recently as 1969, an Appellate Division ruled that a court should not take into consideration the assets of a mother when determining child support. **Brock v. Brock,** 33 A.D.2d 632, 305 N.Y.S.2d 118 (4th Dep't 1969).

The statutes themselves make a sex distinction. FCA §413 states that a father has a duty to support his child. FCA §414 however prefaces the statement of the mother's obligation to support with "If the father of a child is dead, incapable of supporting his child or cannot be found within the state, the mother of such child is chargeable with its support. . . ."

However, as the **Carter** case noted, the U.S. Supreme Court, starting with **Reed v. Reed,** 404 U.S. 71, 92 S.Ct. 251, (1971) (distinction based on sex alone for appointment of intestate administrators is unconstitutional) has attacked statutory classifications based on sex. Though the law is still unsettled, the Supreme Court at least requires sex classifications to be "substantially related" to a constitutional legislative objective as opposed to just being rationally related. **See Craig v. Boren,** 429 U.S. 190, 197, 97 S.Ct. 451, 457 (1976). Only a 4 judge plurality in **Frontiero v. Richardson,** 411 U.S. 677, 93 S.Ct. 1764 (1973) has ever held that such classification to be inherently suspect. It is apparent that the statutory scheme in the FCA does not even meet the rationally related test.



Justice Shapiro, faced with the choice of holding the statutes unconstitutional or upholding them, decided to interpret them as not creating a condition precedent before a mother incurs an obligation to support. He based his decision on the last sentence of FCA §414 which allows the courts to apportion child support according to both parents' means and responsibilities and on the presumption of the constitutionality of legislative enactments.

Though the **Carter** holding appears to be a strained interpretation of FCA §414, if the court did not read the first sentence of 414 out of the statute, as Justice Shapiro pointed out, it would be forced to hold that it is unconstitutional.

The first department in **Stern v. Stern,** 399 N.Y.S.2d 125 (decided Nov. 10, 1977) and **Tessler v. Siegel,** 399 N.Y.S.2d 218 (decided Nov. 3, 1977) has followed the Carter holding.

These precedent shattering cases leave many questions unanswered. Will a wife be held to be required to support a husband or ex-husband who is not on public assistance? Can a father force a mother with custody of young children to go to work to raise her part of the support obligation? These questions will only be answered by future cases, in a rapidly changing field of law.

Art To Grace Halls Of BLS

By MADELAINE BERG

Beginning February 21, when preoccupied BLS students stumble out of the elevators and stare blankly at the walls, something more interesting than blank walls will stare back at them.

BLS has invited the Organization of Independent Artists (OIA), a group of professional artists, to select and display 20 pieces of painting and sculpture throughout the building in an exhibit which will continue for the remainder of the Spring term.

The idea for the art exhibit at the school began when Professor Jerome M. Leitner learned of a similar exhibit presented by OIA at the Federal Court House in Foley Square. With the approval of Dean Leo Glasser, Professor Leitner arranged for a similar exhibit to come to BLS.

According to Prof. Leitner, the project is mutually advantageous to BLS students and faculty and to the artists. BLS has the opportunity to enhance its heretofore bare walls and the artists have the opportunity to bring their art to an audience.

The exhibit, entitled "The Arts Court Law," will include 12 paintings and eight pieces of sculpture. The pieces will be on display in the lobby, cafeteria, student lounge, and on the fourth, fifth, sixth and seventh floors. The pieces are being selected by OIA and hung by artists from the group on February 12 with an eye towards positioning them to their best advantage. Pasha Bari who, with Joel Liebowitz, is coordinating the BLS exhibit for OIA, explained that the building is a "difficult space." The orange-colored walls of the lounge, the fact that some walls receive very little light, and the low ceiling in the cafeteria, all present problems which have to be considered and dealt with in selecting and placing the works.

The Organization of Independent Artists was originally created as a way of allowing young professional artists to take advantage of a 1976 Federal law, the "Public Buildings Cooperative Use Act," which encourages the use of space in Government buildings for cultural purposes. OIA's first exhibit was at the Federal Court House at Foley Square, followed by exhibits at 26 Federal Plaza, the Internal Revenue Service Building, U.S. Customs Court House, Federal Hall, Battery Park, the U.S. Court House at Cadman Plaza, and Paul, Weiss, Rifkin, Wharton & Garrison. Their goal is to initiate an art bank similar to one in Canada where the government leases art from the artists for exhibition in public buildings, providing artists with an income derived from the exhibition of their work.

Although by no means the primary reason for the exhibit, the pieces on display will be for sale, with prices ranging from $300 to $2,500.

Prof. Leitner hopes that this exhibit is the first of many. The plan is to follow this exhibit with a new one next fall and then change the exhibit twice a year after that.

