The Justinian

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THE JUSTINIAN

FOUNDED IN 1931 ▼ A FORUM FOR THE BROOKLYN LAW SCHOOL COMMUNITY

ALUMNUS DONATES $36,000,000 TO BLS

by Fred Reserve

The Administration confirmed yesterday that Multi-Millionaire recluse and BLS alumnus (class of '33) Thobert Toth of Brooklyn has offered to donate $36 million over the next 6 years to BLS on the condition that administration meet certain specific demands.

Among the changes Mr. Toth has conditioned his gift on are the following: First, the school's name must be changed to The Brookline Academy for the Advancement of Legal Studies, second, the law school is to discontinue using the LSAT as a criteria for admission instead, the school will require all applicants to sign an oath stating that they have no family relations bearing the name Biff, Muffy or Chip and that to the best of their knowledge have never associated with anyone wearing Madras plaid, and lastly that Professor McLaughlin's barber be bought out and sent to a remote pacific basin island. In return for compliance with these demands, Toth has agreed to donate the sum of 36 million dollars over a period of six years.

Dean Trager said that the administration is negotiating with Toth over the proposed name change, stating that it was much more agreeable than Toth's earlier suggestion of "LAWMART." As to the exact wording of the applicant's oath, Trager noted that the matter had been referred to outside counsel for an opinion as to whether Madras wearers represented a suspect classification thereby raising constitutional problems. An answer is expected shortly. According to Trager, the biggest obstacle in the negotiation process has arisen over the last condition of the donation. States Professor Crea, head of the negotiating team, "the barber is really giving us a hose job. We think that he's missing some marbles, but we're hoping Gerry (Professor McLaughlin) can talk some sense into him." It is hoped that an amicable cash settlement and a few cases of talk can get things settled once and for all.

As can be expected reaction to the news on the BLS campus has been mixed. This is especially so regarding the alumni network which views the concessions as a "sell out." When reached for comment on this point Trager opined that a sell out was not necessarily something to be ashamed of as long as retail prices weren't paid. The current student body appears rather enthusiastic about the proposed endowment. Hopes were high that the endowment could mean additional bathroom facilities and hopefully in the long run more prestige for the school in general. When pressed on the ethical aspects of surrendering BLS's name and the other strings attached to the offer, Trager snapped, "Do you have any idea how much $36 million dollars is?"

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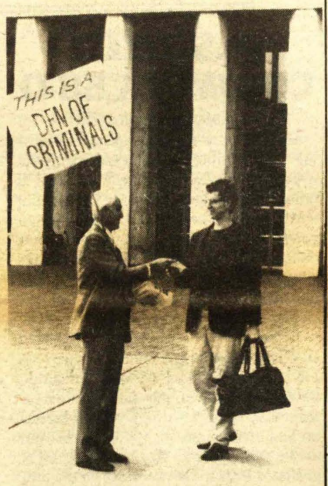

Benefactor Greets Student

BROOKE SHIELDS TO BE BLS GRAD!

By Jim Nazeum

Brooke Shields has been accepted for admission to Brooklyn Law School for the Class of '91 and will be entering this fall. Henry Haverstick III, Dean of Admissions, exultantly said, "This is a major coup for us, and will significantly add to our prestige as a national law school." Brooke, a recent graduate of Princeton University, took a year off to participate in various celebrity ski and tennis events. Ms. Shields denied that she was going into law because her career as an actress was in a slump. "Not at all. I always wanted to be a lawyer. When I was making movies, I saw that the lawyers were making more than I was. Besides, no one will laugh at me anymore; I'll have the respect that I always wanted."

When asked why she chose BLS, when she had been solicited for admission by Harvard, Yale, and Columbia Law Schools Brooke listed a variety of reasons:

"Well, I didn't want to go to Harvard because I thought I would be a little out of place there. I mean it's mostly a black school, isn't it? (When told that she had confused Harvard for Howard Law School, Ms. Shields said, "Oh? Oh. Damn!") New Haven is such an icky little town, and as for Columbia, I mean, who really wants to spend three years in South America? (This reporter chose not to comment on the latter). Besides, BLS has a lot of things going for it. It's the best law school in Brooklyn, it's got a fabulous view of the skyline, and I'm going out with a guy on the Justinian. And the name of the school was so appealing, you know? I mean Brooklyn. Brooke-lyn. Get it? Haw!"

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FACULTY PISSED OFF ABOUT NEW OFFICES

By Whitey Johns

In a recent move forced by space limitations, several faculty members were moved out of their offices on the eighth and ninth floors to the men's room outside the Moot Court room. According to Dean Wexler, the move is only temporary. "Even now, funds are being raised for an addition to the present facility. We expect it to be completed by 1992. Besides, this school has long been known for the open door policy of the faculty."

According to one faculty member, "I personally feel that I was mislead by Dean Trager when first approached about teaching at BLS. Dean Trager assured me that all new faculty members would have luxurious offices of imported tile with their own toilet facilities. Little did I know that this is what he had in mind." Another disgruntled faculty member stated, "The administration has been stalling all semester. I think the whole situation stinks." A writing instructor commented, "Brief grading has taken on a whole new dimension." Cried an adjunct, "We're always getting dumped on. Well, I'm not going to take this crap anymore." One problem mentioned was the noise level during the class breaks. "I need total silence, or my concentration goes down the drain," said one professor.

Dean Wexler visits new facilities

Not all faculty reaction was adverse, however. "At least we get to know our students more intimately. No one who's ever come in here has failed to pass. The mirrors add a feeling of depth that wasn't possible in my old office. And I never run out of note paper in here."

Student reaction ran hot and cold. Noted one first year, "I have a bashful kidney, so I'm hoping that this office expansion policy doesn't extend to the other floors." One night student asked, "Is this what they mean by a faculty chair?"

Perhaps the situation was best summed up by Dean Wexler. "They have no choice in the matter. They'll just have to grin and bare it."

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INSIDE:

Travels in Outer Space

by Michael Harding

As an interplanetary traveler, I have traveled through the universe visiting many different planets. This has provided me with the opportunity to study other cultures. One of my trips took me to a small planet where I observed a very unique ritual.

The ceremony takes place in an immense circular structure about three to four stories tall. There is no roof. In the center of the structure is a grass field surrounded by thousands of seats which are for those attending the ceremony. The field is illuminated by powerful lights around the top of the structure. The participants in the ceremony confine themselves to the grassy area. This grassy area is unique to the other parts of the village which have hard stone-like floors.

I entered the main seating area and saw that the thousands of seats were filling up fast in anticipation of the beginning of the ceremony. There was an army of creatures in colorful orange costumes who seated the guests. One of these orange creatures took me to a seat, wiped the seat with a dirty rag, and then held his hand out to me. Not understanding, I looked at him. He retracted his hand and made a remark under his breath. As I sat, I noticed that this behavior was a ritual. However, some guests did place pieces of silver in his hand. When this happened the orange creature would sometimes smile and other times he would still comment under his breath.

The noise level increased as more guests were seated. The ceremony began with a creature singing a song. At first the crowd listened, then some began to sing along with the creature. Suddenly many members of the crowd began to scream and yell so loudly that the creature could not be heard. How rude I thought. The creature became so annoyed that he stopped singing and walked away. The main part of the ceremony centered around two tribes of the creatures in almost identical dress. They were differentiated by colors. One tribesman armed with a club would be confronted by several members of the rival tribe. They would throw a round object at him and he would attempt to use his club to deflect the object. When he tired he would be replaced by another member. The two tribes took turns exchanging positions.

Throughout this time the crowd was taking part in a startling rite. The ceremony had whipped the crowd into a frenzy. They began to imbibe some kind of golden liquid in mass quantities. Almost everyone was consuming this liquid except for a few of the smaller creatures, perhaps children, who were present. However, I did see a couple of adults giving small amounts of the liquid to the smaller creatures. No doubt to prepare them for future ceremonies. It seemed that the more liquid the guests had the louder they screamed out. Within the arena was a giant screen. This screen gave a close-up view of the ceremony. But at one point it showed a participant telling the crowd not to drink too much of the liquid. Meanwhile, the hosts of this event had hundreds of creatures in white suits bringing out trays of the liquid to the crowd. The members of the crowd guzzled down as much as they could as fast as they could. Some creatures had contests as to who could drink the most liquid during the ceremony.

It seemed very popular to drink the liquid till the creature was unable to walk, talk, or passed out. This provided a source of amusement for the crowd. In some areas the guests consumed the liquid until they began to beat those around them. When this occurred creatures in blue outifits would stop the beating and sometimes remove the creature doing the beating from the seats. If he remained he would be given new containers of liquid. And the creatures in white carrying the liquid would encourage others to drink more liquid.

Within a few hours the ceremony was over. As the guests left they released the liquid from their bodies on just about any type of object they could find.

Of all of the many cultures I have observed, the culture on this small planet was one of the hardest for me to comprehend. As I left the arena, I noticed some kind of markings on the building. Although I haven't been able to decipher it yet, it read, "Baseball like it ought to be!"

Top Ten Reasons Why Brooklyn Has Passed Fordham And Is Now Number Three In The City

by Judson Vickers

10. Dean Trager says so.
9. Religious affiliation no longer a factor—last Pope visit effectively killed off Catholicism in continental U.S.
8. BLS women have nicer legs than Fordham women.
7. BLS men have nicer legs than Fordham women.
6. Jessup team consistently beats Fordham's moot court squads in both oral argument and Greco-Roman mud wrestling.
5. BLS faculty-student ratio much better—in some cases as high as one to one.
4. BLS grads more in the media spotlight since the PVB scandal.
3. BLS is filled with nothing but students who were accepted to Columbia and NYU but just couldn't scrape together the extra tuition.
2. Applications up since that Apex Tech guy started doing BLS ads.
1. B comes before F in yellow pages—no truth to the rumor that Fordham will change their name to AAA Law School.

BLS OVER COLUMBIA 58-0

By Casper Puckerella

BLS' hockey team decimated Columbia's team in four brutal periods, with the overtime period exploding twice into a brawl when someone yelled "Your Dean wears combat boots!" It is not known whether that epithet was from a team member or a spectator, nor is it clear whose team was being addressed. The play was characterized by a host of illegal checks and vicious use of hockey sticks.

Referee Roan Wrestler expelled three BLS players in the start of the third period, forcing the BLS team to play shorthanded through the rest of the game. The BLS team also achieved a new school record on how many times its players were sent to the penalty box. At one point, BLS goalie Al Puckerella was alone on the ice, desperately deflecting the shots of the Columbia team. The Columbia team was unable to capitalize on the advantage, going down in defeat with grunts and groans. All the Columbia coach Tom Wrestler, could say was, "We'll see you in court." Wrestler is also Columbia's basketball coach.

