The Justinian

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Article 1

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The Justinian

Prince Evidence Competition This Weekend

March 1987 Volume LVI No. 4

THE JUSTINIAN

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Study Opportunities Abroad

So, you've just spent all morning calling up law firms for the names of their hiring partners and the only answer you've gotten is: "we're not hiring." Has the aura of the Brooklyn skyline dampened their creative energies of your psyche? Do you daydream during class about visiting new and far away places? If the answer to these questions is yes, then maybe you might consider studying law abroad for the summer. To broaden one's horizons, this is an experience from which any law student could benefit.

According to the *Student Lawyer*, an American Bar Association publication, there are 42 law schools around the country offering summer programs in 17 countries. How about Comparative Constitutional Law in Barbados, International Trade Law in China and Hong Kong, or Public International Law in the South of France?

Most of the programs offered an average of six credits for 3 courses of study. Tuition, room and board varied among the different programs, but the cost on average was approximately $1,600 for six weeks. Requirements to take courses in study abroad programs are minimal. All a student needs is a letter of good standing from the Dean. In addition, the course must be one that is not offered at BLS. Finally, the course of study offered must be accredited by the American Bar Association (ABA) and the Association of American Law Schools (AALS).

The student wishing to take courses abroad may want assurance that he or she is getting quality education for his or her money. According to Dean Johnson, that is not something the student need worry about. "To begin a program, the school wishing to conduct its course abroad may offer it initially only to the school's own students on an unapproved basis. A review team from ABA/AALA, consisting of professors, deans and legal experts from all over the nation, will critique a few classes during the term. The team then submits a 50-page report on the course's strengths and weaknesses. If

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The Jennifer Levin Case: Don't Blame the Victim

by Brian M. Rattner

One of the goals of the curriculum at Brooklyn Law School is to impart to the student a sense of the honor intertwined with the legal profession's history. Analysis of cases dating back several centuries, contrasted against their social and political implications, offer a rare view into the inner workings of past legal minds. We look back through history and see the honor past lawyers strove to uphold for future generations.

Today, we need only look as far as our own criminal justice system to see a contradiction of the very principles of legal honor many have fought so hard to preserve. The August 26, 1986 death of Jennifer Dawn Levin at the hands of Robert Chambers has spawned a trial worthy of close scrutiny by the legal community. Mr. Chambers' lawyer, Jack T. Litman, has adopted the blame-the-victim defense common to past rape and spouse abuse cases. The use of such tactics almost always guarantees severe emotional trauma for the parties involved. The irony here is that Jennifer Levin's character will be assassinated posthumously, as the defense attempts to show her sexual proclivities somehow contributed to her death.

The facts of the Levin case seem straightforward at first glance. A young woman goes willingly into Central Park with a man she is acquainted with and then dies at the hands of her friend. The only question the court must answer is if the woman was the victim of foul play. Predictably, the general public displays an insatiable curiosity concerning the details of the case, demanding an explanation of what type of woman would accompany a man into Central Park at 4:30 a.m. for an alleged sexual tryst. The lawyers involved on both sides are only too eager to provide answers to the media.

The media accessibility problem intensifies as our legal system allows attorneys to interject ever increasing numbers of answers to the public queries. The answers provided to the media unnecessarily favor the attorney's client and occasionally strain the limits of believability. The case unfortunately becomes focused on which attorney can manipulate the media, and simultaneously the jury, to their greatest advantage. The battle is taken out of the courtrooms and into the waiting arms of the media.

The Levin case presents the unique situation wherein Miss Levin's parents must not only come to terms with the death of their young daughter, they must also expend considerable amounts of time and money in an effort to defend her reputation. The Levin family's past few weeks have been largely devoted to the suppression of a supposed "sex diary" kept by Miss Levin. The existence of a diary was never questioned, but the contents had been alleged by Mr. Litman to be a detailed accounting of Miss Levin's sexual liaisons. Mr. Litman made these allegations while in possession of little or no tangible evidence that such an accounting was kept.

Apparently, this lack of substantiation did not matter to the defense's case, since whether or not the diary was discoverable, the details of Miss Levin's sex life were now open to speculation from an eager media. The protracted court battle over the diary with all the accompanying publicity, seemingly served Mr. Litman's purpose. The focus now is not on Mr. Chambers' possible guilt, it is instead on Miss Levin's most private matters. The fact that the diary was ultimately not admitted as evidence is of no consequence to the defense. Actually, the defense's objectives were better served by the vehement opposition displayed by Miss Levin's parents than by a quick admittance of the diary into evidence. Unfortunately, the realization that the contents of the diary does not concern the defense comes too late for the Levin family.

The larger questions here concern the present state of our criminal justice system. Should we permit such blame-the-victim defenses to be raised in the future? The harsh reality is that lawyers are bound to pursue a vigorous

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Unusually Heavy Snows during February, followed by unusually warm weather last weekend, has the BLS community even more confused than usual.

SUPREME COURT REVIEW:
Special Report on
Death Penalty Cases.

Page 16.

SPOTLIGHT ON MOOT COURT HONOR SOCIETY

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BLS News Update

Placement News

The Placement Office would like to assemble a resume book containing the resumes of all Brooklyn Law School Students organized by year of graduation and areas of interest. If you would like your resume included, please bring a copy to The Placement Office by March 30, 1987. If you would like help in constructing or polishing your resume please call for an appointment: 780-7963. Please note: Resume Drop Off Service is available.

Christian Legal Society

Every Thursday between 4:15 and 5:15 pm in room 603, the BLS chapter of the Christian Legal Society meets for studies on integrating faith and practice.

CLS is a new organization at Brooklyn Law School formed with a view towards providing fellowship for believers, and integrating our study of the law with a personal relationship with Jesus Christ. For more information contact Michelle at 212 925-8057, Tim at 718 383-5941 or Tim 718-448-5996.

56 Lawyers Disbarred During 1985

Reprinted from the *New York Daily News*, January 22, 1987.

Fifty-six New York State lawyers lost their licenses during 1985 because of misconduct, 60% more than during the previous year, according to a survey by the state Bar Association.

In addition to the 56 disbarments, eight lawyers quit practicing rather than face disciplinary proceedings. Another 32 were suspended and 12 were censured.

The increase in disciplinary actions against lawyers does not reflect any trend, said Benjamin Greshin, chairman of the Bar Association's committee on professional discipline. In 1983, he noted, 65 lawyers were disbarred and 17 resigned under pressure.

The most common reason for disbarment was misuse of clients' funds. Other charges included fraud, dishonesty, and deceit.

The state has four court-appointed disciplinary committees to hear professional misconduct complaints against lawyers.

The committees heard a total of 427 cases during 1985. In 319 of the cases, the offending lawyers were cautioned, admonished or reprimanded.

Prince Evidence Competition Schedule

March 13 Preliminary Rounds (at BLS)
5:30 p.m.
7:00 p.m.

March 14 Second Preliminary Round (at BLS)
10:00 a.m.

Quarter Finals (at the Eastern District Court House)
2:30 p.m. (5 rounds simultaneously)

Semi-Finals (at the Eastern District Court House)
5:00 p.m. (2 rounds simultaneously)

March 15 Final Rounds
11 a.m.
in the Eastern District's Ceremonial Court Room

Final Round Judges

Honorable Jack B. Weinstein
Chief Judge of the Eastern District

Honorable Dolores Sloviter
Third Circuit Court of Appeals

Honorable Leon Lazar
Formerly of Appellate Division Second Department

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Levin Trial Strategies Questioned
After the fallout from the Jennifer Levin murder, the questionable blame-the-victim strategy is addressed along with possible limits on its use. Page 1

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Take a moment to check out the numerous study abroad opportunities. It's a great alternative to the summer job rat race and an excellent way to experience other cultures while earning credit. Page 1

Course Selection Strategies
With next semester registration around the corner some helpful hints are in order. Page 3

Moot Court Profile
For those interested in litigation and honing their advocacy skills, the Moot Court Honor Society is the place to be. Page 5

Death Penalty Issue Reaches The Supreme Court
A first person report on the most recent death penalty case heard by the Court. Analysis and comment by an eyewitness to the proceedings. Page 16

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Best Brief Prize Announced

Dean Trager and Professor Walter would like to congratulate the following students who, in 1985-86, were nominated by the faculty for the Joan Offner Touval Memorial Scholarship. The scholarship is awarded annually to the student who has submitted the Best Brief in the First Year Moot Court Program. Professors Bentele, Bynum, Dietz, Green, and Mishkin chose the five finalists. From this group Dean Trager selected the Best Brief.

Best Brief

William W. Lancaster, III

Semi-Finalists

Carol Bouchner
Anne French
Jerry H. Krieger
David Turndoff

Honorable Mention

Neil Brenes
Barbara L. Carter
Mark A. Chapleau
Valerie Fitch
Guy Francesconi
Patricia Gennerich
Denise Hinzpeter
Mia Homan
Lawrence Kanusher
Masood Karimipour
David Kaufman
Mark E. Kleiman
Robert Miller
David M. Pollack
Robert J. Roth
Jeffrey L. Schaub
Norma Silfen

Second Year Beckons

Tips on Choosing Classes

by Jonathan Hudis

If you are a second or third year student, you are already familiar with making this decision. For you first year students, it is time for you to confront this subject. It involves a choice all Brooklyn Law students have to make for better or worse; and nothing is more frustrating at BLS. It is the choosing of your courses for next year.

1. DO NOT TAKE A CLASS JUST BECAUSE IT IS ON THE BAR

It is a common misconception that the only courses a law student should take are those on the bar exam. This is an unwise practice in several respects. First, you are precluded from discovering an area of interest in which you might wish to specialize upon graduation. Second, many bar subjects are dry and boring. An early overdose can lead to a dull legal education. Third, the commercial bar review courses teach students what they need to know to pass the exam. It is unnecessary to "bar-cram" from day one.

2. TAKE A FEW COURSES IN YOUR AREA OF INTEREST

The BLS course syllabus, though not as varied as one might desire, does offer a variety of subjects presenting an overview of specialized areas of the law. Unfortunately, the course titles tell more about the course than does the yearly bulletin (which is often more out-of-date than not). The best source of information on what the course is really about is the professor, or students who have already taken the class. All of these factors should be considered, because you have to live with this choice for fourteen weeks.

3. CHOOSE THE COURSE BY THE PROFESSOR WHO TEACHES IT

As at any school, some professors at BLS are better than others. A few of the faculty at BLS are undeniably brilliant. Others know the material well, but cannot effectively communicate it to students. There are also a few who fancy themselves as the demagogue of the century, but whose antiquated methods of reasoning and analysis lie somewhere between Tolkien's Middle Earth and the Twilight Zone. Fortunately, new and bright talents are being added to the ranks of the BLS faculty. Given the high cost of tuition, it is in the student's best interest to investigate the professor who will be teaching a given course.

Professors also differ in teaching style. A few of the faculty believe in some modified version of the Socratic Method. Many like to use hypothetical examples or case law illustrations. There also exists a minority who lecture pure black-letter law. Some believe that learning is a self-taught process, and that the classroom is the place to review the "finer points." One or two faculty members believe in covering an encyclopedia of material. Most assign just enough material to cover the basic concepts, leaving the esoteric to outside optional reading. If you can find an upper-class student who has taken the professor before, or if you can spare the time to sit in on the professor's course, finding a professor whose style makes you feel comfortable is very important.

4. DON'T LOOK FOR THE EASY GRADER

Many students choose to take a course because a faculty member is an "easy grader." This is a huge mistake. The faculty at BLS is a lot like the weather: extremely unpredictable. One semester a class may receive sky-high grades; the very next term, with the same professor, another class might find themselves with a median grade somewhere near sea level (or at the bottom of the Atlantic Ocean if the tide is strong enough). This unsettling phenomenon has quite a few explanations, most of which are beyond the scope of this article.

5. BALANCE YOUR CREDIT COURSELOAD

If you take the time to examine the course syllabus, you will find that, after your first year at BLS, there are only four 4-credit electives offered. There are, however, many 3- and 2-credit courses available. A good balance in any given semester is 4-3-3-2-2.

The available 4-credit courses cover four major areas of the law: Corporations, Evidence, Federal Income Taxation, and New York Civil Practice. All of these are pre- or co-requisite for other courses. What you choose to take each semester will depend on what area of the law in which you choose to specialize.

The 3- and 2-credit courses, in large part, focus on specialized areas of interest. But don't let the number of credits fool you. Some of these courses require almost as much work as the 4-credit classes. Again, speak to an upper-class person for some advice.

There is also one other factor students should bear in mind. The fall semester has a longer study period than does the spring. It is advisable that you take the more difficult courses in the fall, so you will have a greater amount of time to study difficult concepts, or prepare outlines which are in greater depth.

6. TALK TO UPPERCLASS STUDENTS

This article has stressed the importance of speaking with upperclassmen for several reasons. First, unlike college, BLS has no adequate formal academic counseling mechanism. The prevailing attitude seems to be that by the time a student reaches law school, s/he should be able to make decisions on his or her own. While that may be true for some, it is not true for all. Planning one's own legal education can be tough, especially if you cannot decide on a specific career goal.

Second, the mechanism BLS does have for academic counseling is misdirected. Each professor is assigned a group of students for "advisement." More often than not, these professors are too busy with their substantive courses to put any serious time into student advisement. Even when they do have the time, professors will only be helpful in planning a course schedule in their field of expertise. If you are one of those students whose academic interests do not match that of your advising professor, this can be a problem.

Third, everyone was assigned an upperclass student advisor. If you are still on a friendly basis, and s/he usually gives advice you can trust, then use him or her as a source of information. Many students lose touch with their student advisor, so even this approach may be ineffective.

Finally, even if all the people that have been discussed in this article cannot (or will not) help you, there are many students who are willing to take the time, listen to your concerns and give you guidance. It was not too long ago that they, too, were in the same spot.

7. BEWARE THE PITFALLS OF DEALING WITH THE REGISTRAR

Even after choosing the combination of courses that is right for you, your job is not over. As a matter of fact, it has just begun.

Obviously, certain courses are more in demand than others. Needless to say, classes of either limited space or abounding demand are filled with preference given to third-year-day and fourth-year-night students. After this, it appears that applications are processed on a first-come-first-served basis.

If you are one of those unlucky persons who were closed out of a particular course, the Registrar does not tell you until it is too late. Notifications are done by mail, resulting in further delays beyond the control of the BLS administration. It is best to plan ahead and have in mind a few alternate courses which you might wish to take in lieu of your first choice.

Also a curious and frustrating little rule at BLS is that no student gets his or her schedule until school tuition is paid in full. It is suggested that if your schedule looks as if it is going to be a problem, pay your bill (or at least arrange financing) as early as possible.

Finally, make sure that the course you select matches the proper course code on your registration form. A surprising number of students have been shut out of a class due to a stupid scrivener's error.

This is, of course, not an exhaustive list of the considerations students should bear in mind when selecting courses. Hopefully, it will be useful as a rough guide to help those who find the course selection process an arduous and confusing task.

Opportunities Abroad

from p. 1

ABA/AALS approves the course of study, the school if permitted to offer it to all students for a second semester on a trial basis. It is again subject to the same process of review. If the course is given final approval it may be given during consecutive summers, subject to an audit by ABA/AALS every five years."

There still may be a question in a student's mind as to whether the program will be one that is worth the expense and better part of a summer in a foreign classroom. Grace Lee, a 3rd year student who spent last summer studying in China, thought her program invaluable. "I earned 6 credits studying Chinese Domestic Law and International Trade Law in Beijing, Shanghai and Hong Kong. Lectures at Beijing University were given by the people who had drafted the new Constitution and other domestic legislation. We were also able to meet Chinese law students and foreign lawyers practicing in Beijing. At the conclusion of the program, I had a better understanding of the difficulties of doing business in China." Indeed, studying abroad for the summer could greatly enhance a student's education in the area of international law.

