

The Justinian

Volume 1984
Issue 8 *December*

Article 1

2018

The Justinian

Follow this and additional works at: <https://brooklynworks.brooklaw.edu/justinian>

Recommended Citation

(2018) "The Justinian," *The Justinian*: Vol. 1984 : Iss. 8 , Article 1.
Available at: <https://brooklynworks.brooklaw.edu/justinian/vol1984/iss8/1>

This Article is brought to you for free and open access by the Special Collections at BrooklynWorks. It has been accepted for inclusion in The Justinian by an authorized editor of BrooklynWorks.



*Like other governmental action,
Supreme Court decisions are not entitled
to respect unless they are
respectable. . . .*

—Sen. Sam Ervin
Preserving the Constitution
(Michie Co., ed. 1984)

Vol. XLIV

Monday, December 10, 1984

No. 4

Proposed Day Care Center:

Fate Rests on Results of the Final Survey

By JIM DIAMOND

The future of an in-house day care center at BLS has been clouded as a result of the poor response to the questionnaire mailed to all members of the law school community. The validity of this survey, however, has been questioned by some student leaders, who say the design of the questionnaire and its distribution are responsible for the poor response, not a lack of interest in establishing a day care center.

Designed to assist in the preparation of a feasibility study, the survey was mailed in late September to a total of 1300 students, faculty and law school staff and was filled out and returned by 65 people. After receiving such a small response, Dean Henry Haverstick III, Chairman of the Day Care Center Advisory Committee, decided to make the questionnaire available on the law school grounds. This prompted an additional handful of responses, bringing the total of respondents to 76 and the number of potential child enrollees to 15.

"I'm very disappointed with the lack of responses," said Haverstick. "I find it very hard to believe that there are only 76 people who would need and benefit from a day care center in the school."

The results of the survey run contrary to the informal poll conducted by Professor Gary Minda in the spring of 1983. That poll, conducted during the SBA election, was the basis for the faculty proposal of November, 1983 that commenced the planning for a day care facility. 275 people responded to the 1983 poll.

According to Minda, "In my survey, 26-28% of the respondents questioned indicated that they would be using child care facilities over the next few years. Fourteen percent of them said they currently used child care facilities, at an aggregate cost of \$1,500 each week." Of the people Minda polled in 1983, two thirds of those currently using child care services said they would utilize a day care center at the law school, representing a total of 36 children.

"Professor Minda undoubtedly had a better response," said Haverstick. "That is what is the biggest surprise, that informal polling showed less interest than formal polling."

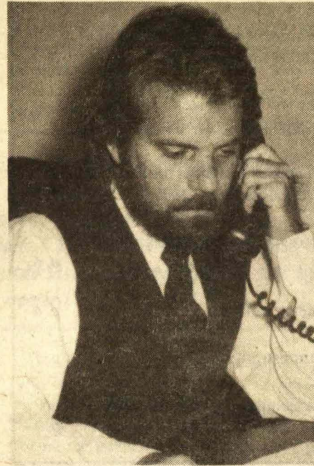
But some students weren't surprised at all by the small response. They point to the design of the questionnaire and its method of distribution, rather than a low level of interest, as explaining the results.

Michael S. Schreiber, Vice President of the Student Bar Association, said, "The way the questionnaire was written, there was no way a lot of people would answer it. The first question they asked was, 'Do you have children?' Anybody without children was unlikely to fill it out."

Connie Spiro, a third year student, agreed. "Most people said, 'oh, it doesn't apply to me,' rather than considering their future needs and maybe planning the possibility of having children around the existence of a center."

Schreiber and Spiro say that since the law school spent money to hire a consultant and conduct a survey with a large sample, it should have encouraged all students to respond. It should have included a self-addressed, stamped envelope for easy return.

Continued on page 9



MINDA: "An idea whose time has come."



HAVERSTICK: "This will be the last effort."

Mediation Clinic Reflects Growing Trend in the Law

By JAIME V. DELIO

Brooklyn Law School is offering a new clinic course for the spring '85 semester entitled Alternative Dispute Resolution. The School has appointed Dr. Maria Volpe as an adjunct professor to teach the course.

Prof. Michael Gerber, who teaches the Civil Clinic Seminar and the Experimental Discovery seminar (both of which involve litigation skills), observed that many legal scholars and jurists, including Chief Justice Warren Burger, have called for the development of new, non-litigious conflict resolution techniques and endorsed alternative dispute resolution methods. "That is why we offered a dispute

resolution seminar in the past, and that is why, after a brief hiatus, BLS is offering the course again.

Dr. Volpe received her PhD in sociology from New York University, and, though not an attorney, is a nationally recognized expert on dispute resolution. She is co-editor of the American Bar Association Dispute Resolution Papers and a national conference organizer for the Society of Professionals in Dispute Resolution. Dr. Volpe is also a consultant to the New York State Dept. of Civil Services where she serves the Dept. of Labor, Corrections, and Environmental Conservation. She is currently employed as a full time Associate Professor at John Jay College of Criminal Justice where she established the first Dispute Resolution Program approved by the New York State Education Dept. and the New York City Board of Higher Education.

In a recent interview, Dr. Volpe explained some of her plans for the BLS clinic and also made some general comments on the current state of alternative dispute resolution. According to Dr. Volpe, "the clinic is an effort to familiarize those who are involved in legal work with mediation and alternative dispute resolution, to make the future lawyer aware of certain techniques other than traditional litigation skills." The mediator uses his skills to discover the causes of problems, to find an agreement that the parties can live with.

"It's a new mind set that is sweeping the nation from Harvard to the west coast schools," said Dr. Volpe, "but where most schools incorporate these skills into traditional law courses as just a sub-topic, BLS is teaching generic mediation skills that the future lawyer will be able to use in a variety of settings." Dr. Volpe emphasized that these skills are not only valuable to those who will practice mediation,

Continued on page 9

Linda Stephens Named as New Placement Director

By JONATHAN HUDIS

On January 2, 1985, BLS will be acquiring a valuable asset to its placement program. She is young. She is enthusiastic. She is energetic. She is our new Placement Director, Linda J. Stephens.

In an effort to improve the placement program at BLS, Dean Trager hired Ms. Stephens



The New Director

to give the program new life and direction. Alumni Director Johanna Gurland, who has been Acting Placement Director for the past several months, said of Stephens, "If she turns out to be half as good as I think she will, BLS will be acquiring one fabulous Placement Director."

During the Spring Semester of 1985, Stephens

intends to implement several new programs to teach students the necessary skills needed to perform well on interviews. One of Stephens' model programs will be video-taped mock interviews. Students will be able to observe their strengths and weaknesses in a real-life interview setting. Following the interview, students will be counseled by Stephens as to the areas in which they need improvement.

Stephens also intends to conduct several workshops to prepare students for the steps they must take before the interview even begins. Workshops on "How to Write a Resume" and "How to Conduct a Job-Search in the Law Field" are just a few of these programs. In addition, Stephens wishes to upgrade BLS's collection of publications listing prospective employers in New York and around the nation.

Throughout her college and law school career, Stephens has held numerous positions whose duties included counseling, assertiveness training, and most importantly, placement. The very semester after she received her Juris Doctor from Stetson University College of Law (St. Petersburg, Florida), Stephens was hired as Stetson's Assistant Dean. In that position, Stephens performed many of the same functions required of BLS's Placement Director.

According to Dean Trager, Stephens will not only "run the placement office in a first class manner," but she will also work well with

Assistant to the Dean for Placement, Carolyn Le Bel. They are, according to Trager, "to work as co-equals in a dual program designed to help BLS students and recent alumni find jobs with established BLS alumni currently working in law firms."

"Our hope is to connect the right students with the right jobs," said Le Bel. "Ms. Stephens is a no-nonsense person who knows what has to be done, and to help me as an advocate for BLS."

Stephens is very easy to talk to and quite enthusiastic about helping students achieve their career goals. According to Stephens, "A dedicated Placement Director should be willing to render her services the minute the students walk through the door of law school. From writing that first resume, to landing that first summer job, to obtaining one's first clerkship, all the way to passing the bar, the placement office will be with BLS's students and alumni every step of the way."

Both Stephens and Le Bel wish to emphasize that the Placement Office is not just a place for those in the top 10 percent of the school. Moreover, Stephens has expressed her desire to get directly involved with the student body. Bernie Graham has proposed a student liaison between SBA and the Placement Office, to help coordinate on-campus recruitment programs for smaller firms who would not normally attempt such an endeavor. Stephens was quite receptive to the idea.

• INSIDE •

SBA News	2
This Issue	2
Chalken	2
News Update	3
Emergency Loans	3
Exam Supplement	4-5
Editorials	6
Supreme Court Additions	6
Viewpoints	7
Axford	7

THIS ISSUE

DAY CARE

The results of the newest and last survey on student need for a day care center will determine when the project will continue p. 1

NEW CLINIC

Mediation, one of the newest and most exciting areas of the legal profession will be represented at BLS next semester in a new clinic p. 1

NEW PLACEMENT DIRECTOR

Linda Stephens gets an enthusiastic welcome p. 1

6TH AMENDMENT RIGHTS

A BLS student sets forth his daring new constitutional hypothesis p. 2

EMERGENCY LOAN PROGRAM

Problems with the administration of the student emergency loan fund have caused Dean Trager to temporarily freeze the fund p. 3

NEWS BRIEFS

BLS Alum wins big verdict . . . Registrar will "deregister" students who don't pay their tuition or make other arrangements by January 23, 1985 . . . p. 3

EXAMS

The Justinian looks at exam-taking with model questions and answers by professors pp. 4, 5

EDITORIAL: WHERE'S THE PROF?

Exams are hard enough without having to guess about ambiguities or mistakes in the test itself p. 6

COLUMN

The future of the Supreme Court — in defense of Bork p. 6

LETTER

A post-election critique of the Reagan administration p. 7

AXFORD

Eleanor Bumpurs, Michael Stewart, and Benjamin Ward: the politics of racial conflict in New York City p. 7



The Authors: Steve and Luigi

Luigi on Law The 6th Amendment & the Dead Witness

By STEVEN J. CHAIKIN & LUIGI

This Week: *The Sixth Amendment and the Dead Witness*

The grave concerns evoked by the issues addressed herein deem the Justinian the perfect forum for their explication. The broadly construed sixth amendment right to confront one's accusers has historically been denied to one class of defendants in the criminal arena, i.e. the homicide defendant. The correlative rights of the homicide victim to present his or her case in an appropriate manner, with aid of counsel, is concurrently denied in such cases. It is contended that the denial of the right to confront the victim of homicide (and the right of that victim to cross-examine the alleged perpetrator) works an unmitigated hardship on the homicide defendant — presumed innocent — which amounts to nothing short of reversible error. Solely by reason of the victim's misfortune to expire are the accused's rights cut off.