BLS team captain, 3rd year Ralph Puc-Kerella, was ecstatic over the fifth-straight victory. "We're going to make it to finals, I can feel it in my bones." Puckerella, 27, sat out this game because of the three broken legs and two cracked ribs he is still recovering from.

The Columbia Junior High School Icers hosted the debacle and promised never to invite BLS again. BLS will continue its Junior High School series game at Providence. BLS is favored in that contest also.

Although the manner of playing was

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TOP 15 WAYS TO GET A JOB IN LAW FIRM EVEN THOUGH YOU WENT TO BROOKLYN LAW SCHOOL

by Larry Kanusher

15. TYPE REALLY FAST
14. HAVE A MAJOR CLIENT OF THE FIRM AS A RELATIVE
13. RESUME FRAUD
12. HAVE AN AFFAIR WITH THE HIRING PARTNER
11. WORK FOR A LOUSY FIRM ABOUT TO BE MERGED INTO A GOOD ONE
10. MEDICALLY CERTIFY THAT YOU DON'T NEED SLEEP
9. CLERK FOR THE REAL CHIEF JUDGE — GOD
8. WEAR BLAND SUITS AND CALL YOURSELF CHIP
7. TAKE YOUR LSAT AGAIN AND APPLY TO COLUMBIA AS IF YOU NEVER WENT TO LAW SCHOOL BEFORE
6. STAPLE A BANK CHECK TO YOUR COVER LETTER
5. ACCEPT A POSITION AS A PARALEGAL
4. TRANSFER TO NYU AS SOON AS YOU CAN
3. FOUND YOUR OWN FIRM
2. KNOW HR DIRECTOR FOR WORK AND SWEAR YOU WERE HIRED
1. TELL THEM GRACE AND CAROLYN SENT YOU

TOP 14 ANSWERS TO THE QUESTION: "WHY DID YOU GO TO BROOKLYN LAW SCHOOL?" THAT LAW FIRM INTERVIEWERS WILL ACCEPT

13. IT'S THE BEST DAMNED LAW SCHOOL IN KINGS COUNTY
12. NEW HAVEN ISN'T SAFE AND YOU CAN'T GET GOOD CHINESE FOOD IN CAMBRIDGE
11. I DID IT ON A DARE
10. I *NEVER* WENT THERE . . . YOU MUST HAVE ME CONFUSED WITH SOMEONE ELSE
9. THERE WAS A DEAL ON TUITION I JUST COULDN'T PASS UP
8. OUTSTANDING CAREER PLACEMENT OPPORTUNITIES
7. I DUNNO-IT SEEMED LIKE THE THING TO DO
6. HAVING AN ENTIRE CAMPUS IN ONE HIGH-RISE BUILDING APPEALS TO ME
5. HAVING AN ENTIRE CAMPUS IN ONE HIGH-RISE BUILDING APPEALS TO ME
4. IT'S THE ONLY WAY TO GET A LEASE IN TWO PIERREPONT
3. THE ABUNDANCE OF LITHOGRAPHS IN THE CAFETERIA
2. AMAZING FACULTY
1. TO FIGURE OUT WHAT'S ON THE SECOND FLOOR
0. TO HAVE SEX WITH A ~~DEAN~~ PROFESSOR

April 1988 Volume LVII No. 5

THE JUSTINIAN

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BLS' MARK BAKER: The "Other" Goetz Attorney

By Rosemary A. Townley

In 1984, Bernhard H. Goetz was arrested for shooting four black youths in a Manhattan subway train, who had approached him and asked him for money. Two and a half years later, after a seven-week trial that attracted international media attention, Goetz was acquitted of all major criminal charges, including attempted murder. He was sentenced to a six month prison term and probation for possession of a weapon. The matter is on appeal.

Goetz's attorney, Barry I. Slotnick, says: "I would not have won the Goetz trial without the brilliant strategy and defenses plotted by Mark Baker. We have not lost a case when we have worked together in a courtroom."

Baker, a 1972 graduate of Brooklyn Law School, is considered by court sources to be extraordinarily talented on the law with an imaginative manner of dealing with legal precedent in oral arguments and briefs. He is respected as a dynamic appellate advocate with a "gentlemanly" demeanor and "sense of self-control" rarely seen in the rough-and-tumble world of criminal law in New York City.

Even the prosecutor in the Goetz case, Manhattan Assistant D.A. Gregory L. Waples characterized Baker as "very intelligent, skillful and highly competent."

Goetz himself, who played an active role in the development of his own defense, considers Baker to have been "the central figure in the case in terms of mapping out the legal strategy. He was also the most level-headed person around during a crisis."

Most of the reporting on the controversial trial was focused on Goetz and Slotnick, his well-known trial lawyer. Little has been written about the "law" half of the defense team, Mark M. Baker, the other partner in the firm of Slotnick & Baker. Yet Baker's novel trial tactics and unusual legal defenses played a critical role in the victory.

"Pilot and Navigator"

"Barry is the pilot; I am the navigator," Baker has observed. "I tell him what I need a witness to say and he gets the witness to say it." According to Slotnick, "Baker knows the law better than any other attorney I have met. He has the ability to go beyond the facts of the case and anticipate the legal ramifications of the testimony and evidence." Conversely, Baker acknowledges Slotnick's superior ability to handle witnesses." He virtually turns every prosecution witness into a defense witness. He has an unfailing ability to decimate a witness." Baker, who handles the firm's appellate litigation, usually does not attend trials on a daily basis with Slotnick. He did so in the Goetz case because of the numerous legal issues that were expected to be raised during the trial.

According to Baker, each approaches a trial differently. Slotnick anticipates an acquittal, while Baker anticipates a conviction. Slotnick must elicit the proper testimony to win over a jury while Baker must be mindful of developing a record in the event of an appeal. This invariably results in a constant give-and-take between them, but each respects the other's "turf." An example of this give-and-take was illustrated in the testimony of one of the youths, prosecution witness James

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The New York Times/Larry C. Morris

Mark Baker, left, with Bernhard Goetz and Barry Slotnick outside court.

THE MATTHIAS RUST INCIDENT: A VIEW OF SOVIET LAW

by Colleen Piccone

On Thursday, May 28, 1987, Matthias Rust, a nineteen-year-old West German, landed his Cessna 172 in the center of Moscow. The events leading to his trial and eventual imprisonment allowed Westerners a rare glimpse into the workings and intertwinings of the Soviet judicial and political systems.

As the facts surrounding Rust's flight and entry into Soviet territory began to unfold, the gravity of Rust's circumstances slowly became apparent. Red Square is the nucleus of the city, adjacent to the Kremlin, the seat of power—a structure whose red brick walls personify the Soviet Union's strength and endurance. The Soviets are extremely proud and protective of their capital city. The military presence in the area is formidable, uniformed soldiers and militiamen at every turn, a result of the mandatory two-year service in the armed forces for every Soviet male. While some Westerners might find this oppressive or offensive, it tends to lull one into a deep sense of security, never having to fear walking the streets or riding the Metro late at night. Every person standing on the long line to enter Lenin's mausoleum is checked at least three times for cameras or large handbags with unknown contents. How could this small aircraft have circled Red Square twice in the only city in the world defended by antiballistic missiles designed to destroy nuclear warheads, whose airspace had been closed for more than 30 years, without harm? One of the first Soviet reactions was from the Foreign Ministry spokesman, Gennadi Gerasimov, who said, "You criticize us for shooting down a plane, and now you criticize us for not shooting down a plane," referring to the South Korean airliner shot down in September 1983, killing 269 passengers and crew members.

Rust was led away from his plane by the police after signing autographs and talking with the small crowd that encircled his plane. On May 30, West German diplomats met with Soviet officials at the

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Professor Al DeMeo: On the Way to Recovery

by Ruth Bernstein

The news spread through Brooklyn Law School like wildfire on January 20 . . . Professor Al DeMeo had been hit by a bus on his way to school. It was the day before classes returned for the spring semester.

"It was an unfortunate circumstance, something you never expect," said DeMeo, from his hospital bed. "You leave to go to law school in the morning, and almost never make it. It's not the best of situations."

His injuries were serious. One leg was amputated immediately. The other leg is still in danger. When the accident occurred, notices went up around BLS asking students and faculty to donate blood at Long Island

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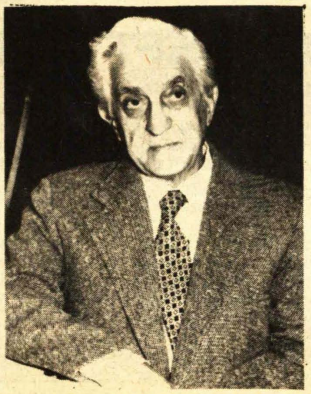

Professor Al DeMeo

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DEPARTMENTS

THE
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Wall Street Firms increase salary to $15,000

The "Wall Street" firm of Cravath, Swaine and Moore has recently announced that it is offering positions to graduating law students at a starting salary of $15,000 per year. This announcement will undoubtedly place great pressure on major law firms throughout the country to re-evaluate their salary structure.

At first glance this increase appears startingly large, however, careful calculations indicate that the raise may not be so great as it seems. It should be pointed out that persons accepting the $15,000 jobs with the firm will face a wage freeze for 2½ years, the abolishment of bonuses and that after this 2½ year period all wage increase will be based on merit alone.

This salary increase is a clear attempt to attract employees from a currently dwindling pool of law graduates which is due to the current draft situation and a surprising lack of interest in working for a "Wall Street" firm. This dwindling supply of interested law graduates may prove a boom to the graduates of the non-Ivy League law schools who previously have been denied access to these positions.

There can be no doubt that this drastic increase will help the major firms overcome the two major stumbling blocks that their hiring program has had to face; the high cost of living that exists in New York City, and the long and ever demanding working conditions that exist in the "Wall Street" firms.

While there is little doubt that the smaller firms will not promptly follow suit, this major salary increase will continue an inflationary trend which other major law firms and government agencies will not be able to ignore and thus prove a boom to recent law graduates.

BLS SAILING TEAM

by Larry Andrea

Strange things have been going on down by South Street Seaport this winter. The Manhattan Yacht club is sponsoring a Frostbite Racing Series, which started in January and will continue until the end of April. The club owns a fleet of J-24's which are used in the series. Three BLS students, forming what has sometimes been called the Brooklyn Law Review Sailing Team, are participating in the races. Alan Winchester, who has extensive experience sailing much larger boats, is the skipper for the team. Larry Andrea, who sailed small boats in collegiate competition, and Ethan Gerber, who has recreational sailing experience, serve as Alan's crew. During the first few races, the team got off to what charitably may be called a slow start, but since then has greatly improved their standing. This is due mostly to Alan's adjustment to sailing the J-24 and the crew's increasing familiarity with each other.