Students wishing to take courses abroad must cross-register with other law schools. Any credits earned during the summer at another school are credited toward graduation but are not averaged into your cumulative rank. Currently, BLS has no overseas programs of its own. "We could do it, but as yet the idea has not been proposed by any member of the faculty or the administration," said Dean Johnson. "However, it is something the school should consider if BLS is to expand in the field of international education."

For additional reprints of the *Student Lawyer* article, which lists all available programs, please contact Student Services at 1 Boerum Place.

Study Abroad

CARLISLE—Students who wish to study comparative and international law in Italy, Austria and France next summer may enroll in the 1987 Summer Seminars Abroad program sponsored by The Dickinson School of Law.

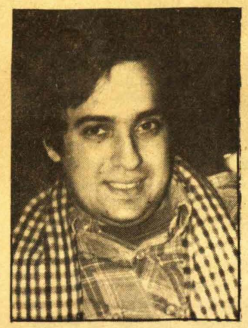
Programs will be held in Florence, Italy; Vienna, Austria and Strasbourg, France during the summer of 1987. Students enrolled in law schools accredited by the Association of American Law Schools or the American Bar Association are eligible to apply for admission.

The first summer program involves four weeks of study in Florence, Italy, beginning June 8 and concluding July 3. European scholars and practitioners will work with members of The Dickinson School of Law faculty to teach two-credit courses in comparative law, legal aspects of European economic integration, and transnational and comparative civil litigation.

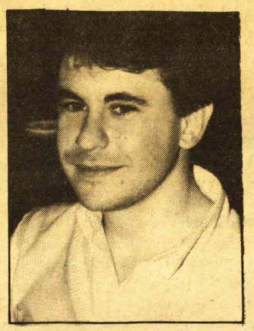
The second summer session involves two consecutive two-week sessions, the first in Vienna, Austria beginning July 5 and the second in Strasbourg, France beginning July 19 and concluding July 31.

For more information call or write Dr. Louis F. Del Duca, Associate Dean for Advanced Legal Education, The Dickinson School of law, 150 South College Street, Carlisle, Pennsylvania 17013. Telephone: (717) 243-5529.

The Inquiring Photographer Asks: What's the best thing and the worst thing about BLS?



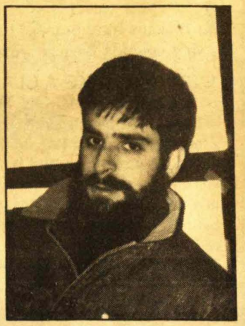
MARTIN VALK '88
Best: cafeteria food
Worst: Professor Holzer does not give enough courses.



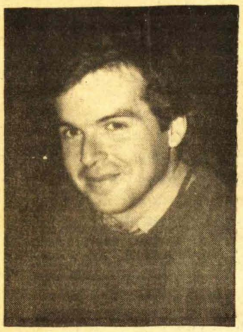
JAMES O'DONNELL '88
Best: The fine food and luxurious appointments of the cafeteria.
Worst: Nothing, it's the finest law school in the borough of Brooklyn.

TONI KOUSOULAS '89
Best: Third floor smoking library.
Worst: Too many white people.

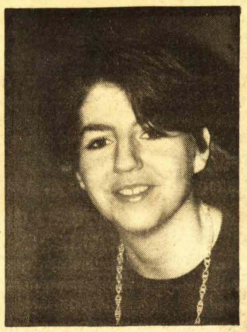
LESLEY YULKOWSKI '89
Best: The exposure to nouveau riche culture.
Worst: Not enough work for Constitutional Law.



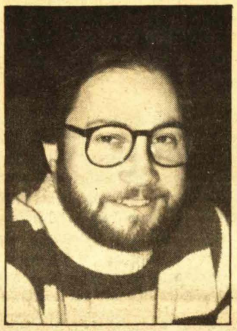
GREGG PETERMAN '87
Best: The karma from the library card catalog.
Worst: Once I am out, it is unlikely I'll ever again see many of the friends I've made here. That is just the way things work.



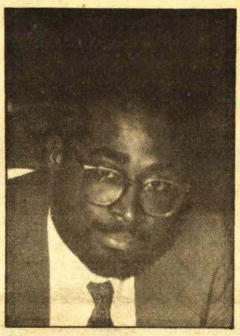
PATRICK DELLAY '89
Best: The festive library staff.
Worst: The fact that it is in Brooklyn.



CLAUDIA WERMAN '88
Best: O'Keefe's and the folks who go there with me.
Worst: The end run around the winter holidays.



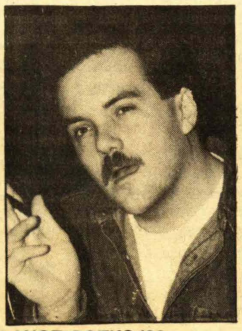
NORMAN BERLE '87
Best: The people here!
Worst: The people here



PHILIPPE DUSSEK '87
Best: BLS is known throughout the court system.
Worst: It takes much too long to get out of here.

DAVID POLLACK '88
Best: You've got me swinging.
Worst: Short breaks, J.A.P.'s, geriatric faculty.

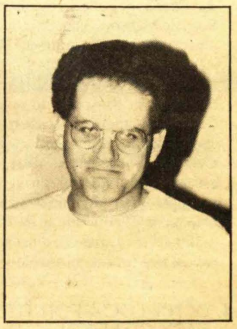
LINDA BUCHNER '89
Best: The Fulton Mall.
Worst: Coming from Queens on the GG for a 8:30 AM class.



LANCE GOTKO '88
Best: We're trained to be practical lawyers.
Worst: BLS is not sufficiently well-known so we have to work too hard.

HOWARD POLLACK '89
Best: The social life and Constitutional Law.
Worst: The pressure! The pressure!

DEBORAH SALUMN '87
Best: Only 3 1/2 months to graduation.
Worst: Being here for four years!



MATTHEW FLAMM '87
Best: The students, although competitive, are not hypercompetitive. We are a sharing community.
Worst: Professors who have stopped learning, are no longer students and therefore are no longer teachers.

Answering Machines: A Real Wrong Number

by Jonathan Hudis

By this time, many of you have already finished your search for a career or a summer job. But for those of you that haven't, here is a little piece of advice that I picked up from the placement office. Make your answering machine message *very* conservative until you land a job.

It seems that there is a little joke going around that a third-year student lost a job last year because his answering machine message was, to put it euphemistically, "too outspoken for the firm's taste."

Apparently what happened was that the senior partner of the firm considering the student called to notify him that he had received the job. Of course, the student wasn't home, and the partner picked up the answering machine. What this bankruptcy attorney heard, apparently, was not to his liking:

"My name is Joe and I'm not home—and if I am this tape says to leave me alone—If it's real important leave your name at the beep—If you don't I'll assume you're a bothersome creep!"

This message, dubbed over a few bars of "rap music" was not exactly to the attorney's taste. After being quite annoyed, the partner hung up the telephone and called the BLS placement office. He thereupon notified them that no one with such an immature attitude would ever work at his firm.

I know this sounds silly. But these words of wisdom should alert the innocent and warn the naive:

"The message you leave represents who you are—Make it professional and soon you'll really go far—Make it stupid and soon in amazement you'll see—the rejections in the mail saying, "Sorry!"

As a service to first year students, the JUSTINIAN is publishing profiles of the "Big Three" student organizations, Law Review, The International Journal and the Moot Court Honor Society. The profiles are designed to enlighten all students as to what these groups do and how to seek membership. The series began last semester and concludes this issue with a profile of *The Moot Court Honor Society*.

The Moot Court Honor Society
Talk May Be Cheap But The Company Is Prince-ly

by Lee Knife

It is the spring semester here at Brooklyn Law School, the time of year when a lot of students, especially first years, are thinking about Moot Court. Undoubtedly, the entire first year class is in a mad dash to finish their briefs and prepare their arguments for the writing class competition. The second year students selected for a team are scrambling to prepare for a "real" Moot Court competition with other schools. Third year Moot Court Honor Society members are busy overseeing the teams they coordinate or assisting in judging practice rounds. BLS's own national competition, the Jerome Prince Evidence Competition, is upon us.

A good portion of the student body may be thinking about how to get involved in the Moot Court Honor Society. First years with a bent for oral and written advocacy may be interested in learning how to make the best of the first year arguments and how to become involved in the Honor Society.

How To Get On

What does a student have to do to become a member of the Moot Court Honor Society? First year students competing in their writing class competitions have a chance to be called back for subsequent rounds and be considered for membership in the Honor Society by shining in their performance in this exercise.

According to the Moot Court Honor Society's Vice-Chair, Shahab Katirachi, out of the over three hundred first year students in the competition, approximately fifty are called back by the Honor Society for a second round. This selection process is based on both brief scores and oral advocacy skills. Based on that second round and the brief grades, the Honor Society accepts applications for some of the intermural teams to be fielded in the next year.

Last year, the Jessup Team, which is dedicated to international law, garnered it's members from the small group of first year students who showed an interest in international law, according to this year's Jessup Team captain, Valerie Fitch. The first years transferred to the international law section of the writing classes. This year, the Jessup team will be chosen from all of the first year writing classes.

Competing in the fall competition or enrolling in the Appellate Advocacy course are the two ways to become eligible for the Honor Society's intermural competitions. Examples of the intermural teams are constitutional law, securities, labor law, and ABA appellate advocacy.

Second year day, and second and third year evening students can compete for a coveted position on a National Team through the Honor Society's fall intramural competition. The competition consists of five rounds of arguments based on a brief prepared pursuant to a problem prepared by third year Honor Society members.

Although the fall intramural competition is not open to third year day and fourth year evening students, those students may apply for intermural team membership without participating in the competition or taking appellate advocacy.

WHAT DO MEMBERS DO?

Ray Enright, the jovial Chairman of the Moot Court Honor Society, describes a typical competition process like this:

"When the problem comes in, the team members are notified by their coordinator." Enright describes the coordinator's role as that of a "parent, mentor and cheerleader. Your coordinator and the Moot Court problem is your everything."

Moot Court Honor Society members practice their oral advocacy skills by saying "cheese" for the camera.

He quickly qualifies that all-encompassing description by pointing out that the "coordinator is there only to see that things run smoothly and that deadlines are met, kind of like your parents making you cut the lawn on weekends."

The chairman continued, "As far as the problem goes, that's up to the individual team members. How you divide up the issues, the research, the writing, it's up to the team members."

Mr. Enright mapped out the definitive Moot Court problem scenario, "The first draft should consist of the full outline and all of your arguments fully fleshed out with all of the research done." He continued, "the second draft contains the summary of the argument, statement of facts tightened up arguments and the table of authorities."

The Chair summed up the process like this, "your third draft should be what you consider a completed draft so that all the team members can look at the whole thing and pick out typos, blue book mistakes and structural bloopers." And finally, "You clean up all of your final mistakes and the final draft comes in, three to four days before it has to be mailed for the deadline."

All of this work typically must be done in one month, from the time the problem arrives to the due date for the brief. After the brief is handed in, the team coordinator sets up practice argument rounds to prepare for the oral argument competition. The Honor Society requires ten to twelve practice rounds, including two video sessions.

WHY GET ON

What does this complicated and difficult process lead to? What does being a member of the Moot Court Honor Society have to offer?

Enright maintains that for the job search, Moot Court experience is "invaluable for the bigger firms, it at least gets you the interview. I don't know how heavy a role it plays after the initial interviews because they don't frequently take people right out of law school and put them in a courtroom."

The Vice-Chairman concurred, "Employers still have not equated Moot Court experience to Law Review, but it offers people interested in litigation the ability to prove that they not only have the writing ability but also the ability to speak before judges."

Second year students Mary Abbene and William Bowden, who gained membership on the Honor Society through last year's first year writing competition, both maintained that all the hard work was worth it. Jessup Team captain Valerie Fitch, who is a member of the International Law Journal as well as the Moot Court Honor Society, said that the team was "a lot of hard work, but fun."

Vice-Chairman Shahab Katirachi had some insight into why students would be interested in Moot Court as well as Law Review and the International Law Journal. "This is the first of the organizations on the third floor that the students are exposed to because of the first year moot court programs in the second semester. First years are judged by Honor Society members as well as professors and outside attorneys."

Mr. Katirachi went on to explain how the Honor Society differs from the Law Review and International Law Journal. "Law Review and the Journal offer excellent opportunities to advance your writing skills. Moot Court gives you a chance to improve your writing skills as well as your oral advocacy skills."

"Moot Court offers the chance to go beyond just research and writing, the chance to get out of the school and argue against other schools from all over the country."

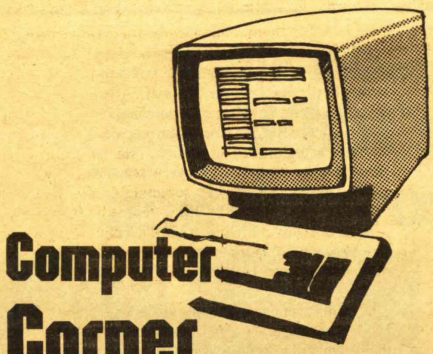
Additionally, similar to Law Review and International Journal, there are tuition breaks available to the Executive Board members.

HOW DO WE DO?

Since this organization is based on competition, it is a natural inquiry as to how well Brooklyn Law School does in these competitions. "This year," explains Enright, "we didn't field as many teams as in the past so we could concentrate on quality as opposed to quantity." The Honor Society is considering further reducing the number of teams fielded so that more time, support and assistance can be focused on each the team's efforts.

Although at the time of this writing there were not many results from this year's competitions available, Ray feels confident. He explained, "The Information & Privacy team which competed in Chicago made it to the quarter finals, and finished fifth out of forty-two schools." But then, having Mary Abbene and Karen Cooke on the team how could the team do anything less?

Ray feels confident about the rest of the year as well, saying, "I expect really good things from some of the teams that are preparing now."



Computer Corner

Common Problems

One common quandary that seems to be running rampant at least amongst my friends here on the third floor—is a seemingly obscure mystery entitled "disk error 23". This error message informs the users that a certain sector of their diskette, unfortunately the sector they want to access, is unobtainable. This has caused more then a minimal amount of discomfort to those who have called this author panic stricken and complained of unwanted intrusion into their pursuit of knowledge and final papers.

The bad news is that this problem will happen to all of us sooner or later. The good news is it can be prevented from happening more often than it should One simple way of preventing this error from appearing too often, although you wouldn't know it by looking around most computers, is to keep the disks in their sleeves when not in the computer. The sleeves, contrary to the belief that they exist only to advertise the manufacturers' names, are there to protect the diskettes from dirt and dust. It stands to reason that not using them will create unnecessary problems such as the ever popular "disk error 23". If you are insistent in not taking this simple precaution, as most people I see are apt to do, there are a few ways you can obtain some, if not all, of your information.

One simple way of saving this data is to save the file to another disk and then entering the file. You then proceed to scroll down the file until the keyboard locks and gibberish appears on the screen. At this point you must re-boot the computer, re-enter your wordprocessing, call up the troublesome file and cursor down to just before where the computer locked up before (you may have to do this a few times to find the exact point). After reaching the last point where the keyboard will not lock up, you block the undamaged portion and save it. **DO NOT SAVE THE ENTIRE FILE, ONLY THE BLOCKED PORTION!!!!**

Another alternative is to buy the *Norton Utilities*, a forty dollar investment. Peter Norton and his computer software are to the computer industry what Lawrence Tribe is to Constitutional Law. This program will retrieve most damaged documents, sector off the damaged parts and save most of your data. This program and it's numerous qualities will be discussed fully in my next column.