Certainly, the courts could fashion a method of cross-examination suitable under the circumstances. To wit: *The Dead Witness*. No greater force is given to this suggestion than in the words of the late Justice Cardozo, who held upon his own passing, " . . . "

Putting aside momentarily the doctrine of *stare decisis*, contemporary history and modern science suggest that the courts must respond to the constitutional interests of the accused in a manner consistent with the recognition given these rights in other cases. Considering, in this light, the ease with which exhumation may be accomplished, and the extensive advances in plastic bag technology, there is simply no reason why a dead witness — who presumably is incapable of lying — cannot be propped up in the witness box and made, under penalty of contempt sanctions, to answer a few simple questions, concerning, for example: whereabouts when allegedly killed and recall as to events surrounding the alleged killing. One might also learn what a victim wants regarding possible remedies. Perhaps money damages or a simple apology would be

preferred over imprisonment or imposition of a death penalty. (Only the victim will be able to tell the court if he wishes to meet the defendant so soon again and for such an extended period of time.)

If law school brings home one point, it is that we must respect the dead. We deal with the dead on a daily basis. Their stories fill our casebooks. We cite them in our papers, on our exams, in legal memoranda and briefs. The dead are, in short, participants in our lives. In the homicide case, moreover, they are necessary parties.

No doubt the cynics among us will scoff at the idea of filling our courtrooms with the recently departed. But have we not done so for years? (See recent decisions of the Supreme Court in all respects.) Moreover, are we not, by arguing practicality and good taste, on the now famous Slippery Slope (which, research indicates, is just north of Los Angeles)? If today we deny constitutional protection on the basis of demise, might tomorrow we deny such guarantees on the basis of coma, narcolepsy, partial death, partial life, or even life itself? And what of the undead? (Cf. *Lugosi v. State*, 21 Star Chamber 367.) This widespread prejudice is apparent on the civil side as well. Wrongful death, however, is beyond the scope of this article.

In short, if we require cross-examination of the victims of such crimes as child abuse and rape in order to measure the credibility of the hapless witnesses, why then not require the homicide victim — less vulnerable to psychological and/or physical harm than the rape victim called to testify — to face his or her accuser and run the same test of credibility? Death no more vitiates credibility than does any other violent crime. Is it not better to ask the hard questions and receive no answer, than never to have asked at all?

Next issue: The Supreme Court and the Fundamentalist Revival.

Mr. Chaikin is the author of *Scatological Aspects of Insects in Primeval Russian Folk religion*. Mr. Luigi did all the work. Mr. Chaikin took all the credit.

"The Neighborhood Pub"



a mature gathering place and neighborhood public house, serving lunch and dinner every day

Brunch served every Sunday noon to 4 pm

Capulet's also serves up one of N.Y.C.'s championship dart teams

and on Saturday nights, we become "The Big Apple Home for Bluegrass Music" join us, anyday.

Open-air cafe
151 Montague Street
RS2-3128

A COMPANY CALLED M.J.&K.

THE OFFICIAL BOOKSTORE OF
BROOKLYN LAW SCHOOL
718 / 780-7998

All Books Are Discounted
Diplomas Laminated
Typeset Resumes Services

FALL SEMESTER HOURS

Monday	11:00-6:00
Tuesday	11:00-6:30
Wednesday	11:00-6:30
Thursday	11:00-6:00
Friday	10:00-2:00

BACK
ROW

B
O
O
K
S

HAD MY ESTEEMED COLLEAGUE SPENT MORE TIME LOOKING AT THE DISSENT HE MAY HAVE REALIZED THE COURT'S SENSITIVITY IN THIS AREA SPRINGS FROM A TRADITIONAL IF NOT NEO-CLASSICAL APPLICATION OF THE SUBJECTIVE ELEMENTS AND CONSIDERATIONS FOUND IN THIS AREA.

WHAT DO YOU THINK ABOUT THAT, MR. SMYTHE?

SUCK AIR, PREPPIE!

SBA Emergency Loan Funds Frozen by Trager

Program Suffers from Delinquent Loans and Potential Abuse

By BRIDGET ASARO

In the fall of 1939, the Student Aid Service of the Brooklyn Law School (SAS) was established as a short-term, interest-free student loan fund available to "deserving and needy students to enable them to pay for books and tuition," according to a 1963 memo of the former faculty advisor to SAS, Donald F. Sealy. The fund today exists for students who can demonstrate their need for emergency financial relief, although the reasons for granting this assistance have evolved into what former SBA Day Vice-President Mitch Greebel refers to as who has "the best sob story." The administration and the Student Bar Association have jointly undertaken to revitalize SAS by attempting to tackle what both perceive as the major ailment of the much-depleted fund — default by students in repaying SAS loans.

The small number of loans issued over the past 45 years indicates that this fund is only available in the most extreme circumstances, said Prof. John J. Meehan, SAS's faculty advisor. Only 100-150 such loans have been issued since the fund's inception. "These loans used to be paid back with great diligence but I guess something happened with attitudes or people," Meehan said. Since 1971, 44 loans have not been paid back. In the Spring 1984 semester, five loans were issued. Only one has been paid back in full, and one has been partially repaid. The remaining three are in default.

A memo sent by S.B.A. Vice President

Michael Schreiber to Dean Trager dated October 26, 1984, asserted "Records from last year tend to indicate that the beneficiaries of the fund were either members of the Executive Board or intimately acquainted with the Executive Board."

The SBA day vice-president has, in the past, been given discretion in approving these loans. Greebel claims this fact is irrelevant. "If I told you that 10 people last year were first cousins of mine, what does it matter? They needed it, they got it," Greebel said that of the 11 applications handed out last year, only five were returned.

"Records from last year tend to indicate that the beneficiaries of the fund were either members of the Executive Board or intimately acquainted with the Executive Board." Former SBA Day Vice-President Mitch Greebel responded, "The comment is irrelevant," adding, "If I told you that 10 people last year were first cousins of mine, what does it matter? They needed it, they got it."

Greebel said that before Meehan would sign a loan check, Meehan questioned him as to the sincerity of the student's need for the loan as well as whether Greebel had any personal relationships with recipients. Meehan said that decisions as to whether to grant a loan have been made by the day vice-president.

Dean Trager has frozen the distribution of

these loans until a better procedure is established to disseminate the loans and until delinquent payments can be dealt with so that the fund can be replenished.

There is no official ceiling on the loan amount, although Meehan, Schreiber and Greebel agree that \$250 is the unofficial maximum amount issuable. The loans are short-term, with the due date normally at the semester's end. There is no interest until default, at which time interest has been charged at eight percent per annum, running from the date of default. The interest rate of new loans will be 12 percent.

these, they'll straighten out," said Meehan. Where the statute of limitations has run, Meehan said that BLS still considers repayment a continuing moral obligation of the alumnus.

For students whose payments have been delinquent and who are still students at BLS, other sanctions will be imposed, said Meehan. He pointed to a paragraph in BLS's 1983-84 Bulletin, which states: The continuance of each student upon the rolls of the Law School, permission to register for a subsequent semester, receipt of academic credit, graduation, the granting of a degree and the issuance of a certificate or transcript of any kind are subject to the payment of all charges, fees or other financial obligations to the School." 1983-84 Bulletin at 64.

Meehan also said that future promissory notes will contain express warnings of these sanctions and that legal action will be taken for failure to pay.

The administration's past policy was not to sue a student for failure to repay SAS loans so that his or her admission to the Bar was not jeopardized. Meehan said, "We've been too soft in the past. It's nice not to mess up someone's application to the Bar, but a person should also be held accountable for paying his or her debts."

Because of BLS's reluctance to prosecute "students learned, over time, that they didn't have to repay," said Schreiber

News Update:

BLS Alumnus Wins Large Verdict

It was the kind of medical malpractice verdict that would hardly ruffle the New York legal community, but the headline in the Port Angeles, Washington Daily News of October 4 read: WIDOW GETS \$500,000 IN MALPRACTICE SUIT.

For Professor Jerry Leitner, this was an especially gratifying announcement. The plaintiff's attorney was Bradley Keller, who graduated Brooklyn Law School in 1979 and was a student in Prof. Leitner's torts class. Last week, Keller sent Leitner a copy of the news story, which described the plaintiff's death as a result of the administration of Inderal, a medication for high blood pressure, despite the patient's asthma condition. Asthma is contraindicated in the prescription of Inderal.

The news article stated that "the damage award reportedly is the second largest in county history, and the county's largest award involving a death." According to the article, "Peter Byrnes and Bradley Keller (the plaintiff's) Seattle attorneys, contended that the doctors failed to advise (the decedent) of safer alternative treatments for his high blood pressure and that the drug was a factor in the death."

On the back of the copy of the article sent to Leitner, Keller wrote:

"Thanks for giving me the tools to make it all possible!! This case in front of a NYC jury would have been worth two to four times the amount awarded. Port Angeles is a rural county seat on the Olympic Peninsula. The highest personal injury verdict in the history of the county is \$565,000. In any event, I thought you'd get a kick out of knowing that we were listening to all those tort lectures."

Leitner commented, "It's exciting for a youngster five years out of law school to knock off that kind of verdict and especially gratifying that he remembers his law school professor. That's the kind of letter a teacher likes to get."

New BLS Policy: No Tuition Paid, No Class Preference

"The check is in the mail" will no longer guarantee BLS students a seat in a popular course or even a place on the waiting list. A new procedure implemented by the Administration this coming semester will authorize the registrar to automatically drop students from all courses they chose and were assigned by the random selection process if they have not paid all tuition and fees by January 23, 1985, the first day of scheduled classes.

This drastic measure was initiated because many students previously didn't pay their tuition until much later in the semester. According to Jenny Elia of the registrar's Office, "registration isn't officially confirmed until all financial obligations are fulfilled." Elia explained that, under the new policy, she will receive a list of students who have not paid tuition by January 23, will then purge courses of those names and automatically reassign other students on the waiting list to those favored courses. The deleted students will lose all priority in course selection and will only receive notice of being purged after the fact when a change in program form will be mailed to them so that they may create a revised schedule.