The race series was aptly named; the team has faced everything from snow squalls to high winds and four foot seas. In such situations, it has been less the will to win than the deep desire to be drinking Guinnes Stout at the pub after the day's races that has gotten the team through. Regardless of the reason, the team hopes to place high in the standings, thereby giving appropriate recognition to themselves and to 'ole BLS.

Jerome Prince Invitational Evidence Competition

On March 18-20, 1988, Brooklyn Law School and the Moot Court Honor Society will host the Third Annual Jerome Prince Invitational Evidence Competition. The Competition, which is named in honor of Dean Emeritus Jerome Prince, is a national moot court competition on the subject of evidence. This year's case, which will be argued by twenty-four teams from across the country, will focus on two evidentiary issues: (1) may inferences adverse to a party be drawn from a non-party witness' invocation of her fifth amendment privilege in a civil action; and (2) is evidence directed towards the character of a corporation admissible under F.Rul.Evid. 404(a).

The preliminary rounds will be held at the law school with arguments taking place on Friday evening at 5:30 and 7:30, and Saturday morning at 9:30 and 11:00. The quarter- and semi-final rounds will be held at the Eastern District Court House on Saturday afternoon at 1:00 P.M. and 3:00 P.M. The final round will be held in the ceremonial courtroom in the Eastern District Court House on Sunday morning, at 10:00 A.M. The panel for the final round will be composed of the Honorable Leonard I. Garth of the Third Circuit, the Honorable Ruth Bader Ginsburg of the District of Columbia Circuit, and the Honorable James L. Oakes of the Second Circuit. All members of the law school community are invited and urged to attend the rounds. For first year students, this will be an excellent opportunity to find out what moot court is all about and prepare for their upcoming in-class arguments. A complete schedule will be available at the Moot Court Office, Room 304, the week of March 14.

LAW SCHOOL GRADUATES LEFT IN THE LURCH

CONSUMER AFFAIRS SUBPOENAS RECORDS OF BAR REVIEW FIRMS

According to Commissioner Angelo J. Aponte, the New York City Department of Consumer Affairs has subpoenaed the books and records of a business that allegedly engaged in unconscionable practices by failing to refund deposits to law school graduates for bar review courses that were discontinued.

"These records should tell us how many students entrusted their money to the firm for courses that never materialized and where the money went," Commissioner Aponte said.

The Department's subpoena, dated December 7, directs Steve Emanuel to produce for inspection on December 17 certain documents relating to bar review courses offered by Josephson's Bar Review Center of America, Inc., Emanuel Law Outline, Inc., and Emanuel/BRC, formerly Josephson Kluwer and Emanuel Bar Review, Inc.

The Department's subpoena follows a complaint from a law school graduate who made a $50 deposit toward a course which was then cancelled. The student alleged that she was refused a refund and was referred to another course offered by Kaplan SMH Bar Review Services.

"By refusing refunds and referring students elsewhere, Mr. Emanuel has held students hostage to his choice of courses when students should be allowed to make their own choices," Commissioner Aponte added.

Students pay approximately $750 each to attend the popular bar review courses.

Copies of any agreements between Mr. Emanuel and Kaplan SMH are among the records subpoenaed. Other records include the names of any students in New York City who made deposits for the cancelled course and lists of any refunds made; information on bank accounts that may hold the deposits; copies of contracts for the course and advertising and promotional materials; and copies of any correspondence advising students of their rights and options if the courses were to be discontinued.

Commissioner Aponte urged any law school students who made deposits for the cancelled courses and were neither reimbursed nor satisfied with the referral to Kaplan SMH to contact the General Counsel's Office at (212) 566-7302.

BROOKLYN JOURNAL OF INTERNATIONAL LAW

by Robert J. Roth

By now, most first-year students have undoubtedly heard of the importance to their careers of membership on one of BLS's legal publications. To clear away the rumors and disinformation circulating about this time, we present an introduction to one of these scholarly journals, the *Brooklyn Journal of International Law*.

Members of the 1987-88 Brooklyn Journal of International Law

International Flavor

The *Brooklyn Journal of International Law*, or "Journal," as it is more often referred to, published its first issue in 1977. According to Editor-in-Chief Dave Turndorf and Managing Editor Lee Knife, Brooklyn's is one of approximately forty-two journals nationwide addressing issues in international law. The present Journal staff is composed of twenty-three second-year and thirty-three third-year students.

To date, Journal articles have examined the international legal impact of such issues as human rights, terrorism, nuclear disarmament, government secrecy, the refugee problem, and international trade. The growing internationalization of business transactions has twice served as the theme for the Journal's annual Symposium issue, which focused one year on gray market goods and most recently on the internationalization of securities markets.

The Selection Process

There are two ways to become a member of the Journal. The summer writing competition, open to first-year students, takes place after spring finals. The Open Note Competition, for second-year students, is held in the fall. Turndorf strongly urges all those interested in competing for a position on the Journal to participate in the summer writing competition, as the Open Note Competition is "the toughest way to get on."

As to the nuts and bolts of the selection process, those first-year students participating in the summer competition (approximately 140 last year) will be asked to submit a form indicating their preference either for a position on the Journal or for one on the Law Review. Once the papers are received, they are reviewed by the editorial staff (consisting of third-year students). Three staffers then read and grade each paper. The papers with the highest grades are then read and reviewed by the executive notes editor, executive comments editor, and the editor-in-chief. It is after this review that decisions are made. In close cases, where papers are of comparable quality, students' first-year grades will be taken into consideration. The Journal notifies winners of their acceptance early in the summer.

What Membership Entails

For those who accept positions on the Journal, the honeymoon is short-lived. New Journal members are provided with a list of suggested topics, which are then assigned on a first-come first-served basis. Students also have the option, with approval of the editor-in-chief, of writing on a topic of their choice. As in most legal journals, articles primarily take two forms: notes and case comments. Notes normally discuss a broader aspect of the law, whereas case comments, as the name suggests, discuss particular court decisions. Case comments written by Journal members deal exclusively with U.S. Supreme Court decisions involving international issues. Each new Journal member is teamed up with a primary editor, who answers questions that may arise in the researching or writing of the note or comment. First drafts are due some time in August.

Aside from the task of completing one's own paper, first-year members are required to pay their dues, so to speak, by assisting in source checks of nearly completed papers and performing such other essential Journal tasks as proof reading and putting in mandatory office hours. To the uninformed, a source check involves reviewing the various materials cited in an article for proper citation form, as well as verifying that the source material does in fact stand for the proposition cited. Although these duties may be somewhat tedious, they provide first-year Journal members with an opportunity to become familiar with the researching process and thereby assist them in the organization and writing of their own papers.

Benefits of Membership

For those who make it through the writing competition, the tedious source checking, and the seemingly endless article revisions, there are clear and undeniable rewards. All Journal members receive two credits for their own paper as well as two credits per semester when serving in an editorial position.

Perhaps one of the most obvious rewards of Journal membership is a certain aura of competence. Membership on the Journal does in fact open doors in the interviewing process. Many Journal members openly acknowledge that but for their Journal credentials they would not have had the opportunity for even preliminary interviews. Editor-in-Chief Turndorf characterized this year's graduating class as having done "extremely well" in terms of job placement. He believes that although critics may regard Journal membership as a resume "stuffer," it truly benefits students by offering the them the opportunity to analyze legal issues while dealing with the practical problem of meeting a deadline.

While the job-scene edge may be the most obvious advantage of Journal membership, members do acquire valuable researching and writing skills and generally benefit from the constant exchange of ideas that inevitably occurs on a day-to-day basis in the Journal office. On a personal level, most members enjoy the undeniable comraderie that develops during their two years with the Journal.

INTERNATIONAL LAW AT BROOKLYN LAW SCHOOL

by Natalie Jasen

For the student interested in international affairs, BLS offers many ways to develop that interest. Not only does BLS offer international-law courses, there are also several activities involving international law. But in the midst of worrying about domestic-law courses, students are sometimes unaware of what BLS offers. Some students are not even sure what international law is.

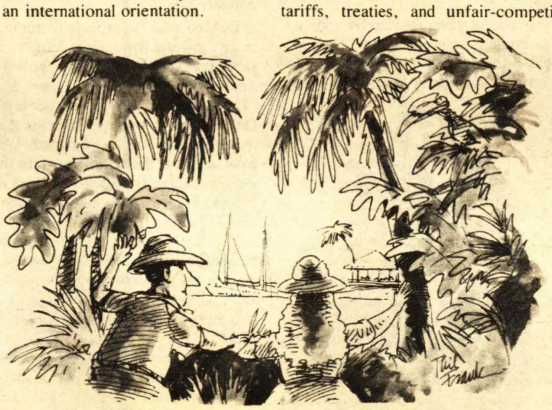
International law refers to those rules and norms that regulate the conduct of states and other entities vis-à-vis each other. Initially, international law was exclusively concerned with regulating interstate relations in the area of diplomatic relations and the conduct of war. This is no longer true. With the advancement of communications, transportation, and commercial technology, states and their populations have come into closer and more frequent contact, and rules have evolved to regulate such contact. The subject matter of international law has correspondingly expanded. This expansion has divided the field into two subdivisions—public international law and private international law.

Public international law refers to the laws governing conduct of and relations between nations. Public laws are made primarily in one of two ways, through the practice of states (customary international law) and through agreements entered into by states (treaties and conventions). Customary international law achieves the force of law through practice and acceptance by the community of nations.

Private international law, or transnational international law, concerns law practiced in corporations and law firms. This law is that between parties from different legal systems or jurisdictions, often crossing national boundaries. This type of law encompasses a broad spectrum of domestic-law issues including corporate and tax law, trade law, conflict of laws, domestic relations, trusts and estates, and treatment of one's own nationals.

International business covers a broad spectrum of activities and is more likely than not to be a part of the future practicing attorney's agenda. Students considering an international-law career in government or private practice should realize, however, that a solid foundation in domestic law is indispensable. Most clients will be more concerned with how international law affects their domestic activities. In addition, "pure" international-law positions have always been very rare.

While keeping these limitations in mind, BLS does offer a variety of courses with an international orientation.



International Law can open up new horizons for you.

Admiralty Law—Two credits, a survey of various topics including insurance, torts, contracts in the maritime context.

Comparative Law—Two credits, an introduction to foreign law with an emphasis on civil codes.

Conflict of Laws—Three credits, dealing with legal issues arising over actions that cut across jurisdictional boundaries.

