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Justinian

VOL. XL

WEDNESDAY, NOVEMBER 14, 1979

NO. 4

"Arbitrary Act" Ends Surrogate Clinic in Brooklyn; Meeting Fails to Resolve Serious Differences



SURROGATE'S COURT KINGS COUNTY

2 JOHNSON STREET
BROOKLYN, N.Y. 11201
212-643-5282

ARMAND J. STARACE
CHIEF CLERK
NANCY BURR FREY
DEPUTY CHIEF CLERK

September 21, 1979

Dean I. Leo Glasser
Brooklyn Law School
250 Joralemon Street
Brooklyn, N.Y. 11201

Dear Dean Glasser:

This court takes pride in the manner in which it administers the clinical law program conducted in conjunction with your school. It has come to my attention that the participants in this clinic receive only two (2) credits as opposed to three (3) credits which is awarded to participants in other clinical programs.

Leo Beitner, Esq., who administers this program for the court, spends a great deal of time directing, supervising and evaluating the students in the clinical program. I have been advised that in several other clinical programs, the individuals relegated to the duties of supervision have been appointed to the school faculty as adjunct law professors.

It is apparent that your school shows a lack of interest to properly administer this program which we are so proud of.

Therefore, I have this day directed that Mr. Beitner cease to administer this program with your school, this to become effective immediately. I have further directed that inquiry be made of local law schools so that this program be instituted with a school which truly appreciates the value of such a program.

Very truly yours,

BERNARD M. BLOOM
Surrogate

BMB:m

Clerical Staff May Join Union; NLRB Decision Expected Soon

By CHRISTINE SHORT

A decision is expected sometime this month from the National Labor Relations Board determining what clerical personnel at Brooklyn Law School properly comprise a bargaining unit that may select a union as a representative.

Local 1814 of the International Longshoremen Association originally asked the school in September to allow it to represent its clerical personnel.

The school, according to Dean I. Leo Glasser, thought its employees should have all the facts presented to them before allowing the union to come in. Therefore, the school denied the ILA's request which in turn filed a petition before the NLRB.

Hearings were held, principally to determine what persons were eligible to vote, inasmuch as supervisors, for example, would be ineligible. Some members of the clerical staff feel that the school attempted to eliminate persons who would be strong yes voters.

Grievances expressed include increasing the summer hours to 9-5,

while they were orally promised 9-4 summer hours and being asked to do work for professors' outside legal activities without additional compensation.

Dean Glasser responded by pointing out that 9-5 hours are necessary to best serve students and that an air-conditioned building eliminates the underlying reason for abbreviated summer hours. He declined to comment on the second issue.

The clerical personnel say that they simply want everything in writing to protect themselves. They are not planning on any strike activity and it is their understanding that any picketing activity would involve only BLS employees.

Dean Glasser indicated that he believed it was not in the best interests of the clerical staff to be represented by the longshoremen. Asked what unions he thought might be preferable, the dean said he didn't think it appropriate to make that judgement.

Dean Glasser said his office is always open and he is willing to discuss any problems the staff may have.

At the insistence of Brooklyn Surrogate Bernard M. Bloom, the Kings County program within the Brooklyn Law School Surrogate's Court Clinic program has been discontinued.

The Surrogate made his views known in a letter to Dean I. Leo Glasser dated Sept. 21, 1979, a copy of which was obtained by *Justinian*.

Prof. Samuel Hoffman, who administers the Surrogate's Clinic, apologized to students at a seminar meeting on Sept. 26 and described the cancellation as "an arbitrary act" on the part of the Surrogate. Prof. Hoffman claimed that the Surrogate took this action without notifying him beforehand. He advised students involved not to return to the Brooklyn Surrogate's office to finish their assigned projects.

Leo D. Beitner, the law assistant in charge of the clinic at the court, told *Justinian* that the Surrogate was reluctant to cancel the clinic and did so only after he didn't receive a reply to his letter. Beitner claims that the Surrogate viewed the letter as an invitation to "negotiate."

Shortly after receiving the correspondence, Dean Glasser told an assembled group of administration officials, faculty, and students that he was of the opinion that the last paragraphs of the letter left no room for negotiation. The Surrogate's letter concludes, "I have directed that Mr. Beitner cease to administer this program with your school, this to become effective immediately."

Reasons Cited for Cancellation

One of the Surrogate's reasons for discontinuing the clinic was that participants from BLS receive only two credits as opposed to three credits

given to participants in other clinical programs.

Prof. Hoffman noted that the clinic is two credits rather than three because the time commitment required is less for the Surrogate's clinic than other clinical education programs offered at BLS.

Prof. Hoffman also rebuffed the Surrogate's suggestion that supervision of the clinic be delegated to an adjunct law professor, claiming that clinical coordinators are given adjunct professor status only when a full-time member of the faculty does not supervise.

Mr. Beitner stated that an additional reason for the cancellation of the clinic was that there was "poor" administration on the part of BLS personnel. He cited lack of communication between the school and the court regarding the structure of the clinic and failure to provide lists of enrolled students to the Surrogate's court complete with notice of increased enrollments as examples of administrative problems which, he said, cast too much of the burden of running the clinic on the court.

Personality Clash Alleged

Mr. Beitner also intimated that less than cordial relations between Prof. Hoffman and Surrogate Bloom may have been a contributing factor in the decision to discontinue the clinic. The BLS clinic was begun while Surrogate Nathan Sobel, Bloom's predecessor, was in office, and formerly was administered by Prof. Hoffman, the Surrogate Sobel and his chief law assistant, O'Boyle.

When Surrogate Bloom took office in 1977, Mr. O'Boyle worked together with Professor Hoffman to administer the program. However, Mr. O'Boyle

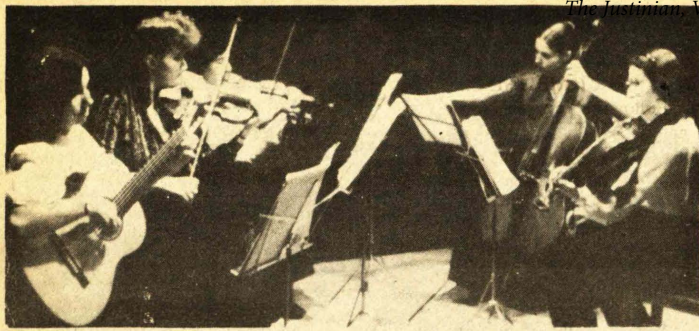
Continued on page 3

Commerical Speech Symposium



Photo by Fred Cavagnuolo

A SYMPOSIUM ON COMMERCIAL FREE SPEECH was held in the Moot Courtroom last Saturday. Approximately 200 students attended the all-day event. Above (l. to r.), panelists William C. Canby, Jr., Roger Brosnahan, moderator Prof. Joel Gora, and speaker Prof. Burt Neuborne discuss the issue of advertising by lawyers during the question and answer period. *Justinian* will provide full coverage of the symposium in its next issue.



