

# The Justinian

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## The Justinian

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# Justinian

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NO. 7

"The only security of all is a free press. The force of public opinion cannot be resisted, when permitted freely to be expressed. The agitation it produces must be submitted to. It is necessary to keep the waters pure."

— Thomas Jefferson 1823

## Faculty Kills Equal Vote

### Resolution Forces SBA To Breach Constitution Or Lose Voice

By HOWARD COHEN  
and ALAN TUCKER

It will come as a surprise to many students who have been involved with Brooklyn Law School operations over the last few years, but there are not now, nor have there apparently ever been Student/Faculty Committees at BLS. This is the consensus of the student leaders who attended a meeting in Dean Glasser's office on Wednesday, March 3, to discuss a resolution passed by the faculty on February 17.

The faculty resolution limited the student voting power on the Curriculum Committee to three votes and excluded first-year students from voting entirely, while retaining the six votes of the faculty. Prior to this resolution there was equal student-faculty voting power on the committee.

Present at the March 3 meeting were the Dean, Professors Leitner, Schenk and Sherman, as well as SBA President Joe Porcelli and several concerned student leaders.

The meeting began with stu-

dents asking Glasser why the faculty felt it was necessary to cut student voting power, and what policy and guidelines the students could expect from the faculty concerning future operations of the committees. Porcelli also pointed out that the SBA Constitution prohibits student participation on committees unless there is equal voting power.

Addressing the constitutional question first, Glasser stated that the law school is not bound by the SBA Constitution. He feels that the faculty is not bound by a document which they had no say in adopting.

As for the faculty rationale in reducing student voting power, the Dean responded "I really can't state with any degree of precision the exact reasons. The faculty perception is hard to articulate in terms of a, b, c and d. There were some professors in favor of more representation, there were some in favor of less. This is the motion that was passed."

At that point Prof. Leitner stated "Some reasons were giv-

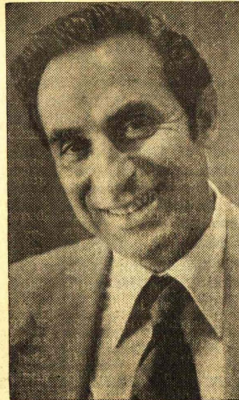


Photo by Ken Shiotani  
Dean I. Leo Glasser. He appointed "faculty" committees.

en, but I don't know if they made a difference." "Some professors with experience on student/faculty committees found it was cumbersome and counterproductive for students to have equal participation in vot-

ing. But this is not to exclude students from participation."

Glasser's personal opinion is that ultimate responsibility for maintaining the quality of the curriculum rests with the faculty. It is for this reason that when Glasser became Dean he created "faculty" committees to help in the administration of BLS. To his knowledge there never were any "student/faculty" committees prior to his taking office.

Disagreeing with the Dean's point of view, Joe Knock, student chairperson of the Curriculum Committee commented that "putting students on committees does not detract from faculty control over the curriculum. Limiting student votes just limits student input. An equal number of student votes would only affect committee recommendations and would not limit the entire faculty."

Supplementing the Dean's position, Leitner stated that he felt student votes on committees are "meaningless" in light of the fact that committee recommendations are not binding on the faculty, and therefore the students are concerned over nothing. "Student participation has been and will be encouraged."

However, various students pointed out that there were several recent instances where faculty members of committees acted without prior consultation with student members, although timely notice was possible. They cite 1) the institution of an evening student's clinical program

without a formal presentation to student committee members; 2) the unilateral implementation of clinical program time sheets; and 3) the failure of Prof. Richard Allan to allow three student members of the Legal Research Committee to even speak, much less vote at committee meetings.

Dean Glasser remarked that he was not aware of the problem with the Legal Research Committee but that he would investigate. As for the other incidents the argument was that they were independent administrative decisions not requiring any vote.

As for future policy regarding the operation of the committees, since the Dean has stated he appointed "faculty" committees, policy will be made by the faculty on a committee by committee basis. Students will be allowed to vote on committees when, in the discretion of the faculty, it is appropriate.

The student leaders came away from the meeting dissatisfied. Their sentiments were summarized by SBA President Joe Porcelli, who stated "We are sick and tired of people thinking all we're to do is throw parties and run orientation for the school and pay for it out of SBA funds. We're not that, and we've done a lot of serious work this year that I think the students know about, and maybe it's time for the faculty and administration to start realizing that."

As a result of their strong  
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## Jessups Win Regionals

### Dissension Mars Victory

By THE JUSTINIAN  
NEWS STAFF

The Brooklyn Law School Jessup Team consisting of Captain Bette Eisenberg, Madeline Epenstein and Jean Bernstein captured first place in the orals and third place in the briefs in the Regionals of the International Law Moot Court Competition held in Boston, March 3-5.

The climate had seemed conducive to a victory until just before the competition, the team became embroiled in a bitter controversy that led to the resignation of team members Mike Heavey in the last week of January and Paul Yakaitis a few weeks later.

