

# The Justinian

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Volume 1984  
Issue 6 *October*

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Article 1

2018

## The Justinian

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### Recommended Citation

(2018) "The Justinian," *The Justinian*: Vol. 1984 : Iss. 6 , Article 1.  
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# Justinian

"We could justify any censorship only when the censors are better shielded against errors than the censored."

—Robert H. Jackson  
American Communications  
Assn. v. Douds 1950

VOL. XLIV

Thursday, October 11, 1984

NO. 2

## VISITING SCHOLAR SERIES CHILDREN'S RIGHTS

By Nina L. Sturgeon

BLS has successfully begun its second annual Visiting Scholar lecture series. The first in a series of five lectures was presented on September 19 by Professors Martha Minnow of Harvard Law School and Mary Jo Frug of New England Law School. The professors, who were honored at a faculty luncheon, presented a joint paper on "The Rights of Children" to an audience of forty students and faculty in the Student Lounge.

Professors Minnow and Frug have taught courses on Children and the Law at their respective universities for the past three years. During this time, they recognized many overwhelming inconsistencies in the laws' approach to children. For example, the legal system which allows a fifteen-year-old to consent to her own abortion without parental permission also may prevent her from leaving school property in order to obtain the abortion without parental approval. Similarly, a seventeen-year-old may be prosecuted as an adult for violating the criminal law but may not be held civilly responsible for the same act. These contradictions create total unpredictability in the outcome of children's advocacy work.

Minnow and Frug suggest that this inconsistent approach of the law to children is symptomatic of conflicting approaches to children's rights taken by society in general; Is children's rights a new field of advocacy outlining rights of children as they emerge or a story of decreasing privacy rights of parents? Is the issue a question of who speaks for the child or an attempt to determine variable levels of a child's competence? Each of these analyses is found lacking in its attempts to address all of the issues involved.

Professors Minnow and Frug find three possible answers to the question of who speaks for the child. Parents are usually allowed to speak for the child as long as they can prove that they are acting in the child's "best interests." Parents are denied representational power if there is any question of abuse, creating the need to protect the child from the parents. Conversely, the state is allowed to speak for the child in cases involving medical decisions on the theory that in these particular situations the parents can't be trusted to give the child what he or she needs. And finally, in abortion cases, neither the parent nor the state is allowed to speak for the child, but the child speaks for herself. Regardless of who the speaker for the child is deemed to be, Minnow and Frug find little concern expressed over the content of that speech. This often acts as a barrier preventing children's advocates from reaching well-informed decisions regarding what action to take.

Professors Minnow and Frug also question the variable sliding scale used to determine a child's competence. While this scale is usually wielded by "experts," it frequently utilizes a combination of law and psychology to yield widely varying effects (i.e. most states set a minimum driving age of sixteen but use a different standard anywhere from eighteen to twenty-one—for drinking). The child's competency for decision-making is often tested against that of an "adult" standard—if the child would choose the decision that a majority of adults would choose then the child is competent to make the decision; if not, the parents must decide. Minnow and Frug propose that true autonomy would include a right to choose something different from the majority.

The third framework analyzed by Professors Minnow and Frug is that of neglect. They note that the United States ranks twelfth among the nations of the world in infant mortality rates and that 20% of American children grow up in poverty. Still, they see the neglect issue as one that pits the idea that children are entitled to caretaking against the move towards autonomy for children since autonomy is seen as synonymous with no right to care. This split between the "care" and "autonomy" motifs is paralleled by the "Public v. Private" approach to caretaking generally held by the legal system, i.e., caretaking of children is assigned to the private realm thereby allowing neglect of children at a societal level. This dichotomy arises again when a child is presented before a judge as an autonomous person.

Minnow and Frug suggest breaking out of these forced dichotomies between caring and autonomy by making child care a national priority and not an issue that needs to remain isolated in each individual household. They advocate erasing the dividing line between autonomy and caretaking and filling in the gaps between public and private responsibilities. Minnow and Frug urge that the contradictions and conflicts present in the area of children's rights need not be seen as traps but rather be used effectively to discover new approaches to the problems.

Copies of Professors Minnow and Frug's paper are available in Professor Gary Minda's office.

The next speaker in the distinguished Visiting Scholar series will be Professor Gerald Frug of Harvard Law School, who will present a paper entitled "The Ideology of Bureaucracy in American Law" on Wednesday, October 24 at 1 p.m. in the student lounge. Professor Frug will use contract law to illustrate his topic.

## DAY CARE FEASIBILITY STUDY UNDERWAY

By Jody Ain

Brooklyn Law Schools' day care center is now one step closer to becoming a reality. Ms. Elisa Crowe, a consultant, has been hired to prepare a written report on the feasibility of establishing a day care program in the school.

The selection of Crowe was the result of a busy summer of interviewing by the Day Care Center Advisory Committee. The committee consists of Professors Gary Minda and Mary Ellen Fullerton, Director of Administration and Student Services Robin H. Siskin, two Brooklyn Law School students, Ms. Theresa Begley and Ms. Cynthia Dachowitz, and Dean Henry Haverstick III, chairman of the committee.

Crowe majored in Early Childhood Special Education and has a Master's Degree in Education. She has various certifications for teaching the lower grades in school. Crowe has administrative and teaching experience and has conducted several workshops on education.

Within the next few months, Crowe will present a report on the possibility of establishing a day care center at One Boerum Place. The report will include an estimated budget for equipment, staff, and renovations; a compiling of available funding sources; a detailed list of licensing requirements and program recommendations; a feasibility study, given space limitations and a limited budget; and a list of alternative recommendations to an in-house day care center in case it is determined that an in-house program is not practicable. Crowe will be asking the entire student body to fill out a questionnaire to determine what type of program will best suit the needs of the students.