Criminal Procedure Seminar, Comparative—Two credits

International Business Transactions—Two credits, dealing with issues of business abroad, focusing on the Common Market.

International Law—Two credits, a survey of the history, principles, and problems of international law.

International Trade Law—Two credits, dealing with the impact on U.S. international trade of various factors, including tariffs, treaties, and unfair-competition laws.

Immigration and Nationality Law—Two credits, dealing with U.S. immigration, nationality, and naturalization law.

BLS from time to time offers international-law courses in addition to those listed above. Students should remember, however, that domestic courses remain essential. From an international-law perspective, particularly useful domestic courses to take would be Administrative Law, Corporations, Tax, and Commercial Transactions, because of their impact on international issues.

Other internationally oriented activities are:

At the first-year level, International Moot Court sections may be selected as part of the required writing program. Students are given a problem dealing with international-law issues instead of a domestic-law problem. Research materials are different from those for the domestic problem, and students gain experience in an area within which most are unfamiliar. The skills in writing and reasoning are just as well developed in the international sections as in the domestic sections.

Students who have written a good brief and performed well in Moot Court may continue on during their second year on the Jessup International Moot Court Team. The Jessup team engages with other schools in moot-court competitions sponsored by the American Society of International Law. The Jessup team has won a respectable status among the over 100 schools competing. Students also have the opportunity to compete for membership on the *Brooklyn Journal of International Law*. (See this *Justinian* issue's article on the Moot Court Honor Society and the

continued on page 17

THE MOOT COURT HONOR SOCIETY: AN EXCITING TRAINING GROUND

By Lisa Muggeo

Brooklyn Law School's Moot Court Honor Society, located on the third floor is always bustling with the steady rhythm of hard working individuals. It is a student run organization which actively participates in national intermural competitions.

Moot Court grew out of a reaction by the legal profession to the deficiency of practical skills held by new attorneys. The need to prepare future attorneys with researching, writing and oral skills prompted the birth of Moot Court competition. Now many law schools have active Moot Court programs.

The traditional Moot Court competition, which has become an integral part of the law school experience over the last couple of decades, has recently been subjected to a growing controversy over its validity. Currently, the hot issue being debated is whether Moot Court actually provides the useful experience which its advocates purport it to have. According to Chairman Randy Chiera and Vice Chairwoman Karen Cooke, not only are Moot Court Programs invaluable but an enriching experience unobtainable anywhere else in law school.

Moot Court is sometimes criticized as an expensive program which seeks to create a simulated courtroom environment but provides only a narrow and inadequate replica of the real legal world. Cooke however, strongly disputed these criticisms. "Although the real world is not being recreated," she said, "neither can it be recreated in the classroom. However, engaging in Moot Court competition provides students the opportunity to substantially improve their writing and oral advocacy skills."

There have traditionally been several ways a student can join the Moot Court Honor society. Presently the executive board, comprised entirely of student members, is simplifying the application process. Although the decision is not finalized, the following is a general description of the process of gaining entry into the Society.

The first opportunity to compete for Moot Court Honor Society membership begins in the second semester of the student's freshman year. Students are asked to write an appellate brief and participate in a Moot Court argument as part of their legal writing class. Members of the society and faculty act as judges while students perform oral arguments. Accordingly, candidates are chosen based on a combination of a student's oral and brief scores. They will then be chosen to advance to a subsequent round of competition. Invitations to join the Honor Society are based on the written briefs, oral skills and a showing that the student is willing to devote the time and dedication into Moot Court if extended membership.

In the past another opportunity was provided for students to get on Moot Court through a Fall Intramural Competition but this is not certain to continue in the future.

The Honor Society also participates in a Trial Advocacy intermural competition each Spring, open to second, third, and fourth year students. A problem is presented for which the competitors prepare for and then engage in a mock trial. From this competition students are chosen to compete in an ABA-sponsored intermural Trial Advocacy competition held in February of the following year. They must have successfully completed courses in Trial Advocacy and Evidence before the Spring semester following the school competition.

Successful completion of a course in Appellate Advocacy has also been an alternate means to obtain entry into the Society and will most likely be a required course for all Society members in the future.

Once students join the Honor Society they may apply to compete on a specific intermural team such as labor law, constitutional law, and tax, which are domestic topics or the Jessup team; which involves various issues of international law. Once a student is assigned a team they then are able to compete in intermural competitions which take place at law schools across the country.

Prince Evidence Competition

The Moot Court Honor Society hosts an intermural competition, the Prince Evidence competition, each spring. Teams of two to three students from various law schools submit a brief on a problem presented and then engage in oral arguments before a panel of judges. The panel may be composed of law professors, attorneys and judges.

Participation in these intermural competitions provides students with an opportunity to substantially improve their writing skills. Students are given supervision from Moot Court members and faculty. The competition is an intensive process, and demands much time and commitment, but the results obtained are often of a high quality. According to Cooke, who competed in the Information and Privacy Competition last spring; "The experience presents a high level of tough competition. Its a phenomenal opportunity and when you're done you have the best writing sample you'll get in law school."

Although the prospect of oral arguments may be intimidating to some it is nevertheless a very good experience. "The nervousness is overcome," said Chiera, who participated in the communication and entertainment competition last year. "As soon as you are through you want to go back and do it again. It is almost an addicting experience." The work that goes into a competition; the all nighters, late nights and early mornings, appear well worth it once a student encounters the thrill of arguing in the oral competition.

"It is a 12-month, 24-hour a day operation."

Both Chiera and Cooke stressed the high level of activity necessary in being a Society member. "It is a 12-month, 24-hour operation which involves an intense atmosphere with heavy pressure to meet the deadlines," they said. "Students must put in 100%."

Members have various responsibilities, including administrative duties, coordinating activities and providing supervision to intermural competitors. Chiera and Cooke and the seven other board members often spend 16 hours a day and up to 7 days a week on Moot Court activities. "It's a very intensive, pressurized environment," Chiera said, "but we have a lot of fun!"

The intrinsic value of being a member of the Moot Court Honor Society is that it provides students with the valuable experience of working closely with others on a team, similar to the structure of medium to large law firms. It also gives a student the opportunity to improve their research, writing and oral advocacy skills. Those who compete in an intermural competition earn one credit and fulfill their upperclass writing requirement. Realistically, where future jobs are concerned, not only does it "look good on one's resume" as a significant extracurricular activity, but it will favorably distinguish a student from other competitors in the job market.

Chiera and Cooke extend an invitation to all students to come and watch the Prince Evidence competition at BLS or to stop by the Society's office. Their door is always open to interested students. Notices of all Moot Court events are posted on the lobby bulletin board. The Society also runs seminars and lectures during the school year which are open to the BLS community.

All students are encouraged to get involved in Moot Court activities either as active participants or as supporters of their competing peers. Good luck to those competing in the upcoming intermural competitions!

Member of the 1987-88 Moot Court Honor Society

Al DeMeo: On the Road to Recovery

from page 1

College Hospital for the many transfusions DeMeo would need. The response was tremendous, as students and faculty came down to show their support for this respected and well-loved professor.

"It was wonderful," said DeMeo. "All the students were lining up here to give blood. Everyone in the hospital was wondering who I was, to get so many visitors."

Professor DeMeo's colleagues among the faculty could have told the hospital staff who he is, and why there was such an outpouring of affection for him. "Al DeMeo is a dear, sweet man, a dear friend of mine," said Professor Robert Habl. "He's the house lawyer for BLS. He's performed more real estate transactions for BLS faculty and staff over the years than there are faculty and staff here today. He's incredibly helpful, and never accepts any compensation. He's constantly giving of himself."

"He has a great concern for other people," says Professor Richard Farrell. "He was teaching English to a Chinese staff person at 6:00 AM, the time he got to school every day. It's characteristic of him to give of his time—not only to his students, but to anyone he thought he could help."

DeMeo has been a member of the BLS faculty since 1969, teaching trial advocacy and, recently, real estate practice. His career spans 54 years, beginning with his graduation from Brooklyn Law School in 1934, Cum Laude. During World War 'II DeMeo worked for the U.S. Attorney for the Eastern District of New York, and from 1946 to 1969 he worked as an Assistant District Attorney in the Kings County DA's office, where he was known as a premier felony trial lawyer, according to professor Farrell.

In recent years DeMeo has experienced illness and misfortune. His wife has been a cancer patient for several years, and recently had a leg amputated, herself. Habl said, "He had recently altered their home to accomodate her disability . . . putting up ramps, lowering bannisters, installing other equipment. Lo and behold, he was altering the home for his own disability, and didn't know it."

Get Well Soon!

"He's had enough personal pain to put most of us on our knees," Said Farrell, "but you'd have to know him very well to know there was anything wrong. He always tries to cheer other people up, instead of getting them to comfort him."

DeMeo said he expects to remain in the hospital for a while longer, as extensive physical therapy will be necessary to save his other leg. "They're trying to save the other leg," DeMeo said, "but the muscles and tendons were badly damaged. We have to see if the leg can sustain the weight enough for me to stand on it. It looks like it's going to be a long haul."

Still, DeMeo said he is planning to be back at BLS in time for the beginning of his summer classes, on June 3. "I'm keeping that goal in mind. You have to have a goal to look forward to."

"I miss everyone. I have a wonderful group of students, and I'll be back with them soon," he said. "It'll take some time, but I'll be back."

Matthias Rust: A View of Soviet Law

from page 1

foreign ministry and were told that Rust had been arrested but that no specific charge had been brought against him. Valentin Falin, chief of the official Novosti press agency, stated that Rust would probably have to appear in court to have charges read to him but would be allowed to leave before a trial. Falin conjectured that Rust would be thanked for making the Soviets more aware of the gaps in their air defense system. This view turned out to be an uncharacteristically quick judgment.

The Soviets found themselves in the midst of a great dilemma. Evidently, the Cessna had been spotted by radar crossing the Estonian border, and Soviet air force jets had twice circled Rust but made no attempt to identify his plane, assuming it was Soviet. Rust had turned off his radio and said that no one signaled him to land. The incident led to the dismissal of dozens of military personnel including the defense minister and the air defense commander. As the implications and embarrassment caused by the flight grew in seriousness, the Soviets carefully considered their options. They were torn between supporting their political *glasnost* campaign abroad, dissipating their big, bad bear image, and the logical need to punish Rust so as not to invite future unexpected border intrusions.

West German Disapproval

On June 1, West German diplomats visited Rust in the KGB's Lefortovo prison in Moscow for thirty minutes and were informed that Rust could face up to ten years in prison if convicted. Under Soviet Law, the Soviets have up to ten days after an arrest to disclose what points are being investigated, and the investigation can continue for up to two months before issuance of an indictment and up to nine months in exceptional cases.