Chamber Music quintet performs Boccherini's "Quintet No. 2 in C Major" at last week's concert. Above (l. to r.), are Deborah Dardess, Barbara Binder, Louise Moed, Stephanie Souers, and Bat-Ami Dulsky.

Chamber Music at BLS

By DEBORAH L. GILLASPIE

A chamber music concert was presented in the Brooklyn Law School lounge on Thursday, November 8 at 8 p.m. The program was coordinated by Prof. Jerome Leitner.

Funding for the concert was provided by an anonymous donor, a Brooklyn attorney who is not an alumnus of BLS. A passionate music lover, he has a sentimental attachment to the school and wished to make "a gift to the students." The donor was present at the concert.

The players were: Louise Moed, violin; Barbara Binder, violin; Bat-Ami Dulsky, viola; Stephanie Souers, cello, and Deborah Dardess, guitar. Ms. Binder is a second year student at BLS.

The players, all of whom are talented musicians with impressive creden-

tials, acquitted themselves well. After a nervous start on the Boccherini Quintet #2 in C major, they turned in a solid performance on the Schubert Quartet in A minor. Following the intermission, the quartet gave a masterful rendition of the Dvorak Quartet in F major (The American).

The audience appeared to be composed of chamber music lovers who enjoyed the concert immensely and gave the performers a well-earned standing ovation at the conclusion of the Dvorak Quartet. Deans Glasser, Sherman, and Haverstick attended as did several faculty members.

The concert was not connected with the BLS Chamber Music Society, which is a group of BLS students who meet once a week to play chamber music.

National Resources Society Sponsors Lecture on Pollution

By TOM VETTER

On October 24 the Natural Resources Law Society of Brooklyn Law School sponsored a talk by Terry Agriss, Regional Director for the New York State Department of Environmental Conservation, on the topic "Government Regulation and the Environment."

Ms. Agriss discussed the special problems facing her department as well as the problems facing governments generally in this area. She explained in particular that her region of the New York State Department of Environmental Conservation is primarily concerned with 1) clean air, 2) clean water and in particular the tidal wetlands, 3) resource recovery or recycling, and 4) toxic substances.

The highlights of her talk were a detailed account of what is going on with the Chelsea Terminal and a discussion of the ways her office is dealing with the severe air pollution problems of midtown Manhattan.

The Chelsea Terminal is a tank farm located on Staten Island, owned by Texaco, and used as a waste chemical storage facility. It is of great concern to the Department of Environmental Conservation and to environmental groups due to the terminal's close proximity to delicate tidal wetlands.

The terminal operators who lease the facilities from Texaco have not been particularly cooperative with the Department. Recently as a result of their practices the terminal was subjected to a raid in a joint effort by the Department, the Organized Crime Task Force, and the Health Department. Seven persons connected with the operations of the terminal were arrested.

When asked why the Department didn't simply shut down the terminal, Ms. Agriss replied that it is the policy of the Department to strive for cooperation with polluters in an effort to get them to clean up. Otherwise the cleanup expenses will typically be billed to the taxpayer.

One of the major problems in midtown Manhattan is air pollution caused by automobile exhaust. Accordingly, the Department controls the location and size of parking lots in midtown. Ms. Agriss noted that their control procedures have recently been undergoing change and explained why the changes were necessary, how they are working and what their effects upon air quality will be. Moreover she explained how the Department is able to exert its authority in such matters. The key is the discretionary permit structure of the City and State. Wherever a discretionary permit is involved or required, the permit issuing agency may withhold the permit until the applicant meets specified conditions.

Ms. Agriss finished with some of her personal views regarding Proposition One and the effects, if any, that the energy crisis will have on environmental quality. She views a takeover of Con Ed by the City as a mistake "since no matter how inefficient Con Ed is, they are probably more efficient than the government would be."

With regard to the effects of the energy crisis, Ms. Agriss felt that "federal standards may tend to be lowered, but state and local standards would probably not be affected."

The Natural Resources Law Society who sponsored the talk by Ms. Agriss is a relatively young organization at Brooklyn Law School. The Society was founded last year by Mark Meiorowitz, Sonja Talesnik, Robert Bergman, and other interested students under the advisanship of Prof. George W. Johnson III.

The primary aim of the Society is to foster involvement by its members with the growing environmental movement, particularly in the area of environment law.

As explained by Richard Reibstein, one of the Society's active members, there are four major activities being pursued by the Society. These are bringing high caliber speakers to BLS, preparing and distributing a Society newsletter, building a library of government and technical documents and organizing a luncheon with attorneys practicing environmental law.

Considering that it is in its second year, the Society has been remarkably successful in bringing speakers to BLS. Last year, the Society brought two speakers to the school: Walter Mugdan of the Enforcement Division, United States Environmental Protection Agency and Garret Morris, Regional Director, Solid Waste Division, United States Environmental Protection Agency.

This year, Terry Agriss is the first of several distinguished speakers who will be appearing throughout the year.

The newsletter is probably the most ambitious project of the Society. It will include relevant contributions from all willing sources. It is hoped that the newsletter will serve as a clearing house for information of events, news and special concerns in the field. Its mailing list will include other law schools, area attorneys practicing environmental law, government agencies and special interest groups.

Work on the library has just begun with requests to the federal government for listings of available materials. Once collected, these materials will be generally available to interested students and faculty through Society members.

The first luncheon planned will probably include a number of attorneys from one of the New York law firms that specialize in environmental law. Tentatively, it will be held sometime in the spring.

These activities are aimed at concerns of the Society ranging from resource use and development to resource recovery and industrial liability, as well as the more general areas of energy and pollution.

The Natural Resources Law Society may offer a viable solution to the student tired of simply watching from the sideline. The area is one of growing concern and opportunity as evidenced by such issues as Westway, Three Mile

Continued on page 3

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LSD Funds Available

et al.: The Justinian

By STEVEN M. BERLIN

Student leaders discovered a source of badly needed funding, the Law School Services Fund (LSSF), at the Second Circuit Fall Roundtable of the American Bar Association's Law Student Division (LSD).

The roundtable was held at Fordham University's School of Law on October 6. Brooklyn Law School students dominated the meeting which was also attended by law students throughout New York State and Connecticut.