The establishment of a day care center in Brooklyn Law School was first proposed by Professor Gary Minda less than one year ago. In February, the faculty passed a resolution which created the Day Care Center Advisory Committee to study the feasibility of opening a day care program in the school. The faculty also passed an interim proposal which created a day care information office. The Director of Administration and Student Services, Robin H. Siskin stressed that "the establish-

ment of a day care center is not a foregone conclusion. We are in the exploration phase, and without full knowledge of every facet of such a project, a commitment to a center would be hasty." Ms. Siskin added however, that "the administration has demonstrated its commitment to the concept of a day care center by selecting a consultant to do a feasibility study. As with everything, it takes time, but I think in this case, we are progressing nicely."

Siskin has supervised the establishment of the interim day care information office. The office is now located in a separate room within the S.B.A. office, in room 302. The office will be open Mondays, Wednesdays, and Fridays from 9:00 am to 1:00 pm and Tuesdays and Thursdays from 1:00 pm to 7:00 pm. Students will be employed to answer the telephone, to handle the lending library, and to make the office accessible to the students. The office provides reciprocal babysitting lists, current articles of interest, files on day care providers in the area, and a lending library consisting of books and pamphlets for people seeking information about day care, for day care providers, and for parents. The telephone number of the office is 780-7991. In case of emergency, a day care center can call this number to reach a child's parent while the parent is at school. When no one is in the office, a recording directs the person to call Siskin who is usually at the school until 7:00 pm. Siskin stressed that students should make use of the interim office and should show support for the establishment of a day care center.

Professionals in the field of education and in child care services have spoken to Siskin and have been very supportive of the day care center proposal. Siskin also has spoken to several alumnae who have shown an interest in supporting the program with donations and equipment. According to Siskin, the establishment of a day care center is an "idea whose time has come" and certainly will be a "drawing factor to the school."

Professor Mary Ellen Fullerton, a member of the Day Care Center Advisory Committee, said that she was "pleased we have a consultant" and that she hopes the day care center "will become a reality."

and objective procedure for granting tenure to instructors involved in clinical programs. Another important resolution urged repeal of recent tax legislation which prevents working students from deducting tuition on tax returns except where job related under the most narrow conditions. A resolution which was defeated called for the repeal of provisions denying Federal loans to students who failed to register for the draft. Another resolution considered, and passed, was a proposal to set up a committee to investigate the reasons for high drop out rate among minority law students nationwide.

A number of workshops were also offered. These included workshops on LSD membership, the VITA (Voluntary Income Tax Assistance) Program, Roberts Rules of Order and a workshop conducted by the National Association of Student Bar Associations on ideas for fund-raising.

Following the close of the Annual Meeting, a reception for Brooklyn Alumni attending the ABA meeting was hosted by Dean David Trager with Alumni Director Johanna Furland. A number of Alumni were present

from the New York area, as were several Alumni from the Chicago area who spoke persuasively of the opportunities that the area had to offer.

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### Membership

Brooklyn Law School has an excellent record of membership enrollment in the ABA/LSD, but there is still room for increased membership and participation. The following is a description of the Division and the benefits that membership affords. Applications are available in the SBA office on the third floor. Any problems, questions or ideas should be addressed to John Folcarelli, ABA/LSD Representative, by leaving a message in the SBA office.

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## REPORT OF ABA / LSD ANNUAL MEETING

By John Folcarelli  
Report on the Annual Meeting

The Annual Meeting of the Law Student Division of the American Bar Association was held in Chicago, Illinois from August 2 through August 5, 1984. Law students representing schools from all over the country were in attendance. Student Bar Association President Bernie Graham and

ABA/LSD Representative John Folcarelli represented BLS.

The Division considered approximately 144 resolutions which touched on a wide range of student concerns. Throughout the course of the meeting, the resolutions were the focus of business. Among the important resolutions considered and passed was a proposal urging the establishment of a uniform



## EDITORIAL

## Justinian

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## INTERVIEW EQUITY

For years, the posting of on-campus interview lists has generated more dismay than hope, more frustration than encouragement. The great majority of us are left completely out of this annual ritual. A cursory glance at the interview lists proves that most scheduled on-campus interviews are allotted to a very small proportion of students.

Under the BLS system, employers are given absolute discretion to pick their interviewees. It is the rare law firm, indeed, that will not draw up its interview list based primarily on class standing and law review membership. While no one suggests that those with the highest credentials and grade point averages should be denied access to potential employers, there is certainly a way to broaden interview opportunities to include the "bottom" 80%.

Some law schools use a "lottery system" whereby a fixed number of each law firm's interview slots are reserved for those students whose resumes don't necessarily boast high numbers or prestigious affiliations, but who still deserve the opportunity to sit down with a recruiter for twenty minutes. Under the system, employers would have discretion to choose 80% to 90% of their interviewees, but would understand that the remaining interview slots (anywhere from one to three) would be filled at the discretion of the Placement Office. Accordingly, the Placement Office would fill the remaining slots on a fair and equitable basis, randomly selecting those students who have chosen to participate in the pool.

There are those who would object to such a system as undermining the school's prestige. Heaven forbid that a person in the lower half of the class should embarrass the school! Who are we to put such pressures on large law firms?

Such objections are based on a self-fulfilling pessimism. By inviting firms to Brooklyn Law School, we give them a chance to choose from some of the most highly qualified law students in the New York area. As in other schools, it is appropriate to ask that they provide the minimal service of interviewing a few of the "bottom" 80%. We question the intentions of any employers who would balk at such a requirement and wonder whether they would hire BLS students in any event.