That same day, the West German government issued, in a disapproving tone, their first official reaction condemning the flight as "foolhardy." This contrasted with the widespread popularity and hero status accorded Rust in Germany and throughout the world. It was even suggested in the western press that Rust slipped over the border unnoticed because of the reckless celebrating of Soviet Border Guard Day, which coincided with the day of his entry.

On June 8, Rust's parents issued a statement that their son was on a peace mission and had arrived in Moscow to meet with Gorbachev. Interestingly, the day after Matthias landed in Russia, they claimed they had no idea what his motives were and specifically discounted any political motives. They had had no contact with him in the interim. His parents sold exclusive rights to their story to the German magazine, *Stern*, best known for publishing the false diaries of Hitler in 1982. *Stern* reported that Rust was "anti-Reagan, vaguely leftish, and had voted for the West German opposition — "Social Democrats" — in the last election." Evidently the West German Government and Rust's parents were not the only ones preparing his defense. *Stern* paid for his parents to visit their son in Moscow. After three hours at Lefortovo, the Rusts reported that Matthias was being treated well and "even considered one KGB major as his friend."

On July 24, Soviet authorities informed the West Germans that Rust would be tried, although no charges had yet been specified and no trial date was set. The trial would be open, except where state secrets were involved.

Charges Filed

On August 4, it was reported that charges had been filed, endorsed by the prosecutor, and sent to the Supreme Court. Rust was charged with three violations. The first was violation of article 81 of the Estonian criminal code, which provides that illegal entry into the Soviet Union without a passport and visa or permission from the proper authorities is punishable by a term of one to three years. Article 83 of the Russian criminal code covers the same action, but he was charged under the Estonian code because he first entered Estonian air space. The second charge was violation of Article 84 of the Russian criminal code, which covers international flight rules governing air travel, including crossing the border without permission and failure to observe flight lanes and established landing areas, which are punishable by a term of one to ten years or a thousand ruble fine (approximately fifteen hundred dollars) and confiscation of the airplane. The third and final charge was violation of article 206, section 2, of the Russian criminal code, covering those acts considered to be malicious hooliganism, performed with insolence and daring, which are punishable by a term of one to four years.

Hooliganism

Hooliganism is a major problem in the Soviet Union. Last year in Moscow, a controversial film was released titled, *Is it Easy to Be Young?*, a documentary that collaged the lives of several groups of young people in the Baltic republic of Lithuania. A product of the hyperpublicized *glasnost* policy, it was one of the first films to openly portray some of the problems encountered by Soviet youth today, including drugs and rebellion against authority, and some candid statements from young soldiers who had fought in Afghanistan. One part of the film depicted the predicament of several teenagers who had destroyed the interior of a train car after attending a rock concert. They were also brought up on charges of malicious hooliganism. The film shows parts of the actual trial of the boys, including a scene where the mother of one, testifying as to her son's good character and remorse for his actions, appeals to the judge, sobbing, and pleads for a light sentence. They were all given weighty sentences. It seems hooliganism is a "kitchen sink" charge used to keep order and dissuade similar pranks in the future. The Soviets have comparatively little tolerance and understanding for youthful hijinks, an attitude illustrated by their graffiti-free cities.

A three-day trial was ordered for Rust, to be presided over by a three-member judicial panel of the Soviet Supreme Court consisting of one judge, elected by the citizens of the district consisting of one judge, elected by the citizens of the district to a five-year term, and two lay judges, called assessors, who are elected for two-and-a-half-year terms, all with equal voting rights. Conviction requires a majority—not a unanimous vote. The decision to try Rust at the highest level, the Supreme Court, was apparently an effort to dispose of the ease quickly without a lengthy appeals process.

Soviet Advocates

According to procedural rules, the defendant must have at least three days before trial to acquaint himself with his lawyer. The defense attorney assigned to Rust from the beginning of the investigation was Vsevolod Yakovlev, described by a Moscow newspaper as an experienced specialist who had been a member of the Moscow City College of Advocates for twenty-three years. During his career he had participated in many trials, civil and criminal. He speaks fluent German and had served as defense attorney for West German citizens five times before Rust's case.

As an advocate, Yakovlev is a member of the only profession not employed by the state in the USSR. Advocates earn higher wages and have greater opportunity to increase their income. Yet the state supervises all professional activities of advocates as party interests are usually involved. The Soviet Constitution provides for legal assistance to defendants in any criminal action, and a trial will be conducted whether or not the defendant pleads guilty. According to Simona and Roman Pipko, authorities on Soviet Law, an advocate may obtain a permit to participate in special cases such as Rust's, which are investigated by the KGB, through the "access system," whereby he must apply for the permit with the presidium of his college of advocates. Colleges of advocates are equivalent to our bar associations and are distributed regionally. The presidium will then forward the application with letters of recommendation and details about the applicant's practice to the KGB, who will make a decision regarding assignment of the case to the applicant. Lists of advocates with access are on file in every legal-consultation office.

Rust's trial opened on September 2 in a downtown Moscow courtroom, beginning with a recitation of the charges against him. Rust, standing in the defendant's box, admitted his guilt to the first and second charges but not to the third. The presiding judge, Robert Tikhomirov, admonished him on the potential danger of his action. According to the *Times*, Rust stood amidst the two hundred spectators, facing the judicial panel for eighty minutes

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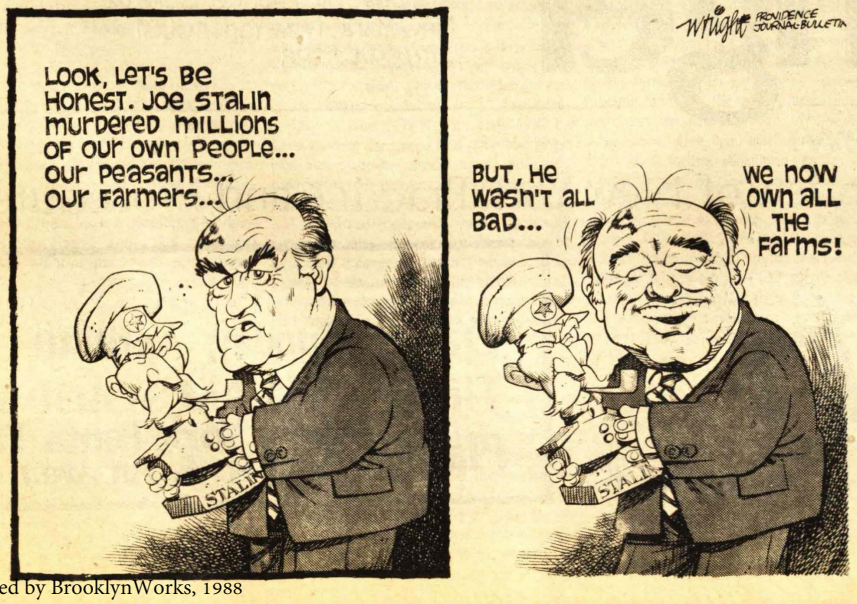


TAX REFORM AND THE LAW SCHOOL STUDENT

The Tax Reform Act of 1986 instituted several changes in the tax law which directly affect Law School students, according to Robert Kobel, public affairs officer for the Internal Revenue Service in Brooklyn.

Beginning with 1987, only degree candidates may exclude from income amounts received as a qualified scholarship, Kobel said. This new rule applies to scholarships or fellowships granted after August 16, 1986. For grants made after that date but before January 1, 1987, prior rules apply to those amounts.

A qualified scholarship is any amount received that is used according to the conditions of the grant for tuition and fees needed to enroll in or attend an educational institution, or for fees, books, supplies and equipment required for courses. Other funds, such as monies received for room and board or travel, are no longer excludable from income.

In addition, all payments for such services as teaching and research, even if they are required as a condition of receiving the grant, now must be included in income.

Students required to file a tax return may no longer claim a personal exemption if they *can* be claimed as a dependent on another taxpayer's return. Effective with 1987 returns, if a student can be claimed as a dependent on their parent's tax return, for example, the student cannot claim the personal exemption on his or her own return.

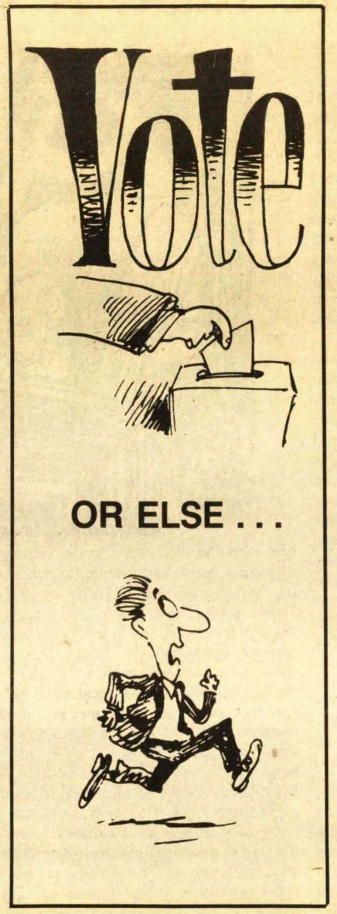
The filing requirement differs for students who are self-supporting and those who may be claimed as a dependent.

A single unmarried student who *cannot* be claimed as a dependent may receive up to $4,440 in 1987 before being required to file. For a married couple—neither of whom can be claimed as a dependent by other than their spouse—filing a joint return, the income threshold is $7,560.

A dependent student may file a tax return for 1987 if his or her unearned income, such as interest, dividends and investment income, exceeds $500. If a depenent student has no unearned income a return must be ffled when his or her income is more than $2,540 in 1987.

Further information is available by calling the IRS toll-free tax assistance number weekdays between 8:00 a.m. and 4:30 p.m.:

In Brooklyn and Queens 596-3770
In Nassau County 222-1131
In Suffolk County 724-5000



THE BROOKLYN LAW REVIEW

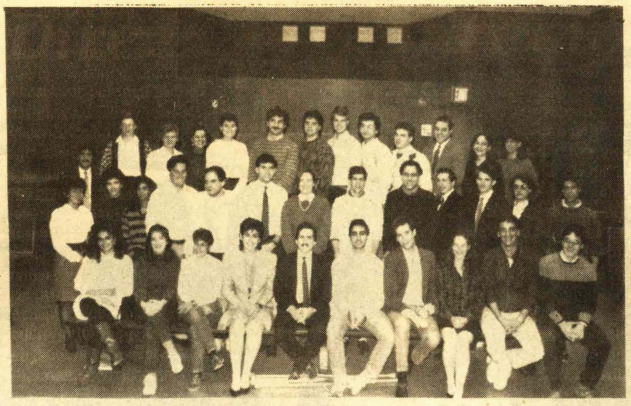
by Ching Wah Chin

The *Brooklyn Law Review* is a scholarly journal of analysis and commentary on current legal issues. To date, more than 350 Federal court opinions refer to the *Brooklyn Law Review* and over 450 State court opinions cite *Brooklyn Law Review* as authority. The *Review* contains articles written by eminent legal scholars, practitioners, and judges as well as student notes and comments on new legislation and case law.