The purpose of the LSSF grant program is to encourage the development, implementation, and expansion of law-related projects by students. Projects at other law schools which have been funded by LSSF include inmate-assistance programs, minority-recruitment efforts, landlord-tenant and consumer booklets, community legal education programs, and conferences on women in the law.

Grants from LSSF must be used in conjunction with matching funds from other sources such as the Student Bar Association, the administration, and state and local bar associations.

Any ABA-approved law school may apply for a grant as long as 30 percent of its students are members of the LSD. Brooklyn Law School's current membership is just slightly over 30 percent.

The Delegate Assembly of the Student Bar Association, at their October 24 meeting, decided to make disburse-

ment of all funds for speakers and films contingent on the requesting group applying for LSSF grants.

Approximately \$35,000 of LSSF is available on the matching-grant basis for law school projects during the 1979-80 year. The LSD has adopted a policy to distribute LSSF grants to as many law schools as possible in order to maximize law student participation in law-related projects and activities throughout the country.

Therefore, the LSD has decided that no law school shall receive more than \$2000 from the LSSF between October 1, 1979 and September 30, 1980. The minimum grant request, per project, is \$1,000; the maximum is \$1000.

Twenty-five percent (25%) of the LSSF funds have been earmarked for "minority-related" projects. Another ten percent (10%) of the funds have been earmarked for projects related to "women."

LSSF applications are available in the SBA office. Applicants are advised to seek help from Samuel Rein, SBA Treasurer or Steven Berlin, LSD Representative in completing applications.

LSSF applications must be received by the LSD National Headquarters in Chicago prior to the occurrence of the event. Deadlines are December 1, 1979, February 1, 1980 and June 1, 1980. Groups planning to request funds for speakers or films before December 1, must submit an application for an LSSF grant immediately.

SBA Approves Budget

By CHRISTINE SHORT

Following two sessions of the Delegate Assembly as well as two meetings of the Finance Committee, the Student Bar Association passed its annual budget last month.

The final figures arrived at are Anticipated Income — \$23,925, Proposed Expenditures — \$24,225, with a resulting deficit of \$300.

The Assembly initially approved 75% of the budget proposed by the Executive Board; the subsequent meetings were devoted to discussion of the remaining allotment. Second year student Art Skarr served as chairperson of the Finance Committee.

The largest single expenditure was

\$6,000 for *Justinian*. *Justinian* anticipates advertising revenues which will be turned over to the SBA, but the funding is in no way tied to such income.

Evening Moot Court Honor Society, following heated debate, was funded at \$500, although Treasurer Sam Rein is investigating the possibility of the administration funding the Society.

A copy of the final approved budget is on file in the SBA office.

Other SBA business included announcement of its Blood Drive on Tuesday, November 13 from 1-6. A Yearbook Committee has been established; second year student Alice Alper Rein is chairperson.

Natural Resources Society

Continued from page 2

Island, and the snail darter. There is no limitation to students who plan to specialize in the field, and there is high potential for the student wishing to effect social change through the legal process.

For those interested in becoming involved it is worth noting that although the area of environmental law tends to be a technical one, it may be handled by the nontechnician. The student may

rely upon the abundant supply of source material available and help from those more skilled. The point is, students who are not technically inclined should not be discouraged from this area.

The Society is presently seeking new members. Anyone wishing additional information about the Natural Resources Law Society should contact Richard Reibstein or leave a note in the Society's ninth floor mailbox.

New Law Review Members

Congratulations to the new members of Brooklyn Law Review: Susan Alkalay, Leslie Allan, Anshel David, Joseph DeGirolamo, Marialina Dominguez, Jay Dorman, James Fennessy, Stephen Ganis, Marcia Goffin, Camille Gubello, Dave Hattem, Lawrence Jacobs, Sharon Katz, Lisa Kretzschmar, Philip Levy, Lawrence Menkes, Daniel Ratner, Kevin O'Regan, Jean Prabhu, Michael A. Pysno, Michele Rettek-Jenkinson, Rubin Salz, Kenneth Sold, Mark Sonnenshein*, Janet Strickland, Linus Walton, Jo-Anne Weissbart, John T. Wright.

*Open note competition winner.

New International Journal Staff

The Brooklyn Journal of International Law is pleased to announce that the following students have become staff members for 1979-1980: Toby Bartosh, David Biedler, Leon Bijou, Mindy Blatt, Susan Bodner, Thaddeus Boroweic, Mark Casso, Gary Deane, Lynn Dondis, Susan Grayburn, Susan Greenberg, Maryann King, Karen McFarlane, Steven Manket, Arthur Miller, Dennis Mulligan, Alice Newman, John Polakas, Samuel Rosenberg, Christine Rossini, Mark Senak, Stephen Speiser, Patricia Staub, Howard Wittlin, Daniel Wotman and Mark Ziemba.

SURROGATE CLINIC

Continued from page 1

died last summer. Mr. Beitner, meanwhile, has had the responsibility of running the clinic at the Brooklyn court for the past two years, while Prof. Hoffman has continued to hold the bi-weekly seminars.

The biggest losers in this affair have been the students. Students in the clinic who were assigned to the Brooklyn court were forced to amend their schedules one month after the semester began. Prof. Hoffman transferred five students to the New York County Surrogate's office and offered the approximately dozen remaining students one of three options: enroll in an independent study with Prof. Hoffman,

while attending the seminars; transfer to another clinic; or drop the course and lose the credits, since it was too late to add another course.

A delegation from the Student Bar Association met separately with Mr. Beitner, Prof. Hoffman and Dean Glasser October 29, to discuss the adverse effects of the cancellation on the students involved and the school's reputation. They reported no change of position at the present time.

Reinstatement of the Brooklyn clinic is likely to be difficult, since Professor Hoffman stated at the seminar on September 26 that he will not act as clinical supervisor if the Brooklyn clinic is reinstated.

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Editorials express the opinion of the Editorial Board
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Restore the Clinic

We find it shocking that the Brooklyn Surrogate has decided to discontinue his association with Brooklyn Law School's Surrogate Clinic program. It is perplexing to us why Surrogate Bernard Bloom, a Brooklyn Law School graduate, should suddenly dismantle this program after it had been operating so successfully at his office for several years. We are equally surprised by clinic supervisor Prof. Samuel Hoffman's vow not to administer the clinic should there be an eventual reinstatement of the Brooklyn division.

Plainly, the ones who are caught in the middle of this mess and have lost the most from this embarrassing situation are the students. We believe that it is now up to Dean Glasser to step in and press for a quick settlement to this dispute, for we believe it is imperative that the Brooklyn surrogate office be included in the clinic program again for next semester.