BLS Faculty Rewrite Jury Instructions

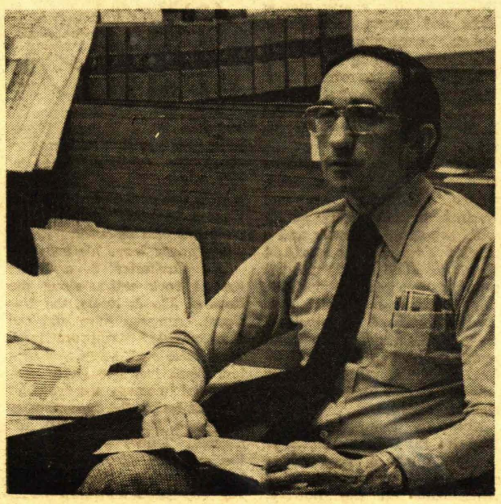
By ELIZABETH DOYLE and ROCHELLE STRAHL

Editor's Note: In the past few years, two members of the BLS faculty have been involved in efforts to "clarify the law," both on the civil and criminal sides, in the area of jury instructions. Professor Richard T. Farrell has been the Supplement Reporter for the New York Civil Pattern Jury Instructions for the past six years. Professor Milton T. Gershenson has been the Chief Reporter for the Criminal Jury Instruction Committee since 1975. This article will deal with Prof. Farrell's work. Prof. Gershenson's story will appear in the next issue.

The Civil Pattern Jury Instruction book (PJI) is a two volume work which is intended to be utilized as a "working tool" or guide by lawyers preparing requests and judges preparing their charges to a jury. The sample charges in the PJI are merely suggestive both to the bar and the bench. If utilized, the pattern jury charges may be objected to at the trial level or reversed on appeal. However, only one pattern jury instruction contained in the New York PJI has ever been reversed upon appeal. That particular charge was subsequently corrected in the PJI.

The Civil PJI book tries to encompass every issue that would be tried to a jury in New York. The first volume consists of sample charges dealing with general principles and preliminary instructions of a jury trial. The bulk of material in the first volume deals with negligence. The second volume covers the intentional torts other than negligence, contracts, domestic relations, landlord and tenant issues, commitments of persons adjudicated to be incompetent, and will contests.

The volumes are printed in such a manner that the words which appear in the darker and larger print are the suggestions of the Committee to the trial judge as to what a jury should be instructed on a particular aspect of the law. A pattern jury instruction is amended if there is a need for change due to legislative enactment or a New York or Supreme Court decision affecting the law upon which the charge is based.



Prof. Richard Farrell is working on Civil Pattern Jury Instruction.

Each pattern jury charge is accompanied and supported by a rather detailed commentary. The PJI commentaries draw on federal and state cases which have some sort of connection to the New York law, developments in federal statutory law which impact directly on the subjects covered by the volumes, and law review articles that may bear on a question covered by a pattern charge.

"Where a federal court is sitting in its diversity jurisdiction and hears a case that involves a point of New York law, we will include it in the PJI material because it is a court interpreting New York law," Prof. Farrell remarked. "Also with courts outside New York, if there is a definite 'change a-brewing in the land,' the Committee will include a reference to such cases to alert the bench and the bar to a developing trend."

"Great attention" is paid to the work of the American Law Institute in redrafting the various Restatements that bear on the topics covered by the PJI. An effort is also made to inte-

(Continued on Page 4)

Placement Office Hindered By Size

Editor's Note: This is the first of a two-part series on the BLS Office of Placement and Career Planning. This article deals with the deficiencies of the office, as seen by Placement Director Henry Haverstick III, and how the office rates against other schools, both locally and nationally. The second article, to be published in our next issue, will focus on Haverstick's future plans for the office.

By RICHARD GRAYSON

A BLS student: "I didn't expect much from the Placement Office because I was told not to expect much. And I didn't get much."

The BLS Office of Placement and Career Planning falls far below national averages for size of support staff and office space.

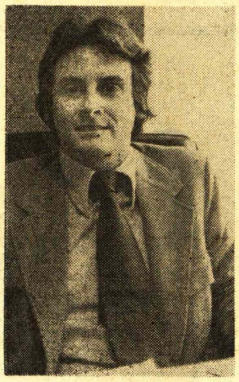
Placement Director Henry Haverstick III targeted those two areas as the major problems facing his office. In an interview with **Justinian**, he quoted statistics from the National Association for Law Placement (NALP) that the national average of support staff for law placement directors in private sector law schools (of which BLS is one) is 81 hours per week. Haverstick's sole staff support, his secretary, Lori Mogol, works 35 hours per week.

"So, our staff support is less than half the national average," the placement director pointed out.