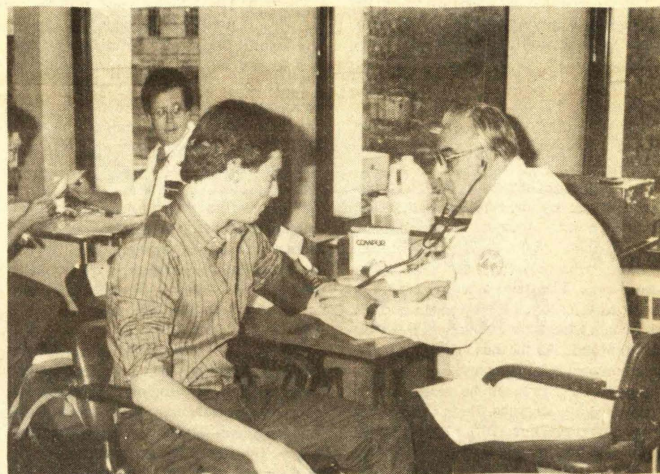
Exceptions to this policy may be possible under limited circumstances upon making written arrangements to pay in the future. The Bursar's Office, who will handle these decisions directly, refused to comment on the conditions sufficient to waive this 'automatic drop' procedure.

Moot Court Winners

Brooklyn Law School's National Moot Court Team, by virtue of a second-place finish in a regional contest, will represent the New York region in the National Moot Court Competition, set for January.

Brooklyn was defeated by Fordham University School of Law in the regionals, a competition in which nine schools participated. For-

The first step in collecting outstanding loans will be to issue warning letters to those in default, said Meehan. These letters will be mailed out shortly. In the case of alumni for whom the statute of limitations has not run, failure to respond to the warning will cause the debtor's file to be sent to a collection attorney. "Once it gets around that there'll be teeth in



Student prepares to donate blood at the recent greater New York Blood Drive.

dhams will also compete in the Nationals.

Elizabeth A. Orfan, David A. Silva and Pat S. Conti represented Brooklyn Law School.

A separate competition, held last month, concluded with finalists Catriona Glazebrook, Amy Goldblatt, Susan Lambiase, and Penny Lippman, arguing before United States District Court Judges David Edelstein, Mark Cosantino, and Leonard Wexler.

Twenty second year students competed in the Fall Competition that involved the constitutionality of a state law requiring a moment of silence in public schools.

On November 16, the Society posted the results of the final rounds. Society President, Joseph Pickard commented that "the quality of the National Team selected to represent BLS in 1985 is outstanding."

Winning Team: Amy Goldblatt, Susan Lambiase.

Best Oralist: Amy Goldblatt.

Best Brief: Mary Chris Stephen.

National Team: Catriona Glazebrook, Amy Goldblatt, Mary Chris Stephen, Susan Lambiase (alternate).

Congratulations to all participants!

Announcements

PARENTS AT LAW is an organization of Brooklyn Law School students, faculty and staff who are or hope to be parents.

New members are urged to join.

Members — please fill out questionnaire in your mailbox.

New and Prospective Members — Questionnaire is available outside SBA office.

This is a Parents at Law Questionnaire, NOT the Day Care Questionnaire.

It is VITAL to our organization that you return the questionnaire.

A SKI TRIP has been planned at Gore Mountain during Washington's Birthday Weekend (Feb. 15, 16, 17 — no school Monday). This trip is open to all law students and their guests. For information regarding costs, accommodations and transportation, contact Robert Rosenblatt at (718) 596-7901 or leave a message in the SBA office.

The First Examinations

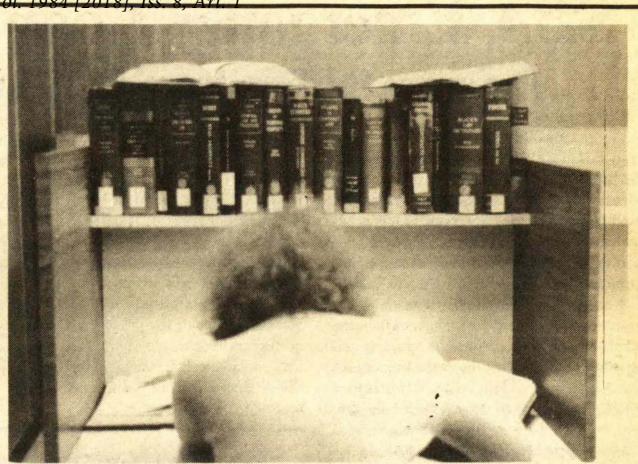
By PHILIP RHEINSTEIN

Law School exams are like the stock market. Everyone wants to win, everyone takes the game seriously, everyone has their own theory about how to win, and most theories are totally useless. True, there are pearls of wisdom in both areas which are generally agreed upon, but these are usually only of assistance to those who already are expert. Most first year students will hear the saying, "just apply the law to the facts, you'll be fine" — even if every first year student in the school wholeheartedly agrees that the statement is true, they would not necessarily understand more about how to write an exam.

There is only one set of exams, skill in examining is almost universally acknowledged as the greatest single variable in scores, most of our grade is based on the exam, BUT . . . exam-taking is treated as a collateral subject, worthy of one legal writing class, a few comments, and, for a small minority of first year teachers, a practice exam.

In order to at least open the subject for discussion, the Justinian sent a letter to all of the first year teachers requesting that they submit a sample exam question and model answer along with their comments. Of the 20 first year teachers, three sent model answers (reprinted below) and Professors Fullerton, Garrison, Gora, Kuklin, and Minda said they were already giving practice exams.

The two long model answers are from Professors Schneider and Gilbride. While coming from slightly different perspectives, both emphasize the importance of good preparation and effective analysis. Professor Schneider emphasized that outlining for exams should be a method for teaching yourself rather than just having the material gathered in one place. Professor Gilbride stated "The tendency is to give answers and think that the answer is the important thing, as opposed to the analysis." Professor Saney's comments accompany his answer. We would like to thank all the teachers who responded and especially these three for their effort.



"Nothing is more fruitless in the first ten minutes of an essay exam than to try and think about any legal topic of substance."

Schneider on Civil Procedure

By Professor Schneider

The most important aspects of exam taking are careful reading of the exam question and organization of the response. My exams have only easy questions and are open-book. Answers to essay questions should identify the legal issue posed by the question, identify the relevant law and policy considerations and apply them to the facts of the case. Use the facts in the problem (or emphasize where the facts are inadequate to reach a conclusion). Where the question calls for an answer or recommendation, discuss arguments on both sides, analyze the strengths and weaknesses of the arguments but come to a conclusion.

Here is a sample question and model answer (derived from student answers) from a civil procedure exam.

On a fine spring day in May, 1981, a freight train operated by the B&B Railroad, (BB), whose corporate headquarters are in Erie, Pennsylvania, was on a run between Pittstown, Pennsylvania and Harrisville, Pennsylvania. The train was being operated by Alice Aware, (AA), a Pennsylvanian and the first woman to serve as a train engineer for the B&B Railroad. As the train rounded a bend, headed toward a highway road crossing, Ms. Aware saw a bus on the road rapidly approaching the crossing. The bus was being driven by Davey Dare, (DD), a Pennsylvania resident and was owned by the Carry Charter Co., (CC), a Pennsylvania corporation. Mr. Dare saw the train at about the same moment that Ms. Aware saw the bus. Both Ms. Aware and Mr. Dare hit their respective brakes, but the bus crashed into the side of the train engine. There was extensive damage to the bus and to the train, and serious injuries to Ms. Aware, Mr. Dare, and all the bus passengers. The property damage to both the train and to the bus, as well as the personal injuries suffered individually by Ms. Aware, Mr. Dare and the passengers all easily exceeded \$10,000. There were several possible causes of the accident; the train may have been traveling faster than it should have been; the train's brakes may have been defective; the bus may have been traveling faster than it should have been; the brakes on the bus may have been defective; the red flashing signal lights at the crossing that indicate to vehicular traffic that a train is approaching may have been defective and not have functioned properly. Those signal lights had been recently installed by the Eveready Electric Company, (EE), a Pennsylvania corporation pursuant to a contract with the Railroad. A week after the accident, the Railroad fired Ms. Aware.

Assume 1) that federal law, the Railway Employee Act, (REA) supplies federal court subject matter jurisdiction and a cause of action against a railroad for any railroad employee's own negligence has not contributed to the accident 2) that federal law

permits an employee to sue in federal court for claimed sex discrimination in employment 3) that there is federal court subject matter jurisdiction to hear state claims incident to the disposition of federal claims. Finally, unless otherwise indicated, you are to assume that suit is filed in the United States District Court for the Western District of Pennsylvania.

There were ten questions that followed this fact pattern. The following is one of them:

Question 4 (15 points)

a) Assume that the Railroad has only *threatened* to fire Ms. Aware. Aware wants her lawyer to seek a preliminary injunction against the Railroad to stop the railroad from firing her pending the final determination of the action. What procedural arguments would both her lawyer and the lawyer for the Railroad make?

b) Assume that the judge denies the motion for preliminary injunction. The Railroad's attorney moves for sanctions against Ms. Aware's attorney. You are the law clerk to the judge. Can Ms. Aware's attorney be subject to sanctions? What do you recommend?

Model Answer

a) Ms. Aware's lawyer would argue that she needs a preliminary injunction under Rule 65 in order to stop the defendant from firing her and in order to maintain her in her job pending the investigation. The lawyer wants to treat the firing as imminent not just threatened. He would argue that Ms. Aware meets the traditional legal requirements for granting injunctive relief as developed by case law: 1) that she will suffer irreparable injury if injunctive relief is not granted; 2) that she will probably prevail on the merits; 3) that in balancing the equities, the defendants will not be harmed more than plaintiff is helped by the injunction; 4) that granting the injunction is in the public interest.

The lawyer will argue that her loss of her job is irreparable injury (and try to develop sympathetic facts concerning her job loss). He will argue that Ms. Aware is likely to win on the merits since, given the several possible causes of the accident, the Railroad's firing her before an investigation is completed smacks of sex discrimination. He will further argue that it is less harmful to her defendants to continue employing her (and that they could place her on a temporary paid leave if they are concerned about her work performance), than for her to leave her job. Finally he would argue that it is in the public interest for her to be maintained in her job pending investigation since she is the first woman train engineer.

However, Ms. Aware's lawyer's arguments about the need for the injunction under the traditional standards are not so strong. She is not able to make out a very strong case at this point concerning her likelihood of success on the merits of her sex discrimination claim (without further investigation and discovery) and the Railroad can legitimately claim

concern with safety. Therefore the lawyer also wants to argue the alternative formulation that has been adopted by some Circuit courts (the circuit in which the District Court sits is not specified)—that plaintiff must show *either* a combination of probable success on the merits and the possibility of irreparable injury or that serious questions are raised about the merits of the case and that the balance of hardships tips sharply in her favor. Under either prong of this approach, the lawyer for Ms. Aware has a stronger case. He can argue that since the harm to his client is serious, she does not have to demonstrate at this point that she is likely to prevail on the merits, but merely that she has a serious claim for relief.