Amidst a flurry of, as yet, unsubstantiated allegations of improprieties the remaining three team members left for what was to become a resounding victory in the Regionals. The impropriety alleged involved excessive consultation with faculty members while preparing the memorial in violation of the rules governing the competition.

Alarmed by the resignation of two out of five of the team's members and the serious nature of the allegations surrounding Yakaitis' resignation the Justinian investigated the matter.

Unfortunately, the unwillingness of the remaining team members to discuss the allegations with the Justinian hindered the investigation. However,

despite the attempt to suppress relevant information on the eve of the team's departure for Boston, independent sources have revealed the following.

In the latter part of January, with their due date for the memorial rapidly approaching, Madeline Epenstein, Mike Heavey, and Jean Bernstein, with written questions in hand, consulted Prof. Sherman, an authority in International Law and a member of the BLS faculty. The consultation, which lasted less than an hour, concerned issues to be addressed in the memorial and potential reference resources. Three weeks later the final draft of the memorial was submitted and the team began practicing.

During practice, internal dissension, which had been simmering, boiled over into open animosity. Yakaitis, alarmed by the captain's threats of expulsion, consulted the rules governing the Jessup Competition to determine whether his position on the team could be terminated by other members. While reading he discovered a rule which provides that the student's memorial should be the product of his own thought and research.

Consultation with outside sources was to be limited to an advisory and supervisory nature. The rule stresses that as research develops the role of outside sources should diminish. Acting on his impression of what had transpired at the con-

ference from his colleagues and Prof. Sherman, as revealed by conversations with the participants and the results of that conference, Yakaitis concluded that the rules had been violated and brought the matter to the attention of Prof. Schenk, the faculty advisor for the team. At Prof. Schenk's behest Yakaitis consulted Prof. Sherman for his opinion as to whether a violation had, indeed, occurred. Having never seen the rule before, Prof. Sherman, after reading it at the request of Yakaitis, expressed an opinion that the rule was ambiguous. However, Prof. Sherman nevertheless concluded that no violation had occurred. Yakaitis then brought the entire matter to the attention of the Executive Board of the Moot Court Honor Society.

The Board, acting upon information obtained from Yakaitis, Bernstein and Eisenstein, concluded that the Administrative Director of the Regional Competition should be consulted in an effort to obtain a ruling as to whether a violation had occurred. On the behalf of the Executive Board Susan Backstrom, the Vice-Chairperson, phoned the Director in Boston to obtain a ruling.

Clearly any ruling by the Regional Office would be based on the facts as represented to it by the Executive Board. In order to discern whether Backstrom accurately communicated

(Continued on Page 3)

## SBA Presents Movies

By MADELAINE BERG

"Students are paying a Student Activity Fee, but they are not getting many student activities," said Marc Aronson, SBA Director of Cultural Affairs, explaining why he has organized the first SBA Film Series which began two weeks ago with "Young Frankenstein."

The film series will continue through the spring term, with movies being shown at no charge on Thursday and Friday evenings (times to be announced).

Last term, SBA's presentation of "Silent Movie" attracted more than 150 students, indicating to Aronson and his Cultural Affairs Committee that a film series would be a popular activity.

The films have been scheduled for Thursday and Friday nights to allow Sabbath observers and evening students to attend. If the attendance is smaller than expected, however, the screenings will be cut down to one showing.

The remainder of the first SBA Film Series includes:

March 16, 17 — Ingmar Bergman's "Face to Face"

April 6, 7 — "Woody Allen Day," "Play It Again Sam" and "Take the Money and Run"

April 13, 14 — "The Conversation" starring Gene Hackman, directed by Francis Ford Coppola

April 27, 28 — Double Feature: "Bang the Drum Slowly" with Robert De Niro; "The Longest Yard" with Burt Reynolds

May 11, 12 — "The Paper Chase"

In addition to organizing the film series Aronson and the committee are in the process of arranging for discount tickets for off-Broadway shows and act as the co-ordinators for all speakers presented by SBA groups.

Other members of the committee are Samuel Hagan, Ira Miller and Gene Glicksman.



# Justinian

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Telephone (212) 625-2200 Ext. 50

Editor-in-Chief ..... Howard Cohen  
Managing Editor ..... Ken Shiotani  
Senior Editor ..... Richard Grayson  
Associate Editor ..... Rochelle Strahl  
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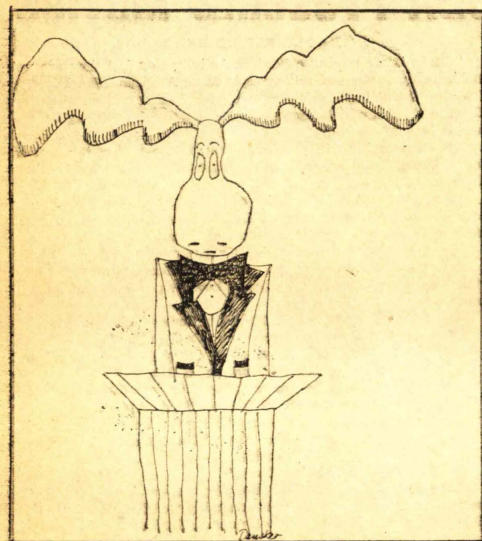
## We Get No Respect

Student/Faculty Committees provide a unique opportunity for serious student and faculty input into areas that affect both the teaching and learning experience at BLS. BLS students and particularly those who are concerned enough to put in time on such committees and in preparation of agendas for committee presentation are serious, mature adults who are concerned with the direction of the education for which they are paying tuition and for which they are putting in so much time and effort.