When he compares BLS to another New York City law school with a similar size enrollment, the discrepancy becomes much larger. "The enrollment at NYU is 1080, which is similar to ours. NYU will have about 350 June graduates. We'll have about 300. NYU has 230 June graduates registered in their placement office. We have 228 June graduates registered. Yet NYU has eight full-time and two part-time employees in their placement office. The two part-timers equal one full-time position. We have but two full-time people in our placement office."

The problem of staffing directly relates to the job turnover rate among placement directors. In the 1976-77 academic year, there was a 30 percent turnover rate among law school placement directors. Haverstick notes that 96 percent of all placement directors have been at their schools for four years or less. This high turnover rate alarmed NALP, particularly because most of the directors who left their jobs, also left the field.

NALP appointed a continuing task force to investigate why



HENRY HAVERSTICK III

professionals were leaving the law placement field. Haverstick, who is a member of that task force, recalls the preliminary findings:

"There were three reasons why placement directors left. First, many felt they were too understaffed to do the job that they were expected to do for students and alumni. Second, because they were understaffed and couldn't do the job, they received an inordinate amount of criticism. Third, their salaries were too small to counter the criticism."

This high turnover rate is no exception among New York metropolitan area law schools. Since March, 1973, when Haverstick arrived at BLS, New York Law School has had four placement directors, St. John's is on its third, and Fordham is on its second, as are NYU and Hofstra. All the schools, with the exception of NYU, have the same size staff as does BLS — one full-time director and one secretary.

Just as the BLS Placement Office falls far below the national average for staffing, it also comes up short when measured against recommended levels of counseling services. The International Association of Counseling Services, Inc., which is an affiliate of the American Personnel and Guidance Association, has made two recommendations that directly affect the operation of the BLS Placement Office.

The first recommendation is that counseling appointments not exceed 50-60 percent of the professional staff's work day. The other working time should be spent on "research [job development], updating information, staff and faculty contacts and meetings, supervision and consultation, personal professional development and walk-in and emergency interviews."

BLS does not come close to meeting this recommendation, for Haverstick reports that "from the last week in August through the first of December, 1977, 80-90 percent of my day was spent with counseling and advising appointments with students and alumni. As a result, the other work suffered."

The second recommendation is that "A basic line staffing ratio based on annual students head count shall be established and followed. A [professional staff to student] ratio of 1:500 should be a goal for all college counseling centers." In 1976-77, the BLS ratio was 1 full-time professional staff person per 1249 students and alumni.

In addition to the shortage of staff, the Placement Office's other major problem is a lack of office space. BLS also falls far behind the national averages in this category. NALP notes that placement offices in law schools with more than 1000 students average 859 square feet in size. Haverstick reports that his closets, office, and storage area contain approximately 480 square feet. This means that, according to NALP statistics, 49 percent of all law school placement offices have more office area than does the BLS Placement Office.

The problems of staff and space have been recognized by the new Faculty Placement Committee. On November 30, the Committee agreed that the Placement Office needs more staff and floor space. It also unanimously passed a resolution calling on the administration to investigate ways to achieve the objectives of more professional staff and more floor space for the Placement Office. Members of the committee are Professors Oscar Chase (chairman), Bailey Kuklin, Richard Farrell, Margaret Berger, Paul Sherman, Jerome Leitner, and Henry Mark Holzer. Dean I. Leo Glasser was also at that meeting, and, according to Haverstick, is aware of the problems. "The Dean is exceedingly cooperative with me. I'm optimistic about the future but I see problems with office space because there's no room to expand." But Haverstick thinks there is a better chance of gaining more professional staff. "I'm very confident something good will come, but I'm not sure when."

Haverstick believes that students and alumni realize the importance of the office. "If the school ran a survey of post-1973 graduates and students, and asked them to denote the most important offices in the school, and which offices should receive more support, I bet most would note this office."

What can students and alumni do to indicate their support for the Placement Office? Haverstick recommends that they "make known to the Dean their strong desire to see our Placement Office upgraded."

The effectiveness of the Placement Office has repercussions beyond the current students at BLS. Haverstick notes that if a graduate received help from his office, he or she will not forget that help. When employed students become active alumni, they probably will provide some type of alumni support, possibly in the area of fundraising. After all, a happy graduate is an employed graduate.

Farrell

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grate into the material cited in the Comments the annotations appearing in the ALR in any given year.

Professor Farrell's involvement with the Civil Pattern Jury Instructions began in 1972 when the Pattern Jury Instructions Committee of the Association of Supreme Court Justices decided that it needed someone to help in the preparation of the annual supplement to the PJI and created the position of Supplement Reporter, which Professor Farrell has occupied ever since. The Reporter for the project, which was begun in November, 1962, is Professor Peter W. Thorton, who was formerly of the BLS faculty and is presently in England as director of Notre Dame Law School's London Program.