## LETTERS

## To the Collective:

On Sept. 19, 1984, the Grading Committee held its first meeting. The Committee is composed of six faculty and two student members, including Professor Pinto as chairman and Mark Diamond and Bernie Graham as student representatives.

The Committee came into being during the spring, 1984, semester by a very narrow vote at a monthly faculty meeting. The need for a grading committee became apparent when it was noted that Professor Holzer's Constitutional Law class grades for the fall, 1983, semester were approximately 10 points lower than the average grade for the other two Constitutional Law sections. Student reaction to the disparate treatment was pronounced; petitions were signed and the Administration was requested to act. Professor Holzer refused to change his grades and contended, correctly, that he was under no stated obligation to rectify his grades.

There was no stated grading policy at that time, either mandatory or suggested, and there is no policy today. There is a very real likelihood that a professor teaching an elec-

tive or required course will again give statistically abnormal grades that are extremely above or below the average and the problem will come to a head once more. It may well be that a professor has a class that refused to participate, that neglected to do their assignments or, on the other hand, was extremely involved or composed of exceptional students. Without any kind of grading policy, however, a professor does not have to explain why his or grade abnormally deviate from the average; there would be no recourse for students who are subjected to a professor who grades arbitrarily or capriciously.

Test grades should not be determined arbitrarily. There must be a remedy when we are wronged. We do not want to practice law in a capricious environment. We see no reason to learn the law under such conditions.

The faculty deserves credit for finally recognizing that a grading policy should be considered. There now exists a possibility of a policy being implemented. The first meeting of the Grading Committee was positive and

the members appear ready to address the situation. Unfortunately, there are members of the faculty who do not recognize that a problem exists and believe that students have created a problem where there is none. We believe that they are mistaken. The absence of any kind of policy which would eliminate unfairness in grading detracts from the professionalism of the law school in grading, it dampens morale among students and breeds cynicism for the BLS education. The benefits that would be derived from a fair grading policy would extend beyond student interests and would be felt by the entire Brooklyn Law School community.

Among the numerous suggestions which we would like to have the faculty consider are the following:

1. The adoption of a suggested curve that, if deviated from, would require an explanation from the responsible professor.
2. The formation of a permanent committee that would answer to the Dean and would ask a professor for an explanation when his or her grade deviates from the suggested curve.
3. Implementation of a retroactive policy to amend abnormal grades in recent classes.
4. The formation of a mandatory curve based on grades of other sections for the same course.
5. A permanent committee to hear and judge grievances by individual students about individual test scores.

We are conveying our thoughts to our fellow students so that we might have your suggestions and comments. We are addressing the faculty in the hopes that they will warm to the idea of a fair grading policy. Should students or professors wish to contact us, we can be reached c/o the SBA.

Sincerely,  
Mark Diamond  
Bernie Graham

## To the Collective:

Will the woman who committed a trespass upon locker no. 265 in the women's locker room kindly replace the "Dump Reagan" sticker she ripped off my locker, or, alternatively, reimburse the owner the \$2.00 she paid for the sticker. If this is an indication of how First Amendment rights to the freedom to express one's opinions are to be respected by those afflicted with "Reaganmentality," and should the man win the election, we and the Constitution are in for a tough four years.

Gloria Ramakus  
Third year

## To the Collective:

Could someone please explain the logic of the recent locker move? First we had to take everything out of lockers on a Friday, lug it all home, just to bring it back on a Monday in order to move it five feet across the locker room. Does someone think it's fun to drag law books around. If this wasn't enough, someone came up with the bright idea of renumbering lockers that already had numbers on them. Was this so a nice easy list could be put up on a bulletin board, in alphabetical order, with nice neat colating numbers starting from one? Was this necessary to waste our money on little yellow stickers with numbers so no one had to go check the numbers on the lockers already at the various places lockers are in the building? It seems equally odd when trying to figure out the logic of the scheme when I consider that new students all come into the school, messing up the whole alphabetical list, causing panic and a complete reassignment again next year.

Why couldn't someone just ask students to register their locker number with student services. Then the school would know who had a locker and where. When students graduate would it be so difficult to reassign just those lockers. This seems like the least restrictive means of solving a valid administrative need and causing the least difficulty to the student body. The arbitrary notice put on a locker door telling you to get out or get clipped shows an insensitivity to the student body which the student services department is meant to serve. I was quite surprised when I found someone had the courage to sign the locker notice. Who is this person Robin Siskin? What does she do? Was this her brainstorm? What other operations does she direct with the skill of the locker room move? Could someone find these things out?

By Jamie Delio

## Write For Your Paper

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## To the Collective:

The Natural Resources Law Society (NRLS) is now entering its fifth year as a student organization at BLS. Many of you have seen our newsletter, "Natural Resources Bulletin." It has been my privilege to be editor of the bulletin for the last two years. Although the bulletin has only been published once a year we now hope to publish it twice a year, once each semester. In order to do this we need non-members to contribute articles. To those of you who have taken the Environmental Law Seminar, we would gladly edit and publish the final paper which you wrote. To all others I would like to point out the advantages of contributing to the Bulletin.

This semester we have become aware of our growing prominence in the New York City area. We have been approached by members of the New York City department of Environmental Protection and by practitioners who have requested to be placed on our mailing list. Other law school environmental groups have congratulated us for our Bulletin. Therefore we can claim an expanding and influential readership.