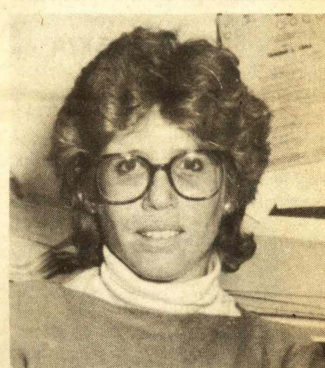
The Railroad's lawyer is first going to argue that since the firing has only been *threatened*, there is no need for injunctive relief yet. The Railroad's lawyer will want to minimize the irreparable nature of the injury, saying that if Ms. Aware is ultimately proven to have been discriminated against, she can get damages, back pay, and even reinstatement and thus get relief for the termination. But even beyond that, he is going to say that based on the facts known to the Railroad, the Railroad should not have the burden of maintaining her in her job. Not only is her sex discrimination claim on the merits questionable, but the balance of equities weighs heavily in the Railroad's favor. Her conduct has demonstrated a basis for concern and if she is kept in her job the Railroad may suffer future lawsuits and damage claims.

b) As the judge's law clerk, I would not recommend that the judge grant the defendant's motion for sanctions under Rule 11 against Ms. Aware's attorney.

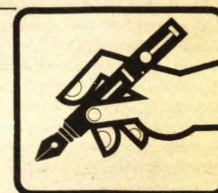
Rule 11, as amended in 1983, requires that the attorney certify that he has made a pre-filing inquiry as to the good faith basis of his pleading motion, etc. Since Rule 11 applies to motions, the plaintiff's motion for preliminary injunction is clearly covered by the Rule. The Rule provides that by signing the motion the attorney certifies that "to the best of his knowledge, information and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation." Here there are two questions: 1) the reasonableness of the factual claims of termination and 2) the reasonableness of the merits of the sex discrimination claim. The Advisory Committee Notes to Rule 11 set out the standard as "reasonableness under the circumstances." While there are not a lot of facts here to evaluate the reasonableness of both aspects, both aspects seem reasonable on the facts given.

Ms. Aware's attorney's motion for preliminary injunction was made based on the

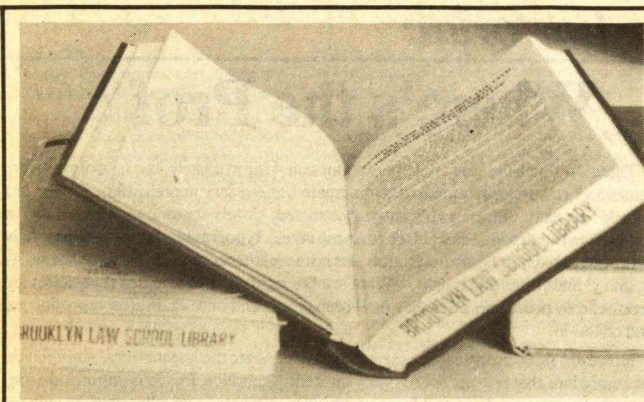
belief that she was going to be fired. Although it is questionable whether the motion should have been brought based upon a mere allegation of a threat to fire her, it does not appear from the facts that there was any question as to whether the threatened termination was "well-grounded in fact" since on the facts here, the Railroad has threatened to fire her. The claim of sex discrimination



appears reasonable on the facts and on the law because, based on the facts stated here, 1) there were several possible causes of the accident; 2) Ms. Aware was the first woman train engineer; 3) it does not appear that the Railroad would have had the opportunity in one week to make a thorough investigation and yet they fired her one week later rather than give her a paid leave pending investigation. The motion for preliminary injunction is traditional in employment discrimination suits in order to prevent firings. For these reasons it was appropriate for the lawyer to seek injunctive relief to protect her job. Finally, it does not appear that the attorney made the motion for any improper purpose—to harass or delay (especially since it sought immediate relief) or increase cost—but was merely a legitimate effort to vigorously protect his clients' interests.



**Speak
Your Piece
in the Justinian**



Was it Vince Lombardi who once said that grades aren't everything, they are the only thing?

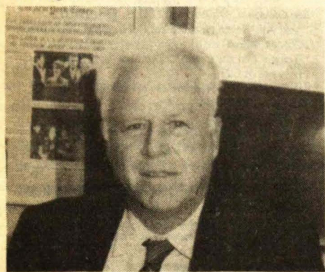
Gilbride on Contracts

Mr. Hatlin, a hardware and building supply store operator in Bagdad, N.Y., on January 28, 1968, wrote to Mr. Bell, a hardware supply wholesaler in Rome, N.Y., and asked him if he could supply him with one inch copper tubing. On Feb. 1, 1968, Mr. Bell wrote back and said, "We have one inch copper tubing in stock. We offer you one inch copper tubing at 5 cents per foot, delivered at your store, as per your order, during the year 1968, in an amount up to 200,000 feet."

Mr. Hatling wrote back on Feb. 3, 1968 and said, "Your offer received, I accept. I am happy to do business with you."

Mr. Bell telephoned Mr. Hatling on the same date, Feb. 3, 1968, before he received Hatling's letter, so Mr. Hatling read a copy of the letter to him over the phone. Mr. Bell said, "I do not want to do business with you that way. You will have to give me an order for a definite amount of pipe. Mr. Hatling said: 'Don't get excited. I am still considering your offer, but would you be able to give me a price of 4 cents per foot if I ordered 200,000 feet.'" Mr. Bell said, "The price I gave you is the lowest price I can offer."

On Feb. 4, 1968, Mr. Hatling sent a written order form to Mr. Bell for 100,000 feet of one inch copper tubing as per his offer of Feb. 1, 1968, to be delivered in monthly installments of 10,000 feet each, beginning in March, 1968. Mr. Bell received the order but refused to deliver, claiming his letter of Feb. 1 was merely an advertisement. Mr. Hatling sued Mr. Bell claiming a breach of contract.



Professor Gerald Gilbride

Judgment for whom and why?

The answer given here, as an illustration of how to answer an Essay question in a law school examination is not intended to be a perfect answer. It is given to you in words used by students in a typical answer, but rearranged in proper form and style. Since time is at a premium in law school examinations the answer is in a modified outline style. Apportion the time available for each essay question before you begin.

Before you start writing you must read the question at least twice to get the facts straight. The second time analyze the issues and mark them by underlining and noting in the margins of the examination paper.

Published by Brooklyn Works, a series on scrap paper or in the front of the answer

booklet. The outline should not be too long or involved but should state each issue in a full sentence, with a brief note of your answer to each issue.

After you have made your outline, check it over and make your decision: Judgment for Plaintiff or Defendant, or Smith or Jones, as the case may be, and write it under your outline.

OUTLINE

1st Issue: Was the letter from Mr. Bell of Feb. 1, sufficiently definite and certain to constitute an offer or was it a mere advertising circular?

Yes. It was an offer. UCC—Buyer's Option
2nd Issue: Was the letter from Mr. Hatling of Feb. 3, an acceptance?

No. Illusory promise

3rd issue: Was Mr. Hatling's letter of Feb. 3, or his telephone call a counteroffer so as to terminate the offer?

No. Mere inquiry. Re-affirmation of offer by Bell (Livingston v. Evans).

4th Issue: Was there a valid acceptance by Mr. Hatling in his order form of Feb. 4, ordering 100,000 feet of pipe in 10 installments?

Yes. Supplying specifications under buyers option.

Judgment for Plaintiff Hatling

In writing the answer, use the sentence form of the issues in your outline to state the issue in the essay. Do not ignore the analysis you have just performed. Organize your thoughts, write legibly and coherently. Write your answer in the framework of 1. ISSUE 2. RULE OF LAW 3. APPLICATION TO THESE FACTS, WITH REASONING; but do not prefix each part of your answer with these terms. Write in the style of a judge's decision as follows, but precede each essay with your decision: "Judgment for

1. Judgment for Plaintiff, Hatling
The primary issue for decision is whether the letter from Mr. Bell of Feb. 1 was sufficiently definite and certain to constitute an offer, or was it a mere advertising circular as he claimed later.

The general rule of law is that the essential terms of the offer must be reasonably definite and certain in order to form a contract when accepted. The opposing rule, which must be considered, is that a mere circular or mere advertisement is an offer.

On facts given in this case, the words used were sufficiently definite and certain to manifest an intention to be bound. The words used are words of offer, even under the common law rules of cases such as the Fairmount glass case. The essential terms of price, place and time are set forth in the offer. The amount is not definite, because a top limit is set in the amount of 200,000 feet.

Since this is a matter of the sale of goods, the UCC would apply. The UCC has a specific section authorizing this type of offer, where the specifications are left to the buyer's option.

The second issue in this case is that of

et al.: The Justinian

Courses on the Market Devoted to Taking Exams

By PHILIP RHEINSTEIN

Most students recognize that their formal education in exam-taking skills is sorely lacking, but few seem to take positive action. Students who do well figure they've "got what it takes" and the students who don't do well figure they don't. A small percentage of students take matters in their own hands and take one of the commercial exam-taking courses. While such courses have not gained the wide acceptance which bar review courses enjoy, they are flourishing.

While the Justinian was unable to attend any of the workshops, we obtained copies of the workbooks from two of the more popular courses, *Legal Essay Exam-Writing Seminar* and Professor Delaney's *How to Do Your Best on Law School Exams*. Both books are available without taking the course (this semester's courses have already been given), and are fairly representative of what is on the market.

Both books start out by pointing out the deficiencies in the current method of exam teaching in most law schools. Professor Delaney's book then sets out the "Five Exam Tasks":

1. You must determine which facts are legally relevant and which are not.
2. You must spot and articulate the issues raised by the relevant facts in light of the professor's questions at the end of the problem.
3. You must apply the correct legal rules to the relevant facts.
4. You must convincingly support your application of specific legal rules to the facts by legal reasoning including any relevant policy arguments. Interweaving of key facts with each element of each rule is the principal means of such legal reasoning.
5. You must do all of the above in a lawyer-like manner (and under intense time pressure).

While even Professor Delaney indulges in

Acceptance. Was the letter from Mr. Hatling of Feb. 3, an acceptance?