Product Review

As promised for this month, I will review WordPerfect 4.2, WordPerfect Corporation's newest upgrade of the popular word processing program. Version 4.2 adds more than 30 new features, including support for postscript, a document summary function, and an expanded thesaurus. In addition, legal, medical, scientific, and technical terms have been added to the speller dictionary. Hyphenation is now automatic.

Some of the more useful of 4.2's added features are:

Concordance: This creates a concordance file containing words and phrases you wish to have included in the index. WP searches the file for the words and phrases listed in the concordance file and places their page number in the index.

Document summary and comments: The document summary allows the author to put a summary of the document and what it is about at the beginning of the document (up to 880 characters). This could include the date of creation, the name of the writer, the name of the typist, and a summary of important facts about that particular document. The comment allows you to make comments throughout the document. This information is displayed *only on the screen and is not recognized by the printer*.

Extended search: This new enhanced search feature now allows you to search footnotes, endnotes, headers, and footers.

Line numbering: This allows you to number the lines on your document for reference points or ease of editing.

On line tutorial: The learning diskette has an online tutorial that guides the user through the basics of WordPerfect.

Preview: This helpful feature allows the user to review, on screen, how his/her document will actually look when printed out. Footnotes, margins, page numbers, header and footers are all displayed on screen. Then, using two disks, this function is of limited value since the preview file is kept on the WP disk and is restricted to the limited space left on the disk. On a hard drive this function comes alive allowing large files to be previewed on screen.

Table of authorities: The table of authorities lets you mark text in a legal brief for generating a table of authorities with up to 16 sections.

In addition to these features, the speller and thesaurus have been greatly enhanced, the number of printers supported has been increased dramatically and conversions to Wordstar, Multimate and WP 4.1 are supported on the learning diskette.

Tip of The Month

Many people are under the mistaken impression that they have to spend anywhere between twenty or thirty dollars for ten diskettes in order to have good disks. They see names like Maxell, TDK and IBM and imagine indestructible disks that will last forever. While this is unrealistic, it is not uncommon. The sad fact is that you don't have to spend a fortune in order to safeguard your data. There are reputable firms on the market that produce fine diskettes for a fraction of the price you're paying for name brands. The funny part is they carry the *same* guarantees for protection of your data that high priced name brands have. One such company is Brown Disc Manufacturing. I recently paid $59.00 for 100 disks from this company. That's 59 cents a disk compared to approximately $2.40 for name brand disks. These disks have been used continuously by myself with only one bad disk to the batch. The only catch is that these disks must usually be bought in bulk packages of 100. But these disks don't "go bad" with time and you can even share the cost with a couple of your friends. Why spend a fortune for a product that can be found else-

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Molinari Speaks to BLS Young Republicans

New York City Council Minority Leader Susan Molinari recently spoke on campus at a meeting sponsored by the BLS Republicans. In the speech, she urged her listeners to take a role in the future of the Party, stating that the GOP is looking for people who are willing to commit themselves to the Party's goals. Also, the Party is looking for leaders willing to become candidates.

Molinari, at 28, represents Staten Island's 1st Councilman district, the western portion of the Island. As she is the Council's lone Republican, she is also its Minority leader. As such, she receives her own office, a city-owned car with driver, and extra staff. She is the only child of Representative Guy Molinari (R-NY), whose district covers all of Staten Island and the Bay Ridge and Dyker Heights sections of Brooklyn.

Councilwoman Molinari sits on the Environmental Protection and Finance Committees, but one of her main concerns is real estate. She explains, "People who can't afford Manhattan and Brooklyn move to Staten Island. When they can't afford the Island anymore, they leave for New Jersey to set up their homes and businesses. We cannot afford to let this continue."

She is also concerned with the quality of air. "When the wind is blowing from the west, it is not safe to breathe outdoors. When EPA comes to test, unfortunately, they pick a beautiful day with no wind blowing. Thus they see no problem."

The BLS Republicans are planning more programs featuring prominent personalities. All their offerings are open to the entire campus. They welcome visitors and prospective new members to come to their meetings.

Why We Need a Standardized Bar Exam

by Judie Steinhardt

Lately I have been pondering the question: if I ever get out of this place, where should I take the bar exam? I mean, do I really want to practice in New York? Fight the subways? Pay $2000 a month to live in a hole in the wall? Raise my children in the city? Or worse, commute from some far out suburb, get up at the crack of dawn, and spend most of my time on a train? My father has been commuting from Westchester to lower Manhattan for over thirty years, and he says you never get used to it. On the other hand, my friends and family are here and I love what New York has to offer: the theater, restaurants, stores, and people from all walks of life. I feel very pressured that I have to make a decision that could very likely bind me for the rest of my life. Instead of making that decision, I propose that the system be changed so I never have to make it.

I think the requirement that you have to take a bar exam anywhere you want to practice is a horrendous, unnecessary burden on the legal profession. Doctors do not have to be tested everywhere they want to practice medicine. In fact, to my knowledge, no other profession is taxed in such a manner. We are either made to be prisoners in one jurisdiction, or forced to undergo the rigors and financial hardship of another bar exam, simply because we decide to move to another state. Don't lawyers have the constitutional right to travel that the Supreme Court has so often espoused?

Granted, the law does differ from jurisdiction to jurisdiction. However, what lawyer in any jurisdiction can honestly say he is completely familiar with the law in his jurisdiction? None, I assure you. That is why cases and statutes are recorded. Any lawyer familiar with the basic concepts of a field of law who has research skills should be able to find out what the law is in whatever jurisdiction he is in. Some fields of law may require additional expertise, but such expertise is gained by experience, not by taking and passing a bar exam.

Think about the lawyer who has been practicing for years, is a perfectly good lawyer, and decides to move with his family to another state. It is entirely possible that he has become specialized in certain areas of law and would not be able to pass a bar exam. Is it fair to make him take time off from work to study for another bar exam?

I am currently taking Professional Responsibility, the ethics course we are required to take. We are presently studying the lawyer's ethical duty to represent his client in a competent manner. The various bar associations apparently feel there is a lull in legal competency, and that there is a need for further screening of already admitted lawyers, including lawyers who have been practicing for years, to make sure they are still competent. Some have suggested a requirement of continuing legal education for lawyers, at the risk of suspension or disbarment for failure to attend.

Why place such rigors on the legal profession? I know lawyers have an extremely heavy responsibility to their clients and society in general. I also know there are too many lawyers, and worse, too many incompetent lawyers. However, are different bar exams for each jurisdiction, and continuing testing for competency truly going to solve the problem? Chances are an incompetent lawyer will remain so even after passing these competency testing stages if he has already managed to make it through law school and pass the bar exam unscathed. Furthermore, it is not fair to burden the whole profession because some are unfit. I mean, if the bar association is so bent on narrowing down the profession, why do they allow law schools to keep accepting so many students, to take our money, and work us to death? If so many of us are going to turn out to be bad attorneys, which I personally find difficult to believe, the weeding out should be done at the beginning of our legal educations, not at the end.

As a longtime member of *The Justinian,* I always hate when people criticize without posing a solution, so here is my suggestion: in law school, people should have the option of choosing majors, as they did in college, except in a more generalized, less structured manner. Examples could be: Tax, Public Interest Law, Criminal Law, Bankruptcy, Securities. When they graduate, instead of taking the regular bar exam, they take a multistate bar exam, testing the same areas as the current bar exam, plus an exam in their major that will be good wherever they practice. That way, the only time a person would have to take another exam is if they chose to practice a completely different field of law.

There could also be a general practitioner test, much like the bar exam currently used, that would be good anywhere, for those who do not wish to choose a major. Only certain areas of law would actually require the passing of the specialized exams, and a lawyer would have to be practicing that type of law on a fairly regular basis to be required to take it. An easier solution might be to give one bar exam for the entire country that does not test the law of the particular jurisdiction, but only general concepts of law. The former solution, however, is less likely to produce incompetent lawyers, because it is more rigorous.

Anyone with a response, please write to *The Justinian.* Believe me, I would be only too happy to find that my fears are for naught.

Can America Afford to Tolerate A Free Black Man?

by L. George Hill

The value of a man cannot be estimated. The true value of a man must be appreciated. It is not hard to arrive at and appreciate the true value of a fellowman once you learn to respect him.

This respect can only be genuine if it is based upon objective knowledge of the other's experience vis a vis his society before the encounter, or from knowledge and facts gained through mutually shared societal experiences after the meeting.

When just over three centuries ago Black and White were brought together upon the Native American's land, the land was fertile, the climate right for the seeds of harmony, respect and equality to take root and grow. The seeds were planted but did not germinate because one man cheated.

He soon took away the Native American's wealth, culture and land and subjected him to live on a reservation. He shamed the Black, robbed him of his pride, freedom and dignity and enslaved him to the land. Respect, he murdered. To prejudice he gave birth. To maintain falsely his usurped position, he legislated the Black man three-fifths of the White man and treated him less than the chattels of his land.

Many less mortals would not survive, but a rich and glorious past kept the Black people's spirits high and their souls aglow. In the day they toiled in the plantations under the burning sun, often bathed in the blood of the wounds of the whip wielded by a non-respecting hand. At night they basked in their dreams and reflections of their legacies in Africa, their longed for homeland.

He often wondered, but never understood, Why he whose hands fashioned and formed the still bewildering wonders of the great Pyramids of Egypt in north Africa, whose fecund mind established the world's leading university at Timbuktu, whose art of politics and government at Mali, Ghana, Songhay and Babylon, which became models for many later European plans, why he who taught the Greeks astronomy, astrology, medicine and mathematics and gave the world its three greatest religions, could be shackled in this pitiable position.

Momentarily his mind is clear, bright as the new "full noon" shining above. No shadows cast, no recesses unlit, ne wonders as he wanders back a century, two, nearly hree. He stops at the closing of the fifteenth century and egins to understand. He sees men looking just like the nes who now enslave him. Barbarians, they were called. They had come down out of the ignorance and shambles of Europe's Dark Age to his cradle of civilization. They destroyed his cities, his arts and crafts, his family and centers of learning, only because they could not understand a civilization so far in advance of the Europe from whence they came.

Soon he had to wake, his wondrous wandering ceased, a slave he was. He was forced to work, but did that fetter his mind? He had built nations before, he knew what to do and decided that he would do it again, and he did, benefiting America, his forced homeland.

This "fraction" of a man worked the full whole and then some, to build the country he is now not allowed to share.

All was not peace and soon this country had to fight for its own freedom. His was the first blood to be shed. He earned a right when they swore a declaration of Liberty, Equality and Justice for all. But as a slave he had no liberty and to what he was equal, even the chattels were valued above him. Could it be justice when he had no right to stand in court in anticipation of the benevolence of its wisdom to uphold his private rights?

This country grew quickly. Each "people" came and did their part, adding a building block or a cornerstone. The White man's deeds are recorded and his proud history told. His children strut with pride and squander the riches gained from the legacies of their forefathers.

The Black man is never so fortunate. He is never told of his contribution. His children are shamed, as if his parents gave nothing to this country. All he sees is the demeaning past, the troubled present; always he is reminded that his forefather was the slave.

Do we really need "Black History"? Is the nation's history separated? History is one true story. In America it is known, but maybe the historians, being motivated by prejudice and restrained by fear, perpetuate myths and half truths as history. An American one morning got up from his wifely bed, went out to sea in his ship to catch fish for his dinner. He met Columbus and yet his children are taught that this land was discovered by Columbus, a white man.

From the earliest days of the Pioneers, the Black man did his part. He was the first of America's most loved Folk Heroes—The Cowboys, and he opened many a western trail. He was honored to plant this nation's flag on the North Pole, yet very few know his name.

Back on the plantation, it was he who changed America's agricultural place in world commerce. The cotton, tobacco, peanut and sugar plantations soon flourished because of his aching back and his many inventions. In a few short years, his country grew from a small trading post of domestic suppliers to become the foremost producers to the world.

What did he get from this boom? work and insults, Jim Crow Laws and disenfranchisement. Beatings and family separations, murder and lynching. The role was set, his place reserved. This builder of nations, a prince among his tribe before, in America was cast a slave, a non-man having no Equality, Freedom or Justice.

Is he forever a slave? Maybe it is more accurate to ask is he a non-free man. If the first is yes, then it would be very difficult to explain the American Civil War and it's ultimate end. The latter being yes, we can readily understand Little Rock, Arkansas, Atlanta, Georgia, *Plessey v. Ferguson, Brown v. Board of Education,* or certainly Howard Beach and Forsyth county.

Go back to the Civil War for just one moment and the answer will become quite clear. Every American school child is taught that the South and the North fought to free the slaves. The Black man should therefore look to the white leaders of the North and their benevolence for securing his freedom. But every historian knows differently. The aim of the war was not to free the slaves. America had no intention of freeing the slaves, as evidenced by President Lincoln's own remarks, "If I could end the war without freeing the slaves, I would gladly do so." The truth is the country had broken apart over many issues. Slavery was just one insignificant one. When the Black man took up arms on the side of the Union, he was to a great extent the architect of his own freedom.

Is it Black History or is it American History to lay aside the myths of the great benefactor Abraham? Even to falsely alleging that he promised every freed man forty acres and a mule.

What is sure is that America never had and never will have any place for a free Black man. The smoke from the cannons had barely subsided when emissaries were sent to various countries seeking to find a new home for the freed Blacks. Was Liberia a repatriation or was it an expulsion made necessary because two free men could not exist in the same country, which they had both jointly built?

Of course not all the Blacks went to Liberia nor stayed on the farm as slaves, now called sharecroppers. Many moved on to build cities, to blaze trails in the field of religion, music, medicine, engineering and commerce. On his move he sojourned long enough to lay out the intricate plans for the streets of this nation's capital. He invented and patented both the telephone and the incandescent lamp, but alas, they have not his name, nor any

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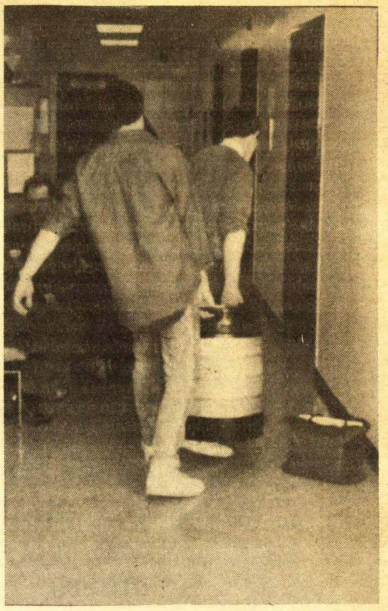
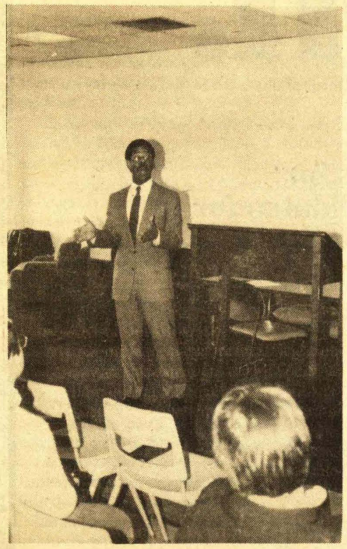
BLS EVENTS

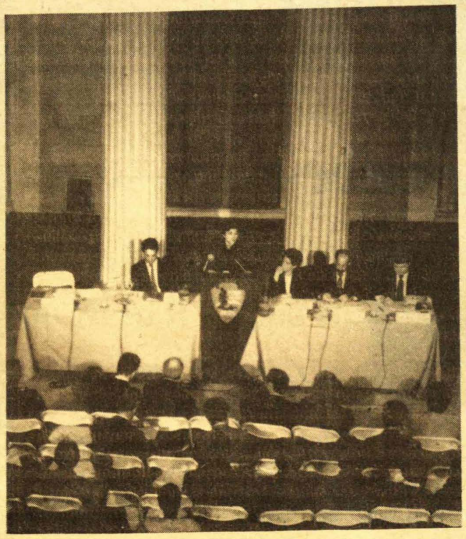
Black History Month comes to a close with BALSA's Cultural Food Fair and Festival. Other events designed to enlighten the BLS community were visits by Reverend Herbert Daughtry and Judge Bruce Wright, as well as a presentation on South Africa and on Solo Practitioners.