If this is not enough to convince you, then please consider the following. In the last few years the field of "Toxic Torts" has become one of the fastest growing areas of law. As the 1960's was concerned with Clean Air and

decade of "Hazardous Waste." The effluents which once were being dumped in our rivers are now being dumped legally and illegally in landfills, dumps and unmarked locations. New Jersey has at least 50 sites which are on the priorities list for the Superfund. New York also has numerous sites on the Superfund list. Since Congress has established the Superfund, environmental law firms as well as corporate law firms find themselves treading uncharted waters. A recent two day symposium co-sponsored by Rivkin, Leff, Sherman, Radler and Hofstra University and attended by an NRLS member is indicative of the interest in this field. Those who have any experience in this field are quickly being hired. If you are interested in practicing in a field of law which is both socially redeeming and economically rewarding, the Bulletin can become a spring board for you.

For those of you who were unable to read last May's issue, we will be reprinting it soon and will let you know when copies will be available.

If you are interested in contributing an article, or if you want more information about the NRLS, please leave a message in the NRLS box in the SBA office on the third floor.

Thank you for your continuing support.

Arnold Glassman  
Editor  
Natural Resources Bulletin



# AN ANARCHIST AMONG PARLIAMENTARIANS

By Robert Axford

Among other things, I vowed to keep you, Ms. and Mr. Populace, informed. It is an SBA-Delegate's duty. This seems as good a forum as any. After all, some of you good folks voted for me. God only knows why. And God's not talking.

My disclaimer: don't quote me on this stuff. My poetic nature tells me that all things are susceptible to differing interpretations. Let's just state up front, all the facts alleged herein (and hereafter) are reality as viewed from my vantage point. Relatively speaking, of course.

I digress. My story is simple. This is my first stint in any student government and, as is apparent, I have been going to school for too long, my friends, too long. I knew little about such entities at the outset. And, to be honest, my qualifications are a bit dubious: I am an anarchist by inclination. Authority runs counter to my sensibilities. I prefer random disorder to enforced, arbitrary order. Pomposity bores me. And my politics are, how should I say, on the fringe.

But, I thought, what the heck. Curiosity called. I decided to run and leave the ultimate decision in the hands of the masses. Since .857 percent of all those who ran for Second-Year-Day-Delegate were elected, I too became a people's representative. A mandate from the masses? Perhaps not.

Soon I was at my first student body government meeting, an anarchist among parliamentarians. Someone on the Executive Committee started yapping about Robert's Rules. Well, initially, of course, I was flattered. I mean, in my first term and already I was the head of the judiciary.

Of course, I was mistaken. Robert's Rules is a form of parliamentary procedure. We were being called on to vote on whether to adopt this procedure. This called for research. I voted to vote next meeting. Pretty reasonable, don't you think?

Then, somebody (see how circumspect we politicos become) spoke about a National SBA get-together in Chicago. Now, I pondered, what on earth does a National SBA do? I didn't even know what our SBA does. Is the accent on the "B" or the "S"? Pass resolutions, I was told. Some 146 in two days. And I thought all they did was party.

Next, a motion was made to raise the student activity fee by \$10 to \$20. Immediately, there was a rumbling in the cheap seats. Somebody, Robespierre perhaps, said cease and desist. A weighty decision like this one requires much consultation with our respective constituencies. Town meetings. Statistical surveys. Investigations into the impact such an increase would have on the average student's life-style. No taxation without representation does not mean taxation as soon as the representatives meet. I voted to vote next meeting. My consistency comforted me. I will probably vote against it, unless a compelling counter-argument is made.

There were constitutional changes proposed. Vote will be conducted, you guessed it, next meeting. Inquire at your local delegate concerning the changes. They seem harmless enough, mostly aimed at making the SBA a bit more wieldy.

Which brings me, rather belatedly, to my point: that is, if power corrupts, the SBA makes Ghandi look like Machiavelli.

The SBA is impotent—without consequence. As a result, the students at this school have absolutely no voice—either directly or through elected representatives—in the affairs of BLS. These are decisions that impact greatly upon our time here. We have no say in the hiring or firing of professors, or in the general direction of this institution. We, all of us, are so-much cannon fodder in the academic war for prestige (read capital).

Ironically, we front the capital on which this school runs. In a market sense, we are the consumers and BLS is the product. Yet we are

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treated as itinerant employees, not as consumers, and we are employees without any say in our working conditions. While all analogies are inherently flawed, the mere fact that this is a "professional school" that must evaluate us in a scholarly or professional sense, does not mean we must be powerless. Our power must simply be selective.

If the 60s was an age of empowerment, the 80s is an age of disenfranchisement. BLS is not alone, nor is it an anomaly. Rather, BLS is emblematic of a phase our society seems determined to go through. We are living in a time where individualism is a justification for

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## SBA NEWS

By Scott Stuart

The Brooklyn Law School's Student Bar Association (SBA) met on Wednesday night to discuss its 1984-85 agenda. According to the SBA President Bernie Graham, one of the SBA's primary goals this year will be to oversee the operation of a computer and printer system for the students of Brooklyn Law School. Students can already use the computers set up in the library. If the system is initiated, printers will then be available to students in the SBA office where letters, memos, and the like can be printed on quality paper probably at no fee. It is the hope of the SBA that this system will be operational this fall. Graham believes there is a reasonable likelihood that this program will succeed.

Another program that the SBA would like to include in its plans this year is the Distinguished Alumni Lecture Series. Started last fall, the series included speakers from the United States Justice Department, ITT Corporation, and a private class action practitioner. The program allows students to get a first hand look at diverse branches of the legal profession. This year the series may include speakers from the securities field, labor law, as well as a narcotics prosecutor, and possibly a BLS alumni turned assemblyman. According to Graham, the SBA hopes that the alumni speakers will expose students to fields of potential interest.