The vote on such Student/Faculty Committees are not the final vote on any issue. The proposals of such Student/Faculty Committees are presented to the entire faculty for the final, deciding vote. To deny those student members equal voting power on these Student/Faculty Committees is to exhibit an unwarranted and paranoid fear on the part of the faculty of irrational student suggestions or student control.

## Freedom Of The Press

The purpose of *Justinian* is to report to the students of Brooklyn Law School every major decision and event that affects their legal education. BLS students have a right to know why they are getting some things and not others, and what things are happening to the school that may affect them. Students should protest vigorously attempts by any special interest group to bring pressure on *Justinian* to suppress relevant information simply because it shows a less seemingly side of BLS. Any abridgement of *Justinian's* editorial freedom is an abridgement of the students' ability to make informed decisions.



You mean . . . This isn't Moose Court? ??

# Science Fiction Freak Pans CE3K

By STEVEN STONE

I think that most S.F. on film and television has been pretty second rate.

— Frederik Pohl

Amen to that. Although the fate of Science Fiction in the visual media has fared better than it did in the depression era of the fifties and early sixties when all an aficionado had to look forward to was *Twilight Zone* winning another Hugo for best Sci-Fi television series, there is still a vast area for improvement. Granted the long suffering S.F. devotee doesn't have to sit through the like of *Attack of the Giant Crab Monsters*, *The Deadly Mantis*, and other high moments of cinema (please disregard what Susan Sontag has to say on the subject of "monster movies as camp"). And yet, even in the wake of *Star Trek* and *Star Wars* there's still a lot of chaff one has to cut through to get at the wheat. Hence this column.

Two films brave the storm this time around: *Star Wars* and *Close Encounters of the Third Kind*.

*Star Wars* and *Close Encounters* have been reviewed to death,

but, since it's Oscar time, it's an appropriate moment to look at these two films again. George Lucas's *Star Wars* garnered ten award nominations, including one for best picture. It's easy to see why — it is fine movie entertainment and a wonderland of special effects. In addition, it is the one S.F. film that effectively manages to convey a "sense of wonder" — which is what Science Fiction is all about — to the fan and nonfan alike. So what if the characters (with the exception of Ben Kenobi) are comic book cutouts? There's a loving attention to the sort of detail which more than makes up for the thinly drawn characterizations while enhancing the viewer's enjoyment. The S.F. fan savors those little touches like the computerized distance readout on Luke Skywalker's infrared binoculars, the double moon of Luke's backwater planet, and those beady eyed Jawas.

Lucas has admitted that his formative years were greatly influenced by S.F. literature, and two of his films — *THX 1138* and *Star Wars* — reflect that influence. One more observation: look closely, fan, at that bar scene at the space port. See those alien musicians playing

those weird, otherworldly instruments? Straight off an Ed Emshwiller cover done for *Galaxy Magazine* in the 1950s.

Steven Spielberg, a close friend of Lucas and someone who also had a boyhood interest in Science Fiction, does not fare as well with his own film. I've seen all of Spielberg's works: *Duel* made for television, *Sugarland Express* (with Goldie Hawn), *Jaws* (starring Bruce the Shark), and now *Close Encounters of the Third Kind* (known henceforth as CE3K). Spielberg's films not only reflect the influence of Science Fiction but also that of the classic horror films of the late forties and fifties. *Duel*, for instance, is a series of harrowing encounters between a traveling salesman and an ominous, seemingly possessed truck. The pacing and execution of that megahit, *Jaws*, can be traced to such horror classics as *The Thing*. CE3K, similarly, draws upon such films as *The Day the Earth Stood Still* and the lesser known *Man From Planet X*.

Spielberg has been accused of emphasizing the technical aspects of his films to the detriment of the human element. The critics have a good case, because it seems as if the characters in his films, with the exception of those in *Sugarland Express*, are not fully drawn but merely serve to be run over, eaten, or spirited away to the heavens. Stanley Kubrick, another director noted for his efforts in S.F. cinema, has also been accused at times of relegating his human characters to a minor role in his films (notably *2001, A Space Odyssey*). Kubrick, however, makes a distinct philosophical point when he minimizes the human element. In *2001*, Kubrick's statement was that man was in danger of being overwhelmed by the very technology which enabled him to travel to other planets. Kubrick, then, wound up casting Keir Dullea opposite HAL, the computer: guess who walks away with the film. On the other hand, it seems as if Spielberg overshadows his actors for the sole purpose of highlighting the special effects of his films. Well, who's to argue? Bruce the shark made *Jaws* the hit it was, and not Roy Scheider. Would people have gone to see *Jaws* if Spielberg had given the town marshal's marital difficulties greater play?