The Spoils go to the victors. SBA President Bill Ferro is seen here dragging away the extra beer after a recent Thursday night SBA party. The keg, oddly enough, found its way into a particular instructor's Friday afternoon CPLR class.



Not Top 10%, but successfully employed nonetheless, Assistant U.S. Attorney Albert R. Murray shared his thoughts with students on how to make the most of one's skills in securing meaningful legal employment. The focus was not so much upon grades, but upon achievements made after graduation. Mr. Murray is a 1974 BLS graduate.



Pillars of the International Law Community speak at the Journal of International Law's successful symposium on the controversy over importation of gray market goods this past February 19 at Manhattan's elegant Federal Hall. Judge Jane A. Restani of the United States Court of International Trade spoke to the crowd of over 200 attendees. Also trading positions on the issue were Scott D. Gilbert, Esq., Gilbert Lee Sandler, Esq. and Hugh C. Hansen, Associate Professor at Fordham.

The symposium was "not limited to the international trade community," according to the Journal's Executive Symposium Editor Michael Novaro. The crowd was "diverse. Large firms, federal judges [and] government officials" attended, said Novaro.

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royalty did he collect. Had his son been able to attend law school, then surely he would have seen to it America today would say Amalgamated Lattimer and African and Southern Bell Telephone.

Open heart surgery, like Sputnik, took the world's breath away. We were awed when one South African and his counterpart, an American, a few years ago popularized this technology. Stop for one moment and look through the pages of history. We see another American achieving this astounding medical feat "many moons ago", as the Native American would say. Ironic too, you would say that the man who gave America and the world the technology to prepare and store blood, thus originating the first Blood Bank, should die in the Deep South (after an accident) for want of blood. Would Sears today make Roebuck his managing partner? Or would he give him the janitor's broom and cause him to sweep the floors of the nation's largest department store, which he founded?

The history is clear; the contributions are many. Yet the proud feeling does not walk apace. Why is he always put to the task of showing and proving his contributions made to this land? He has the answer, he shares it in his continued contributions and his striving for recognition. Give him his Dignity and let him be. Empancipate his mind from slavery and indignity. Set him free. Ask yourself, America, "What is taking you so long?"

The Literature of Oppression

A new book, *The Struggle is My Life*, written by the imprisoned leader of South Africa's anti-apartheid movement, Nelson Mandela, has recently been published in the United States. The book is available from Pathfinder Press.

The Struggle is My Life brings together speeches and writings by Mandela spanning more than 40 years of his activity in the African National Congress (ANC), the major organization fighting for the end of apartheid rule in South Africa. Mandela's courtroom testimony in the 1964 trial at which he was sentenced to life imprisonment is also included. A special supplement contains accounts of Mandela in prison by his fellow prisoners.

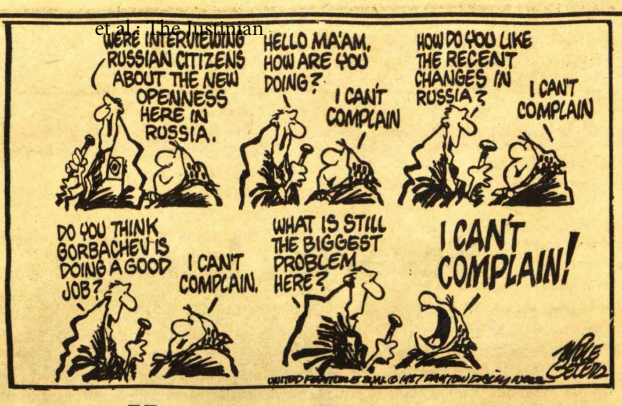
Among the most recent material is Mandela's reply to South African President P.W. Botha's 1985 offer to release Mandela if the ANC leader "unconditionally rejected violence as a political weapon." In his reply, read by his daughter Zinzi to a mass meeting in Soweto, near Johannesburg, Mandela said: "Let him (Botha) renounce violence. Let him say he will dismantle apartheid. Let him unban the people's organization, the African National Congress. Let him free all who have been imprisoned, banished or exiled for their opposition to apartheid. Let him guarantee free political activity so that people may decide who will govern them . . ."

"But I cannot sell my birthright, nor am I prepared to sell the birthright of the people to be free . . ."

"Only free men can negotiate. Prisoners cannot enter into contracts. . . . I cannot and will not give any undertaking at a time when I and you, the people, are not free."

"Your freedom and mine cannot be separated. I will return."

Mandela remains imprisoned at the Pollsmoor maximum security prison near Cape Town, despite the growing movement in South Africa and throughout the world demanding his release.



Amerika in Retrospect

by James C. Locantro

Some hailed it as a great tale of what could happen to our nation if we continue down the path we are on. Others denounced it as too conservative and nationalistic. But regardless of what we thought of it as fact or fiction, it was a compelling story of the subjugation of a great nation by its enemies. It was the story of the death, and eventual rebirth of the passion for freedom.

Amerika (as it is called in 1997, 10 years after the successful occupation by the Soviet Union) began by showing us a nation that had lost its spirit. It showed a broken nation filled with people wallowing in the depths of despair. As the tale progressed we witnessed the inevitable resurgence of the human spirit. We saw a remarkable rebirth of compassion, understanding, and dedication to society that can only come from the shared experiences of those who have witnessed the horrors of hell and had survived. In the end this spirit placed this country well on its way to a newer, stronger, and in some ways, better nation.

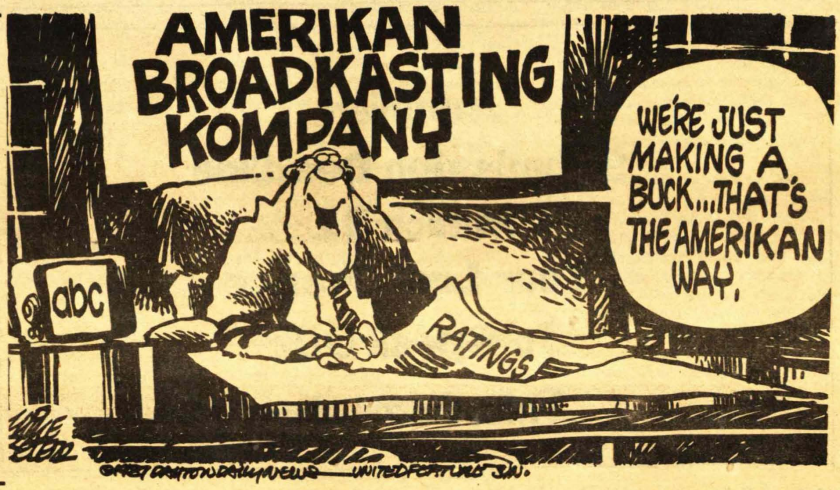
Although it is unlikely that such an undertaking could be accomplished in America by its enemies, it still does not protect us from the destruction of democracy by ourselves. It is obvious that if this nation is destroyed it will be from within and not from without. It had been said that "All the armies of Europe, Asia and Africa combined could not by force take a drink from the Ohio, or make a track on the Blue Ridge." The only threat to America is its citizenry.

Above all **Amerika** was a lesson in freedom. Said a character "I guess freedom is not one of those things you inherit." Obviously it is not. Freedom is a privilege, *not* a right. It must be worked for, fought for—and sometimes even died for. Our forefathers fought in numerous wars. They defended this country and its ideals on foreign shores and in hostile waters. Millions paid the ultimate price so that this nation might live. Our generation has not yet had its war, and I hope to God it never has it. But how many of us know why World War I had to be fought? Or why the treatment of Germany after W.W. I made W.W. II all but inevitable? An old adage states "That those who fail to remember history are forced to repeat it."

There is something amiss in America today. We have become the "me" generation. We pursue wealth, position and power without regard to others. We are a nation of plenty, yet our old and underprivileged go hungry; we are the world's richest nation, yet many of our citizenry go homeless; we are an industrial giant, yet 7% of our population is jobless. Everywhere we look today we see a nation in transition. From an industrial to a service economy, from a creditor to a debtor nation, from a country of justice to one rife with scandal and injustice. Some would even go as far to say that America is a thing of the past—that the dream of justice, equality and truth is dead. That the cause that great Americans from George Washington and Abraham Lincoln to Martin Luther King Jr. and John F. Kennedy fought for, no longer exists. This is not so. I don't believe that dreams of freedom and justice can ever die. Although men may die—though nations, even planets may crumble and perish, dreams are eternal, indestructible—dreams like freedom, equality and justice, these may lie dormant for a time—slumbering—but dreams never die!

Perhaps my statement that our generation has not yet had its war is too hasty a conclusion. Most assuredly we have not laid our very lives on the line. We have not died to protect our lands and our beliefs. Unfortunately all wars are not fought with weapons culminating in the loss of millions of our young and devastation of our ancestral lands. Some wars test our integrity, our compassion, and sometimes our very souls. This is the war we are fighting. This is the war we are losing. It is a war not against fascism, communism or socialism. It is a war against poverty. It is a war against greed. It is a war against racial strife. It is a war against corruption. It is a battle that must be fought, and if we are to survive as a nation—it must be won. This is our battle—this is our war. We are the leaders of tomorrow and the hope of the future. What we decide to do, and how we decide to do it will determine the role of America for generations to come.

Amerika was, if you like, an alternate universe where the American dream went astray for a mere instant. It raised issues, some credible, others not. This program and its good and bad points, will be debated for a long time. Perhaps this is what marks the success of a program. If people discuss it and dissect it, swear at it and praise it, vilify and sanctify it, then perhaps a raised consciousness of the population marks it as a greater success then any Nielson ratings ever could.



EDITORIALS

Severely Lacking

Now that the library basement expansion is complete, it has been repeatedly brought to our attention by members of the student body that the library still remains embarrassingly inadequate in one area; typing facilities. Currently the only typing facilities available to students are the two I.B.M. PCs on the library's main floor. Although these machines may be helpful to students with their own word processing software and diskettes, without a printer their usefulness is seriously impaired. It is impossible to get a hard copy of one's work. Further, there isn't a single typewriter available to the low-tech student simply wishing to type a cover letter or short memo.

Students should at the very least have a typing room at their disposal, especially in light of the first year legal writing course and the upper year writing requirement. The cost of having a paper typed professionally is also a relevant concern. If each faculty member can have a word processor at his or her disposal, it would seem that at the very least the administration could provide more than two word processors for a student body of over 1,000 students.

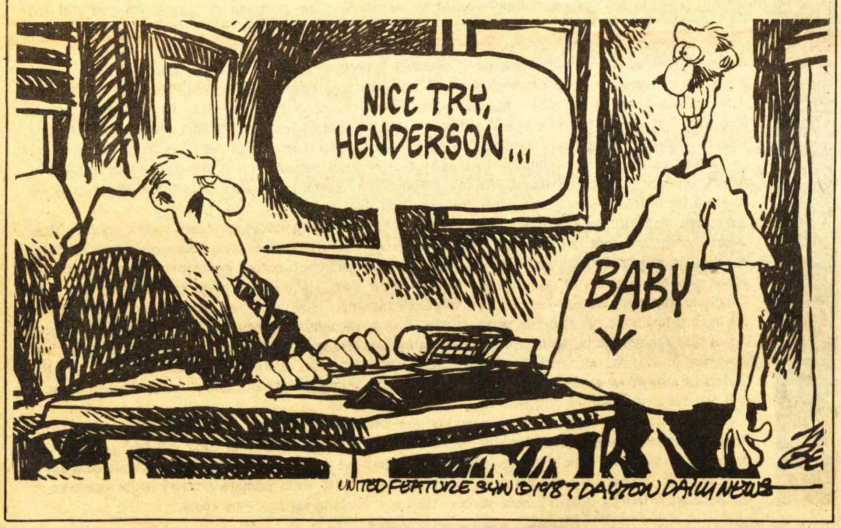
The administration should seriously consider setting aside one of the basement conference rooms for this purpose. The cost of such a move when balanced against the increased student productivity and obvious need should make for an easy decision. We need enhanced typing facilities and we need them now.

Long Overdue

The recently decided case of *California Federal Savings and Loan Association v. Guerra*, 107 S. Ct. 683 (1987), finally indicates that even the Reagan Supreme Court recognizes the simple fact that pregnancy leave is an essential ingredient in acknowledging women's childbearing function, and that such leave is necessary in neutralizing pregnancy's effect on career advancement.

The 6-3 opinion authored by Justice Marshall upheld a California law requiring an employer to provide special job protection for workers temporarily disabled by pregnancy. The decision properly reflects the need of our society to come to terms with the social dilemma caused by the influx of women into the workplace over the past 20 years. Regrettably, the U.S. is the only advanced industrialized nation yet to establish a national policy concerning maternity leave.

The decision, we hope, will push New York to follow the lead of a number of other states that have already implemented some form of pregnancy-leave guarantees. While the ultimate impact of the Court's ruling remains to be seen, it is a step in the right direction in promoting truly *equal* employment opportunity



Justinian
Submission Deadline
March 31
Your Last Chance
To Speak Out
This Semester

Legal Educat
Logic Has N
To Do With

by Frank Kubler

The primary purpose of ou schools is to teach students th and legal reasoning, to enco their moral and professional g to accurately and constructive sess their learning achievement to give those who have di grasping the material the added tion they need to achieve their potential.

This sentence is a string of "key tives" taken from several law scho letins. I wrote it on a blackboard class one day to see what reaction it bring. Students who noticed it seemed only amused. This is not too s ing when you scrutinize the meani

"The primary purpose of ou schools is to teach students la legal reasoning . . ."

In undergraduate psychology co I learned that learning is most ef when a student receives continuou back. Yet, for most law co ses, st are evaluated on the basis of a sing amination. Various explanations been offered for the one-exam app ranging from convenience of prof to the notion that one must be pr for the real world, where, it is sai has but one chance to apply knowle a problem.

Presumably, though, if the unde goal is to teach students law and te their analytical skills, schools wou tempt to give their students some re dance. This might take the form of them exactly what skills and know their exams are designed to measure their daily studies will come into p taking exams, particularly during th

THE JUSTINIAN
A FORUM FOR THE BROOKLYN LAW SCHOOL COMMUNITY

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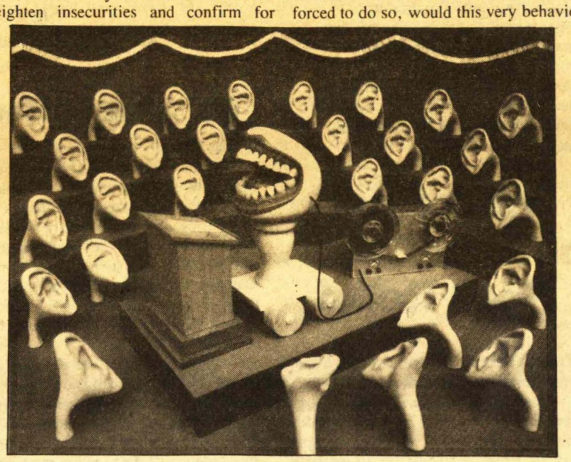
year, and in giving several examinations throughout each semester so that students can see if they are on the right track. (For many legal educators, these suggestions are simply swallowed up by the learned and more meaningful description: "spoon-feeding.") Dividing the final into several shorter exams would not only make learning more effective and reduce the chances of a poor course grade due to an off day, but it would relieve the unnecessary—and for some, overwhelming—stress of not knowing where you stand.