This disheartening situation did not arise overnight; indeed, it seems that trouble has been brewing here for a long time. Surrogate Bloom's sharply-worded letter announcing his intention to withdraw from the clinic contains a no-holds-barred denunciation of the way that Brooklyn Law School has been administering its surrogate's clinic. Its tone is uncompromising and angry, and the Surrogate went so far as to question why Brooklyn students receive only two credits per semester for participating, while students from other law school receive three credits. This concern seems petty and is probably a smokescreen to cover other more far-reaching complaints.

Clearly, the students are going to suffer if this dispute is not settled. It will limit the number of positions available to students enrolling in surrogate's clinic and deprive Brooklyn students of an important resource in which to learn estate law.

We feel that if the Brooklyn division of the Surrogate's Clinic is not reinstated by next semester, it will tarnish the image that Brooklyn Law School is trying to project to the outside community. For not only does this incident raise allegations about the failure to properly administer a legal clinic, but it also deflates one of the school's assets — its proximity to local courts. It doesn't matter that the Surrogate's Court is less than five minutes walking distance from the law school if Brooklyn students are not welcome there. The time to patch up matters is now, and the school administration should act quickly to re-establish good will and do whatever has to be done in order for this program to be at full strength by January.

Misguided Zeal

At the last SBA Delegate Assembly meeting, it was brought out that the Evening Moot Court Honor Society was contemplating releasing the problems it developed to the faculty to use in administering the day program.

Although no final decision had been made by the Evening Society, the Assembly passed a resolution calling for reconsideration of funding of the Evening Society should they decide to release the problems.

The Evening Society was incensed. At its own meeting the Evening Society voted not to release the problems, but also issued a resolution condemning the SBA's action and chiding the Day Society for paying attention to the Evening Society only when it felt that its interests were at stake.

What a muddle! We agree that the SBA had a right to know what was happening and we agree the SBA should be concerned about the possible ramifications.

But we are concerned that the SBA may view its function to be to withdraw its funds from any organization that does not adhere to the philosophy of the student government.

This worries us. We are funded by the SBA. While no encroachment has been made upon our editorial domain, this sort of precedent is dangerous.

It is our opinion that the appropriate action would have been to censure the Society, if necessary, once all the facts were before the Assembly. The

Letters to the Editor

Trial Skills Courses of Great Value

Dear Editor:

Your current issue of October 8, 1979 is very well done. You and your staff are to be congratulated.

Your editorial "We Object" is most apropos and expresses my own views on the subject.

Our alumni were always proud of the training they obtained at Brooklyn. It turned out excellent trial lawyers. I attribute it to two things.

First: The majority of the professors were practicing lawyers who never failed to emphasize the practical aspects of their lectures and how to best present the facts and the applicable law to a court of original jurisdiction.

Secondly and of even greater importance was the experience obtained in a Practice Court.

Brooklyn Law School was the first school in the country to initiate a Practice Court in addition to a Moot Court.

It proved so worthwhile that almost every law school in the country imitated it. Very few, if any do not have a Practice Court today.

It is unfortunate that our school has abandoned it.

Our New York Supreme Court Justices welcomed the invitation to preside both in the motion and in the trial parts. After each session, they spent additional time discussing with the students the intricacies of the presentation of each case as well as the courts rulings and the reasons therefor.

There is no better way for our profession to overcome the criticism, deserved or not, of the lack of trial court competence than by Practice Court experience during a law students course of study.

I dare to predict that in the not too distant future law clerkship will be required as a condition precedent to admission to the bar.

If I were a law student today, I would demand that a Practice Court be a required course.

Even if one never intended to be a trial lawyer, he or she cannot be a wise counselor unless familiar with trial practice and procedure.

Keep up the good work.

Abraham J. Multer
 Brooklyn Law School
 Alumni Association

Trial Skills Courses of Little Value

Dear Editor:

I was extremely interested in the editorial stance of your paper ("We Object," *Justinian*, Vol. XL, October 8, 1979) regarding the introduction of major elective courses in various advocacy fields. At present I am writing an article on the suspect quality of these courses in general, and at New York Law School, in particular. On the agenda of a recent Faculty Curriculum Committee meeting was this question: Should NYLS continue its current program at all, or should it be modified to raise its faltering quality? Numbered among the target courses were Appellate Advocacy, Criminal Advocacy, Criminal Appellate Practice & Procedure, Criminal Procedure, Cross-Examination, Motion Practice, Trial Practice Workshop, Trial Advocacy, and Trial Techniques. The result of the meeting was a tentative proposal to restrict the number of available offerings, set a ceiling on the number of courses each student may take, and restructure the nature of the advocacy program.

The situation here is not that the faculty, scheduling, text material, and presentation are poor, but that the overall benefits of such training are dubious. An advocacy or trial practice course may be exceedingly helpful in providing small tips or specialized stratagems for particular cases or types of cases, but one cannot expect to learn the full courtroom procedure in a given area over one semester.

Second, the laboratory environment is essential for the development of scientific skills, but not so for legal training. In a scientific experiment, the number of variables may be reasonably controlled; however, the possibilities are endless in the courtroom. Also, the

professor, competence notwithstanding, cannot substitute for a real judge; and, students do not provide realistic stimulus as opposing counselors and jurors.

Furthermore, the trial course teaches no substantive law. Many students at various law schools fill their schedules with these courses, because they are generally less concentrated and easier than, say, Contracts, Corporations and International Taxation. A student may fritter away his/her entire law school career with these — often termed — "gut courses," and neglect sufficient training in key, marketable areas.

A final issue of importance is that, although many a pundit law student may fantasize him/herself a future Clarence Darrow, demographic and monetary considerations reveal that fewer than 15% of all practicing attorneys see the courtroom more than twice annually. Many lawyers never see real action in trial or appellate situations throughout their careers.

Perhaps, it may be wise for you to consider the issue carefully before jumping into the breach. I have always believed that a good part-time job during law school (with a firm which deals in a student's general area of interest) or an S.B.A.-sponsored "faculty-guided lecture tour" of the various court systems is equally valuable. Then, of course, the inspired student will observe the actual workings of the court on his own time. For a more in-depth look at the subject, please see the upcoming article in the November *Aequitas*.

Thank you for your kind attention.

Michael P. Coneys
 Copy Editor, Class of '81 NYLS

International Year of the Child

Legal System Grapples With Child Abuse Problem

By MARY JANE HUSEMAN

The United Nations has declared 1979 to be the International Year of the Child. The following is the second in a series presented by Justinian dealing with children and the judicial system.