The rule of law is that an acceptance must be reasonably definite and certain, to conclude a contract on all essential terms.

Mr. Hatling's letter of Feb. 3 was a mere illusory promise. The offer looked for an acceptance by an order for a definite amount. This attempted acceptance actually promised nothing. It did not supply the specification of amount required from the buyer to complete the contract. Hatling could sit back and do nothing for the remainder of the year and not be bound to buy any pipe from Mr. Bell. Since this is a case of a bi-lateral contract, the necessary consideration would be a promise for a promise. Mr. Hatling's promise in this letter is illusory and does not furnish good consideration. There was no contract formed at this time.

The third question to be decided is: Was Mr. Hatling's letter of Feb. 3, or his telephone call a counteroffer, so as to terminate the offer.

The applicable principles of law involved here are that a counteroffer is rejection of an offer and terminates the offer. However another rule of law is that a mere inquiry is not a counteroffer and does not act as a rejection and termination of the offer.

The letter of Feb. 3 certainly in its language could not be construed as a counteroffer. It was attempted acceptance in the terms "I accept." This could not constitute a rejection or counteroffer. At the worst it was meaningless, and was neither an acceptance nor a rejection.

As to the telephone call, Mr. Hatling clearly stated "I am still considering..." so this was a mere inquiry. Under the rule established at common law, a mere inquiry is not a counteroffer and a rejection. In any event Mr. Bell's answer over the telephone indicated that he was standing by the terms of his original offer. Even if there had been a counteroffer,

Continued on page 11

the use of the conventional mystical terminology (lawyerlike manner), this excerpt, the most general of his method, uses a systematic approach to walk the beginner through the process of writing a good exam.

Miller takes a similar approach with a psychological emphasis. His book is replete with little tips to the nervous exam-taker.

Nothing is more fruitless in the first ten minutes of an essay exam than to try to think clearly about any legal topic of substance. Having a consistent, mechanical, step-by-step approach that brings us only gradually to the hard legal thinking is like having a security blanket. We can cling to it while we calm down and allow our brain to focus.

Miller's strength is that he explains his ideas in clear simple terms.

Success on essay exams will only be achieved by viewing each hypothetical as an opportunity — an opportunity to demonstrate how lawyerlike you are in your ability to spot conflicts and apply relevant legal knowledge and analysis in resolving them.

Delaney's book also describes common "pitfalls" and makes practical suggestions for outlining and diagramming. Perhaps the most interesting and unique aspect of Delaney's book is that his sample exam questions have an "A" answer and a "poor" answer. Miller's approach, following the answer from issue spotting to outlining to a finished answer, is also unique and goes far beyond the usual model answer.

If there is one clear lesson from both of the books, it is that there is a method to the madness of exams, and this method can be taught. When reading these two books, one gets a sense of how hypothetical exams could actually be a valuable tool for learning rather than an intimidating and often arbitrary means of "natural selection."

Saney on Crim Law

Dear Students:

I would like to compliment you on your new initiative. I think it is only fair that especially in the case of new professors — like myself — whose peculiarities of thought and behavior are not yet known (!) students should be given fair warning as to what to expect for exams.

I have explained the procedure in my criminal law class. Nevertheless, you have asked for written evidence, and here it is.

My exam in that course will consist of four parts. The first part is made of 15 short, True or False questions, covering the whole material we have studied. The idea is to test whether the student has mastered and remembers all the facts and arguments. The other three sections consist of essay type questions, which will tell me something, in addition to the student's mastery of facts, about his or her analytical and reasoning abilities. Here are two examples, one of each part.

In strict liability offenses, where the statute does away with the requirements of mens rea, there is no possibility of raising any defenses.

True

False

Answer: the preceding statement is false. Any of the defenses which impair or negative criminal responsibility (Insanity, self-defense etc.) can be used—when relevant—as a defense. The second box should be cross-marked.

An essay type question will be something like the following:

The effect of mistake of fact on criminal liability at common law.

Good luck to everybody!

Parviz Saney

Justinian

Brooklyn Law School
250 Joralemon Street
Brooklyn, NY 11201
Telephone: (718) 780-7986

Editorial Collective: Bridget Aaro, Marla Bloch, Susan L. Merrill, Philip Rheinstein, Donna Riccobono, Lee Rubenstein, Ellen Smolinsky, Nina L. Sturgeon.

Ad Manager Lee Rubenstein Contributors Jill Ginsberg, Jonathan Hudis, Jaime V. Delio,
Photography Allan Young Jim Diamond, Steven J. Chaikin,
Editorial Consultant Rich Schroeder and Kevin J. Bauer.

The Constitution According to Bork: Text or Pretext

By KEVIN J. BAUER

Walter Mondale conjured the spectre of Jerry Falwell filling the next several vacancies on the Supreme Court to frighten the electorate into evicting Mr. Reagan from 1600 Pennsylvania Avenue. The voters were unimpressed, but Mondale's jeremiad against the Reagan court proved particularly effective among pundits and professors.

Two days after the election, Anthony Lewis lamented that the President's re-election heralded the advent of an ideological phase in American politics. Lewis, author of *Gideon's Trumpet*¹ and elegist of the Warren court, consoled, "those of us who care about civil liberties and social justice,"² recalling that politics is a cyclical affair, thus holding out hope for a return to a more liberal climate. The following Sunday, Tom Wicker prophesied that the Democrats, together with Justices Brennan and Marshall, could very well thwart Mr. Reagan's flagrantly ideological (read unconstitutional) attempt to reshape the Court.³

Professor Ronald Dworkin, author of the immensely influential book, *Taking Rights Seriously*, previewed "Reagan's Justice"⁴ in an article devoted to a critique of *Dronenberg v. Zech*,⁵ decided last August by the District of Columbia Circuit Court of Appeals. The villain of that piece is, of course, Judge Robert H. Bork. Dworkin takes Bork to task for holding

Professor Dworkin fears that the Court will cease to be a "forum of principle," becoming rather "the Moral Majority's clubhouse, where the prejudices of the day are called constitutional law."

that consensual homosexual activity between adults is not a constitutionally protected activity. Dworkin argues that the D.C. Circuit Court of Appeals should have extended such activity protection under the right to privacy enunciated in *Griswold v. Connecticut*,⁶ and its sequelae,⁷ despite the fact that the Supreme Court itself has refrained from doing so.⁸ Considering the likelihood of the nomination and confirmation of Judge Bork and others of like mind to the Supreme Court, Dworkin fears that the Court will cease to be a "forum of principle," becoming rather "the Moral Majority's clubhouse, where the prejudices of the day are called constitutional law."⁹

But can it truly be said that a court which says, "We can find no constitutional right to engage in homosexual conduct and . . . as judges, we have no warrant to create one"¹⁰ has, as Dworkin would have us believe, abandoned both principle and "ordinary legal argument"?¹¹ Is not Professor Dorkin's ire aroused precisely because Judges Bork, Scalia, and Williams decided that "if it is in any degree doubtful that the Supreme Court should freely create new constitutional rights, we think that

so."¹² That is, the principle enunciated by Judge Bork and his colleagues leads them to uphold the type of regulation that Dworkin thinks "courts should be especially suspicious of."¹³ Further, Dworkin's charge that Bork has abandoned "ordinary legal argument" falls flat. Bork has said that courts cannot legitimately create constitutional rights.¹⁴ Nevertheless, he acknowledges that to the extent "the Supreme Court has decided it may create new constitutional rights (we) as judges of constitutionally inferior courts . . . are bound absolutely by that determination."¹⁵ This hardly demonstrates, as Dworkin complains, a "blatant distaste for ordinary legal argument."¹⁶

To understand the gravamen of Professor Dworkin's complaint against Judge Bork, it is necessary to abstract from the issue in controversy in *Dronenberg*. Dworkin's concern is that the D.C. Circuit's decision is the harbinger of unfettered activism by a conservative federal judiciary, after which "little of modern constitutional jurisprudence might survive."¹⁷ What else can his characterization of past Supreme Courts (read Warren Court) as "principled"¹⁸ possibly mean? Dworkin, on the authority of Justices Stevens and Blackmun, accuses the Burger Court of abandoning principle, equated here with a move to the right.¹⁹ To portray Justice Blackmun as a champion of principled constitutional adjudication is paradoxical at best, considering that the consensus among the *cognoscenti* regarding *Roe v. Wade*²⁰ was that it was a singularly unprincipled decision.²¹

Why do Professor Dworkin and certain members of the New York Times editorial staff maintain that a Reagan appointed Supreme Court presents such a serious threat to civil liberties and social justice? Mr. Lewis, for one, applauded the Warren Court for functioning as a second constitutional convention. It is clear that he is not opposed to judicial activism, only to conservative judicial activism. Can we seriously entertain the notion that the liberal agenda furnishes the litmus test for constitutionality? That idea, once floated, self-destructs.

Chief Justice Hughes once said that the Constitution means what the justices say it means. Justice Douglas, following Hughes,

When Judge Bork refrains from creating a new constitutional right because it lacks roots in the text, structure, and history of the constitution, he should be applauded.

confessed that the dispositive factor in constitutional adjudication was the individual justice's "gut reaction."²² Under this approach the Constitution can be construed but not misconstrued. For that, one would have to recognize that the text possesses meaning independently

Editorial:

Where's the Prof?

There is no such thing as a perfect examination. Unfortunately, law school exams are sometimes so carelessly prepared as to create unnecessary apprehension for the test taker. Even exams that are diligently constructed, closely scrutinized, and handed in well before the deadline can suffer from mistakes. Typographical errors are generally harmless and easy to figure out, unless, for instance, the fact pattern presents parties A, B, and C and the question asks, "What are D's rights?" It is assumed that exams are proofread by professors after they have been typed, and once again after reproduction and collation.

However, mere proofreading cannot always uncover the latent errors, ambiguities, and omissions that pop up like so many snickering gremlins. Precious minutes are consumed, the pulse quickens and fingers tremble as students frantically search in vain for an essential missing fact or try to reconcile a glaring inconsistency.

Just as disconcerting and even harder to detect in proofreading is the poor grammatical construction that provides uncertainty for the reader. An ambiguous antecedent or misplaced modifier has the potential to alter the meaning of an entire fact pattern or question.

We all know that it is useless to ask proctors to clarify the particular problem, as they are instructed, so it seems, to respond to any question with "Do the best you can. Thirty minutes to go." Little solace is offered by professors' suggestions to write out any assumptions you have to make in order to answer the question. It's not always easy or desirable to focus upon one assumption where many possibilities exist.