Related to this lack of feedback is the confusion that takes place during the first year. Those who make high marks during the first year are also those who, despite the lack of guidance, gain some real insight into what they are supposed to be getting out of the mass of material dumped in their laps. (Your professors don't tell you. And unless you are guided by attorney friends or relatives, it's hit and miss.) It is my impression that this insight, more than hard work or native talent, is what separates good from mediocre law students. For, although professors advise students to brief cases, briefing is a laborious, highly inefficient learning process and it often leads to mediocre exam grades. Several students have told me how they received higher marks after they stopped briefing and tried other approaches.

Intentional obfuscation by law professors takes many forms, and manifests itself openly in the so-called Socratic method of teaching. The Socratic approach, when followed exclusively, involves asking difficult or unanswerable questions of students, belittling those who respond, penalizing those who fail to respond, and, finally, moving on to new topics while leaving varying and contradictory answers unresolved. One eventually learns that the questions themselves aren't always particularly important. These mandatory-attendance "lectures" heighten insecurities and confirm for many students that they are indeed unequal to the task of ever giving satisfactory answers to legal questions.



This method of instruction is, to the best of my knowledge, unique within the world of education. Socrates questioned his pupils, believing that all true knowledge was contained in their minds from birth, and simply awaited articulation. His theory was plausible, and his method successful in the case of *a priori* knowledge, such as that of logic and mathematics. However, his argument is, as I was taught in college, wholly inapplicable to empirical knowledge (such as the stuff that fills casebooks).

The only similarity between Socrates' methods and what happens in a law school classroom is that a teacher is asking questions of students. Beyond this there is substantial divergence. Can we picture Socrates questioning the slave boy about geometry, and resorting to sarcasm, insults, or other forms of abusive railing in his effort to extract the truth? Had he been forced to do so, would this very behavior not have cast justifiable doubt on the validity of his theory?

That this approach was intended to enhance effective learning seems doubtful. Another piece of wisdom gained from my undergraduate days is that no one learns well when attacked or belittled. Law instruction by means of the Socratic method seems the worst of two worlds. Essentially, it is hit-and-miss self-teaching with mandatory class attendance.

Some have said that first-year mystification is intended to help sift out law review candidates. If this is true, it apparently means that in screening candidates for the law review, analytical ability takes a back seat to the more prized talent of functioning as a student while professors throw up a smoke screen.

". . . to accurately and constructively assess their learning achievements . . ."

Specific skills are required for doing well on law exams. Students who believe that they can still make good grades if they *know and understand* the subjects, will receive a lesson in being ground down by the evaluation process if they lack the reading comprehension skills involved in pulling deeply imbedded issues out of hypos fast. And although law grades purport to be measures of one's knowledge of a specific subject, the speed with which one can transfer thoughts to paper decides the grade as much as one's actual level of course understanding.

While professors have claimed that issue-spotting exams are designed to closely approximate what one does in practice, there seems a contradiction of purpose in giving such an exam under intentionally severe time constraints. It would be irresponsible for an attorney to race through the kind of problem one gets on exams in the time normally allotted for an exam period. The emphasis placed on sheer speed diminishes the importance of good analysis. Students often lose the most points for issues they see and understand, but are unable to deal with for lack of time. Law professors have a puzzling distaste for grade distributions based upon *completed* answers.

The validity of law exams comes into question in other respects as well. Students who brief all their cases and try to take good notes are often the ones who get Cs, while others who skip class and read either few or none of the assigned cases can make very high marks. Those in this latter group pick up all the legal knowledge they need

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CORRESPONDENCE

I Worry . . .

Well, while the rest of you proles were struggling away during exams, Mumsie and Dadsie sent me to Caracas to calm my nerves. It didn't work. I crawled my way to the bottom of a bottle of cognac and only emerged just this last Tuesday. My nerves are worse than ever. These little voices keep telling me to worry. Like, for instance. . . .

. . . I worry that if there's a Far Rockaway, there must be another Rockaway very near here.

. . . I worry about what they did with the Old Lots when they replaced them with the New Lots.

. . . I worry about those women who find it necessary to wear fur coats to school: the PATH trains must get awful cold this time of year.

. . . I worry that, should some shortage of black pepper occur, the cafeteria would have to shut down. The peppercorn theory of consideration can be taken too far.

. . . I worry that the same law school that gives us the bum's rush to pay tuition puts us on the back burner—for one month or more!—when it comes to grades. Keep on repeating to yourself that "Grades are not the important thing." Yeah.

. . . I worry about people who make their way onto the National Moot Court team and then quit—thereby denying someone else at least a chance at the alternate's spot.

. . . I worry about a judicial clerkship system that requires applications one and one-half years ahead of time. Bright.

. . . I worry about those guys who "go commando" (i.e. no underwear) when wearing sweats, thereby displaying their pudenda like codpieces of yore.

. . . I worry that if the bathrooms get any filthier (it *ain't* the fault of maintenance), an outbreak of the Black Plague will claim us all as the Grim Reaper's own.

. . . I worry that, now that we've got pretty good copy machines, we cannot avail ourselves of them due to *chronically* malfunctioning change machines. *Now* there's a machine that will take a *five* dollar bill and give you nothing! Who says there's no progress?

. . . I worry about that guy who keeps on wearing "Jams" shorts while the snow flies. Beautiful, buddy.

Well, I guess I'll hang my fears out to dry and climb back in to a bottle—for medicinal purposes only, don'cha know.

'Til next time,
I am,
As always,
Your Friend Paranoia

You Shouldn't Worry . . .

So you worry—but don't we all? And at times our minds wander. That's life—so I am told. So worry, question and remember your soul survives. Make worry your exit to growth and peace. Question and worry about the "altruistic." Also worry if peace does not keep your soul. Trust the peace within you and let it flow to other souls. But be aware that the fox is like a wolf even though he doesn't smile. So worry, but use it as a tool for peace—a guide to love and a way to keep your soul in touch with reality.

Out is where the soul begins and ends. Reality and the spirit of peace's survival will keep you going. Existence is what the body does for the soul. Peace should be your goal. Don't sell out to fantasy. In the real world you have a choice—you decide what is wrong and what is right. Let your soul touch those who reality has made despair. Things are often a part of the world. *You* are always—because the soul never dies. Love welcomes peace and is your soul's destiny. Desire the ordinary, but remember there is war, poverty, reality and hatred standing by. And we represent good and evil—the opposite twin. Without peace we are unstable, cruel and unpredictable. It is up to the soul to conquer the cruel and uncaring side. Don't settle for a prayer or two. Never let mere existence get the better of you. Tomorrow depends on peace's survival today. The soul of life depends on inner peace.

Care before you react and please love as a counterattack. One day our souls will meet and live with love, peace and harmony.

The soul, not the trip you see, is permanent. And when our souls leave I hope they will never go gone.
ANTOINETTE M. WOOTEN

Pull The Pay-Checks

Dear Dean Trager:

Once again a semester has gone by and the professors at Brooklyn Law School have taken their good old sweet time returning our grades. Not all the hinting, cajoling, ranting or raving by the student body will end this practice. Only *you* can stop it. A cut-off point of approximately six weeks should be mandated for grades to be submitted to the Registrar for posting, after which time faculty paychecks should be withheld until the grades are so submitted.

The writer of this letter realizes that this is a rather drastic measure which probably would not be favored by the administration or the faculty in general. Nevertheless, such measures are necessary so those who don't seem to care should be given an incentive to act.

Year after year, students at BLS wait with grave anticipation to determine whether the past five months of agonizing preparation have reaped their desired benefits. Day after day, from February until April, then again from June until August, the fourth floor overflows with eager faces waiting to see whether their professors have determined their fate. But alas, their hopes remain unfulfilled as week after week passes by without a sign.

Then, one day, the class grades manage to find their way to the fourth floor galleries. Some students are wonderfully surprised. Others are sadly disappointed. All that hard work resulted in less than what the student had hoped for. Now the student wants to know why he or she has done less than expected. The student goes to speak to the professor.

Now an even greater list of dilemmas faces the student who feels

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Paychecks

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he or she did poorly. It has been so long since the exam was taken that the issues are no longer fresh in the student's mind. Even if the student could remember all the relevant principles, the professors are either unavailable, out of town, or too busy to adequately explain to the student where he or she could have done better. Is this learning at its finest? I think not.

What is worse is the damage late grades do to graduating or upper-class students who need their latest grades for a prospective employer. Resumes and cover letters must be delayed because class ranks are not yet determined, or relevant grades in the prospective employer's field of practice have not yet been received.

So you see, Dean Trager, all these cogent arguments for seeing that students get their grades as soon as possible are quite formidable. What reason could there be for the faculty to delay? Other commitments? Or is it just continued laziness? If a professor would grade merely five papers per day, a class of 100 could be finished in less than three weeks. A class of 150 in a month's time. There is just no excuse for putting students through such anxiety waiting endlessly for their grades.

If pulling professors' salary checks until they submit grades is the answer, then pull them you must. Their behavior is not only an insult to the students, but a bad reflection upon the school as well.

Signed,
An Angry Student

Get Back in Line

To the Editor:

Why must I return to this desk so soon? Staring at this ominous pile of books. Wondering where my coffee cup is. Wondering when I'll overcome this sense of inertia, or worse the deep rooted indifference which prevents me from marching back in line, in my place facing the wall, preparing to bang my head against it again and again for another five months.

I'm already numb. I've been through it before. The initial confusion as the semester begins which occasionally yields to a yearning to consume all the knowledge you can when a subject, professor and student body get together in a cohesive group, almost like a living organism that learns and grows. But there's that point later on when all the enthusiasm is gone. The interest fades, it is lost somehow, and all that's left is the race. Running to catch up. Trying to understand. Trying to care about the endless assignments, the interviews to be arranged, the part-time jobs, the list of things to do, the whip constantly at your back, the carrot just beyond your nose.

Is there a reason for all this? Does it have to be this way? Why are all these issues abruptly dismissed with a supercilious sniff as merely trite and frivolous daydreams unbecoming the proper mental attire of a law student, the up and coming lawyer to be?

Maybe we're not supposed to catch our breath, because there's danger in allowing time for reflection. After all, we are cultivating useful skills whose mastery could offer rich potential. If we would only stop, look and listen to all the cues. To what's being said. And what's being left unsaid. To what directions we're headed, and to what we seem more and more willing to give up in order to achieve our ends.

But I found my coffee cup. And I'll go back and take my place in line. After all, the semester is already underway. And I've got lots of things to do. Now where did I put my list?

Signed,
Hugo Z. Quackenbush

The Burn-Out Syndrome, 'What Vacation?' and The Three R's That Spell Relief

by Jim Diamond

I've noticed an interesting disparity during the early days of this semester: The faculty seemed eager to get down to business and immediately plunge ahead into their neatly plotted course outlines, while students seemed quite reluctant to open their books, if they had yet purchased them, and take the inevitable dive into another fascinating area of the law.

On Opening Day, Thursday, January 22nd, it was amusing to catch the looks of the faces of the students when the professor threw out a question to the class that revealed that he seriously expected us to have pondered and ingested the weighty questions and cases that were outlined in some mysterious assignment sheet. I saw the faces of some who had obviously cultivated expensive tropical tans turn ghostly white in a matter of seconds.

My own theory about this differing level of readiness for the new semester is this: The faculty had a vacation and we did not. They had a month where there were no exams to grade and no classes to teach. They had the opportunity to celebrate Christmas and New Year's, see old friends and spend time with family. Maybe that's why they were eager to get back to business.

If there is any consensus among people as diverse as the BLS student body, there seems to be close to universal acceptance of the following conclusion: THE VACATION IS TOO SHORT. In fact, many people I talked to answer my query with, "What vacation are you speaking of?" The weeks of preparing for and taking final examinations seems to have left large segments of the student population with the clasic symptoms of what is universally known as burn-out. This ailment occurs in all high-pressure environments and is well understood by the faculty and administration; for attorneys are quite prone to burn-out. Having been to law school, they understand the remedy for this malady is the three-R's: Rest, Relaxation and television Re-runs. I believe the burn-out was far more serious than could have possibly been remedied in a mere eight days of so-called vacation.

For an example of the type of "vacation" one student had, take a look at what I, a first year student, did during those eight days:

DAY ONE: Sleep

Since I had not experienced much of this important element of life during the previous few weeks, and since I spent many hours following the last exam "celebrating," the first day was spent in bed, sleeping.

DAY TWO: Laundry

Finals time had consumed much usable clothing. This day was spent doing several loads of laundry, followed by replacing the staples normally kept in my now bare refrigerator.

DAY THREE: Re-establishing Communications With Friends

After failing to return phone messages and turning down social invitations for close to five months, this day was spent on the phone in an attempt to patch up social relationships. I was only reasonably successful.

DAY FOUR: Re-establishing Communications With Girlfriend

This was the call and meeting that arose from the line, "Call me when those damn tests are over," which preceded the slam-dunk of the telephone receiver.

DAY FIVE: Consumption of Cheap Novel

Against advice from friends and upperclass students I read a cheap novel. I could not help but underline and outline key portions of the facts.

DAYS SIX AND SEVEN: Roadtrip

I actually got out of Brooklyn for two days, by visiting friends in Boston.

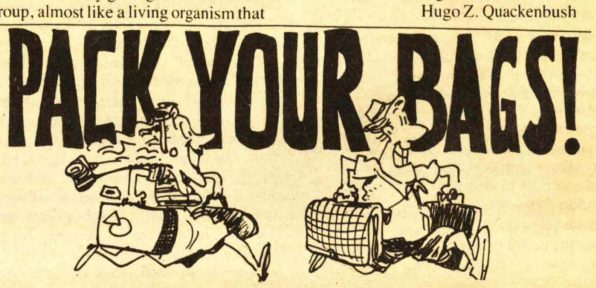
DAY EIGHT: Bailing Out Water

As all vacations seem to have some consequences, the deep freeze had frozen the water pipes in my apartment and, due to their bursting, I was honored on Day Eight, the last day of my vacation, by presiding over the emergency bail-out ceremonies.

And, so, on Thursday the 22nd of January I, and everybody else, returned to school to follow a Monday schedule—once we could figure out what that meant. For many of us it was like we never left the building.

I'm not sure where the solutions lie, because I don't think there is consensus for having tests before the holidays. Perhaps we could just squeeze out a few more days of an intersession? The two-day half-week when we return is meaningless for many students who are still shell-shocked from finals, many of whom do not yet own the books and are clearly not ready to take the plunge. Adding those two days to the vacation would have magically turned a one week vacation to, yes, just imagine, two weeks of unmitigated vacation. Where would those three days come from? That's a good question, but it's something that most certainly should be discussed for next year, and I don't think it would necessarily require prolonged or complicated negotiations to yield students at BLS a real vacation, and a solution for mid-year burn-out.

I hope this will serve as some explanation to members of the faculty who had been, to date, confused as to why we failed to share their exuberance for the beginning of another semester. And to those students who share my sentiments about the lack of any real vacation, why don't you drop off a note to your S.B.A. representative. If there is any interest, the search for those notorious two days will begin.