By Mary Jane Huseman

Child abuse is commonly visualized as a picture of a child covered with bruises. Unfortunately, such a simple, readily identifiable situation is neither reported to authorities nor more than the tip of the iceberg.

The term child abuse covers a collection of categories including various physical and sexual abuses, emotional problems, and inadequate medical and educational care.

While such abuse has probably always existed in society to some degree, it is hard to believe that the first legal appeal for the protection of a child in the United States occurred as recently as 1874. It happened in New York City and is known as the "Mary Ann Case." There had been no laws enacted at that time to protect children, so the first child advocate was an animal welfare agency. The appeal was made on the basis of the child being a member of the animal kingdom!

The laws forming the Society for the Prevention of Cruelty to Children, the oldest such organization in the world, were passed the following year, 1875. Similar organizations were founded in various parts of the country soon afterward.

Through the efforts of these child protective agencies, juvenile and family courts began to appear. A controversy over which juvenile court was founded earlier, Illinois or Colorado, has existed for years. Illinois formed its court by legislative action in 1899, but Judge Lindsey of Colorado used the doctrine of *res ipsa loquitur* to establish a special arrangement within the regular court much earlier.

Initially, courts tended to prosecute parents in a criminal action for child abuse. By the 1900's this disruption of the family was seen to be without merit, according to Vincent De Francis, director of the Children's Division of the American Humane Association. Rehabilitation became the more preferred aim of child welfare.

For various reasons, rehabilitation is a problem. Aside from the difficulties inherent in getting any unwilling individual to accept assistance, bureaucracy presents its own troubles. The choice of what approach to utilize depends upon pre-existing patterns of referral in the community — to a special agency, to the police department, etc.

Identification of an abuse case is a problem in itself. Child abuse appears to exist in all facets of society, without regard to socio-economic or other status. It is easier for some people to hide it, or for others to ignore it.

Early reporting of abuse cases becomes very important, especially in the case of young, impressionable children. Reporting laws therefore either compel (New York) or advise (depending on jurisdiction) parents to report

dical personnel, hospitals, and schools to report cases of suspected child abuse.

More reporting is not adequate to protect the interests of the child or the family. The appropriate welfare, social service, and other agencies must take action. The juvenile and family courts, once considered a panacea for the problem, are being given closer scrutiny.

Informality was the hallmark of these courts and, to some extent, it still is. But attorneys were not encouraged, or were actively discouraged, from becoming involved in the proceedings "for the best interests of the child and family."

Gradually, questions began to arise. In the related matter of juvenile delinquency the Supreme Court began to enforce heretofore lacking constitutional requirements in the proceedings. Thomas T. Becker explored the actions of the Supreme Court in his article "Due Process and Child Protective Proceedings," reprinted by the American Humane Association.

In *Kent v. U.S.*, 383 U.S. 541 (1966), the Court held the right to a hearing was included. In *re Gault*, 387 U.S. 1 (1967), due process was held to include the right to counsel, the right to confront and cross examine, the privilege against self-incrimination and timely and adequate notice of the charges. In *re Winship*, 397 U.S. 358 (1970), the court held that delinquency must be proved beyond a reasonable doubt.

It would appear to be unreasonable not to have even these basic safeguards to an individual's rights in the family courts. New York has a fairly comprehensive statute; see the New York Family Court Act.

The special court's existence is justified under the *parens patriae* doctrine of the English chancery courts. The sovereign was charged under this theory with the protection of children when parental abuse necessitated it.

Even in cases where child abuse would appear obvious, evidence of criminal intent is difficult to prove and tends to hinder any prosecutions. Child abuse has only been a crime in New York State since 1970. Eighty percent of all child abuse cases are handled under the Child Protective Services Act of 1973, according to Douglas Barashov (Practice Commentary, N.Y. Fam.Ct. Act §1011). There are provisions for referring the case to court after less drastic action does not succeed.

The Family Court may act speedily and summarily order temporary removal of a child during these other proceedings should it be necessary (Fam. Ct. §1067). In urgent situations a child may be removed without prior court order from the home by certain designated personnel as provided in Fam. Ct. §1024.

In an interview with the *Denver Post*, Vincent De Francis estimated that there were about 25,000 reported child abuse cases in the United States in

a given year. Reported cases, as one might imagine, are just the tip of the iceberg. He puts sexually abused children in the 50,000 to 75,000 range annually and 100,000 who are emotionally neglected constitute another large group. "And if we look at physically,

morally and educationally neglected children there must be 100,000 more."

Statistics such as these indicate that the International Year of the Child is an appropriate time to investigate more closely the ramifications of this hidden problem.

Brooklyn Law Trustees: Guardians of the Purse

By STEPHEN GANIS

Who are the Brooklyn Law School Trustees and exactly how much power do they wield?

According to the school's bylaws, the trustees have the power of appointment of the dean and the faculty. They also have the power of final approval of instruction and course offerings in the law school as determined by the dean and the faculty. The Board's responsibilities also include overseeing the finances, budget, and equipment of the law school.

This would seem to be a giant responsibility for a group of 15 trustees who meet once a month for nine months during the school term. In interviews with *Justinian*, trustees have admitted however that they leave all academic matters to the dean and the faculty notwithstanding their power to play a more active part in this area of the law school and that they concentrate instead on matters of finance at each of their meetings.

The Board has decided, for example, that next year the tuition for full-time enrollment at BLS will increase to \$3800, an 8.8 percent hike from the current \$3500 fee. This increase will apply only to newcoming students, however.

The Board also monitors the expenses of the capital construction projects at the school, including the recent renovation of the seventh floor and the addition of the new basement level to the library. Its treasurer has the power to decide whether to convert investments into operational funds and to oversee the school's endowment fund as well.

HILSA to Meet

The Brooklyn chapter of the Puerto Rican Law Students Association announces that it has changed its name to the Hispanic Law Students Association (HILSA).

HILSA's officers are President Ana Flores, second year day; Vice-president Edmond Lugo, second year day; and Secretary Carmen Vaerga, first year day.

A reorganizational meeting will be held November 15 at 5:00 p.m. in room 602. All interested students are invited to attend.

The names of members of the Board of Trustees are printed prominently in the school's catalogue; the list includes some important names in the legal community. The members include: Judges Henry Bramwell, Leonard P. Moore, Edward Thompson and M. Henry Martuscello; Dean Jerome Prince; attorney John Doar, former counsel to Senator Sam Ervin's Senate Select Committee on Presidential Campaign Activities which investigated the Watergate scandal; attorneys Abraham Lindenbaum, an influential lawyer in city politics, Paul Windell, and Leonard Garment, former counsel to President Nixon; bank presidents Willard G. Hampton and Wilbur A. Levin; corporate consultants Hollis K. Thayer and Cecily Selby; and two recent Brooklyn Law School graduates, John Hardy Fitzhugh, Editor-in-Chief of the *National Law Journal* and Vivian Shevitz, assistant United States Attorney.