CE3K doesn't work for me because (1) the narrative jumps around a lot, (2) the theme is an old one as far as S.F. plots go, and (3) there's no strong central character to hold the thing together.

Technical wizard Douglas Trumbull's special effects are too little and too late for CE3K to be rated in the same class as *Star Wars*: the last twenty minutes of the movie are stunning, but it's not enough to make this the remarkable film it could have been. It's a telling point that while CE3K got eight Academy Award nominations, it didn't get one for best picture. For my money, I would have liked to have seen Spielberg junk his own script and throw all those special effect behind Arthur (2001) Clark's novel of first contact, *Childhood's End*.

# The Docket

## SBA EVENTS

Movie — "Face to Face" by Ingmar Bergman, Mar. 16 at 6 PM and Mar. 17 at 8 PM presented by the Cultural Affairs Committee. Admission free.

Projectionists are needed for future showings of movies. Able bodies please see Marc Aronson or leave a note in the SBA Office.

All graduating students with ideas on how to run our graduation party, please see Joe Porcelli in the SBA Office.

Next Disco Party will celebrate the end of Moot Court competition and the coming spring break. Date will be either Tues., Mar. 21 or Wed., Mar. 22. Check bulletin boards.

Second Circus Revue is still looking for actors & writers. See Toby Pilsner or Todd Silverblatt.

Elections At the April SGA Delegate Assembly meeting, a committee will be chosen to run the spring elections. Considering last year's improprieties, all suggestions will be welcomed concerning graduating students able and willing to handle the chore. Please leave any ideas in the SBA mailbox.

The Young Americans for Freedom, a national student group of libertarians and conservatives which stresses what they believe to be the importance of individual freedom and the minimization of governmental interference in society, has announced that a BLS chapter will soon be organized. The group will hold an organizational meeting on Wednesday, March 15, at 4 PM. Scheduled to speak are Frank Conolly, the Chairman of the Columbia University Chapter of YAF; Eugene Del-

gaudio, Downstate Vice-Chairman of YAF; and Larry Penner, Mid Atlantic Regional Director of the national organization. Refreshments will be served.

Italian American Law Student Association announces former N. Y. City Investigations Commissioner Nicholas Scoppetta speaking on the criminal justice system Thurs., Mar. 16, 1 PM. Former Deputy Mayor John Zuccotti will speak at the law school in April, time and date to be announced.

The Evening Division of the Moot Court Society is pleased to announce the names of the following judges who will comprise the bench for the final round of First Year Competition which will be held April 3-7:

HON. BRUCE McM. WRIGHT, N.Y.C. Criminal Court Judge  
HON. LEONARD E. YOSWEIN, Kings County Supreme Court Justice

WILLIAM ERLBAUM, ESQ., Noted criminal attorney

HON. MARK COSTANTINO, U.S. District Court Judge, E.D. N.Y.

HON. NORMAN SHILLING, Kings County Civil Court Judge  
EDWARD S. RUDEFSKY, ESQ., Former Assistant U.S. Attorney

HON. KEVIN THOMAS DUFFY, U.S. District Court Judge, S.D.N.Y.

HON. HORTENSE GABEL, N.Y. County Supreme Court Justice

JOSEPH BRUNO, ESQ., Assistant N.Y.C. Corporation Counsel

HON. JAMES L. WATSON, U.S. Customs Court Judge

PROF. DUSAN DJONOVICH, Brooklyn Law School

JAMES P. BEGGANS, JR., ESQ., Secretary-Treasurer International Law Association.



# Expansion Essential To Placement

**Editor's Note:** This is the second of a two part series on the Brooklyn Law School Office of Placement and Career Planning. The first article dealt with the deficiencies of the office. This article focuses on the Office's future plans.

One of the major needs of the BLS Office of Placement and Career Planning, according to Placement Director Henry Haverstick III, is the addition of another full-time placement counselor. The need for such an addition has been recognized by the Faculty Placement Committee, which passed a resolution calling on the administration to investigate ways to achieve this as well as ways to obtain more floor space for the Placement Office.

In a presentation to the Committee and to Dean I. Leo Glasser, Haverstick outlined 15 "Projected Placement Office Objectives" (see below). In an interview with JUSTINIAN, Haverstick reported, "Most of these [objectives] have been discussed with the Dean. They also came up at the meeting with the Faculty Committee on November 30, and the Committee agrees that the programs have merit and they will benefit both students and alumni."

At the November 30 meeting, there was a discussion regarding the resources needed to implement the objectives. Funding was talked about, but according to Haverstick, "Money has not been the problem and I am confident that the Dean is aware of the need to upgrade the Placement Office and of the need for more staff."

The cost of another staff member will be about \$12,000, and Haverstick foresees no problem in hiring someone. He notes that the glut in the educational-administrative job market is worse than in the law field. "It is common to get 100 applications for one opening."