Legal Education

from p. 13

by reading commercial outlines or bar review materials a couple of weeks before exams. Others start out briefing cases and making Cs, get discouraged and stop briefing, and then see their grades improve substantially with the use of canned study aids. Whether these common experiences reveal the failure of the case method or the irrelevancy of law grades is a question I leave for our legal educators.

". . . to give those who have difficulty grasping the material the added attention they need . . ."

The institution of law review was begun at a couple of northeastern law schools about a century ago, and has since proliferated among law schools like hanging moss on a Florida oak. Unlike typical college honor societies, which serve as incentives for grade improvement and in which campus interviewers show limited interest, law reviews offer membership only at the end of the first year and serve to concentrate job offers among their handful of members, to the exclusion of everyone else.

Although law review is, in truth, little more than a freshman honor society providing experience staffing a periodical, it has achieved a status unequaled by any other honors and unparalleled in any other educational program. It is for this reason that membership has become a traditional blind spot for firms wishing to interview prospective new associates. Law school bulletins, in giving brief, individual resumés of faculty credentials, almost invariably list only law review memberships to reflect success in law school. This single credential is often written in italics and with painstaking attention to detail. Graduation honors and senior honor society memberships are rarely mentioned.

When students arrive at law school, they may notice that they no longer hear such common expressions as "She is a top student," or "He is a good student." In law school, such status is described only with the words "law review": as in "He is law review." (An interesting expression unique to the world of periodicals. Try substituting *"U.S. News and World Report"* or "the afternoon newspaper" and notice that the sentence becomes incomprehensible.) To the extent that it functions as a freshman honor society, law review has to be a legitimate honor. Yet, unaccountably, this objectively minor honor has been inflated to reach staggering dimensions.

Admission to the law review is, at many schools, granted on the basis of writing competition results. Casenotes submitted by candidates are evaluated by student members. The papers are divided among members of the law review, and admission depends entirely on which student(s) grade the paper. Thus, the one universally recognized honor in law school is often bestowed, not on the recommendation of the faculty, but on the questionable judgement of students just finishing their second year.

Despite the harm law review brings to nonmembers, in the form of automatic interview refusal and professional stigma, its existence is often "justified" by the good writing experience its members get. Yet if the law review admissions process does what it purports to, it separates out students who already write well and don't need the experience while excluding absolutely those who do.

A former university psychologist once related to me the substance of a meeting he and his staff had with their law dean. The dean had a plan to "upgrade" the law school which included making top grades extremely difficult to attain. As the dean put it, the intent was to dangle high marks before students as one might dangle a carrot on a pole before a horse. The horse would frantically chase the carrot, but never reach it. This, the dean surmised, would have the advantageous effect of driving students to climb all over and step on each other in order to grab for the carrot. Of course, the dean realized, this would undoubtedly devastate many students, whose sense of self-worth is built on academic success, and it could be embarrassing if some started jumping off dormitory roofs. Here's where the psychologists were to come in.

The staff was somewhat bewildered at this scheme, and, failing altogether to fall into the proper spirit of the thing, asked why the school couldn't just set attainable, objective standards and encourage a spirit of cooperation. This remark so astonished the dean that, in the words of the psychologist, "he looked at us as if we were crazy."

If change comes at all to legal education, I have little hope that it will come soon. Tradition in law, including that of the self-defeating or hypocritical variety, is tenacious. So instead, I favor a dropping of pretenses.

The true purposes of today's legal education are not likely to be found in any law school bulletin. They can nevertheless be inferred from the process itself and, *res ipsa loquitur*, from the unmistakable results. Law schools do not set out to teach law, they set out to aggrandize legal knowledge by mystifying it. They set out to create hardship for its own sake by destroying the confidence their students bring to them from prior educational experiences by means of the Socratic method of interrogation. They set out to overwhelm anxious students with massive reading assignments; an approach euphemistically called "immersion" (to be distinguished from "spoonfeeding").

Those who, despite these obstacles, learn enough law to have a reasonable chance on the six-hour-essay-in-three-hours style of evaluations and come out well may have a chance to enter the law review writing competition. Winning this competition is, in part, determined by the availability of outside help, the speed with which one can remove, hide or destroy reference materials, and by sheer chance (i.e., which students judge the paper). When winners are selected, all academic recognition is directed to that small group, leaving the rest to fend for themselves.

During this whole process, one receives no positive reinforcement from professors, and certainly none from other students. The object, for those who recognize it early enough to benefit from it, is not to master legal reasoning at any objective level; it is to beat one's fellow students. As most students will tell you, winning is everything, no matter how you do it. The book-filled law library shelves are only incidental to the underlying process, which could be carried on essentially unaltered in their absence. Orwell's vision of the future under Oceanian society, involving a boot and a human face, may also be a vision of American legal education in its purest form. ■

Article by Frank Kubler reprinted with permission from the *Student Lawyer*, November 1985.

Supreme Court Hears Death Penalty Cases

by Ronald J. Warfield

Chief Justice Rehnquist's confirmation hearings are long over, and while the acrimonious accusations hurled at him might still reverberate in the halls of the Senate, not a whisper could be heard in the Supreme Court when he took his place in the center chair. The hands of the large, round-faced clock suspended over the bench met at Ten and the voice of the Marshall of the Court called out "oyez, oyez, oyez . . . All persons having business before the Honorable the Supreme Court of the United States are admonished to draw near and give their attention for the Court is now sitting. God save the United States and this Honorable Court."

This is how each session begins, and all of the conjecture and predictions surrounding the "Rehnquist Court" fade in the solemnity and reality of the moment. Petitions and briefs filed, petitioners and respondents will approach the Court and present oral argument before their cases are decided. This article is concerned with three capital punishment cases, *McCleskey v. Kemp, Hitchcock v. Wainwright,* both argued on October 15, and *Tison v. Arizona* argued on November 3. Two of these cases, *McCleskey* and *Tison,* could have far reaching implications and will provide the first real indication of this Court's predilections in the capital punishment area.

McCleskey is the most significant and ambitious challenge to the death penalty in the last decade. The underlying premise is that the Georgia sentencing system is unconstitutional because it racially discriminates. *Hitchcock,* a Florida case raising *McCleskey's* racial bias questions, addresses whether a capital defendant has a right to introduce nonstatutory mitigating evidence at the sentencing phase. However, the Court narrowed the question during oral argument. *Tison* involves the conviction for capital murder of two non-triggermen defendants. The issue refocuses the Court's attention on their 1982 holding in *Enmund v. Florida.*

In each of these cases the issues raised and the manner in which they were presented and received at oral argument will be considered. The drama of the Court, where the exchanges between the bench and the attorneys can reinforce or sway the opinion of a swing vote, are played out against the clock and according to the "courtesies" of appellate advocacy.

General Background

The Court adopted an Eighth Amendment due process analysis for capital punishment cases in the landmark decision *Furman v. Georgia,* 408 U.S. 238 (1972) (per curiam), striking down state statutes constructed on uninhibited discretion. Georgia, along with thirty-four other states, rushed to rewrite their death penalty statutes. The revised "guided discretion" model put in issue in *Gregg v. Georgia,* 428 U.S. 153 (1976) (plurality opinion), and companion cases, was upheld by the Court. The bifurcated procedure provided for a guilt phase and a sentencing phase. The death penalty statute specifies ten aggravating circumstances of which at least one had to be found beyond a reasonable doubt before the death penalty could be imposed.

Although a jury under *Gregg* is not obligated to vote the death penalty, they cannot, in the alternative, find for capital punishment absent finding a (constitutionally imperative) aggravating circumstance. The Court was looking for consistency in establishing statutory standards while, simultaneously, allowing for the discretion necessary to consider each defendant as an individual.

In *Lockett v. Ohio,* 438 U.S. 586 (1978) (plurality opinion), the Court held that State statutes could not limit the consideration of mitigating factors at the sentencing phases. The discretion at the sentencing phase is therefore further expanded by *Lockett.*

Enmund v. Florida, 458 U.S. 782 (1983), tested the Florida felony murder rule that allowed Enmund, a non-triggerman getaway driver who was waiting in the car during an armed robbery, to be convicted of capital murder where his co-felons actually committed the murder of the robbery victim. The Court held that the necessary intent could not be imputed to one who "aids and abets a felony in the course of which a murder is committed by others" and who was only "present" at the murder by virtue of the trial court finding constructive presence.

Against this general background, the following arguments were heard:

McCleskey

Warren McCleskey, a young black man, was tried and convicted in 1978 of shooting a white Atlanta police officer during the course of an armed robbery (aggravating circumstance). In state and federal habeas corpus proceedings, he asserted Georgia's capital statutes were being "applied arbitrarily, capriciously and whimsically," that this was in violation of the Eighth Amendment, and that there was a purposeful pattern of systematic racial discrimination in violation of the Equal Protection Clause. The district court rejected these contentions and was affirmed by the 11th Circuit.

McCleskey's claims, however, were supported by an extensive study of Georgia procedure conducted by Professor David C. Baldus, a recognized expert on the legal use of statistical evidence, and two associates. Professor Baldus took the period from 1973-1979 when 2,484 murders and non-negligent manslaughters occurred in Georgia. Blacks were victims approximately 61% of the time versus 39% for whites. Mr. John Charles Boger of the NAACP Legal Defense Fund argued for petitioner. During oral arguments, he pointed out, in a clear and concise manner, that the study, which tested every rival hypothesis, showed that where the death penalty was imposed in 128 cases, 87% involved white victims. He stressed more than once during his argument that white victim cases were nearly eleven times more likely to receive a sentence of death than were black victim cases. The evidence for the study came from Georgia police and court files, it was stated.

Justice White, sitting to the left of the Chief Justice, leaned forward to interrupt Mr. Boger, asking who gathered the information for the study. This led to a rapid exchange of questions and answers between Justice White and Mr. Boger:

(Boger)ans.	pardons and parole board,
(White)ques.	*who* went out to question, *who* read transcripts?
ans.	there were two studies
ques.	again, who went out to question?
ans.	law students.
ques.	any graduates?
ans.	one.
ques.	and who read transcripts?
ans.	law students. Let me hasten . . . there was guidance . . . no suggestion there was misinformation or files miscoded.
ques.	I thought the Trial Court thought there was miscoding.
ans.	I think the District Court misunderstood.
ques.	But I think he thought the coding had been incorrect.
ans.	But . . . (interrupted)
ques.	So you think the District Court was wrong?
ans.	clearly erroneous.
ques.	Was Baldus paid by your organization?
ans.	Yes . . . were arms length an integrity of the study.

Justice O'Connor changed the direction of the questioning asking Mr. Boger to address the constitutional issue of whether intentional discrimination had to be shown when utilizing an Equal Protection or Eighth Amendment argument. The Justice asked her question

The Price of a Life Depends on the Color of the Skin

by Alan Dershowitz

Imagine a law that read: "The punishment for anyone who murders a white person is death; the punishment for anyone who murders a black person is life imprisonment." There were laws like that on the books in the days of slavery, except that the punishment for killing a black slave was far less than life imprisonment. But no civilized state would now enact a law that explicitly placed a higher value on a white life than on a black life.

Yet, throughout America, we see the implicit devaluation of black life. Medical and police services are better in white neighborhoods than in black ones. Fewer dollars are devoted to finding cures for diseases that strike primarily blacks. The media is more likely to play up the murder of a white victim—as, for example, in the front-page coverage devoted to a young white woman recently killed in New York's Central Park. This happened in an area where several blacks have been killed; their stories were relegated to the back pages. Some of this difference may reflect social and economic class, rather than race alone, but it would be difficult to deny that race plays some role.

This double standard is also reflected in the process by which society determines who is to be executed and who spared. Despite the fact that we no longer have statutes explicitly punishing the murderers of whites more harshly than those of blacks, some of our states still have criminal justice systems under which the race of the victim has a considerable—if unstated—impact on whether the murderer is sentenced to death.

Recently, the explosive issues of race, life and death were argued before the U.S. Supreme Court. The case involves a black man named Warren McCleskey who was sentenced to die for killing a white policeman during an armed robbery in Georgia. His lawyers presented the high court with the results of the most thorough statistical analysis ever conducted on the role of the victim's race in death sentences.

To understand the significance of this study, done under the auspices of the NAACP Legal Defense Fund, some background is essential. First, the vast majority of murderers do not receive a sentence of death. In Georgia, for example, where the study was conducted, fewer than 10 percent of those convicted of deliberate homicide receive the death penalty.

This is because there is considerable discretion in the way a killing is treated—first by the police, then by the prosecutor and eventually by the judge and jury. Each of these institutions is supposed to exercise its discretion in a non-racial manner, by considering aspects such as aggravating factors of the killing and the likelihood that the murderer may be reformed. But racial considerations seem to creep in.

The study found that killers in cases involving white victims were nearly 11 times more likely to receive a sentence of death than those in cases involving black victims. Now, this alone does not prove that the only reason for the enormous disparity is race. It may be that cases with white victims also involve non-racial factors that explain and justify the difference, though this would require incredible coincidences. In order to test for that possibility, those who conducted the study considered hundreds of other factors that could account for the difference, including the killer's prior record, his motivation, particularly vicious aspects of the murder and whether it was committed along with other crimes. They still concluded that "race held as a predominate determiner of life or death."

The state of Georgia disagrees. I appeared with Georgia's attorney general, Michael Bowers, on ABC's "Nightline" the day after the Supreme Court argument, and Ted Koppel asked Bowers how he could explain these disparities on non-racial grounds. Bowers opined that the murders of white victims were, as a rule, more "aggravated" than the murders of black victims.

I pointed out that this sort of characterization by itself may implicitly reflect some racial perceptions: Many white jurors—who identify with white victims—may view the very act of killing a white person as more aggravated than the killing of a black, even if the objective factors are similar.

The Georgia attorney general next argued that statistics alone mean nothing in a particular case, and that for McCleskey to prevail, he would have to show his own sentence of death was racially motivated. But since our legal system prohibits monitoring of jury deliberations, it will never be possible to discover what motivated a particular jury. Racism can be proved only through patterns of discrimination, established by careful statistical studies.

Whichever way the Supreme Court decides the case, the American public must still face up to the reality that Georgia and other states operate a two-tier system of imposing the death penalty: one for those who kill whites and another for those who kill blacks.

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Death Penalty

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in a slow methodical fashion with the intonation reflecting what she thought the answer should be. Mr. Boger replied that intentional discrimination was inferentially shown. Justice O'Connor then emphasized that the evidence really addressed discrimination against white victims, to which Mr. Boger responded that it was also against black defendants.

In one of the most quotable statements of the argument, Justice O'Connor said that this is "such a curious case . . . what's the remedy, to execute more people so McCleskey would not appear to be singled out? Do you want to abolish the death penalty?" Mr. Boger told the Justice that if the statute proved unconstitutional it should be struck down. Justice O'Connor then asked Mr. Boger a question in the negative. "You don't suggest that the Georgia statute is unconstitutional?" To which he replied, "Not facially."

The Chief Justice wanted to know, in a rhetorical sense, if the institution petitioner was challenging the jury, that to prove the case petitioner would have to show that this particular jury discriminated and would have had to find differently.

Justice Scalia, leaning on his left arm and holding his head, punctuated the air with his free hand and picked up a question Justice Powell had asked about the aggravating circumstances. Justice Scalia noted that McCleskey shot the police officer at close range and, as a further aggravating circumstance, had no conscience. Mr. Boger brought the argument back to the discrimination question by reemphasizing to Justice Scalia and the Court that between 1973 and 1980, seventeen defendants shot police officers with aggravating circumstances but only petitioner and one other received a death penalty trial. In the other case the defendant received a life sentence for killing a black police officer.