The *Law Review's* current Editorial Board includes Andrea Lowenthal as Editor-in-Chief, Brendan Guastella as Managing Editor, Anne French as Executive Articles Editor, Maria Homan as Executive Comments Editor, and Lawrence A. Kanusher as Executive Notes Editor. There are 24 Editors in all, including 2 part-time students and 4 fourth-year students.

The *Brooklyn Law Review* is doing well at present. After a period of being behind in production (par for the course among law journals), the *Review* has fully caught up over the past two years. The four-issues-per-year goal has been reached, with the Fall 1987 issue already out on the stands. The Winter 1988 issue will be here soon and will include articles on United States District issue will be here soon and will include articles by United States District Judge for the District of Columbia Stanley Sporkin and Columbia Law School Professor John C. Coffee on liabilities of corporate directors as well as student articles by Nadine Klansky on the Bernard Goetz case, Anne French on the inheritance rights of adopted-out children, Patrick Dellay on New York's 1987 Ethics in Government Act, Dawn DuBois on New York's Prompt Complaint Doctrine, Ethan Gerber on New York's Organized Crime Control Act, and Greg Faragasso on New York's Anti-Takeover Statute.

The Members of *Review* take deserved pride in its publication. The *Review* is frequently cited in the Second Circuit, and some issues are particularly reknown. Says Managing Editor Brendan Guastella, "I think the *Law Review* stands up very, very well compared to other New York area journals." The price of such honor is the diligence of every member. *Review* Member Alan Winchester notes, "Someone who doesn't carry his own weight hurts the *Review* because production is set back and the *Review* doesn't get published. The *Review's* prestige is hurt, the faculty's and school's prestige are hurt, and so all the students are hurt."



Members of the 1987-88 Brooklyn Law Review

Understandably therefore, this prestigious publication enjoys great autonomy in its day-to-day operations. The selection of topics, membership, and the Editorial Board, has been left largely to the staff itself. The BLS administration supports the journal financially and even instituted a computer-literacy drive for the *Law Review* with the help of the Faculty Publications Committee, headed by Professor Margaret Berger. Both Westlaw and Lexis terminals as well as computers and printers are within its offices. The Faculty Publications Committee also advises the *Review* on issues which affect BLS' reputation. These issues include policies such as those related to academic standards and plagiarism.

The Selection Process

There are several ways to become a member of the *Law Review*. The majority of its members are selected through the writing competition held jointly with the *Brooklyn Journal of International Law* after spring finals. After paying a registration fee, students receive a packet with all the materials they'll need to complete their writing assignment in 5-10 days. This past year the assignment was a case comment. The year before was a judicial opinion. No outside research is permitted and a point penalty is applied to late entries. Every entry will be read by 3 different editors who score them on the basis of organization, legal analysis, and writing style. A cut-off score sends the best papers to the next round to be read by 3 more editors. Approximately 10 people are accepted solely on the basis of the quality of their entry, a process unique to BLS. For the remaining candidates judged equal in writing ability, grades become the deciding factor.

At the discretion of the Executive Board, up to four first-year students may be pre-selected for *Law Review* on the basis of their moot court briefs. The editors choose from those briefs submitted by the writing professors as the best from their respective writing sections. Last year, three students were accepted on the basis of their beliefs.

Students are urged to enter the writing competition. A larger staff not only helps ease production of the journal, but also creates a larger pool of papers to be selected for publication. There will be a meeting near the end of April to describe the *Review* and the writing competition in detail. There were 30 new members last year and probably about the same number of students will be accepted this year.

What Membership Entails

Joining the *Review* promises lots of hard work. There are two main tasks: writing a paper for publication and source checking, proof reading, and galley reading other papers which have been submitted.

Paper topics are suggested by the editorial board. Students may find their own topics, but most receive topic approval from the Editorial Board. Students start writing their papers during the summer. Each paper is read 3 or 4 times by the author's primary editor, and then several times by the executive editors; the faculty advisor also reads and critiques the article. Usually a half-dozen re-written drafts are submitted; there is no presumption that they will be published. Being on the *Law Review* merely offers the opportunity to be published. Any paper that is published satisfies the upper-class writing requirement, in addition to giving 2 course credits to the author.

The second task for *Law Review* members is to source check and examine the finished layouts (known as clean reading) for other authors. The student is expected to finish source checking within about 2 weeks and clean reading in 5 days. Source checking could consume an enormous amount of the student's time if an article is long and complex.

During the semester, a member's average extra weekly workload from *Law Review* easily surpasses 20 hours. *Review* members are also required to put in 3 hours of office work per week.

Benefits of Membership

Near the end of the semester, the *Law Review* chooses its editors for the coming year. Editors receive an additional 2 course credits for each semester they work. There is an interviewing process where the editors question current members about what positions those members are interested in. Although the members do submit resumes, grades are not a factor. The current editors then vote for the new editors. Those members who do not become editors are those who have not submitted a publishable article and they are eligible for senior staff positions.

Besides offering the opportunity to be published, being a member of *Law Review* enhances the student's career opportunities. The work involved greatly improves the student's legal research and writing skills, which can sometimes offset less-than-dazzling grades.

Beyond the skills honed by being on the *Review*, however, students find that membership establishes a sense of comraderie. As Alan Winchester says, "People are looking out for research material for me, and when they see it, they will clip it out and leave it in my box, and it's very nice. You have a lot of support from fellow members of the *Review* for you to turn out the best paper possible." And Brendan Guastella says, "I'm walking out with some very good friends, a job, and a published paper. I've spent a lot of frustrating grim nights here with more work than I'd like but there have also been a lot of pleasant days with people I love to work with. The friends I made here are perhaps the foremost thing."

Conquering Sexism Through Casebooks

by Lynn Hecht Schafran

For the last six years I have been Director of the National Judicial Education Program to Promote Equality for Women and Men in the Courts (NJEP), a program designed to help judges understand how gender bias in all its permutations—stereotyped thinking about the nature and roles of women and men, society's perception of the relative worth of women and men and what is perceived as women's and men's work, and myths and misconceptions about the social and economic realities of women's and men's lives—affects judicial decision making and courtroom interaction. During these years one of the comments I have heard most frequently is that NJEP's concerns will be taken care of by time. That once the older men now on the bench retire, the next generation of judges, and certainly the judges of the future now in law school, will not share the gender based biases of judges on the bench today. This may be an accurate forecast in a few respects, but a study of the seven leading criminal justice casebooks to be released early next year makes it depressingly clear that unless law schools act now to integrate a consideration of gender bias into every relevant course, the National Judicial Education Program will have to remain in business indefinitely.

Lynn Hecht Schafran is an attorney and directs the National Judicial Education Program to Promote Equality for Women and Men in the Courts, a project of the NOW Legal Defense and Education Fund in cooperation with the National Association for Women Judges. She is Special Counsel to the New York City Commission on the Status of Women, immediate past chair of the Committee on Sex and Law of the Association of the Bar of the City of New York, and a member of the new American Bar Association Commission on Women in the Profession.

What will time cure? Most of today's judges had few women colleagues in law school or practice. Given the influx of women into the legal profession, the assumption of many of these judges that "lawyer" or "judge" is synonymous with "white male" will fade. With it will go the repeated questioning of women attorneys as to whether they are attorneys when any man with a tie is assumed to be one, the overly familiar forms of address, the sexist remarks thought to be jokes or pleasantries and the overtly hostile courtroom comments such as "I will tell you what, little girl, you lose" and "I don't think that ladies should be lawyers" for which judges in New York and Chicago were recently disciplined. Of course, whether these behaviors will cease completely becomes questionable when one knows that two years ago the Harvard Law Women's Association had to advise the faculty, in a pamphlet about how to create a non-sexist classroom environment "Don't Tell Sexist Jokes, Stories, Poems or Parables."

Men changing diapers

Changing lifestyles and greater flexibility in women's and men's roles can be expected to influence judges' views about matters such as custody. The next generation of judges is less likely to denounce a custodial mother who wishes to move with her child for a major job opportunity as a "careerist," as happened in 1983 in Louisiana, or to write that he would never award custody of a boy to a househusband because with such a role model the child would be "socially crippled when he is an adult," as happened last year in Iowa.

But it is naive to assume that more women practicing law and more men changing diapers are all that is needed to eliminate gender bias from the courts. Judges today ask women victims of rape and domestic violence what they did to provoke their attackers, give two years of rehabilitative alimony and a lecture about employment to divorcing women who have invested thirty years of human capital in homemaking for the benefit of their husbands and children, and assume that because pornography is sold at newsstands women do not mind having it forced on them in the workplace. These kinds of gender bias will not evaporate merely because of changing sex roles.

At a 1987 National Judicial College sentencing institute the hypotheticals included one in which a woman raped by a stranger sustained no physical injury. Several judges in one discussion group opined that the appropriate sentence for the rapist

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Mark Baker: The "Other" Goetz Attorney

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Ramseur.

During cross-examination by Slotnick, Ramseur became contemptuous and unruly and had to be restrained by court officers after he apparently began to lunge toward Slotnick from the witness box. Ramseur then refused to answer certain questions, which prevented effective cross-examination. Consequently, Goetz had the right to strike the entire testimony as violative of his confrontation right.

Baker wanted the testimony stricken for both trial and appellate reasons. Ramseur was the sole witness who said only one of the youths had approached Goetz in the subway car. According to Baker, this was the only testimony which was contrary to Goetz's statements and would have supported the prosecution's position that Goetz was not in danger, thereby undermining his legal insufficiency argument and creating a question of fact for the jury. If the testimony were stricken, however, Baker could move for dismissal at the end of the prosecution's case. In addition, Baker could argue on appeal that the prosecutor did not, as a matter of law, meet his burden of proof of disproving justification beyond a reasonable doubt.

Slotnick, on the other hand, wanted to keep the testimony in. The value of keeping the testimony, from Slotnick's perspective, was that a large portion of his opening statement to the jury was devoted to Ramseur's characteristics and criminal record. During his testimony, Ramseur gave the appearance of being dangerous and hostile. If his testimony were stricken, Slotnick would be unable to make any reference to it during his summation.