Haverstick hopes that if he is given approval to hire his assistant director, he receives it soon. "I prefer to have someone hired by the end of this spring, because it is difficult to train

someone at the beginning of the academic year, which is the Placement Office's busiest time."

The 15 projected Placement Office objectives with Haverstick's comments follow:

1. **Personal Growth and Career Development Course:** "This will be a noncredit seminar series with guest lecturers, who will deal with every step of the job campaign from introspection and resume development to methods of contacting prospective employers."

2. **Career Guest Speaker Program:** "This series will acquaint students with the types of job opportunities open to law school graduates. It will include both the kinds of organizations that hire, and types of legal specializations. The guests will be senior-level people, both alumni and outsiders. There will be refreshments after the panel breaks up, so students can speak informally with the guests. NYU Law School has a full-time person running similar programs—last year they ran about 17 of these."

3. **Increased Publication of "Perspectives" and "Alumni Employment Report":** "Now the 'Alumni Employment Report' comes out once a month, and 'Perspectives' is published a few times a semester. I want both of them published twice a month. The assistant director would work on them."

4. **Public Relations Brochure to Employers:** "This brochure would tell the story of the progressive and exciting things that are happening at BLS. It will also tell the employer why he ought to visit BLS. It will include profiles of classes and the procedure for employers who want to visit BLS. Most national law schools publish such a brochure."

5. **Computerization of Records and Job Referrals Matchup Service:** "I want to put all the student records on computer, and to make the computer program a mini-version of Juriscan [the former ABA-LSJ program]. Juriscan failed because there was a nationwide number of employers. This can succeed on an individual law school level

because the amount of job input by employers would be a more effective ratio to student applicants than on a national scale. A computer program would also do a more thorough job in making matchups between students and employers."

6. **Recruiter/Faculty Luncheon Program:** "I now have a budget to take employers to lunch at the Pierpont House, and I would like it expanded so I can invite faculty with some connection to the employer to lunch with us. The benefits of this would be that there would be more BLS experts at lunch; the faculty member may be particularly knowledgeable about students who were interviewed by the employers."

7. **Improvement in Student Employment Services:** "A full-time assistant director would run the student employment service, which includes part-time, temporary, and summer jobs for day and evening students. Now I run that service, as well as career and alumni employment. Since I am forced to allocate more time to career employment, this results in inadequate help to underclass students. This has a negative impact on career job objectives because part-time and summer jobs crystallize students' career objectives."

8. **Improvement in Evening Division Student Services:** "This is probably the only area in the legal job market in New York City where there are more opportunities than candidates because of the low salaries and because students like their present nonlegal jobs. I want to do a better job advertising to evening students about legal employment opportunities and to expand office hours." Haverstick is now the only person who handles the office during its late hours (until 6 P.M. on Monday through Thursday).

9. **Booklet Describing Placement Office Services to Students and Alumni:** "This information must now be given orally. This booklet would be especially good for first year students, to orient them to the services

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# Professor Gershenson Busy Composing Jury Instructions

**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. This article will deal with Prof. Gershenson.

By ELIZABETH DOYLE and ROCHELLE STRAHL

Professor Milton G. Gershenson is involved in the New York effort to economize judicial administration. Since the summer of 1975, Professor Gershenson has worked as Chief Reporter for the Criminal Jury Instructions committee creating the "CJI," criminal law's counterpart to New York's civil law Pattern Jury Instructions (PJI). Administered by the Office of Court Administration of the State of New York, the project is aimed primarily at providing busy criminal judges with a comprehensive compilation of suggested jury charges.

Professor Gershenson terms the effort a "clarification of law" arising from something akin to a "reform movement" in the nation's judicial quarters.

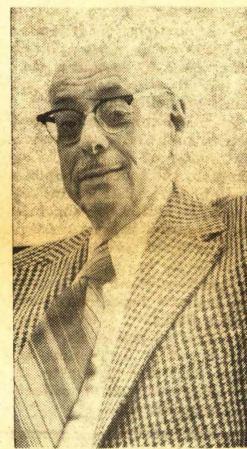


Photo by Ken Shiotani  
PROF. MILTON GERSHENSON

Approximately fifteen states, including California, Illinois, Virginia and Missouri, have endorsed this relatively new trend in American jurisprudence, according to Professor Gershenson. New York's experience with the PJI has indicated that patterned jury charges can be utilized as valuable judicial tools, aiding judges in their decisions regarding possible jury instructions while minimizing chances of error leading to appeals. The Criminal Jury Instructions project intends to duplicate this achievement in the increasingly complex criminal field.

The project is staffed by a Committee of Judges composed of seven geographically distributed judges headed by Justice Lyman Smith of Penn. Yan, New York. This Committee is aided by a small staff of research assistants led by Chief Researcher Freda Nisnewitz. It includes two part-time research assistants, 1977 Brooklyn Law School graduate, Howard Peltz and a second year BLS student, Mary Wong. Admittedly a small group for such an ambitious task, Professor Gershenson noted that it was an industrious, dedicated staff mindful of the proposition that there is "economy in working with a handful."