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## NYSBA YLS/LSD

By Christine Kicinski

No, the letters do not stand for a secret code or a mnemonic device to help you pass the bar. What they do stand for is a statewide organization of law students: the New York State Bar Association (NYSBA) Young Lawyers Section (YLS) Law Student Division (LSD). The Executive Committee is comprised of a representative from each New York State law school and four officers. This year Brooklyn Law School is particularly well represented on the Executive Committee: in addition to the BLS Representative, Sarah Barish, a third year day student. Serving on the Committee are Michael Calucci, Chairperson, and Christine Kicinski, Vice Chairperson, both of whom are fourth year evening students at Brooklyn. The Secretary is Elaine Press, from Touro, and the Treasurer is Robert Dinerstein, from SUNY/Buffalo.

The first meeting of this academic year was held on August 31, 1984 in New York City. Among the items discussed were the following:

Membership: As soon as the new brochures are printed up, they will be sent to the various law school representatives. It was suggested that each first year law student be mailed one along with a cover letter.

Student Liaison Reports: The student liaison to the Committee on Legal Education and Admission to the Bar (Ms. Kicinski) reported that she had been in contact with a representative of that Committee in order to generate agenda items for the next meeting. She asked for input from those present as to their concerns regarding legal education and bar admission. Among those concerns enumerated were retention of students in law schools, summer tuition, early graduation, the attendance requirement and who is responsible for making the attestation, and whether school procedures such as orientation meetings, bar registration and scholarships are based on academic standing rather than financial need.

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## HOW TO SURVIVE LAW SCHOOL WITH THE NLG

by Mary Zaslofsky

"How to Survive Law School" was the theme of an orientation for first year students hosted by the Brooklyn Law School Chapter of the National Lawyers Guild on September 25. Live rock music provided by the Fourth Wall Band (with Leah Margulies, BLS '85, on flute), got things off to a rollicking start with a set of anti-nuclear, anti-racist, and anti-Reagan songs. Third year student Harry Steinberg, recently engaged to be married, summed up the audience's enthusiastic response to the band with his inquiry, "Do they play weddings?"

One trick for surviving law school, according to second and third year students who have so far made it through, is to become an active member of the Brooklyn Guild chapter and participate in the educational and progressive political programs sponsored by the Guild.

The National Lawyers Guild was founded in 1937 to be "an effective political and social force in the service of the people to the end that human rights shall be regarded as more sacred than property rights" (preamble to the N.L.G. constitution). With the American Bar Association opposing New Deal legislation and excluding black lawyers from membership, a small group of concerned attorneys formed a progressive, integrated bar association. Within a year the Guild had dozens of chapters and over 4,000 members. Today

Through the years, the Guild has served as the legal arm of many peoples movements, defending the Bill of Rights against Cold War and Red Scare attacks on political activists during the 1950's, supporting the Civil Rights movement of the 1960's, and defending draft resisters during the Vietnam War. Through this period, the Guild worked to heighten public awareness about national liberation struggles throughout the world which were opposed by the U.S. government.

The Guild's focus in the '80's has been on the many domestic struggles against "Reaganomics" and the racism, sexism, and attack on civil liberties which have resulted from Reagan's social and economic policies. The Guild has played a key role in resisting U.S. military policies. The Guild has played a key role in resisting U.S. military intervention to Central America and the Caribbean, calling attention to the Reagan Administration's illegal policies in the region.

The National Lawyers Guild provides many opportunities for law students to keep in touch with what is happening in the world beyond law school: the anti-nuclear energy movement, important environmental issues, resistance to draft registration and the to Solomon Amendment (linking student financial aid eligibility to draft registration), resistance to U.S. militarism in Central America, and protest of U.S. support of South Africa. The Guild also offers a match-up program, linking Guild students with practicing Guild attorneys who are interested in hiring law students for part-time work.

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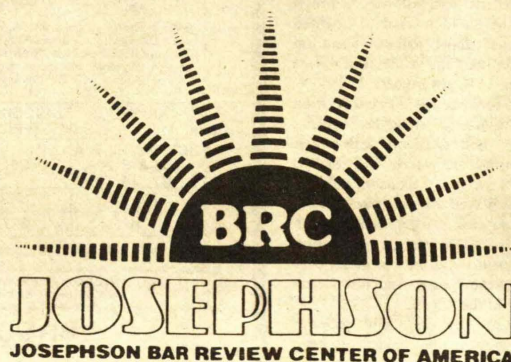


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# YALE INITIATIVE

By Philip Rheinstein

Law School is considered by many to be the apex of social Darwinism. The battle for survival in the legal community often leaves little time to pursue outside legal interests. There are, however, some exceptions. In the past three years, a group of Yale law school students calling themselves "the Initiative" have raised over \$10,000 to fund public interest law suits in the surrounding area. By focusing on small to medium size actions, the group has been able to help plaintiffs otherwise ineligible for larger grants and to involve law students at every phase of the litigation.

The Initiative is open to all Yale students and about one-fifth of the student body are currently paying the \$35 membership fee. Most of the funds are collected from alumni. There are three student officers and six to eight faculty and alumni advisors who specialize in public interest law.

The group's biggest project this past year was a class action brought by the Connecticut Coalition for Women against the State to improve living conditions in the Niantic Correctional facility for women. Besides contributing money, students took depositions at the prison and helped prepare litigation papers. The action resulted in a consent decree in which Connecticut agreed to significant improvements.

Yale's initiative is modeled after one of the original Public Interest Law Associations founded at Berkeley University. There are approximately 15 such public interest law groups across the country including Harvard, Columbia, NYU, and the University of Chicago. Tim O'Rourke, the Initiative's treasurer, attributes the student participation in public interest to "the fact that the need for legal services often doesn't correspond to the resources available." Yale and some other schools also have salary sharing programs in recognition of this inequality. Students who work in high paid corporate jobs over their summers contribute a percentage of their income to lower paid students in public interest jobs.

Anyone interested in finding out more about the initiative, contact Phil Rheinstein at the Justinian office.