Because problems like these inevitably arise during the course of final examinations, it is incumbent upon professors to be in the building or "on call" during the administration of their own exams. In addition, at least one dean should be present as a test supervisor at all times in order to make discretionary decisions regarding the interpretation of ambiguous, incorrect, or confusing test material, in the event that the appropriate professor cannot be reached. Only a handful of professors make it a practice to drop in for a few moments while their exams are in progress. At the very least, this helps to ease anxiety. At best, it can allay confusion and prevent mistakes.

Law school examinations are too important to allow professors and administrators to "abandon ship" while students are left adrift without a paddle.

Steven Brown 1949-1984

The recent death of Steven Brown, a member of the Class of 1985, was a tragic loss for the Brooklyn Law School community. Mr. Brown will be greatly missed by all who knew him.

The editorial board would like to express its condolences to the family and friends of Steven Brown. Brooklyn Law School has become something less without him.

and Douglas, together with Mr. Lewis, explicitly deny this. The result is a highly politicized court, whose alternately liberal and conservative majorities routinely enact their predilections into law.

A generation of unprincipled constitutional adjudication has taken its toll. Students of the Constitution sympathetic to the results achieved fret that the Court may undermine its authority,²³ while the Court finds it necessary to resurrect *stare decisis* in order to sustain a right it created *ex nihilo*.²⁴

Yet, it is certain that the solution to our constitutional conundrum is not a flurry of conservative activism. The situation demands a return to an appreciation of the Constitution qua constitution. The American contribution to the political tradition of the West is the written constitution. By means of that document, the sovereign people delegated certain enumerated powers to the three branches of government. To what end? The Declaration of Independence states it clearly: to secure those inalienable rights with which men were endowed by their Creator. The Founders sought to join the laws and rights of nature and the idea of popular sovereignty in a written constitution "intended to endure for ages to come."²⁵ The principles embodied in the Constitution are the fundamental and permanent principles of the American polity.²⁶ For judges, to sit as a constitutional convention is repugnant to the theory and principles of our political-legal system.²⁷

Therefore, when Judge Bork and his colleagues on the D.C. Circuit Court of Appeals refrain from creating a new constitutional right because it lacks roots in the text, structure, and history of the Constitution, they should be applauded. *Dronenberg v. Zech*,

rather than being the harbinger of an orgy of conservative activism, is the first sign that the federal judiciary has begun to remember "that it is a Constitution we are expounding."²⁸

¹ See *Gideon v. Wainwright*, 372 U.S. 335 (1963).

² "You Ain't Seen Nothing Yet," *The New York Times*, 11/8/84, at A31.

³ "Reagan and the Court," *The New York Times*, 11/11/84 at E21.

⁴ 31 *The New York Review* 27 (11/8/84).

⁵ 741 F.2d 1388 (1984).

⁶ 381 U.S. 479 (1965).

⁷ *Loving v. Virginia*, 388 U.S. 1 (1967); *Eisenstadt v. Baird*, 405 U.S. 438 (1972); *Roe v. Wade*, 411 U.S. 113 (1973); *Carey v. Population Services International*, 431 U.S. 678 (1978).

⁸ *Doe v. Commonwealth's Attorney for Richmond*, 425 U.S. 901 (1976).

⁹ Dworkin, *supra* note 4 at 31.

¹⁰ *Dronenberg v. Zech*, *supra* note 5 at 1397.

¹¹ Dworkin, *supra* note 4 at 27.

¹² *Dronenberg v. Zech*, *supra* note 5 at 1396.

¹³ Dworkin, *supra* note 4 at 31, note 23.

¹⁴ See "Neutral Principles and Some First Amendment Problems," 47 *Indiana Law Journal* 1 (1971); "The Impossibility of Finding Welfare Rights in the Constitution," 1979 *Washington Law Quarterly* 695.

¹⁵ *Dronenberg v. Zech*, *supra* note 5 at 1396, note 5.

¹⁶ Dworkin, *supra* note 3 at 27.

¹⁷ *Id.* at 31.

¹⁸ *Id.* at 31.

¹⁹ *Id.* at 31.

²⁰ 410 U.S. 113 (1973).

²¹ See John T. Noonan, *A Private Choice*, 20-32, 195-197 (1979).

²² See Archibald Cox, *The Role of the Supreme Court in American Government* (1976).

²³ *City of Akron v. Akron Center for Reproductive Health, Inc.*, ___ U.S. ___, 103 S. Ct. 2481, 2487 (1983).

²⁴ *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 415 (1819).

²⁵ *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 176 (1803).

²⁶ See Walter Berns, "Judicial Review and the Rights and Laws of Nature," 1982 *Supreme Court Review* 49, 79-83.

²⁷ *McCulloch v. Maryland*, *supra* note 24 at 405.

Will Reagan Help the Yuppies?

To the Collective:

On Tuesday, November 6, 1984, the people of the United States overwhelmingly made their choice as to who is to be president for the next four years. The voice of America was loud and clear as to this choice in one of the largest voter turn-outs this country has seen in decades. Particularly those in the 18-24 and 25-30 age groups, with middle incomes of \$25,000-\$40,000 per year asserted their approval of Mr. Reagan's policies with their votes. I mention these figures, quoted from various media sources, because the BLS student body and recent alumni are among those in this group.

In effect, we are part of the majority which helped to re-affirm the mandate Mr. Reagan received in 1980. Now that all the shouting is over, stop and think. Are we *really* better off than we were four years ago? I am not talking about the country in general, I am talking about we students and recent graduates, who will inherit the results of Mr. Reagan's policies for years to come.

For the moment, Mr. Reagan's Supply-Side Economics seems to be working. Spending is up, the prime rate is falling, the unemployment rate is down, and the current leading economic indicators seem to indicate economic growth for the nation in the months ahead. The young business and professional generation, like the rest of the country, saw the signs, voted with their pockets, and made their choice.

However, we should be cautious when giving the go-ahead to an administration which has recently said, "You ain't seen nothin' yet." The electorate should now see what it has done in selecting Mr. Reagan for a second term.

There are many issues which Mr. Reagan must finally take a stand on, now that his opponent has been beaten. Despite Mr. Reagan's promise that taxes would be raised "over his dead body," there is still a large deficit, in the neighborhood of 12 digits, which must be reduced, or all the gains Mr. Reagan's administration has made to date will be stifled rather abruptly. From what source will the money come to reduce this deficit? Mr. Reagan said that our taxes would be raised only as a last resort. Even Mr. Reagan's advisors, who wish to be un-named by the press, said that this promise might come back to haunt him. It seems that up until now, Mr. Reagan's tax cuts have benefited an income group of which we will not become members for several years. Will Mr. Reagan have to renege on his former promises? Or will he

simply transfer the burden onto those who haven't reached the financial level of those he so desires to protect — who really don't need protection from government taxing.

In essence, Mr. Reagan's democratic challenger was trying desperately to show the American people that Mr. Reagan has been stealing from the poor and giving to the rich. Robin Hood would be ashamed. This stealing comes in the form of reductions in student grants for higher education, in reductions of Medicaid benefits, and in reductions of federal monies to the states for their social benefit programs. This money in turn is handed over to government defense contractors, large businesses, in the form of corporate tax reductions, and personally wealthy individuals, in the form of flat personal tax reductions. Sure our country will prosper, but at whose expense?

Another matter to consider is our Supreme Court. At least four justices are of the age that they will be retiring during Mr. Reagan's second term. Including Justice O'Connor, Mr. Reagan will appoint what will be the majority of the Supreme Court for the next two decades. When Mr. Reagan came as close to saying that abortion is murder as anyone possibly could, and wishes to propose an amendment to the Constitution which could forever destroy our country's tradition of separation of church and state, I worry. The justices Mr. Reagan chooses will be those whose viewpoints most closely match his own. I am afraid to think what effect this will have on our justice system in the years to come.

Lastly, a point we seem to have overlooked is Mr. Reagan's previous record on foreign policy. Wasn't three assaults on our foreign embassy in the Middle East enough? Are more of our brave soldiers abroad to die for the carelessness of our government? Are the present government's covert actions in Nicaragua setting us up for another Vietnam? And most disturbing, is Mr. Reagan prepared to take the consequences of escalating the Cold War to the Heavens above? These are serious questions to which the answers may have serious ramifications.

Obviously, my partisan views are not those of the majority of this country. I am merely proposing that the decision we have made may have been one that we might regret in the years to come. I welcome opposing views and answers to the questions I have presented.

signed,
John Hudis

et al.: The Justinian

After Investing Thousands Of Dollars In Your Legal Education, Have You Found the Job You Want?

Practical Career Systems Offers
a Simple, Pragmatic Approach to:

- Job Market Analysis
- Targeted Job Searches
- Interview-Generating Resumes and Cover Letters
- Interview Techniques

Ready to benefit from your law school investment?
Ask about PCS' \$125.00 Introductory Package
of 3 career consultations.
(212) 344-3500

Practical Career Systems
A service of Employment Relations Counsellors, Inc.
Phyllis Eisenberg, Director

NOT AN EMPLOYMENT AGENCY

AXFORD

RACE RELATIONS

By ROBERT AXFORD

The melting pot is once again showing signs of cracking. With Reagan and the media running interference befuddling any class analysis, race relations are once more being used as a pressure valve. Because supply side means more for less and less for more, the great mass of people in America must scrap for trickle-down leftovers. This inevitably leads to frustration. Frustration inevitably leads to aggression. Since our government prefers that any anger resulting from its policies be displaced elsewhere, it openly encourages nationalism (hatred of other people's governments) and covertly stokes the fires of racism. Divide and conquer: basic stuff for societal control.

Enter Michael Stewart, Eleanor Bumpurs, Benjamin Ward and the National Conference of Black Lawyers. First, Police Commissioner Ward. When John Conyer's congressional report found racism as a motivating factor behind much of the police misconduct in this city, Commissioner Ward dismissed it by saying: "Racism is American as apple pie." A curious statement, don't you think? Was he attempting to comfort us by saying racism is endemic? Was the commissioner suggesting that we accept racism as a necessary part of our culture? Neither satisfies. Is the 14th Amendment not "American"? As a public official, doesn't Mr. Ward have a duty to protect and treat all the citizens of the city equally? I don't doubt the veracity of the commissioner's contention, I only question his desire to remedy this most disturbing situation.