For Slotnick's purposes, Baker sensed that the jury already knew of Ramseur's character, so that a formal record of his uncooperative testimony was not needed. Baker ultimately prevailed and the defense team moved to strike Ramseur's testimony; and the motion was granted.

Apparently, Baker's instincts were on target. After the trial, juror Michael Axelrod remarked on a national television program that the jury was well aware of Ramseur's demeanor with Slotnick and prior criminal record. "When you see a person," Axelrod noted, "you make judgements."

Pre-Trial Decisions

The defense team made three firm pretrial decisions. First, Goetz was not to take the stand because the prosecutor would have subjected him to vigorous cross-examination. The defense team considered its adversary, Waples, to be a "brilliant prosecutor." According to Baker, the defense team did not want to give Waples the opportunity to "exploit his professed view of Goetz's personal psyche." Waples, characterized Goetz in his opening statement, as a "paranoid, seriously troubled individual . . . eager for confrontation."

The second decision was the "shifting burden tactic." The defense team decided

Attorneys Mark Baker and Barry Slotnick

to aggressively assume the burden of proof by showing, beyond a reasonable doubt that Goetz was innocent of the charges, in spite of the fact that the prosecutor held the burden of proof.

The third decision, which was considered by the team to be the "biggest gamble" of the case, involved Goetz's two-hour videotaped confession made after his surrender in New Hampshire nine days after the shooting. Under well-settled constitutional law, according to Baker, Goetz's initial refusal to talk to New York City officials should have been "scrupulously honored." The decision not to move to suppress the videotape caused a great deal of "second-thought" for Slotnick and Baker throughout the trial.

The rationale for not moving for the exclusion was the team's belief that the tape demonstrated Goetz's broken emotional state. Slotnick hoped the jury would respond with "sympathy" to Goetz and realize that he was an honest man once they saw him talking for two hours without benefit of counsel.

The most troublesome aspect of the confession was the portion of the tape where Goetz stated that he approached one of the youths who appeared unhurt, "you seem to be all right, here's another," and then shot him. As Slotnick and Baker always anticipated, the explanation of this last "fifth shot" was to provide the main focus of the trial.

The Fifth Shot

Goetz's claim on videotape that he paused between the shots would have undermined the defense's goal of taking the offensive by proving Goetz's innocence. The defense did not want to go the trial without a plausible theory for the jury regarding Goetz's actions.

A solution arose almost by accident when Baker happened to read a magazine article on self-defense and the nervous system. The article, "Self Defense: Harnessing the Autonomic Nervous System," by Nicholas A. Fontana, appeared in the November 1984 issue of *The Champion*, a monthly magazine for criminal defense lawyers. The article described how police officers and soldiers do not always hear the shots that they fired from the weapons, nor are they aware of how many times the trigger was pulled.

The article described how chemicals in the body produced by fear can put a person on "automatic pilot" and completely distort a person's memory. Baker believed it might be possible to characterize Goetz's taped confession as a distortion of his memory of the shooting, involving much "confabulation."

Mere theory, of course, is not enough to win acquittal. The defense needed the right expert witness. After more than 50 phone calls around the country by Baker, and his assistant, to police psychiatrists, victimologists, and neurologists, Dr. Bernard Yudowitz, a Massachusetts neuropsychiatrist, was selected. Yudowitz testified that once a person's nervous system shifts into "automatic pilot" during times of extreme fear and stress, the mind cannot stop any bodily response. In Goetz's case, once he felt that he was in a life-threatening position and started shooting, he could not control his actions. His body's physiological responses controlled and not his mind, much like the police and soldiers under extreme stress in the article, the defense was later able to argue that Goetz's admission that he paused before firing the last bullet could be characterized as merely a distortion of his memory.

Slotnick and Baker later convinced New York Supreme Court Justice Stephen G. Crane, over the strenuous objection of the prosecutor, to modify the original jury instructions to include the consideration of the "automatic pilot" theory. The jury ultimately accepted Yudowitz's theory regarding Goetz's admission along with the supportive testimony of all but one "subway" witness who stated that the shots were fired in rapid succession, with no interval between the fourth and fifth shots.

The Defense's Support Team

Many are under the impression that the firm of Slotnick & Baker is comprised of a large number of criminal defense attorneys and numerous support personnel. In fact, there are only two associates in addition to the two partners, one paralegal, and two independent attorneys who serve of counsel. When a major case arises, various combinations of the staff work long hours together, at times for years, to prepare for a case. An informal air permeates the firm. "Barry" and "Mark" are the names used around the office during planning sessions: not Mr. Slotnick and Mr. Baker.

On a personal level, the two members of the team are at opposite ends of the spectrum in their Sartorial styles. Baker is rarely seen without his signature suspenders, rolled up sleeves, and well-worn bedroom slippers Slotnick, on the other hand, is always meticulously attired in custom-made three piece suits. Baker drives a jeep: Slotnick prefers limosines.

Key roles at the firm are frequently interchangeable. For example, Baker did most of the trial preparation for the Goetz case, in spite of his role as appellate attorney, because Slotnick was representing a co-defendant in the federal trial of John Gotti, reputed underworld boss. Paralegal, Gillian Coulter, a Fordham Law School student, is considered to be one of the key members of the team. Goetz, who was involved in the planning of the defense, called Coulter "a walking encylopedia of facts."

Another member of the Goetz team who is retained by the firm to work on various cases is Frank King. He is credited by the defense with developing one of the most dramatic strategies used during the trial, by turning the courtroom into a stage.

Bullet-by-Bullet Reenactment of Shooting

The defense team turned the testimony of their ballistic and forensic witnesses into a graphic live portrayal in the courtroom. Frank King, a private investigator and former New York City police detective, who had been retained by the firm to work on the case, devised a plan to demonstrate the defense team's arguments regarding the shooting, especially the "fifth shot." With the help of the defense's two chief witnesses on the shooting, Joseph Quirk, a former ballistics detective with the New York City police department, and Dr. Dominic DiMiao, former chief medical examiner for New York City, a bullet-by-bullet reenactment was orchestrated.

Baker in his suspenders

King himself portrayed Goetz and the four youths were portrayed originally by volunteers from the "Guardian Angels," young persons who patrol the subways, who had supported Goetz during the trial. They were later replaced by court officers, following Waples' renewed objections. The actors froze into contorted positions, as the bullets were supposedly fired. The defense attempted to show that the trajectory of the bullets and the angle of their entry into the youths' bodies would have made it impossible for them to have been either shot in the back during fight, or in any sitting position, and that Goetz never moved for the duration of all five shots.

The testimony and demonstration were contrary to the claims made by the prosecutor regarding the manner in which the youths had been shot and even to Goetz's own videotaped account, as the defense had argued.

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Mark Baker: The "Other" Goetz Attorney

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Baker's Unique Trial Tactics

Baker developed a number of interesting trial tactics which contributed to Goetz's acquittal of the major charges.

Goetz faced multiple weapon charges. In addition to the .38-caliber pistol used at the shooting, Goetz was charged with illegal possession of two other guns, which he had given to his neighbor, prosecution witness Myra Friedman, after the shooting.

Baker suggested that Slotnick attempt to portray her as an accomplice, since she was in possession of the weapons. Under New York Law, if the only evidence of a crime is given by an accomplice, it must be either corroborated or dismissed as legally insufficient.

During Slotnick's relentless cross-examination, Friedman admitted that she had held on to the guns for a few days before turning them over to the police and had discussed with Goetz the manner in which to dispose of the weapons. Slotnick again stressed her role as an accomplice during his summation.

Crane's jury instructions, at Baker's later request, included the requirement that the prosecutor must establish independent evidence of her testimony to find Goetz guilty of the charge, if the jury found Friedman to be an accomplice. The jury found for Goetz on these weapons charges.

Another interesting tactic was formulated by Baker to dramatize the defense's objective that Goetz was innocent. Well before the trial began, Baker recommended that large, poster-sized black and white photographs of the youths he displayed on easels next to the witness stand during the testimony. He anticipated that the prosecutor would present the youths in a clean-cut, well-attired fashion, contrary to their dress and demeanor on the subway car the day of the shooting. So, Baker sought out photographs which showed the youths at their worst: belligerent poses taken after an arrest or merely frightening-looking stances.

The door for using the tactic was opened, according to Baker, when Waples, attempting to bolster the credibility of one of the youths, Troy Canty, who was attired during his testimony in a sedate suit, asked him whether his present image was the same as the "way you looked on December 22, 1984," the day of the shooting. Baker counseled Slotnick that now was the time to show the contrast in the appearance of the youths. When Slotnick cross-examined Canty, he pulled out the posters and asked if they were photographs of the witness and his friends at the time of the incident. The posters stood on the easels in full view of the jury for the duration of the trial.

Baker's Appellate Plan In Event of Conviction

"I was loaded for bear for the appellate court," Baker claims, in the event that Goetz would have been convicted of the major charges. During the course of the trial, Baker kept extensive notes on every witness and had developed over 18 issues that would have been raised on appeal, in addition to the propriety of the convening of the second grand jury which indicted Goetz after the refusal by the first one to do so.

The major thrust of the appeal would have focused upon the trial judge's evidentiary rulings. Baker claims that if the team would have been allowed to admit certain planned testimony into evidence, the trial would have been extended by two weeks. An example of the precluded evidence included the testimony of a number of crime victims, who had experienced several previous attacks and had reacted in a manner similar to Goetz, after their initial confrontation. Baker wanted to show that Goetz's behavior was that of reasonable person who had been the victim of prior violent attacks. In another area, Baker would have argued that he was improperly precluded from introducing testimony on the prior violent, group activities of the four youths who had confronted Goetz, in order to demonstrate their intent at that moment on the subway to commit another gang attack, to further support Goetz's justified self-defense judgement.

Advice on Building a Record for Appeal During Trial

"If you are going to win win any eventual appeal even while you are trying to win an acquittal, assume for argument's sake that you are going to get a conviction." Baker's recognition of structuring the trial record in his favor in the event of an appeal is attributable to his 10 years' experience as a prosecutor. From 1972 to 1976 he was an assistant D.A. in Brooklyn, assigned to the appeals bureau, and from 1977 to 1983 when he worked for the special state prosecutor investigating corruption in the New York City criminal justice system, serving as chief of appeals from 1979 to 1983. He has argued over 150 cases in New York State appellate courts, including at least 30 appearances in the state's highest court, the Court of Appeals.

Slotnick first met Baker, a Brooklyn Law School graduate, as an adversary, and, Slotnick candidly admits, "he beat me on appeal." Baker joined Slotnick's firm in 1983 and was named his partner only three years later.

Attorney Mark Baker in his office.