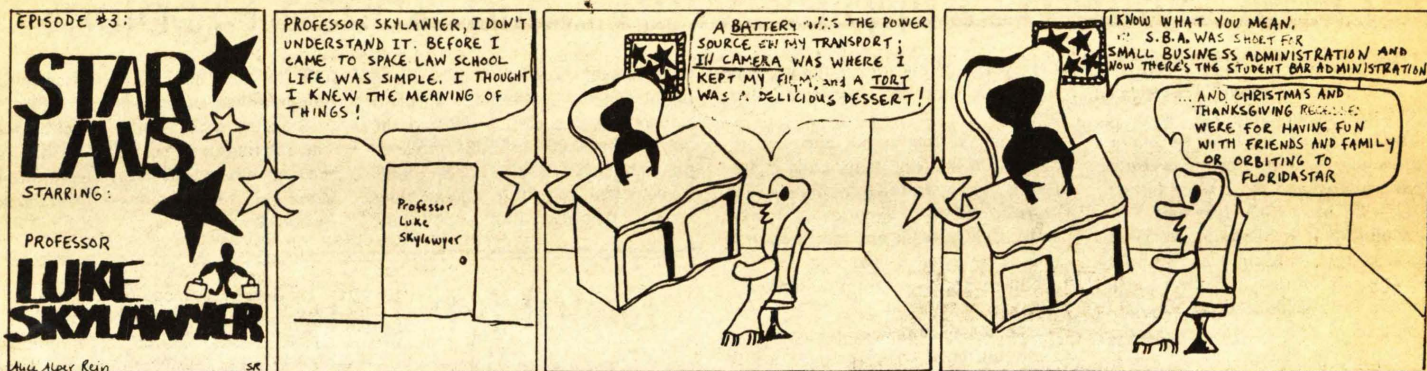
The term of office for the trustees is three years, and they are eligible for reelection. This rule does not apply to Mr. Fitzhugh and Ms. Shevitz, however. They have been installed for only two years under the school bylaws whereby the trustees may elect two board members from among the recent graduates of the law school to serve for a period of two years. Both Mr. Fitzhugh and Ms. Shevitz are currently serving in their second year.

"The purpose of this rule is to allow the trustees to get input from recent graduates on how the school is operating and what improvements should be made," explained Dean Prince.

The trustees recently elected a new slate of officers for the current term including Mr. Lindenbaum as president, Mr. Windell as first vice president, Judge Thompson as second vice president and Dean Prince as secretary.

Improving the School's Reputation

Although the trustees are a business-minded group, there is currently some discussion among them as to how to improve the reputation of the law school. Mr. Fitzhugh told *Justinian* that he believes that the school must be better marketed in order to compete with other law schools in the country. He suggested that the Board of Trustees is now looking into the possibility of establishing a specific area of the law school curriculum in which Brooklyn Law School would excel and intimated that that area of the law could be Evidence.



L.A.W. NEWS

By LINDA STAGNO

The newly formed Brooklyn Legal Association of Women (L.A.W.) is a student organization whose focus is on legal issues of concern to women. L.A.W.'s aim is to coordinate the professional interests of women law students at Brooklyn Law School with broader political and legislative issues that affect all women.

The organization will present a diverse program of events during the academic year at Brooklyn Law School, in addition to providing information about and support for activities taking place in the women's legal community throughout the metropolitan area.

Through informed discussion, presentation of knowledgeable guest speakers, and active participation in area events, L.A.W. hopes to sensitize the intellectual forum existing within the microcosm of Brooklyn Law School to salient issues of real import to women today.

At the same time, the organization will focus on BLS's administrative policies to insure equitable treatment to female law students.

To date, L.A.W. has participated in

Abortion Rights Week (October 21-29) and is planning to present a panel discussion between successful women lawyers in November.

Future events on this year's calendar include coordinating, with other New York City law school women's associations, the Metropolitan Women and the Law Conference (scheduled for the weekend of Feb. 2) and sending representatives to both the Regional (March 29) and National (Feb. 29-March 2) Women and the Law Conferences.

In addition, a Task Force has been created within L.A.W. to study the current problems of women law students at BLS.

BLS boasts a 47% enrollment of women law students this year. While free time is a scarce commodity for all of us, participation in an organization like L.A.W., (which has been founded to meet the particular needs of women law students), is vital for both individual professional encouragement as well as to insure a well-informed legal community at BLS.

New members are invited to attend weekly meetings. Signs will be posted giving dates and times.

Brooklyn Law School Hosts Balsa-Sponsored Law Day

By SHIRLEY F. GAJEWSKI

Brooklyn Law School was the site of the 1979 Regional Black American Law Students Association (BALSA) annual Law Day for the metropolitan area on September 30, 1979.

The event was attended by over 200 aspiring minority law students, 40 recruiting law schools and representatives from various financial aid programs and LSAT prep courses.

A brief greeting was delivered by MCC/BALSA Director Elaine Robinson. Dean I. Leo Glasser welcomed the potential students to Brooklyn and noted that BLS has the distinction of being the alma mater of many minority judges in New York as well as having one of the highest percentages of students passing the bar exam.

The Hon. Henry Bramwell, Justice of the Federal Court, Eastern District gave a short address of assurance to the "students."

The keynote speakers of the affair were Haywood Burns, Professor of Law at New York Law School and Victor Goode of the National Conference of Black Lawyers.

Three workshops were held, giving needed information and guidance to

the potential students. Linda Flores conducted the CLEO workshop. She advised the recruits of eligibility requirements and the importance of submitting their applications timely.

Butler T. Henderson, Director of the Earl Warren fund and Sandra Graves conducted the financial aid and scholarship workshop. They advised the recruits of the various areas and types of financial aid and of the requirements that would have to be met.

The workshop on LSAT/LSAS procedures and law school applications was conducted by William Knight, former Regional BALSA Director and recent graduate of Columbia Law School. This workshop held the most immediate appeal for the recruits.

The co-ordinators of the event, Alfredo Johannes, Sandara Graves, and Shirley Gajewski expressed their appreciation and acknowledgement of the support given them by Dean Glasser, Dean Henry W. Haverstick III, the BLS staff, and the Brooklyn chapter of BALSA. They especially acknowledged the minority members of the first year class for their motivation, concern, and strong support in achieving a successful event.