In theory, the compilation

covers the entire realm of criminal jurisprudence in two volumes. The first volume will consist of sample charges of general applicability in all criminal cases, including preliminary jury instructions given at the inception of a case. Work on this volume has only recently begun, but Professor Gershenson feels confident that both volumes will be completed by the Committee's tentative completion date sometime at the end of 1978.

The second volume consists of sample charges for individual substantive offenses contained in New York's Penal Code. It is generally organized by reference to specific Penal Code sections and incorporates a tripartite discussion, consisting of an introduction, suggested court changes and a practice commentary. The introduction provides a busy judge with a general review of the particular offense, including the text of the statute itself and relevant requisite elements. The actual sample jury charge acts as a core abstract of a typical jury instruction which may be applied (such use is not mandatory in New York) in a typical case. Particular aspects of the case are then inserted into the sample charge by the judge thereby adopting it to the instant case. The Commentary includes the Committee's explanation of the suggested charge, incorporating case material and statutory highlights, in order to provide a judge with an efficient method of clarification in marginal cases which could involve time consuming research. According to Professor Gershenson, the first partial draft of volume two, consisting of 140 sample charges spread over 505 pages, is already being circulated to New York's criminal judges, prosecutors and selected legal groups, including the State Bar Association and Legal Aid Society, among others. These 140 charges cover the most frequently tried crimes in New York State (certain small, minor petty offenses are totally eliminated from the compilation) led by drug related offenses as determined by statistics provided by the state.

At present, legal reaction has been favorable including, according to Professor Gershenson, laudatory reviews from judges utilizing the drafted patterned charges. The possible savings to the state which could occur as a result of the use of the CJI, would please government economists even more. A patterned charge is intended to prevent any error in jury instructions thereby greatly reducing chances of reversible error and subsequent costly appeals. In cases involving indigent offenders, this cost to the state, including all collateral expenses such as providing legal aid, transcripts, court personnel, and court building maintenance expenses, can be prohibitively high. Therefore, this federally funded project will eventually lead to diminished court costs with concomitant savings to the people of New York. Student use of the CJI would probably be limited, however, inasmuch as it is "slanted solely to the charge element" and "is not designed to compete with texts" or other related informational matter, according to Professor Gershenson.

## Jessup

(Continued from Page 1)

the respective opinions of the parties the Justinian approached Backstrom for an interview. However, Backstrom's only comment was, "I feel it would be inappropriate to comment on this matter at this time."

Realizing that his complaint might lead to the team's expulsion from the competition, Yakiatis told Prof. Schenk and the Executive Board on Wednesday, March 1, that he would be willing to withdraw his allegations.

At the time of the withdrawal of the complaint, those concerned felt that the withdrawal constituted a tacit admission that the allegations were groundless.

However, Yakiatis, when he agreed to drop the complaint, expressly stipulated to the Executive Board that "my name had to be removed from the brief."

"I made it clear, I wasn't retracting my story. I still stand by my interpretation of the rule . . . it was a violation," he said. With the withdrawal of the

complaint by Yakiatis and Prof. Sherman's assurance that no violation occurred, Prof. Schenk after consulting Prof. Sherman, phoned the Director in Boston "to get them to forget this thing ever happened." Prof. Schenk said she told the Director "as little as possible" indicating that since the complaint had been withdrawn that she could "handle it within the school."

In an interview with the Justinian Prof. Schenk stated that, "had Paul (Yakiatis) not withdrawn the complaint, I don't know what I would have done." After a lengthy discussion with the Director, Prof. Schenk succeeded in nullifying the effect of Backstrom's prior phone call and was able to reassure the remaining team members that their competitive position would not be affected.

In an effort to insure that the Regional Director's decision would not be over-ruled by the National Committee, Prof. Schenk contacted National Headquarters in Washington. Her call to Washington disclosed that they had no knowledge of

the incident, that they had not been informed by the Regional Office, and that the matter should be handled by the Director in Boston.

Such was the status of the controversy when the team departed Friday, March 3, for the competition. In an effort to accurately report the controversy in this article the Justinian approached Madeline Epenstein and Jean Bernstein who still remained on the Jessup team, to hear their views as to whether the consultation with Prof. Sherman amounted to a violation of the rules.

Both members refused to discuss the matter with the Justinian, despite being advised otherwise by their faculty advisor. However, they did speak to Dean Glasser, indicating their belief that a one-sided story by the Justinian would be grossly irresponsible.

Fortunately, the cloud of controversy that surrounded their departure in no way hindered the performance of the Jessup Team in Boston. The team captured first prize in the orals and placed high for the memorial.



# DA Gold Advocates Appointing of Judges

**Editor's Note:** The criminal justice system has come under attack in recent years. This is the first in a series of articles that will examine various parts of the system through the eyes of its protagonists. Future articles will feature interviews with people working in other capacities.