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## FROSHTRATIONS

"Welcome to Brooklyn Law School! These will surely be the best three years of your life. You are now part of the club. Always remember—the major goals of law school is to teach you to think like a lawyer.

*Help! What do I do now?*

"Don't worry about a thing. Just buy study guides for all your courses and you'll be fine. Fax has them all. So buy them, sit back and relax."

*What's a "Packs"?*

Once I figured out the mystery, I bought the study guides and thought I would be fine. While I sat in the library reading Emanuels for Torts I heard a shriek...

"What are you doing?! Don't use study guides, they give you a mere limited view of the law."

"Hey kid, don't listen to that idiot; I studied for all my exams with Legal Lines and it was no problem at all."

*Who said anything about illegal lines?*

Whenever you brief, be sure to concentrate on the procedure involved."

"You'll never learn the law that way, emphasize the substance of the law in all your briefs."

*Substance? Procedure? What's the difference?*

"You don't know enough yet. Just brief your cases and worry about that later."

*But what's a brief?*

Published by Brooklyn Works, 12018 your exams with your own briefs."

### LaCorte Scholarship Awards

These awards are presented by the Brooklyn Hall of Fame/La Corte Scholarship Committee to students who have demonstrated a high degree of academic and community leadership. They are intended to recognize and encourage future leaders of the Brooklyn community. Recipients of the Awards are invited to participate in an "Opportunity Workshop" with the distinguished members of the Brooklyn Hall of Fame.

One five hundred dollar Scholarship Award and a Certificate of Honor will be presented to the awardee of each participating Institution of higher learning of the Borough of Brooklyn.

Applicants must be matriculated students, pursuing a degree at a participating Brooklyn Institution of higher learning during the current academic year, who have a grade point index of at least B.

Two letters of recommendation must accompany the applicant. One from an academic office who should comment on the applicant's educational objectives and leadership qualities. The other from a community leader who should comment on the applicant's interest in the quality of life in Brooklyn.

The applicant must submit a 500 word typed statement of personal leadership experience and explain how this experience may motivate future contributions to improve some aspect of the Brooklyn social, political, economic or cultural environment.

Each participating college/university may submit up to three nominations of the Selection Committee before October 15, 1984.

The Selection Committee will arrange a schedule of interviews with the nominees for Wednesday, October 24, 1984. The focus of the interviews will be communication skills, analytical ability, and interest in community development.

The 1984 LaCorte Scholarship Awards will be announced on Thursday, November 1, 1984.

The presentations will be made at the Brooklyn Hall of Fame Annual Dinner on November 20, 1984 at the Officers' Club, Fort Hamilton Army Base, Brooklyn, New York.

Applications are available in the Office of Student Services, Room 301.

# ANNOUNCEMENTS

### Advanced Legal Research

The library is offering a lecture on advanced legal research this fall. The lecture will cover government documents including Federal Administrative materials and legislative history, New York legislative history, and advanced techniques in computer assisted research, including LEXIS/NEXIS, WESTLAW, Dialog and BRS.

A basic knowledge of legal research is presumed; therefore, students must have completed their legal writing course in order to participate.

If necessary, the lecture (to be held in October), will be given more than once in order to accommodate all those interested. More information is available in the library.

### Pot-Luck Brunch

The Womens' Committee of the National Lawyer's Guild will be sponsoring a brunch on Sunday, October 28. All interested women are invited to attend. See first floor bulletin board for details.

### Library Hours

As a service to BLS students, the library is extending its hours of operation for a total of seven additional hours per week. This is an experiment for the fall semester, and if the additional hours are useful to students, these hours will become permanent in the spring. The new hours, are as follows:

Monday-Friday: 8:00 am- midnight  
(an extension of one hour per night)  
Saturday: 9:00 am-6:00 pm  
Sunday: 9:00 am-11:00 pm (an extension of two hours)

### New Club

Brooklyn Law School Association for Political Involvement—Check listings for events, meetings and membership drive.

### Library Handbooks

All first year students are given tours of the library as part of their legal writing course. Copies of the *Library Handbook* which include floor plans, library rules, research hints, etc. are available at the reference desk.

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**ABA / LSD REPORT**

Continued from page 1

**ABA/Law Student Division**

The Law Student Division, with membership in excess of 43,000 is one of 25 Sections and Divisions of the American Bar Association. The ABA is an unincorporated voluntary membership association of attorneys which boasts more than 300,000 members. The Law Student Division is one of three Divisions; the others are the Young Lawyers Division and the Judicial Administration Division. Law Student Division members may join any of the twenty-nine Sections and Forum Committees at considerably reduced membership rates. The Sections are devoted to a particular area of substantive law or legal concern. Examples of Sections are: Administrative Law, Criminal Justice, Family Law, Economics of Law Practice, General Practice, Labor Law, Litigation, Natural Resources Law and others. There are also Forum Committees, for example, Sports and Entertainment Law. Law students may become involved in a section or forum committee by joining and communicating directly with the Chairperson of the section.

The Law Student Division appoints liaisons to nearly all of the Sections. The liaison communicates Section activities to the Law Student Division and initiates programs within a Section that calls for increased student involvement. Liaisons also lobby for recommendations which the Law Student Division desires to be ABA approved.

**Structure of the ABA/Law Student Division**

The Law Student Division has a bicameral legislature. There is an Assembly composed of the Law Student Division representatives and usually the SBA presidents. The Assembly meets once a year at its Annual Meeting, normally convened at the same time and place as the ABA annual meeting.