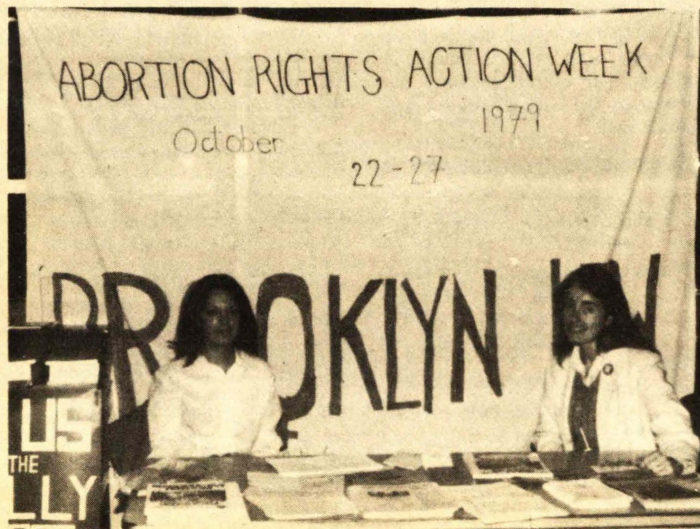
Nat'l Moot Court Team Argues

Brooklyn Law School will participate in the 30th Annual National Moot Court Competition on Wednesday, November 14. Finals will be held on Thursday, November 15.

Brooklyn's team is made up of third year students Kristina Geiser Manon, Debra Roth, and Alexander Valicenti. The competition will be held at The

Association of the Bar of the City of New York at 42 West 44th Street. Brooklyn is scheduled to face St. John's at 4 p.m. and New York Law at 8 p.m.

Students and faculty are encouraged to attend although they should not indicate that the team represents BLS as the judging is done anonymously.



ABORTION RIGHTS ACTION WEEK: The Brooklyn Legal Association of Women and National Lawyers Guild co-sponsored a series of speakers at BLS in the last week of October. The program dealt with a woman's right to legal abortion and her right to make a

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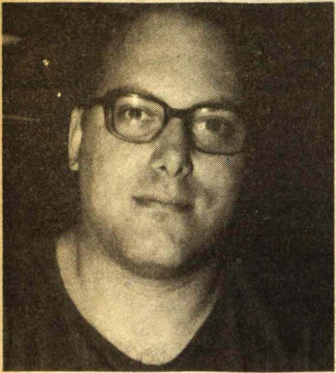
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By **ARTHUR S. FRIEDMAN**
and **CHRISTINE SHORT**

Students were asked what course they want to be sure will be offered next year at BLS.



KENNETH SHAW, third year day. Although he will graduate this year, Mr. Shaw regrets not having the opportunity to take jurisprudence. "Brooklyn calls itself a national law school and this is the sort of course a national school should offer, something beyond a nuts and bolts orientation toward the law."



ALICE B. NEWMAN, second year day. "Constitutional law should be offered in two semesters. Because there is so much material, some professors omit certain material while others treat everything superficially. Either method is ineffective."



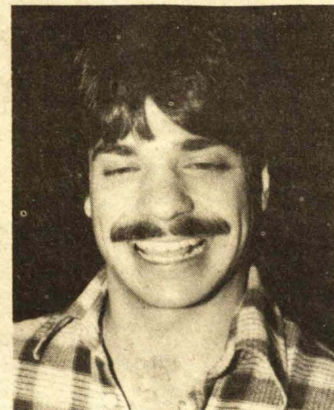
LAURIE NELSON, first year day. "I want to be certain a course in environmental law is offered. People I know in the EPA tell me jobs are available, especially for women. I think environmental law is a fascinating field and I am worried that su



DAN SCHWARTZMAN, first year day. "Personally, the reason I'm here is to pursue entertainment law. With my past experience in the record industry, I'm looking forward to a course in entertainment law."



RONALD SALZER, second year evening. "I'd like to see a course in educational law. I'm a teacher and an administrator. A lot of money is spent on education and properly trained lawyers should be involved in directing that kind of funding."



JOHN POLAKOS, second year day. "I definitely want to be able to take Securities with Judge Duffy. It's a course necessary for any sort of lawyer and Judge Duffy is a great person to learn from."

et al.: The Justinian

COURT JESTER

By **DAVID AARONSON**

Lester: Hi, Phil. How was your summer?

Phil: Fine. How was yours?

Lester: Okay. How does it feel to be a third year student?

Phil: It feels no different than being in the sixth grade.

Lester: What are you talking about?

Phil: The law school treats us like children. It's all a big game.

Lester: Come on, Phil, I think you're just a little depressed about being back at school.

Phil: I don't think so; this goes a lot deeper. It's a real gut issue with me.

Lester: How were your grades last semester?

Phil: I don't care about grades anymore. Can't you see that they're just manipulating us through the use of grades?

Lester: Maybe. What did you get in corporations?

Phil: Forget about corporations. Listen, if one more professor informs me that law school is going to teach me how to think, I swear I'm ...

Lester: But what did you get in corporations?

Phil: 92.

Lester: That's great, congratulations!

Phil: Stop it. Don't congratulate me.

Lester: But you deserve it; you worked hard for it.

Phil: I'm above the charade they call grades.

Lester: You weren't above them last term.

Phil: I've quit playing all the games.

Lester: What's your alternative?

Phil: For one thing, law students could do with a little more self-awareness.

Lester: By the way, what did you get in Sales?

Phil: 74. The guy gave a really atrocious test, he didn't question us on anything we covered. It was simply a

flake.

Lester: Right. But I think you're wrong about the self-awareness point.

Phil: Are you kidding me? Attorneys have such limited vision.

Lester: You're being terribly unfair to a lot of hard-working, dedicated people.

Phil: In my eyes, they've all been lobotomized by having their insecurities constantly massaged through a combination of greed and pretentiousness.

Lester: You are making a fool of yourself, Phil.

Phil: Listen, I don't even want to talk about it, I can't be bothered by these petty people and their petty institutions. They are all such outright hypocrites. Always going on about the noble practice of the law, yet paying only lip service to any real effort to have the law actually serve the people.

Lester: There are abuses in any business.

Phil: That's just what is wrong with everything; it's all a business.

Lester: Grow up! Everyone has to make a living. Medicine is a business too.

Phil: I can't talk to you.

Lester: How's Susan?

Phil: We broke up last June. She doesn't understand me.

Lester: I can't imagine why.

Phil: Anyway, I've met someone else.

Lester: Who?

Phil: Her name is Carol.

Lester: Where did you meet her?

Phil: At the firm I worked for last summer, she was a summer intern too. We're really into each other.