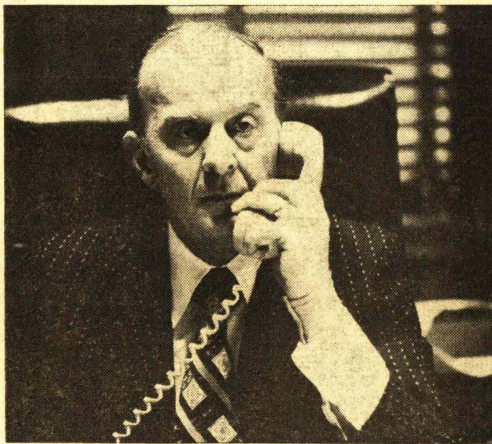
By SANDY K. FELDMAN

District Attorney Eugene Gold claims that the purpose of the criminal justice system is "to deal with criminals, and to protect the innocent who are arrested." It is this balance between the protection of the community and the protection of the rights of defendants that Gold believes is the very essence of the criminal justice system.

He is confident that the mechanism exists for the successful fulfillment of this purpose, but that the system, like every institution, is beset by problems that include overcrowding, scarcity of funds, and "incompetent people at all levels."

But, he emphasizes that these shortcomings are balanced by dedicated people working ardently to the accomplishment of their task. "The criminal justice system is better than ever. It is better managed, staffed with more competent personnel, and there is a more serious awareness than ever before of the need for improvement."

In analyzing the component parts of the criminal justice system Gold said that the answer to the question of whether the police were doing their job is "Yes and no. There's a question which would take three days to answer properly. Without a doubt better management of the Police Department is needed; the Department has been sorely lacking in good management. And the police need a better understanding of the process; the case doesn't end with the arrest. But, there is a new Administration and a new Commission-



Brooklyn DA Gold says crimes of violence have first priority.

er. Hopefully, necessary changes will be made. We'll have to wait and see."

This criticism was tempered with some praise. "In many respects the police are doing an excellent job."

As for the quality of the Bench, Gold said, "Some judges are excellent, but the system is dragged down by those who are pretty poor. No doubt, it is better now than ten years ago, but it can be better still."

Gold believes that one step which can be taken to advance the quality of the Bench is to eliminate the system of judicial election and replace it with an appointive system with appointments required to be made from a list of those men and women found to be well-qualified by a non-partisan board. This would also increase public confidence in the judiciary, Gold asserts. He feels that politics plays too great a role in the selection of judges, and even the quality of the appointed Bench suffers from political influence.

His own office should be an elective one, however. "Unlike judges, the District Attorney has visibility. There is only one. The community knows who its District Attorney is. If I'm not doing my job, I won't be in this office, and I shouldn't be."

He went on to point to the recent furor surrounding the replacement of David Marston, the United States Attorney in Philadelphia, as an example of the inadequacies inherent in the appointment of government prosecutors. He does recommend one change in the method of electing District Attorneys, however. He would like to see District Attorneys prohibited from running on a party line, a system he claims has worked well in California. In addition, he believes the five District Attorneys in the City of New York should be replaced with one city-wide District Attorney.

Of his own staff, Gold says that they are "extremely bright young men and women, with the emphasis on young." This em-

phasis calls to mind the criticism, often heard, that the Assistant District Attorneys suffer from a lack of experience caused by their high turnover within the District Attorney's office. This is a misconception, their boss insists. Whatever inexperience exists is due "to expansion, not turnover."

"In the past six and one half years our staff has tripled in size." A decision had to be made as to where to obtain new lawyers. "You could've gotten them from the clubhouse. I decided to go directly to the law schools," Gold claims that it is for this reason that there are so many young and relatively inexperienced ADA's in his office. Turnover runs approximately 12 to 13 percent a year. He is confident that within a few years the staff of prosecutors will be far more experienced. "Of course, better salaries are needed. Is that possible? That's another question."

With the percentage of recidivists appearing in court on criminal charges running at approximately 70 percent, Gold was asked if the confinement of recidivists for longer periods of time might not ease the tremendous burden on the courts, and enable the elimination of plea bargaining and the reduction in the need for additional resources being channelled into the courts.

His response was that this notion was another one of the many misconceptions shared by people both within and without the criminal justice system. In fact, he asserted, as many defendants would be prosecuted because, by necessity, his office was engaging in "selective law enforcement," a practice whereby the District Attorney makes discretionary use of certain criteria to reach a determination as to which of those persons subject to prosecution will actually be prosecuted.

The criteria he uses is violence. "Crimes of violence have first place in Kings County." This means that of all the indictable offenses brought to his attention only a fraction will be accommodated. With fewer recidivists being prosecuted there would still be an enormous number of people to prosecute, people who at the moment are not being prosecuted because there are insufficient resources available to do so.

He also corrected this reporter's use of the term plea-bargaining. "There really is no such thing. This is yet another misconception. What we have is sentence bargaining. A defendant would plead guilty to a more serious offense if it meant a less severe sentence than a plea to a less serious offense."

Mr. Gold expressed a strong need for determinate sentencing. "The same crime should receive the same sentence. With the exception of the possibility of a couple of years off for good behavior whatever sentence is fixed should be the sentence served."

"The parole board should be done away with completely. Judges should have far less discretion in the fixing of sentences, although some degree of flexibility should be provided based upon the defendant's background," he said.