Justice Scalia analogised the results of the study to a study showing "clearly that shifty-eyed people were convicted" on a better than eleven-one basis." Mr. Boger quickly distinguished the case from the hypothetical, referring to "century old prejudices that haven't died [in Georgia]" and are at the foundation of the alleged prejudice.

Justice O'Connor, again characterizing petitioner's argument as "curious," asked if having less discretion than *Furman* allowed a solution. Justice Scalia also asked what would solve the problem.

Mr. Boger concluded his remarks with his answer framing the Georgia system as "unfettered," lacking prosecutorial standards and special circumstances in the guilt phase to mitigate the extreme penalty.

Ms. Mary Beth Westmoreland, A.A.G. of Georgia, argued for respondent. The presentation defending the Georgia system that received the Court's blessing in *Gregg* was somewhat predictable. Notwithstanding, Ms. Westmoreland fielded the questions well and managed to make all of her major points. The crux of the State's argument was that the law worked as it was intended and that a pattern of intentional discrimination was not substantiated by the study. Ms. Westmoreland tried to focus the Court's attention on "whether there was intentional discrimination by this jury and this prosecutor," and the fact that McCleskey, as should be the case with every capital defendant, should be considered as unique.

In reply to questions from Justice Marshall asking if the State did not conduct its own independent study, how can it say the Baldus study "missed the mark?", Ms. Westmoreland pointed out that white victim cases were qualitatively different from black victim cases. White victim cases, Ms. Westmoreland went on to explain in an exchange with Justice Stevens, involve rape, robbery, property, and torture versus black victim cases which involve more family disputes.

Justice Stevens pressed Ms. Westmoreland on if and where she would draw a statistical line beyond which constitutional questions would or could be raised. At eleven times greater (Baldus study) she said there was no prima facie case, at 20% she conceded it was "closer." Ms. Westmoreland said that "you can't quantify what a jury considers," for example, "moral and rage."

Ms. Westmoreland, in answering the last questions posed by Justice Stevens, argued that on the evidence the Georgia system is not random and it works. Petitioner, according to Ms. Westmoreland, failed to meet its burden of proof.

A ruling on *McCleskey* is expected by this summer. If the statistics do not convince the Court, it will be interesting to see if they leave a door ajar to allow for a return engagement.

Hitchcock

Hitchcock is a Florida case that was heard with *McCleskey*. The Eleventh Circuit had, as in *McCleskey*, rejected defendant's argument that statistical evidence supported the theory that racial bias in the sentencing phase is giving rise to the arbitrary application of the death penalty in violation of the Eighth and Fourteenth Amendments. In oral argument the Court devoted most of its attention to the second question, was imposition of the death sentence

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a violation of defendant's Eighth Amendment rights where defense counsel did not argue nonstatutory mitigating factors due to the unsettled state of Florida law in this matter? Craig S. Barnard argued for the petitioner and he gave the impression of being utterly lost, without a command of the facts or of his own agreements.

On the facts, petitioner was arguing that certain nonstatutory mitigating factors were not allowed by the Florida trial court during the sentencing phase. Justice Scalia forcefully corrected Mr. Barnard during his argument, saying that what he really wanted to argue was that non-statutory mitigating factors were introduced but the Judge effectively removed them from jury consideration. After this admonishment Mr. Barnard answered, "yes."

When Justice Blackman asked how many inmates were in the same or similar positions, Mr. Barnard seemed to aimlessly thumb through an index he had without answering. Justice Blackman repeated the question and this time Mr. Barnard replied "12 to 14 . . . I hope the information is right!"

One had the feeling sitting and listening that the Court knew exactly where it was going and it was taking Mr. Barnard along for the ride.

Sean Daly, the A.A.G. of Florida, argued the respondent's case before the Court. Shortly after Mr. Daly said "if it please the Court," Justices White, Scalia, and O'Connor each asked Mr. Daly a question in rapid succession leaving but a breath in between for his answer. Most of the nine Justices would recline in their high-backed black leather chairs, snapping the chair forward when they wanted to ask questions. As one chair sprang forward another would slip back.

Justice O'Connor, asking a question in the negative, said "shouldn't we look at the plain language of the instructions?" The bench kept referring to the record as if the A.A.G. should have seen the futility of attempts to justify it. Justice White spoke about reversal and Mr. Daly countered with the fact that no objection was made to the instructions at trial. Justice White asked if this was harmless error. Mr. Daly said "yes" and then Justice White pounced on the answer with "so you agree there was error!"

"No," Mr. Daly retorted, "no error."

"Well, if we assume there was error," continued Justice White, "did it affect the outcome? Is this a case of ineffective counsel?"

On the question of statistical evidence of racist sentencing, the State of Florida argued that petitioner was trying to "shut down the system" by attempting to "raise a pattern of discrimination issue." Mr. Daly said that the statutory analysis in this case did not rise to the level of the Baldus study. Florida wanted a bright line rule: regressive analysis and statutory analysis "can't serve for evidentiary hearing."

Mr. Daly told the Court that there was no way to correct the system in this case and any attempt to do so would create a quagmire at the evidentiary hearing. Mr. Daly ended by stating that it was impossible to control the amount of discretion unless intentional discriminatory impact can be shown.

The Chief Justice came in on the last word at the stroke of noon with "The case is dismissed." The Court stood in recess.

The decision will probably come down with *McCleskey*. Whether or not the Florida statute caused counsel for the defendant at trial to restrict the presentation of mitigating evidence will succumb to preservation of the *Lockett* rule in holding that whatever non-statutory mitigating factors were introduced should not have been removed for jury consideration.

Tison

Petitioners Ricky and Raymond Tison, two brothers, and a third brother Donald, planned and assisted their father Gary and a jailmate, Randy Greenwalt, in a prison breakout. When the escape car was incapacitated, Raymond went to the edge of the highway and flagged down the first car to pass, a Mazda in which the Lyons family (father, mother, son, and niece) was traveling. Testimony of the participants was that the father, Gary, sent the boys away from the car and then he and Greenwalt shot and killed the Lyons family.

During the subsequent flight in the Mazda, the group tried to run a police roadblock. Gary and Donald Tison were killed as a result of the ensuing gun battle. Petitioners and Greenwalt were tried separately for the murders—all three were convicted of capital murder and sentenced to death under the Arizona statute, notwithstanding that neither petitioner was a triggerman in the shooting of the Lyons family.

Alan M. Dershowitz, Harvard Law Professor and author, represented petitioners by appointment of the Court. Respondent was represented by William J. Schafer, III, Chief Counsel, Criminal Division, Arizona Attorney General's Office.

Both sides argued from the same starting point, *Enmund v. Florida*. Petitioner argued that this case is factually indistinguishable from *Enmund*. Mr. Dershowitz asserted in petitioner's brief that respondent was trying to redefine "intent to kill" in such a manner as to subject to the death penalty a non-killer who neither "intended, contemplated *or* anticipated that the lethal force would *or might* be used *or* that life *might* be taken. . ." to the death penalty.

Mr. Schafer followed this interpretation of intent and attributed it to the Arizona Supreme Court, arguing in respondent's brief that under *Enmund*, the facts support the finding that the petitioners intended to kill the victims.

Both sides were consistent in their attempts to use *Enmund*, and further, Arizona never asked that it be overruled. Justice White delivered the (4-1-4) plurality opinion in *Enmund* (Justice Brennan concurred separately and Justice O'Connor wrote the dissent joined by three others).

Mr. Dershowitz began speaking rapidly and increased the speed of his delivery as he went on. It was as if he was trying to jam five minutes worth of information into each minute of oral argument. His style left little room for the Justices to squeeze in questions and it became increasingly apparent that Mr. Dershowitz actually resented any interruptions to his presentation. There were many instances were he was argumentative and, particularly with Justice Scalia, arrogant and rude. This analysis is certainly not a criticism of Mr. Dershowitz's intellectual approach to the case, but anyone who was present in the Court must have wondered if counsel's theatrics could have advanced his client's cause.

Justice White began the questioning when he asked Mr. Dershowitz what he meant when he said that Arizona conceded that there was no intent. The Justice noted that there is a difference between intent and specific intent. Mr. Dershowitz agreed, cited *Enmund*, and stated that the issue before the Court was the legal definition of intent, can the State use forseeability as intent. Mr. Dershowitz said respondent was attempting to relitigate *Enmund*. He relied heavily on petitioners' testimony that

The most significant death penalty cases in the Court's recent history.

their father promised petitioners that nobody would be hurt and, in fact, nobody was hurt during the actual prison breakout. He stressed, addressing Justice Scalia, that no shots were fired until three days later. Justice Scalia focused on petitioners' having supplied substantial arms for the breakout.

Justice White asked about the standard of review the Court should use if it's found that the Arizona Supreme Court applied the right standard of intent. Mr. Dershowitz responded that there was no evidence to support the finding. "Then that's the end of the case?", asked Justice White. "Yes," snapped Mr. Dershowitz, "That's the end of the case."

Justice Scalia introduced a series of hypotheticals where in the course of a felony a policeman approaches "and I shoot with no specific intent." Mr. Dershowitz responded by saying "That's a triggerman, specific intent applies." And what if "I threw the gun to the triggerman with no intent that he shoots the policeman," asked Justice Scalia. Mr. Dershowitz distinguished the hypothetical on the facts as being constructive, not actual intent.

The Chief Justice said that "*Enmund* does not say this example and this example only."

"Yes it does," snapped counsel.

Justice Scalia reintroduced his last hypothetical in an effort to "get [Dershowitz's] theory of intent." At this point Mr. Dershowitz chose to be argumentative instead of conceding intent on the facts of the hypothetical and developing his presentation. He said "This is *Lockett*. Justice Scalia is asking [us to] return to the felony-murder rule . . . There is no difference between [petitioners'] case and *Enmund* . . . Here there is no intent to kill." Mr. Dershowitz then raised the facts again based on petitioner's testimony.

Chief Justice Rehnquist told Mr. Dershowitz that he was resolving all of the facts in favor of his clients. "You say there is no dispute . . . relying on the testimony of your clients." Mr. Dershowitz told the Chief Justice that he was "willing to take the facts in the least favorable light." Perhaps this would have proven a better starting point for petitioner, leaving some room to go up. The Chief Justice said that the Arizona law on admissions "Must have changed a great deal since I practiced there." Counsel couldn't hold himself back and he said "Maybe it has."

Justice Powell wanted to know if petitioners carried guns throughout. Mr. Dershowitz answered "yes," but characterized petitioners as having been shocked at the decision to kill the Lyons family. He said the petitioners had been "tricked." Mr. Dershowitz reserved whatever time he had remaining and took his seat at the defense table.

Mr. Schafer's style was in marked contrast to his opponent. He spoke clearly, slowly, and in concise terms, always showing appropriate deference to the Court.

There were two major prongs to Mr. Schafer's presentation. The first prong was procedural. Throughout the State proceedings each petitioner's culpability was established, and the Arizona Supreme Court found that petitioners intended to kill the victims.

The second prong was factual. Viewing the events as a continuum, petitioners planned and engineered the breakout, carried weapons at all times, Raymond flagged down the Mazda and drove it off the road, petitioners "herded" the Lyons family from the Mazda to the Lincoln where they were shot, they were in the area when the shooting took place, they knew their father's propensity for violence, they contemplated harm and/or lethal force, "they stood by and watched their accomplices do the killings."

Justice Marshall raised questions to undermine the intent (the boys were said to have gone for water at their father's request just prior to the shooting) such as "if you were going to shoot a man would you go get him a drink of water?" He also tried to establish that petitioners were not in the area when the fatal shots were fired, responding to Schafer's statement that Ricky "said they heard and saw the [gun] flashes."

Justice Stevens followed this last point, asking if petitioners were five miles into the desert when shots were fired would they still be subject to the death penalty under the statute. Phrased differently, is presence constitutionally essential? Mr. Schafer recounted the continuum of facts that made petitioners a part of what ultimately happened. The fact that petitioners, "with arms at their sides, escorted these people to the killing ground, into the Lincoln" is essential. "Then Ray stood back and watched."

When Justice Stevens followed this by asking what "if you could expect the fact that petitioners were genuinely surprised that their father killed, what would you think?" Mr. Schafer said that it could still be argued under *Enmund* that petitioners contemplated lethal force. However, in response to a question posed by Justice Marshall, Mr. Schafer could not say that petitioners *knew* the killing was going to happen.

Turning to questions from Justice Powell, Mr. Schafer further explained that even if petitioners did not contemplate that these particular people [Lyons] would be hurt, they did contemplate that harm would occur.

Justice Stevens ended the questioning of respondent by asking if he thought the killing was essential to the breakout. Mr. Schafer responded by quoting Raymond as having said "We all knew the odds we were playing with."

Mr. Dershowitz took the mike to use his remaining eight minutes time. He told the Court that he would try and get all his points in and then began talking as if he was in a speed talking contest.

Much of what he said was unintelligible. With a few minutes to go Mr. Dershowitz said petitioners requested instructions on second degree murder charge which request was rejected by the Arizona Supreme Court. Arguing that petitioners were entitled to the denied charge, if it is found that there is any evidence supporting second degree murder, petitioners are entitled to a new trial. There was a heated exchange between Justice Scalia and Mr. Dershowitz on whether the charge was correct.

If the Court distinguishes *Tison* on the facts, adopting respondent's argument that *Enmund* should be broadly interpreted and great weight should be given to a State's definition of "intent," *Enmund* will be overruled for all practical purposes. The extension of capital punishment statutes to encompass non-triggermen accomplices in any circumstances would seem to run counter to "guided discretion" as set forth in *Furman*, and bring us quite far around the circle toward "unfettered discretion."

Conclusion

There is a sense of power which permeates the Supreme Court's proceedings, from the call of the Marshall of the Court to the final word in the final argument of the day that defies the conversational pace of appellate argument. What is briefed and argued, the way it is presented, how it is received, and what is finally decided, reaches far beyond the litigants, and into our homes. Each time the drama of the Court unfolds, each of us are participants, as our lives are caught up in a living constitution and the nine justices handing down its meaning. □

Black Widow: Intricate Web of Seduction and Murder

The recently released Bob Rafelson film Black Widow starring Debra Winger and Theresa Russell is a tightly woven psychological thriller, combining seduction, murder and intrigue.

Debra Winger stars as Alex Barnes, a Justice Department investigator who stumbles across a series of suspicious deaths while working on an organized crime investigation. Upon further investigation, Alex becomes obsessed with hunting the woman she believes is behind the murders. Her search becomes an obsession taking her from the confines of her Justice Department cubicle across the country, bringing her ever closer to her quarry. Theresa Russell plays Catharine, the enigmatic murderess, a woman who appears to truly love the men she marries, yet is compelled to kill them.

Alex finally catches up with the elusive Catharine and after meeting with her she becomes captivated in a totally unexpected way. Catharine brings out the feminine side of Alex, a side that has never before been revealed to us. Ironically, Catharine does this by introducing Alex to her next victim—a man with whom Alex begins to fall in love.

As the film progresses it seems as if Alex, a woman who has always been in control of her life, becomes increasingly entangled in a web spun of her own vulnerabilities and Catharine's cunning. The drama builds as the pursuer becomes the pursued. Who will be the black widow's next victim? See it and find out.

BROOKLYN MUSEUM EXHIBITIONS

GENERAL INFORMATION

MUSEUM HOURS:
Beginning March 1, 1987, the Museum will be open from 10 am to 5 pm daily, closed Tuesdays and New Year's Day.

ADMISSION:
Suggested contribution: $3.00; students with valid I.D. $1.50; senior citizens $1.00. Free to members and children under 12 accompanied by an adult.