That Commissioner Ward is black makes this scenario distinctly '80s. Regrettably, his being black seems to do little to cure the ill and much to deflect public opinion. It would appear that many look at a black police commissioner as a guarantee against police mistreatment of blacks and other racial minorities. But to conclude that is to judge a man's action by the color of his skin. Published by Brooklyn Works, 2018

Michael Stewart and Eleanor Bumpurs were victims. Some well-intentioned people are trying to elevate these two into martyrs, symbols. A victim's death is tragic and meaningless. A martyr's death can instruct, thus, a martyr's death often takes on significance their lives could never have had. To the extent that we learn from their deaths is the degree to which we have progressed.

Michael Stewart, we must remember, was arrested for graffiti and was beaten to death by a group of police officers. The crime did not fit the punishment in anyone's mind, except that of a racist. Many feel that if he were white he would be alive today. While highly likely, it is, of course, impossible to prove. However, I don't know of a white youth ever being summarily executed for painting subway cars.

Eleanor Bumpurs' case is the most horrific. Why a SWAT team assembles to evict an elderly woman is beyond belief. Mayor Koch called it a "chain of mistakes," a chain that apparently doesn't reach him. One early report said she was supposedly making lye in her sink to use on the evicting marshal. Yet no lye was ever found and the justification was dropped. The police alleged that this "deranged" (Commissioner Ward's characterization) woman lunged at the officers with a long knife. But if they knew enough to know she was mentally unstable and dangerous, why did they break down her door in full riot gear brandishing shotguns? The situation would have seemed to counsel delicacy. But she was behind on her rent. I forgot. The land of the free. The home of the brave.

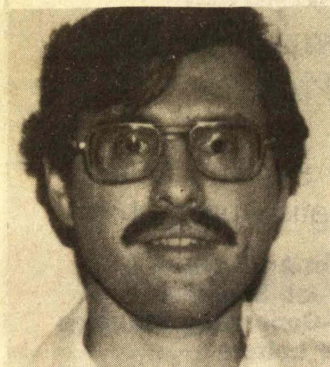
Who pays for such egregious misconduct? Lower level bureaucrats, of course, from the Human Resource Agency in this instance. Koch assumes no responsibility; nor does Ward or the police department in general. The buck? Like with the C.I.A. manual instructing terrorism against the people of Nicaragua,

the buck stops down there somewhere in the bowels of the bureaucracy where seldom is heard a contrary word and the boss is insulated all day.

The National Conference of Black Lawyers is neither victim nor purveyor. The NBCL does much good work, often aligning with the ACLU, the Congressional Black Caucus, the National Lawyers Guild and other good guys of the left. The NBCL has protested the invasion of Grenada, U.S. support of the South African government, the covert war against Nicaragua, and much else in support of oppressed people everywhere. Rarely does the mainstream media cover their work. Not until the NBCL serves the purpose of others, that is.

Like the other day when NBCL representative Adrien Wing made a speech in support of the displaced Palestinian people before the Palestine National Conference. A picture of Ms. Wing embracing PLO head Yasser Arafat (called "terror chief" by this objective newspaper) was on the front page of the *New York Post*. Why the *Post* ran this on page one is obvious: it serves the ends of the far right very nicely thank you. It divides the blacks and Jews in this city, a coalition that proved very effective in the past. You might dismiss it by saying it's *only* the *Post* (the story was in the *News* as well), but that is too easy. The *Post* is simply less subtle than the rest, but the message is the same.

Next year, in this city, a mayoral race is scheduled. Issues of race will once again be manipulated by some for their own insidious ends. To understand it, simply look at who benefits by racism's manifestations and who suffers. One telling question to be answered is not whether blacks will vote for a white candidate (they often have), but whether whites, the majority, will ever vote for a black candidate. Whatever happens, it will be an indication of how far we've come. Or haven't come.

Obituary:**Steve Brown,
Third Year
BLS Student,
Dead at 35**

Steven M. Brown, a third-year student at Brooklyn Law School, died last month at his home in Jackson Heights, Queens. Born in the Bronx in July, 1949, Mr. Brown was both a scholastic and professional success.

Mr. Brown did his undergraduate work in History at City College, graduating cum laude and Phi Beta Kappa in 1971. He went on to study European History at the Graduate School of Columbia University. While there, he earned two masters degrees and completed all the requirements for a Ph.D., with the exception of a dissertation. At the same time, he was an Adjunct Professor of History at City College.

Mr. Brown worked as an Immigration Inspector for the Department of Justice during the nine years preceding his death. He was an active member of the federal employees' union, serving on the group's executive board. Mr. Brown also actively litigated many cases for his union on behalf of fellow employees, an activity which led to his decision to attend law school.

As an ardent Zionist, he traveled to Israel and was greatly concerned with what he perceived as a growing level of anti-Semitism in society.

Mr. Brown began at Brooklyn Law School in 1982 as a full-time student. He became a member of the Moot Court Honor Society after successful participation in the Fall Intramural Competition. As a member of the Honor Society, he served a valuable role and had been chosen to represent Brooklyn Law School in the Wagner Moot Court Competition next Spring. Mr. Brown also served as an orientation counselor, both as a second and third-year student.

Mr. Brown excelled in school, receiving the highest grades in N.L.R.B., Practice and Procedure, Evidence, Federal Jurisdiction and Immigration Law. He was ninth in his class and had been interviewed by a number of federal district court judges and magistrates for positions as a law clerk. He was also involved in the school's judicial clinic, working this semester in the chambers of the Hon. Charles B. Sifton.

**Steven M. Brown
Fund Established**

Students have begun to collect contributions in order to establish a fund in Mr. Brown's name. Those who wish to contribute should give their donations to Johanna Gurland in the placement office. Checks may be made payable to Brooklyn Law School. Mr. Brown is survived by his mother, Rita, and his brother, Steven.

Ted Rothstein, D.D.S., Ph.D.

Member American Association of Orthodontists

**Specialist in Orthodontics
For Adults and Children**

Clear (Plastic) and Ungual (Invisible) Braces
Problems of Jaw Development

- Affiliation with St. Lukes - Roosevelt Hospital
- Day, Eve, Sat. hours
- Union and Insurance Plans Accepted
- Mastercard, Visa • Free Brochure

COURTESY CONSULTATION

852-1551
BROOKLYN HEIGHTS
35 REMSEN STREET

NO CHARGE INITIAL VISIT

258-3355
MIDWOOD

1490 OCEAN AVENUE
(Corner Ave. J)

Dr. Rothstein is Associated with Long Island College Hospital and Woodhull Hospital.

Once is enough!

Some things are better the second time around — taking the bar exam isn't one of them.

Take a good look at the Josephson BRC Course and we think you will agree that there is no better assurance that you will have to take the bar exam only once.

No other course offers the kind of complete integrated study system which simultaneously builds substantive knowledge and confidence. With the finest law summaries and lecturers and the most comprehensive testing and feedback system in the state, you can't go wrong with BRC.

ASK OUR REPS

Elizabeth Hill - Coord.
Pat Branley
Frank D'Angelo
Rich Logazino
Leonardo Viota
Jonathan Murphy
Marcel Sager
Elena Karabatos
Jeanette Newman
Cyrena Telesford



Annette Bonelli
Chris Critelli
Mark Diamond
Lori Singer
Ann Gremillot
Cheryl Petretti
Consuelo Mallafre
John McDermott
Mary Zaslofsky

WITH YOU EVERY STEP OF THE WAY**SUCCESSOR TO THE MARINO BAR REVIEW COURSE**

Eastern Regional Office: 10 East 21st Street, Suite 1206, New York, NY 10010, 212-505-2060

First Year Students Interested in Becoming
BRC REPS Should Call Our Office ... NOW!

Brooklyn-Progress Copy Center

Printing by all Processes
High Quality Xeroxing at
Reasonable Prices

193 Joralemon Street Brooklyn, NY 11201

(Just one block from Brooklyn Law School)

Telephone: Triangle 5-0696

Special Discounts to Law Students

et al.: The Justinian

Mediation Clinic Slated

Continued from page 1

but to all attorneys who inevitably will find themselves in a situation that will require poise, delicacy, and an ability to develop a consensus among opposing parties.

The clinical part of the course will afford students an opportunity to obtain training as mediators and then provide hands-on experience by allowing them to hear community dispute cases after training.

You may be wondering if you are right for mediation training. Dr. Volpe claims experience tells her that not everyone is. "What qualities a good mediator should have depends on whom you're asking," she said. Members of the labor sector say they want mediators who can twist arms but not break them. Divorce mediation calls for dealing with more emotional issues that do not always have the clear lines of division that a contract dispute will have." However, she did emphasize that tolerance, being non-judgmental, the ability to build trust, articulate problems, and shift approaches as circumstances dictate are all important no matter what field you mediate in.

If you're interested in the Alternative Dispute Resolution Clinic, see your registra-

tion package for general information. If you have specific questions or are interested in adding the clinic to your spring schedule, contact Sandi Hays on the 9th floor, or call Dr. Maria Volpe at John Jay College of Criminal Justice at (212) 489-3287.

Daycare

Continued from page 1

As a result of the small response the questionnaire was made available on school grounds, but in the same format. When only another handful of people responded, a decision was made to have the questionnaire administered in classes. This time it was changed so that all students, regardless of whether they currently have children, were asked if they favor the idea of establishing a day care center. Those results are now being tabulated.

The questions about the survey and whether there is sufficient interest in day care have created problems for proponents, who apparently have the administration on their side. They believe such a facility offers many advantages to the law school community. Establishing a center is viewed as making a great step forward toward attracting students and faculty to BLS who would be otherwise unable to attend law school or pursue legal scholarship. As Professor Minda states, "It will show that Brooklyn Law School is a progressive institution that cares about child care. I think all employers have an obligation to help men and women with their child care responsibilities — it's an idea whose time has come."

Since the new CUNY law school in Queens is the only law school in New York City to have its own child care center, the proposed center is viewed as a strong drawing factor to the school.

Another setback the proposed facility faces is one of a delay in its planning and implementation. The 1983 faculty proposal recommended that the law school hire a qualified consultant who would "establish a plan and schedule for completion" by August, 1984, "so that possible implementation be completed no later than January, 1985." Following this schedule became impossible when the consultant, Elisa L. Crowe, was not hired until September, 1984, one month after the proposed completion date of her work. She is currently working on her feasibility report, much of which will be influenced by her analysis of the recent questionnaire.

Professor Minda, who authored the 1983 proposal, and who will be spending next semester on sabbatical at Harvard Law School, says, "Unless you have a cut-off date, this could go on forever. I think the administration is diligently carrying out the proposal. Dean Trager is convinced it's a good idea. At some point the Committee must demand a completed report, and I would say that by January the faculty should demand this."