The other house is the Board of Governors. The Board of Governors is made up of three national officers, the Chairperson,

Vice-Chairperson and Secretary/Treasurer, three national Officers-elect, the fifteen Circuit Governors and two Division Delegates. There are also two ex-official positions. The Board of Governors is authorized to act between Annual meetings not inconsistently with any action taken by the Assembly. The Board of Governors meets at least three times a year. There are Law Student Division Representatives who represent each law school at the Annual Meetings and continue to represent each law school at the various Circuit meetings.

Elections for the various offices are held at different times during the year. These offices offer law students an opportunity to participate directly in the largest student organization in the United States.

**What's In It For You?**

The Law Student Division, through its Resolution process, may take a position on any issue and release it to the news media. This policy statement must be approved by the Law Student Division and Board of Governors and by the President of the ABA or the ABA Board of Governors. Law Student Division policy statements may be adopted by the ABA itself by approval of its House Delegates or Board of Governors.

Any law student may propose a Resolution for adoption by the Law Student Division and perhaps by the ABA. The Law Student Division at a recent Annual Meeting unanimously adopted a resolution urging that the Voting Rights Act of 1965 be extended in its entirety. The Assembly also passed a resolution urging the parent Bar to implement a study of Bar review courses.

Student membership dues of \$10.00 covers one-third of the cost of your ABA membership. The rest is subsidized by the ABA. Membership includes subscriptions to the *Student Lawyer* magazine and the *ABA Journal*. In addition, Law Student Division members are eligible for car rental discounts, special discounts on renter's insurance and life insurance. Members also receive a 30 per-

cent discount on the Preliminary Multistate Bar Review (PMBR) seminars.

Membership also allows further involvement through the Sections, the ABA Section Liaison program as well as other programs. The ABA's Law School Services Fund provides matching funds of up to \$750 for any single law student initiated law school related project. Grant applications are available through the Law Student Division representatives or the Division.

# OPEN HOUSE for students interested in the JUSTINIAN

Refreshments will be served

Thursday,  
October 18  
12-2  
4-6  
Room 304A

**Psychiatric Service Now Available**

Brooklyn Law School has arranged with Dr. Michael Schneck to provide an initial psychiatric consultation for students at no charge. Dr. Schneck is on the faculty of the Department of Psychiatry of the New York University School of Medicine and is Board Certified in Psychiatry. In addition, Dr. Schneck has had substantial experience working with law students and attorneys. Students may contact Dr. Schneck directly and the utmost confidentiality will be maintained. When appropriate, referrals will be made and fees will be charged on a sliding scale basis. Dr. Schneck's office is located in the Faculty Practice Offices at the New York University Medical Center, 530 First Avenue (at 32nd Street), New York, NY 10016. His telephone number is (212) 340-7475.

## Pieper New York-Multistate Bar Review, Ltd. ANNOUNCEMENT

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# FOLLOW THE BOUNCING CHECK

By James D. Diamond

As Americans have come to rely less and less on cash and more and more on checks and credit cards, the problems of forgery and counterfeiting have become increasingly alarming.

Each year hundreds of forgery cases are prosecuted by state, local and federal prosecutors. And experts believe that many of these crimes go unreported, especially in instances where the bank is responsible for a loss that might have been prevented by tougher internal security.

"It's an area where figures are hard to get," says Sheldon Golub of the American Bankers Association about check forgery. The ABA estimates that 1 percent of all checks written each year, or about 400 million, involve forgery. Many banking experts consider that a conservative figure.

Forgery schemes include simple alteration of the endorsements on the back of checks, stolen checkbooks or payroll checks, checks illegally intercepted in the mail, employee-supported thefts or complicated fraud operations. Sometimes the check itself may be a counterfeit.

A New York City printer was arrested in March, 1983 for counterfeiting 1,000 blank city welfare checks. His partners would apply for welfare in order to get genuine photo identification cards. Then he would print up phony city checks to be cashed. According to the city's Department of Investigation, "A member of his group successfully cashed 12 counterfeit checks in one afternoon without incident."

The most common technique is stealing a check and forging or alternating the endorsement of the payee.

One of the biggest losers due to check fraud is the U.S. government. By far the most prevalent form of theft of U.S. treasury checks is theft of welfare, Social Security and tax refund checks from mailboxes. The Secret Service, which investigates these crimes, received more than 110,000 forged checks to investigate in 1983, a 9 percent increase over 1982. Only 4 percent of those 1983 cases have resulted in arrests. Check fraud can also take the form of sophisticated and well-planned schemes like the one masterminded by two Philadelphia men. For more than four years they had been stealing bank payroll checks from 17 Philadelphia corporations and the deposit slips of various consumers who had bank accounts in Philadelphia banks. They would fill out the check, making it payable to a consumer whose deposit slip had been stolen. A woman accomplice would go to the customer's bank, pose as the customer and deposit part of the check into the account, asking for the balance in cash.

No matter how simple or complex the crime is, or whether it involves a bank teller or a department store cashier, one element remains constant: Someone must accept the check as legitimate.

"For account holders we maintain signature cards, a procedure which is fairly standard in the United States and the world, for that matter," says Jim Hensley, manager of corporate security for the Ranier National Bank in Seattle, a \$6-billion-deposit financial institution. "A community bank in a small town deals with a small group of people and facial recognition takes over. It's not likely that they'll have a problem. If there is any question or if they don't recognize the customer they are required to check the file."

Hensley maintains that problems of this nature are more likely to occur in big cities. "Where there is little facial recognition" by tellers of bank customers. This system of accepting checks and verifying their signatures obviously places a great deal of responsibility on tellers.

"The way to prevent forgeries is to beef up security with tellers, tell them not to be so

*James Diamond was the executive director for the New York State Common Cause. This article was first printed in Newsday.*

Federal Savings and loan. "In most instances where a bad check gets by, it's human error. The tellers get intimidated by the long lines or by the customer himself and they go ahead and cash the check."