NEW EXHIBITIONS

PETER GOURFAIN: "ROUNDABOUT" AND OTHER WORKS
Works in ceramic sculpture, bronze and wood carving by this contemporary American sculptor. *Roundabout*, a central work of the exhibition and the result of 10 years' work, incorporates clay, bronze and wood relief set into the raised ribs of an enormous wheel. (Rotunda, 5th floor)
Opens March 13 (through May 11)

THE COLLECTOR'S EYE: THE ERNEST ERICKSON COLLECTIONS AT THE BROOKLYN MUSEUM
Approximately 150 objects representing civilizations of Asia, the Near East, Egypt and the ancient Americas collected by Ernest Erickson, who died in 1983, some of which have been at the Museum for over 40 years. As a Trustee, Erickson worked closely with the Museum in strengthening its non-Western art holdings. The exhibition will include examples of sculpture, painting, ceramics, carpets, bronzes, metalwork and decorative arts objects. (Robert E. Blum Gallery, 1st floor)
Opens March 27 (through May 18)

HIROSHIGE'S ONE HUNDRED FAMOUS VIEWS OF EDO: SPRING PART II
The third in a series of five exhibitions organized by season and devoted to the complete set ot 118 woodblock prints by one of Japan's greatest masters of landscape, Utagawa Hiroshige (1797-1858). This selection features views of Edo (modern Tokyo) in spring and will be presented in two parts. Part II will be shown from March 4 through May 4, 1987. (Japanese Gallery, 2nd floor)

GRAND LOBBY: DONNA DENNIS
Playing on the architectural style of the Museum itself, this contemporary American artist will construct a sculptural rendering in wood and metal based partly on its immediate surroundings in the Museum's Grand Lobby and partly on an imagined environment. This exhibition has been made possible, in part, by a grant from the National Endownment for the Arts. (Grand Lobby, 1st floor)
Opens March 18
(through June 15)

MARY FRANK: "PERSEPHONE" STUDIES
An exhibition of approximately 30 large charcoal drawings and the related clay sculpture, entitled *Persephone*, 1985, by this contemporary American artist.

CONTINUING EXHIBITIONS

THE AMERICAN EYE FOR STYLE
A selection of 19th- and 20th-century fashions from the Museum's collection reflecting the taste in dress of some well-known Americans such as Millicent Rogers, Rita Lydig, Lauren Bacall and Princess Viggo. The display also illustrates the special relationship between client and couturier and includes designs by Charles James, Schiaperelli, Callot, Norell and Worth. (Costume and Textile Galleries, 4th Floor)
Through June 29
(opened December 10)

THE ALEX HILLMAN FAMILY FOUNDATION COLLECTION: FRENCH ART OF THE 19TH AND 20TH CENTURIES
An outstanding private collection of Post-Impressionist and early 30th-century paintings and works on paper. Features important works by Cezanne, Toulouse-Lautrec, Picasso, Matisse, Modigliani and other major artists of the period. (European Galleries, 5th floor)

FUTURE EXHIBITIONS

HIROSHIGE'S ONE HUNDRED FAMOUS VIEWS OF EDO: SUMMER
The last in a series of five exhibitions organized by season and devoted to the complete set of 118 woodblock prints by one of Japan's greatest masters of landscape, Utagawa Hiroshige (1797-1858). This final selection will feature views of Edo (modern Tokyo) in summer. (Japanese Gallery, 2nd floor)
Opens May 6
(through July 6)

GOYA: LOS CAPRICHOS
This exhibition of The Brooklyn Museum's set of trial proofs for Goya's *Caprichos*, the series of 80 etchings and acquatints first published in 1799 and condemned by the inquistion for its anti-clericalism, will offer the viewer a rare opportunity to examine an early, pristine example of the work, printed under the artist's supervision. This set is considered to be one of the earliest and finest trial proofs, and the standard against which other early impressions is compared. (Prints and Drawings Galleries, 2nd floor)
Opens June
(through September)

WORKING IN BROOKLYN/PAINTING
This second in a series of exhibitions of the work of both well-known and emerging artists whose studios are in Brooklyn will present recent works in the medium of painting. Diverse modes of expression reflecting the pluralism of the current art scene will be represented. (Robert E. Blum Gallery, 1st floor)
Opens June 12
(through September 7)

Levin

from p. 1

defense of their clients; indeed it is their obligation to use every tool to obtain their client's acquittal. This has unfortunately degenerated into a quest for ever more personal details in an attempt to undermine the validity of the charges alleged. We must ask ourselves if we should continue to allow the personal and sexual habits of the victim to be explored by the defense when such details address areas far removed from the matter in dispute, putting the victim on the defensive as opposed to the defendant charged with the crime.

The solutions to the problems within the criminal justice system are difficult to conceptualize. Once identified, the implementation of these solutions borders on the impossible. Unfortunately, the attitudes harbored by the legal community do not necessarily yield to changes in the law. The people intimately involved in the legal process must desire change in order for solutions to be effective. Recently, law professionals have realized the problems associated with attorneys using the media to attack their opponents. We must insure that this practice continues to be addressed and ultimately corrected.

The criminal justice system is widely perceived as operating on the verge of a breakdown, and measures must be taken to insure its continued equitable operation. We must not allow a continuation of the blame-the-victim defense if we are to uphold the honorable intentions of our legal predecessors. The integrity of the present criminal justice system in the eyes of this and future generations is at stake.

Computer Corner

from p. 6

where with the same guarantees, but for less? The name and address of my supplier is:

Brown Disc Manufacturing
Colorado Springs, CO 80907
1-303-593-1015

I would suggest you call this number before ordering for an update on prices and the number of disks required to order. This is not the only company that sells diskettes cheaply. Hundreds of other manufacturers exist. Open up any PC Magazine or any other computer magazine and you will see them advertised. Brown is the only company I've dealt with, so I know their products are exemplary, but other companies are probably just as good. All you should look at are the guarantees that the company promises. If they are the same or better then the expensive name brand disks, then what have you got to lose?

Next Month

Next month I'll review Norton Utilities 3.1. This useful program can help you recover erased data, recover damaged files and much, much more. Again, any questions on hardware or software, I'll be glad to answer them. Send all questions to the Justinian in care of James Locantro: Computer Corner.

Frustration in the Public Interest

Scott M. Sommer

Tension, tension. Disorienting, wearing patience thin, swinging in and out of depression, tempers flaring up, nothing but tension. Is this any way to end a four year struggle to get a law degree?

The bill came in the mail. Like clockwork, it arrives every month. This month it said that if you would like to pay in full you can send in $19,758.63 and your debt to the Emigrant Savings Bank and the Guaranteed Student Loan Program will be forever gone—clean slate; now go into hock and buy a home (notice how it is no longer said that you buy a house). Who can afford to buy a *WHOLE HOUSE* anymore? We now become proprietary tenants or owners of condominiums.

In various conversations one will inevitably have during your last year at law school, you run into people jumping head over heels over the job offers they have received from law firms paying starting salaries in excess of $70,000 per year. Who wouldn't be happy to find out that someone is willing to pay you that kind of money based upon a law school transcript and some interviews. It puts the mind at ease to know that you will be able to erase some of the debt one accumulates to go to BLS, (while BLS spends its money buying another apartment building on Pierrepont Street), and live a decent life.

Some people even have the difficult task of choosing between *numerous* megabucks firms! It is not easy to decide which firm to go with when virtually every "top" firm in the city is trying to hire you. You may end up having to split six figure salaries with the partners some day—it would be nice if you enjoyed the work, and the people you worked with too along with the money.

Now on the one hand, who could not be happier for these people who have met with "success" and have landed these much coveted positions. On the other hand, it is, simply put, aggravating as hell to watch this go on. The rest of us are just as intelligent and will by and large be doing work that is just as important. We are told, however, that we are not as "successful" and therefore merit substantially less money.

It is also aggravating to read feature pieces in magazines and newspapers that herald the sacrifices of people at large law firms (such as Robert M. Hayes, formerly of Sullivan & Cromwell and now of the Coalition of the Homeless) who gave up "successful" law careers in order to dedicate themselves to a life in the public interest. What about those who never even seek to go to a Wall Street firm and from the outset dedicate their lives to working in public interest law?

People who make that choice are not even viewed as real lawyers. They usually are called "Legal Aids"—"Yeah, I saw a bunch of *Legal Aids* in court today." They are always asked how long they intend to stay in their current job before they intend to become a real lawyer and go out and make some real money. Maybe these lawyers and legal workers should be paid enough so they can support their families and make a career or of providing free legal services to the poor. It's a question of society's economic and social priorities. Right now the answer seems to be a bit screwed up; arms for Iranian "moderates" with the profits to the "moral equivalent of our founding fathers" (read *contras*).

Here in New York City, the approximately 250 men and women who are employed by Community Action for Legal Services (CALS) work in fifteen offices throughout the five boroughs providing free legal services to the elderly and the poor in civil matters. They are faced with the difficult choice of either hanging in and trying to make their employers pay them a livable wage or to continue working in the public's interest for some of the lowest salaries in the legal profession.

Should they vote to go out on strike on March 2nd or should they cave in and accept a starting salaries for lawyers of less than $25,000? Should they vote to go on strike on March 2nd or should they accept a wage structure that does not guarantee them an increase in their salaries every year? Lawyers who work for the Legal Aid Society start at an annual salary of $26,415, receive increases every year and also have a meaningful pension plan. It is possible to make a career of working for the Legal Aid Society, raise a family and even retire. This is not the case for those who work for CALS.

CALS has consistently paid its workers the lowest salaries for public interest legal workers in the metropolitan area. CALS has never made any meaningful effort to fundraise above the grant it receives from the Legal Services Corporation, (LSC), the Legal Aid Society raises $1.8 million per year from private sources. This year CALS has received a $1 million raise in its LSC field grant but chooses to offer only $400,000 of it to its employees for salaries. It probably needs the other $600,000 for management's salaries—management comprises 19% of the staff and receives 30% of the salaries!

Now many may respond that, well, it is their choice and that they are doing the work they enjoy and feel is important. That does not justify the salaries public interest lawyers receive as compared to those in private practice. More importantly, it sends out the larger signal that we will pay these low salaries knowing full well that we can get good dedicated people as we need them.

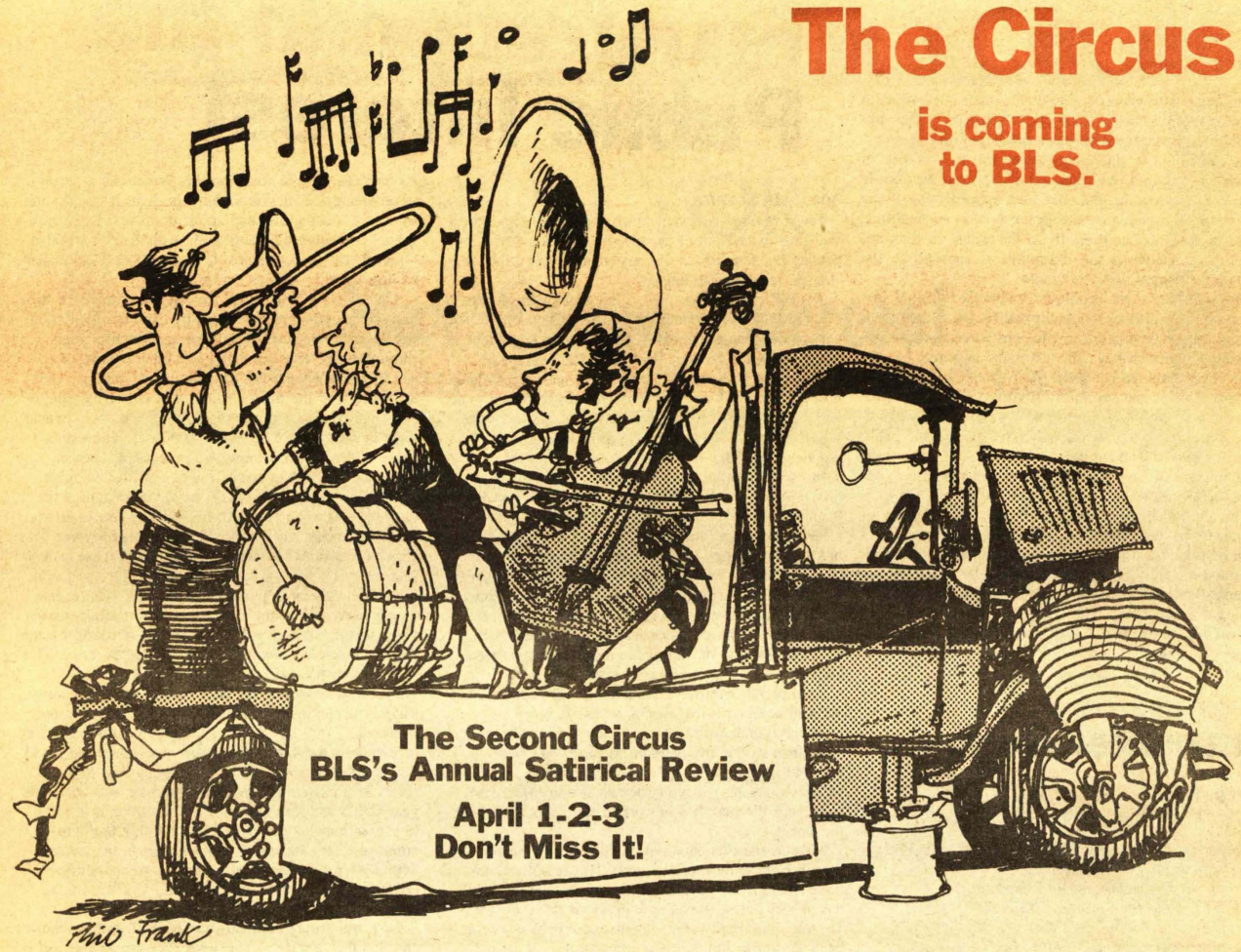
This attitude and priority results in a situation where the poor are constantly given less experienced, less trained and greatly overworked legal help, as one will stay in such a low paying and financially insecure job for only so long. The poor are expendable, they are sort of like fungible goods; one is the same as the next.

So take your salary from the big boys and live a good life, but remember, Nelson remains hungry on Court Street and his lawyer, (should he be fortunate enough to have one), and his or her family may not eat much better.

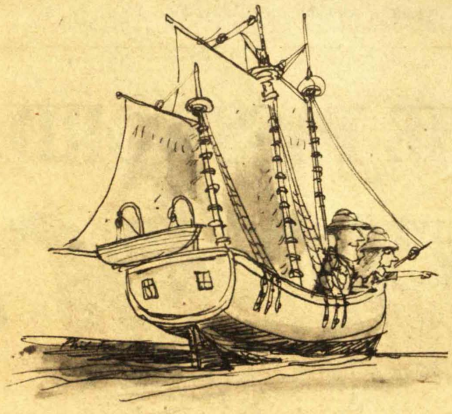
Scott M. Sommer, a fourth-year evening student is a co-host of "Housing Notebook" broadcast every Saturday over WBAI 99.5 FM.

The Circus

is coming to BLS.



BON VOYAGE



!!Important for all Graduating Students and Guests!!

Graduation is Tuesday, June 16th

Save Thursday, June 11th

Due to overwhelming demand, on Thursday, June 11th, we are planning a three hour luxury cruise on the 192 foot *Spirit of New York*.

The cruise will commence immediately following the graduation party at the Water Club. The approximate cost will be around $50.00 per person.

The ship will dock at the Club and will include an open bar (top shelf), live entertainment, hors d'ouevres, etc.

If you are interested, please contact the following students immediately:
Joe Ranni Phil Dussek Maria Mejia