Does this mean that first offenders should be treated with a greater amount of leniency

than repeat offenders? "First offender" is a misnomer," he said. "Generally, and I stress generally, the first arrest is not the first offense. It is the first arrest of someone who has committed other offenses."

When asked to comment on the so-called "liberal attitude" which depicts the criminal as the victim of society and emphasizes the elimination of the causes of crime and the rehabilitation rather than the punishment of the criminal, Mr. Gold said: "I don't like labels. I don't know what 'liberal' means in that sense. I think it is liberal to punish people who commit heinous crimes."

Once again he spoke of balance. "We need to strike a reasonable balance between the interest of the public and the rights of the defendant."

He feels that an attitude has evolved in recent years to include the same concern for the public which had previously been shown toward the defendant. "There is now a finer sensitivity toward the needs of the community and the complainant. This hasn't taken away from the rights of the defendant. What we have now is as strong a concern for the rights of the complainant and the community."

As for the emphasis on the causes of crime and the rehabilitation of the offender, Gold unequivocally announces that "We don't know what causes crime, and we don't know how to rehabilitate."

But, the District Attorney is optimistic about the future, nevertheless. "That's a matter of one's nature." However, he makes no secret of his feeling that there is no "solution" to the crime problem. "A solution would mean that we have rid ourselves of crime completely. That's impossible. There is always going to be crime. What we have to do and what we have done is to have an impact on crime. We can make it more bearable, a problem with which we can live."

"We've only begun to zero in on crime. Until it became a crisis we did little about it. When it became a crisis we, of course, had that much more work to do. Things are certainly better than they were ten years ago," he said. "But, we still have a long way to go. You know, in America there's a feeling that everything can be had quickly. That's why we have instant coffee. By the way, this is not instant coffee," he said indicating the cup on his desk.

## Equal Vote

(Continued from Page 1)

feeling on this issue, the SBA Delegate Assembly unanimously passed a motion on Thursday, March 2, to present the following three resolutions to a committee of the faculty and the Dean:

- 1) That any faculty committee open to students be known as a "Student/Faculty" committee;
- 2) That student voting representation be equal to faculty voting representation on any student/faculty committee;
- 3) That a joint committee of faculty and the SBA be established to draft guidelines to govern all student/faculty committees.

## Placement

(Continued from Page 3)  
available at the Placement Office."

**10. Job Campaign Handbook:** "This handbook would be the textbook for the seminar course in objective number 1. Everything discussed verbally in that course would be in this free handbook."

**11. Nationwide Network of Alumni Placement Counselors:** "I would work with the Alumni Office to identify prominent alumni throughout United States' cities who would serve as ex officio placement advisors."

## Why I Decided To Go To Law School

By BARBARA NAIDECH

My mother made me,  
To beat the draft.  
I couldn't get into medical school.  
I was a teacher.  
I like to carry a briefcase.  
I enjoy intellectually stimulating discussions with my peers.  
I was an accountant.  
I love fantasy.  
To make a fortune.  
To save the world.  
I didn't know what else to do.  
To stay in Brooklyn an extra few years.  
Everyone else was doing it.  
To help get my friends out of jail.  
I want to be a judge.  
I took a lot of law-related courses in college.

It can be tied in with the computerization of alumni records. So when a BLS student goes to a city, the advisor can tell him about the nature of the legal job market and of housing conditions, and acquaint the student with living and practicing law in that location. This would also be another step toward achieving national status. The pitch to alumni will not be "hire this student," but it will be strictly information dissemination to the student."

**12. One-to-One Alumni/First Year Student Advisement Program:** "This will help first and second year students. The first

year student will be assigned to one alumnus as an advisor, who will have an informal relationship from the beginning of law school with the student. When the student has a problem with his career choices or getting a job, the alumnus would be there to offer assistance."

**13. Audio-Visual Law Careers Library:** "This is one way of coping with staff limitation problems. We can tape the panel discussions when guests appear in objective number 2. Students can use these tapes without taking the placement counselor's time. We can also film the seminar course (number 1)."

**14. Expansion of On-Campus Recruitment Program:** "This gets back to the speaker program (number 2) and the brochure to employers (number 4). I have spent 200 hours in the field convincing employers to visit BLS. Employers want literature with reasons why they should recruit here. So, we need the brochure and also the placement directory to be sent into the field."

**15. Impovement in Alumni Career Placement Service:** "This includes expanding the Alumni Employment Report (number 3) by publishing it every two weeks, and setting up the seminar course (number 1) to be held at night with emphasis on how to advance careers."

To meet a spouse.  
To help to get into business school.  
To further a cause.  
I couldn't find a job.  
I enjoy education.  
Why not?  
I love disco parties.  
I like to shmooze with professors.  
To meet Elliot Gould.  
EST didn't work.  
My spouse does.  
To get into Studio 54.  
To beat the system.  
To get my college listed at the end of the Bulletin.  
To be able to say that I do.  
To be able to say "see you in court."  
I want to be a lawyer.