Lester: That's great. I assume you're going to continue to see each other.

Phil: Of course. Paul, Weiss, Rifkind, Wharton and Garrison hired us both back when we graduate.

Lester: You are a real crusader, Phil.

Phil: Thanks.

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Race Judicata: Res Ipsa Loquitor

By STEVEN J. SALTZMAN

Paul Going, a 32 year old correction officer on Rikers Island, won the first annual Race Judicata contest on October 28 with a time of 18 minutes and 54 seconds.

Mr. Going, who was not sure he would make it to the 11 a.m. race because he reportedly had gone to bed at 5:30 a.m. that morning with a hangover, led the field of 75 hearty runners who braved the cold and rainy weather to compete in the 3.1 mile race.

The top woman finisher was Sheila Gilbride, Dean Gilbride's 16 year old daughter. When asked why she decided to run in the contest, Ms. Gilbride replied, "I just like to play sports so I figured I would run today."

The race began in front of Brooklyn Borough Hall and continued over the Brooklyn Bridge to Manhattan and back to the starting point, a distance of 3.1 miles. However, the stairs on the bridge and its slight incline made the course more strenuous than the average three mile jogging track.

At the outset, the goal of a majority of the runners, this reporter included, was just to finish the race. Each runner probably had a personal goal as well; in this reporter's case, it was to finish ahead of alumnus Robert Adler, who happens to be my employer.

The race was a tough three miles. Runners had to contend with the rain, the bridge, and, in addition, some runners also happened to encounter a "No Nuke" demonstration making its way to City Hall.

Winner Paul Going, who was awarded a copy of *The Complete Book of Running*, told *Justinian* that he runs about an hour a day and was forced out of the New York City Marathon due to a cold. While other runners were looking to relax during the festivities at the finish line, Going told friends that he was looking forward to playing football that afternoon.

BLS students Dan Corey and Paul Davin were among the top four finishers. Corey's fine performance was not timed, for after Paul Going crossed the finish line, timer George Taylor hit the stopwatch accidentally, thus wiping out the times of all other runners.

The youngest entrants were nine year old Eric Fink and his friend, David.

Faculty Representatives

The BLS faculty was well represented. Professors Kuklin, Schenck,

Johnson and Zaretsky all finished the race, and Professors Letiner and Crea stood by to "jeer" the runners on. Dean Glasser started the runners off their marks, and Dean Gilbride was there to give everyone moral support. The crowd of finishers were treated to an extra-special performance by Professors Schenck and Johnson when they headed neck and neck in a dead heat to the finish line. Whoever won doesn't really matter, as each claimed bragging rights that they finished ahead of the other.

Professor Kuklin appeared in a "Kuklin's Sweathogs" T-shirt, and when asked afterwards how he felt about the race he replied, "I made it."

Professor Zaretsky, who was one of the organizers of the race along with his friends Hazel and Andy Mushynsky, claimed he felt "fantastic" after the race. Professor Zaretsky noted immodestly that he was the first faculty member to finish the race.

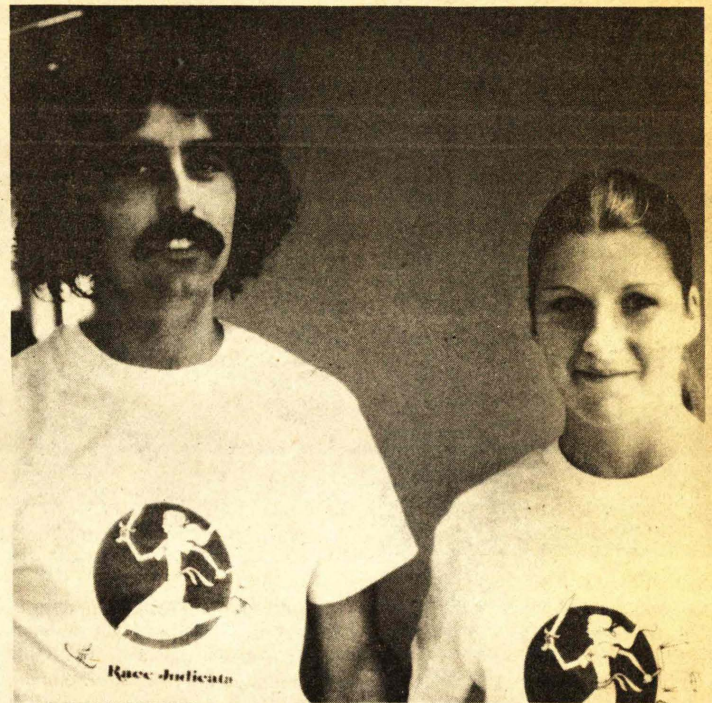
Last in the race but not least was Sam Rein, one of the principal organizers of the event. Sam, the SBA treasurer, asserted that he was not used to coming in last in these races, because in high school he was a track star with a claimed time of 4:18 in the mile.

Special thanks go to George Taylor, SBA president, and all others in the SBA who helped make the race a success; Prof. Zaretsky, Hazel and Andy Mushynsky for fostering the idea for the race and designing the logo; Alice Alper Rein; Dean Glasser, Rich Urban; the City of New York for fixing the broken planks on the bridge, and to the 84th police precinct for escorting the runners across Tillary Street and giving all entrants words of encouragement for the final home stretch.

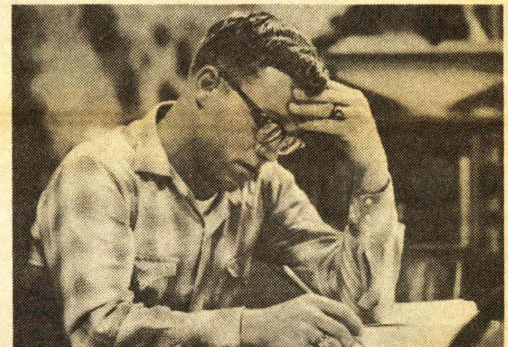
Anyone interested in obtaining one of the official T-shirts from the event should go to the SBA office. The shirts are \$4 apiece, and are available in all sizes, including children's sizes.

★ ★ ★ ★

As for this reporter's performance: Unable to overcome my boss, I instead tried to overtake in the last leg of the race a woman who was running between us. Despite taunts from onlooking kids that I was letting a woman beat me, I couldn't catch her. Marilyn Casowitz, a second year student, beat me by about 10 feet. She was the second woman finisher. At the end, my boss and I hugged each other and shouted, "We did it!"



Paul Going and Sheila Gilbride, the winners of the first annual Brooklyn Law School Race Judicata.



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