Bernard J. Graham, President of the Student Bar Association, is less convinced of the administration's commitment to the proposal. "At this stage, I think they're just dragging their feet. Either they have a commitment to day care or they don't."

According to Professor Minda, his 1983 proposal shifted the burden and it is now "clearly on the opponent to establish reasons why we shouldn't have a center." The positive results of Minda's 1983 survey seem to have been overshadowed by the unexplained need for yet another questionnaire. The results of this latest survey, and the questions about its validity, seem to have muddied the waters. Whereas the day care center, at one point seemed only to be a question of implementation, now, according to Haverstick, no final decision has yet been reached on whether or not to establish a facility. "The center is not a foregone conclusion," he states. "That decision will be made on the conditions of the feasibility study."

Any students interested in the 16th national conference on women and the law, whose theme is "Building Bridges, Not Walls," please call 718/624-6954 for further information.

TO LEARN THE LAW

Sum & Substance

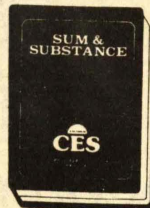
Comprehensive legal study aids featuring:

- Detachable capsule outlines
- Cross referencing to each major casebook
- Sample exams with explanatory answers
- Complete table of cases
- Easy reference index



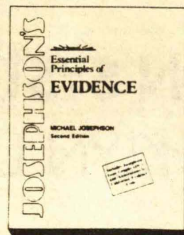
Sum & Substance Audio Tapes

- The nation's most outstanding lecturers in the law
- 23 subjects available
- Mobility and study convenience for commuters
- A refreshing change from the constant reading of legal studies



Essential Principles Series

- Concise outline format
- Detachable capsule outline
- Review problems and sample exams
- Most titles have innovative "JIGs" flow charts



AVAILABLE AT YOUR LOCAL LAW BOOKSTORE!

or contact



Josephson Center for Creative Educational Services (CES), 10101 W. Jefferson Blvd., Culver City, CA 90232 (213) 558-3100
Published by BrooklynWorks, 2018
CES/BRC Eastern Regional Office: 10 East 21st Street, Suite 1206, New York, NY 10010, (212) 505-2060

PAX BOOK EXCHANGE

Pre-Exam Sale

10% OFF

ALL

— Emanuel — Nutshells —
— Legal Lines — Sum & Substance —

YOU MUST PRESENT THIS AD

Hours: Mon.-Thurs. 9am-6pm

Fri. 9am-4pm

Sat. 10am-3pm

SALE ENDS DEC. 28

108 Lawrence Street (between Myrtle & Willoughby)

875-1491

SPECIAL PRICING
ON ALL COMPUTER SYSTEMS
AND ACCESSORIES
TO ALL STUDENTS, ALUMNI,
FACULTY AND STAFF
BY AGREEMENT BETWEEN
EXTRON SYSTEMS INC.
AND BROOKLYN LAW SCHOOL.

Ektron Systems Inc.
Computers Plus



194 Joralemon Street
Brooklyn, NY 11201

(718) 625-7222

Gilbride on Contracts

Continued from page 5

under the rule of *Livingston v. Evans*, which we covered in our casebook, there was a reaffirmation of the original offer by Mr. Bell.

The fourth question is whether there was a valid acceptance by Mr. Hatling in his order form of Feb. 4, ordering 100,000 feet of pipe in ten monthly installments.

The law as now enacted in the UCC Sect. 2-311 is that a contract is valid even though it leaves particulars of performance to be specified by one of the parties. When the specifications are fully supplied as in this case the contract is complete. The specifications are valid if in good faith and within limits set by commercial reasonableness.

In this case, the original offer called for specifications to be supplied by the buyer in his acceptance, which Mr. Hatling has supplied in his order form. The specifications are in good faith and commercially reasonable. The offeror, Bell, is a wholesale dealer, the amount is only half of what he set as a top limit. Delivery in ten thousand foot lots each month for the remaining ten months of the year is commercially reasonable since delivery was offered at any time within the remainder of the year. Since Bell is a wholesale supplier and Hatling a retailer this specification for installment delivery seems reasonable.

Even if it were to be held that these were additional terms not within the contemplation of the offer then another section of the UCC, Section 2-207 would come into play and permits the acceptance with additional terms to be considered as a valid acceptance of the contract as a whole. The additional terms are considered to be proposals for addition to the contract, not as a counteroffer and rejection.

Grading Update

With the exam period closing in, there are mounting fears of a recurrence of the arbitrary grading policies and disparity of scholastic scores that became a heated issue less than a year ago. Many students have refocused their attentions on the ephemeral Grading Committee, a group of faculty members and students that was formed to gather historical data (the past two years) on the distribution of grades and recommend a reform proposal of a uniform grading policy to the faculty by December 1984.

Bureaucratic delays, lack of communication and an abundance of computer 'red tape' have apparently impeded the Committee's prompt resolution of the problem. Using a research assistant and clerical staff members, some in-house data has been generated, but none sufficient to meet their needs. To aug-

et al.: The Justinian



ment these efforts, the computer company in New Jersey that stores all BLS records has been approached with a request to produce the necessary data, principally through Dean George Johnson and Professor Arthur Pinto. Thus far, this avenue has proved equally ineffective in producing quick results.

Professor Pinto remarked that the Committee has discussed policy changes based on the limited data currently at their disposal. He suggested that they had achieved a "consensus

around ideas" but refused to disclose any details until additional data was obtained and a formal proposal was prepared, which will hopefully be announced by the beginning of next semester.

SBA Restricts Bar Review Ads

By JILL GINSBERG

BLS's Student Bar Association met on Tuesday, November 13.

The meeting started with President Bernie Graham suggesting a pro bono clinic; an idea proposed by numerous alumni. An SBA member would get together with a clerk from the federal district court to organize a list of firms that work on these cases. This could lead to summer jobs and internships in federal litigation.

SBA Student Aid Service Problems

The Student Aid Service, the SBA emergency loan fund, has \$8375 outstanding from \$9575 loaned since 1971. Graham disclosed that some of this money was loaned to former SBA executives and that a former SBA president still had a loan outstanding. He commented that this situation was "an absolute disgrace."

Graham outlined a plan to rectify this situation. This was the first attempt to help the fund by an executive board since the fund was started.

Graham said that Dean Trager had passed a resolution instituting penalties for those with unpaid loans. Alumni, involved in litigation, will bring these cases to court. At the moment, the \$2,000 left in the fund is frozen. The fund, however, has now been turned over to Michael Schreiber, who will be handling the loans. Additionally, Graham stated that the SBA "has a commitment to publicize the fund."

New Business

There were many new proposals designed to make life easier for BLS students. A proposal for a weekly calendar of events was passed electing two SBA members to work on it. A proposal to ban bar course review literature, except where designated, was passed despite opposition. As Bernie Graham commented, "the measure is a ban of free speech." However, SBA secretary Orren Weisberg interjected that "as a representative for a bar review course, the table in the cafeteria would suffice." The SBA also voted to establish an Ad Hoc Committee to study the possibility of the library staying open all night.

The last resolution debated was for the SBA to sponsor a Conference on Soviet Jewry at a cost of \$400. Bernie Graham raised the idea "as good media exposure for the SBA." Orren Weisberg objected "because \$400 is a lot of money." She also raised the issue that a new group, the Jewish Lawyers and Jurists, should help pay for the event. Another objection was raised by Phil Reizenstein on the grounds that "it is a political idea." However, Ian Bjorkman felt that "because it is a human rights issue, we cannot turn our backs" on supporting this event. An 11-5-3 vote passed the resolution with an amendment providing for funds with possible financial assistance by the Jewish Lawyers Group.

RES IPSA LOQUITUR

The Pieper New York State-Multistate Bar Review offers an integrated approach to the New York Bar Exam. We emphasize sophisticated memory techniques, essay writing skills and a concise, organized presentation of the law. You will be prepared and confident.

PIEPER NEW YORK-MULTISTATE BAR REVIEW It Speaks For Itself.

PIEPER REPS

Valerie Bailey
Theresa Begley
Karen Kramer
Carlos G. Ortiz
Candice Rosenberg
David S. Wilde

Sarah M. Barish
Jeannette Diaz
Jon Mostel
Bill Phillips
Grace Scire
Jacqueline Williams

90 Willis Avenue
Mineola, New York 11501

Telephone (516) 747-4311

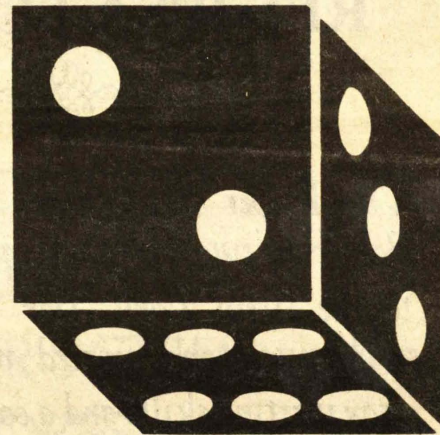
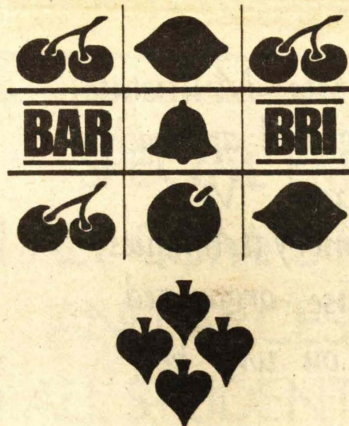


SAVE YOUR GAMBLING FOR ATLANTIC CITY

See your rep.

1985

Steve Bracy
Jo Cantor
Florence Friedman
Shirley Gerstein
Mark Holtzer
Steve Landy
Craig Libson
Nick Panzini
Marilyn Rosenberg
Jan Signon
Howie Wynn



**BAR/BRI
Leaves Nothing
To Chance.**

Night

Mark Diamond
Chuck Garmhausen

1986

Eric Altman
Andy Axelrod
Steve Beldock
Jeff Block
Randi Burger
David Gottschalk
Randi Herman
Glenn Katz
Fred Rosner
David Siskind

barbri

The Nation's Number One Bar Review.

401 Seventh Ave., Suite 62, N.Y., N.Y. 10001 (212) 594-0696 (201) 623-3363
29 Commonwealth Ave., Boston, MA 02116 (617) 437-1171
1214 One East Penn Square Building, Philadelphia, PA 19107 (215) 563-4988

401 Seventh Avenue, Suite 62
New York, N.Y. 10001
(212) 594-3696
(516) 542-1030
(914) 684-0807

© 1982 BAR/BRI
First published 1979