Cutting corners and failing to follow established signature verification procedures is one problem. Another is bank-employee collaboration.

Rachel Gordon, assistant commissioner of New York City's Department of Investigation, believes, as do many law enforcement officials, that bank employees are integral parts of many check-cashing schemes. "What is absolutely amazing to me," she says, "is, if you go into a bank and try to cash your own check, you've got to have all kinds of identification, but then someone can walk into a bank and get \$15,000 worth of checks laundered."

A teller at a New Jersey bank provided co-conspirators with copies of bank customers' signatures. Stolen bank corporate checks were then filled out to be payable to those customers, their endorsements forged, and the checks cashed at the customers' own branch. One of the phony check cashers admitted that his profits were as high as \$7,000 in one week before the ring was cracked by police.

As big a problem as check forgery is, it has been recently overshadowed by credit card abuses, which have been growing by leaps and bounds since 1981. The growth of the problem has led Rep. Frank Annunzio (D-Ill.), chairman of the House Banking Committee's subcommittee on consumer affairs and coinage, to hold hearings on toughening the federal penalties for credit-card fraud.

"We are faced in this country with a little-known epidemic," says Annunzio. "There are some 600 million credit cards in circulation in this country. Every year an estimated 73 million cards are reported lost or stolen. Of that total some 20,000 credit cards are fraudulently used every day. We are not talking about penny-ante crime here; financial institutions lost an estimated \$128 million from bankcard fraud alone in 1982, an increase of over 35 percent (compared to) 1981. About \$40 million of that figure came from the use of counterfeit cards."

Annunzio maintains that losses due to credit-card fraud are passed along to consumers "as surely as if a gunman put a gun to their head and robbed them."

Testimony before the subcommittee revealed that credit-card fraud is a highly organized activity. Criminals obtain stolen cards or change the account numbers of canceled cards to replicate authentic numbers. Those numbers, and the customer's signature, are often obtained from discarded carbon slips in the trash of stores.

Witnesses before the subcommittee testified that some owners or employees are often in on the scheme and sell them their merchandise with full knowledge that the card or number is stolen. They agree to hand over the merchandise in return for a share of the profit when it is sold on the street.

Visa International, the largest credit card company in the country, reports that New York State is the hands-down leader in credit-card losses from counterfeiting, followed in order by Florida, New Jersey, California and Massachusetts.

Credit-card crime legislation is working its way through Congress. But Ken Swab, a House Banking Committee staff member, maintains that tougher laws are only the first step. "Credit-card issuers can make it difficult to counterfeit cards," he points out. "Merchants can tighten up on security procedures. It wouldn't hurt if they started glancing at the signature panels. More signature verification would certainly help."

The major credit-card companies are planning changes to try to inhibit the rapid spread of card fraud. In addition to beefing up security and closely monitoring merchants,

Visa will be introducing its new Electron Card this summer. It will be an unembossed card with three forms of electronic readings on the reverse side. All transactions with the new card will be 100 percent electronically authorized.

The emergence of credit-card abuse as a major criminal activity has been very recent. These next few years will determine whether credit institutions are serious about attacking the problem or if they are willing to continue to simply pass their hefty losses onto consumers.

Check forgery, on the other hand is not a new phenomenon. While tougher laws and improved retail security methods would be a step in the right direction, the banks are still in the driver's seat, because eventually every check ends up at the customer's bank for payment and the bank maintains files on every one of its customers. However, the large volume of checks processed daily prohibits banks from verifying signatures on most checks.

Bankers say they are doing what they can and find fault with the law that places most of the financial burden on their shoulders. The position of the banking industry is summed up by Golub, of the American Bankers Association, who says, "It should be a shared responsibility between the bank and the per-

son who takes out the account, however, we realize that that's the cost of doing business."

That "cost of doing business" will eventually be borne by the consumer, the bank customer or the credit-card user in the form of higher or additional fees. Consumers can help avoid check forgery by urging their bank tellers to check signatures and identification, and by writing clear and restrictive endorsements on the back of their checks whenever possible (such as "for deposit only to account no. ..." above your signature).

The same holds true for preventing credit card fraud. Prompt monthly examination of statements and returned credit slips will help the credit institutions track down fraudulent users. Consumers should ask for the carbon slips whenever possible and then destroy them to prevent duplication of their cards or account numbers.

Caution on the part of consumers will help, but as one expert put it, "a check is only as good as the person who's going to provide you with the money." A good rule of thumb is to know whom you are dealing with and if in doubt, rely on the real thing—cash.

## ANARCHIST (CONT.)

avarice; where "making it" means playing their game by their rules; where inflation is cured by massive life-shattering unemployment; where dissent is viewed as un-American (or pro-Soviet); where unbridled chauvinism has smothered the few moral lessons so painfully extracted from the Viet Nam years. If America's back, fascism must be in vogue.

What does all this have to do with a student government? Nothing and everything. Of all the mortally consequential issues that face us in 1984 and beyond, BLS's SBA is certainly not one of the most critical. However, it is exemplary of how students (read populace) have lost the limited voice that had been hard won in the 60s and early 70s. Today, the fate of this institution lay in the hands of very few. Yet, we will all suffer or benefit by the policies enacted whether formed by one person or all of us. My proposition is simply that we all participate in the affairs of this institution, and, moreover, our society. That instead of being cynical or solipsistic, we make ourselves aware of the issues, debate the choices and consequences, and act upon them regardless of individual inconvenience. As students of law, we have a special duty to engage in the process of societal and institutional self-evaluation and prognosis. The history of all peoples has been a struggle to gain some control over one's life and one's destiny. Despotism is to be avoided, participation encouraged.

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