Professor Farrell's job is to take both the information which he finds from his own research and that which is channeled to him from the seven-member Committee, of which former Judge Bernard Meyers is chairman, and make periodic proposals to the Committee about the form the additions to the PJI book should take as a result of recent case law or statutory developments. These proposed changes or additions to the PJI are included in a manuscript which is prepared by Professor Farrell with the aid of student research assistants. This year's student research assistants are Michael Caliguiri and Renee Sobel. The manuscript is then presented to the members of the Committee at its quarterly meetings for comments and revisions. Subsequently, Professor Farrell integrates these suggestions, alterations, and deletions and in mid-March of every year, prepares a final manuscript, every word of which has been approved by the PJI Committee. The manuscript is then sent to the Lawyer's Cooperative Publishing Company who "proof" the Supplement. The proofs are returned to the Committee for any final corrections or changes in the law that may have occurred in the interim.

Speaking from an overview of his years as Supplement Reporter, Professor Farrell noted that "in any given year, the great mass of cases, law review writings, and statutory material that we have to deal with on the PJI Committee deals with negligence."

Several areas in civil law which Professor Farrell noted as particular areas of either great concern or areas which necessitated a recent change in pattern jury instructions have been defamation, landowner's liability, and no-fault insurance.

"Defamation is an area in which there has been a great deal of turmoil in the last five to ten years, going back at least to **New York Times** v. **Sullivan**. The pattern jury instructions that deal with defamation and its ramifications are contained in the second volume." Professor Jerome Leitner is presently working on additions to the defamation material contained in the PJI.

Substantial case law change in the area of landowner's liability decided in mid-June, 1976 "relegated to historical curiosity the rule developed over the years regarding the varying degrees of care owed to licensees, trespassers, and invitees. This change necessitated extensive changes in the PJI charges and comments."

Commenting in general about the Civil PJI book, Professor Farrell stated, "I have more and more come to believe that that the principal utility of the PJI book is that it is a quick, ready reference source for people doing research into the law . . . The Comments taken all together represent a mini encyclopedia of the New York law on the points that are covered by the pattern charges in the PJI book."

Hahavishnu Rock Satire

By MITCHELL MILLER

I find that there is a need for a certain amount of insanity in my life. If it is true that one is what one eats (or otherwise ingests), then those who limit themselves to a steady diet of torts and courts, moans and groans, breaches and bargains, are slowly bricking themselves into a corner from which there is no escape. Somewhat akin to the Twilight Zone. Hence, the need for music. A meal for the mind.

Start with one Hahavishnu Orchestra. Add guitars, bass, drums, synthesizer, sax and clarinet to taste. Toss gently with two female dancers and a myriad of costume changes. Add three vocalists of somewhat questionable gender. Sprinkle this mixture gently with eye-shadow and bend an occasional wrist. Heat gently until the band really cooks. Top with a disregard for the morality of humor and the risk of libel and copyright violation.

Now to introduce Darryl Rhoades, the Peter Frampton of the wino set. A gent whom you'd believe you saw cleansing windshields on the Bowery, complete with plastic sunglasses

and Boy Scout Uniform. Never mind the fact that he fronts an absolutely excellent rock 'n' roll band. Darryl Rhodes is merely one of the most effective singers in rock music — the power of Jim Morrison and his pants never leave his body.

The Orchestra is a living theatre rock satire, along the lines of Flo & Eddie, the National Lampoon show and the Star-Spangled Washboard Band. They take rock songs and distort them just enough to provide vivid comedy and criticism without losing the dynamism of the genre. Thus Bowie's "Fame" becomes "Lame," a comment on the creeping disco-duckism in today's music. "Love Potion #9" becomes a hard rock ballad to Sharon Tate and the Doobies "Listen to the Music" turns up in "I'm In the Music Business," a portrayal of the submersion of creativity in the name of sales.

No, nothing is sacred and that is the beauty of the act. Rhoades, imitaing Gregg Allman, moans ". . . tied to a Harley-Davidson — Good Lord, my whole band is dyin . . .". Other victims include Kiss ("Hard Rock"), the Beach Boys ("Surfin' Shark") and the Southern rock front ("Yipes, Here Come the Negroes") A drag Bette Midler number ("You Can Be Straight or Gay") turns into Anita Bryant as Helen Reddy ("I am woman, hear me bitch, buy my records, make me rich . . . I am lame, I am an imbicile, I am commercial . . ."). For myself and friends, the final highlight was a perfectly postured tribute to Johnny Rotten & Co., a delicate little number entitled "My Boot and Your Face" — a punk rock group playing a medley of its hit.

The next time you find this group playing in the area (usually at the Other End or My Fathers Place) give a listen, even on a "law school budget," As Darryl Rhoades will tell you, it'll keep you from becoming "A legend in your own mind."