"Always think of how you want that record to look," Baker advises. "What objections should you have made? What exceptions should you have taken? What evidence should you have offered? What witnesses should you have told the judge you wanted to call? What motions *in limine* should appear in the record?"

"The advantage of foresight and planning will be on your side, if you project yourself into the appellate court at the very beginning of a trial." Baker advises. "You cannot change the record once it is created."

The Toll of the Trial

The intense efforts expended by the defense team in the Goetz case over two-and-a-half years, from the convening of the first grand jury to the acquittal, was not without its toll on Slotnick and Baker. Although they averaged 20 hours a day on the case, each had other cases to handle.

The intense media scrutiny, on a local, national and international level, created another pressure not normally encountered during an average trial. As Baker noted in a national law publication, "If you don't give answers you create hostility. There is an incredible hunger for information, and if you don't feed it, it begins to turn on you." Slotnick and Baker were the subject of constant interviews and articles, and appeared at many conferences to discuss the case.

Following the acquittal, Baker ended up in the hospital, fighting a bad case of pneumonia. Slotnick was attacked on the street in front of his office by the assailants and suffered a broken wrist.

Does Baker look forward to another case of the magnitude of Goetz? He responded: "The case was the most fascinating that I was ever involved in. The legal issues were intricate and the case hit a nerve with the public. But it is probably a "once-in-a-career-encounter."

His dream? "To run a ski chalet in Vermont and deal with an occasional appellate brief." At age 40, he probably won't be on skis on a full-time basis for quite a few years.

Advice to Law Students

Baker recommends that law students participate in moot court writing competitions, clinics and oral and appellate advocacy courses to hone their skills as a courtroom advocate.

He noted that one of his major concerns regarding trial lawyers is they forget about the law library when preparing the case. His favorite anecdote on this topic involves a young trial assistant at the D.A.'s Office who attended a meeting to report on a case. When asked if he checked with Shepard before presenting his report, the trial assistant said: "No. What office is he in?" Baker cautions trial lawyers who "go on instinct" to prepare carefully for every trial contingency.

Baker said that his most influential teachers at Brooklyn were Dean Prince, Professor Gershenson and Professor Richard Farrell. Each were "great lawyers and greater teachers, who made the most drab legal principles seem exciting and interesting," according to Baker. He also noted that *Richardson on Evidence*, which he used at Brooklyn, was concidered the "Bible" on questions which arose during the Goetz trial.

THE BLS TIME-WARP: ANOTHER VIEW ON TECHNOLOGY

by Ching Wah Chin

It was another hot sunny December Saturday in Brooklyn since the world had turned around and was spinning backwards. The New York Lankees were going to play the New Jersey Myets in a Subway-PATH series, and the school was nice and quiet.

I was in the elevator on my way up to the student lounge, when Albee Techo entered on the ground floor. Knowing that the elevator was going to take at least another twenty minutes to close its doors, I asked how this term was turning out for Albee.

"Love it!" he replied. "Couldn't be better!"

And why was that? I asked.

"Everything's a breeze since I got my own Bestlaw and Plexis account at home! Stuff I used to do in weeks now takes me days!"

Really but isn't it expensive?

"Yeah, but since I won the Blotto jackpot, why shouldn't I make my life easier? Besides, now I have time to watch "Rolling for Dollars!"

You still have time for television? But finals are coming up . . .

"Hey, like no problem! I just picked up a brand-new Tekkozap lap-top typewriter! I'm going to register to use an electric typewriter and ace those finals!"

A typewriter! How is that going to help?

"Oh come on! The Tekkozap typewriter has enough memory to store 8000 pages of text and 300 forms. It can change, delete, swap, underline — just about everything!"

A typewriter? That sounds more like a word processor. . . .

"Gads! Be with it! I didn't say it could change fonts or insert graphs, did I? Where have you been? Tekkozap's just a top-of-the-line typewriter! It doesn't even have a programming language, for crying out loud! Why don't you stop eating all those Borito chips for lunch?!!"

But wait, won't you have an unfair advantage over the other students?

"Huh? What are you talking about? It's not like I stuck Casey's Hornbook and Manny's Outlines in the machine's memory! That would be cheating! What kind of lawyer do you think I am? You don't think any BLS student would do THAT?"

No, I just meant that you would be able to type while the other students wrote by hand.

"So what? They probably like writing by hand! Besides, what's the difference? A typewriter is a typewriter! BLS has allowed typewriters at finals for years!"

But they weren't thinking about an expensive machine that could store and edit eight thousand pages of text with three hundred ready-made forms. . . .

"Forms schmorms! What's the difference? If they were worried about it, they could have said that no typewriter with memory would be allowed! And you can't buy a typewriter nowadays without memory unless you're talking ANTIQUE! And BLS is a modern law school! We're here, we're now, we're pow! None of this old-fogey stuff! I bet you're still planning to use a pen at the exams! For crying out loud!"

Well, yes. I like getting finger cramps and wrist strains. Besides, I like eating and paying the rent. Not all of us can afford a Tekkozap.

"Hmm! Maybe you have a point there! But look! At least I'm not bringing in my Waltomatic Mark III with its great legal spelling and citation checker! Now that's REAL Nifty!"

I guess. You're a good guy, Albee.

"Yeah, I know! Tell you what! I'm not using my old Dippywriter anymore since I've got the Tekkozap! My greatgrandfather gave it to me, but it still types two thousand words per minute, and you're a fast thinker — not like me — so you can use it more anyway! You can borrow it for the finals! How's that?"

Thanks, Albee. You're a good guy.

"Yeah, I know! Look! This elevator is taking forever, I'm going to walk up to the fourteenth floor gym! Give me a call, Okay?"

Sure thing, Albee. Take care.

Just then, the elevator closed and went back down to the basement. It was another BLS day.

EDITORIALS

Divestment Decision Lets Us Stand Tall

Never is a law school presented with a more formidable task than when asked to take a bold political stand on a critical issue. A generation ago Civil Rights, Vietnam, and the ROTC captured the minds of students and tore apart many universities and graduate schools in divisive protests.

Today the issue is apartheid, the miserable policy of the South African government that systematically devaluates the lives of that country's black majority and leaves them disenfranchised or, too often, dead. Though the flames of protest in this country have lost much of their intensity in the past year, in large part because of South Africa's policy of excluding foreign media, we have not forgotten the painful images of despair or the dreams of South African blacks.

Last month Brooklyn Law School added its name to a long list of institutions that will divest its funds from companies doing business in South Africa. The decision involves a structured divestment of funds, based on an analysis of corporate activity reported by the Investor Responsibility Research Center.

Whether our stand against apartheid will lead to significant, peaceful change, we can only hope. We are convinced it is a step in the right direction. We congratulate the Board of Trustees on their decision and applaud the efforts of dedicated students and faculty, particularly Prof. Gary Minda, whose efforts have made us all proud once again to be a part of Brooklyn Law School.

ID Checks A Necessary Response To Security Lapses

Two weeks ago we learned of another incident involving an intruder in Brooklyn Law School, this time with near-tragic results. A man entered the law school shortly after 1 P.M. on Monday, February 22, went to an upper floor classroom where a lone female student was sitting, exposed himself, and came perilously close to assaulting her. Fortunately, the student escaped without physical harm. The intruder was caught and arrested.

The Administration was faced with two options; try to sweep the incident under the carpet or do all necessary to see that it could not be repeated. At first, it seemed like the School was content to keep the women's restrooms locked and little else. We were pleasantly surprised. On February 26 the School announced a policy of checking ID cards upon entering the building, effective March 5.

It was a bold move. It was also the right move. The School's fine urban location is of a diminished value if students and faculty cannot feel secure within its halls. Certainly, the new policy will not come without its critics. Some will cite the intrusion of ID checks, others the "unnecessary" delay. These arguments, however, are of minimal merit. A bit of patience is not too much to ask to avert a tragedy.

We trust that the Administration will enforce their new policy with vigor. What happened on February 22 was a warning and a painful reminder that we live in a dangerous world. We do not need another reminder.

Library Conditions: Let There Be Light!

Mention the library and you are bound to hear your share of complaints about lack of ventilation, noise, availability of certain materials, etc. A more recent problem, however, has been that of lighting. On the second floor at least, it appears you have a little better than a 50/50 chance of sitting at a corral that actually has a working light. That is, if it has a bulb at all (We won't even mention the problem of the incessant buzzing of the fluorescent bulbs). While we are sure that the administration has numerous other matters with which to occupy itself, lighting is about as basic as you can get. Please fix the bulbs!

If Your Jury Is Still Out . . .

A Special Note From Your ABA/LSD Representative

Dear Classmate: If you are reluctant to make a commitment, I know how you feel.

But, there is so much to gain through membership in the Law Student Division of the American Bar Association, the nation's largest and most prestigious organization in the legal profession.

And I can testify that the benefits far outweigh the $10 cost. These include valuable publications, insurance programs, and a $70 discount on the Preliminary Multistate Bar Review (PMBR) course.

Also you can take advantage of a MasterCard program that offers a card that is *free*, with competitive interest rates.

Maybe I'm prejudiced, but stop and think. With the constant changes facing the legal profession, what better way can you complement your legal education and get the jump on the "real world" than through the wealth of accurate, concise and timely information you'll receive as a law student member?

I hope that you will weigh the "evidence" and accept this special invitation to join, today.

Brenda L. Byrd

P.S.: Watch for the following upcoming events:
—Health/Life Insurance Program
—Information Fair/Party
—Law Day Program

THE JUSTINIAN
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Dangerous Security Lapse

To the Editor:

One of the first things I received from this school before I began my first year was a key to the womens' bathrooms that was mailed along with various other school information. I recall being surprised that the bathrooms were locked, but I understood when I arrived at school. Despite signs stating that I.D. cards were required to gain admission to the library, I have never seen anyone show I.D., and rarely anyone questioned about their entry into the school building.

On Monday, February 22nd at 1 p.m., a female student was studying in an empty 5th floor classroom when a man entered and asked her the time and when the next class would begin. The next time the student looked up, the stranger had his pants zipper open and had his penis out and erect. She quickly left the room and ducked into the empty classroom next door. The man followed her into the room, approached her from behind and rubbed himself against her. She then ran into an elevator and he fled down the stairs and into the street. Shortly thereafter he was arrested by police with the assistance of the student and a BLS security guard.

Last month a man was found waiting in a women's bathroom with the lights out. As a woman entered the bathroom and was about to switch on the lights, she saw a shadowy figure and left immediately.

These are two incidents that I happened to learn about purely by accident. I probably would not have known about them if I had not been told first hand. Why are these and other incidents not being made public to the BLS community? Isn't it time that we wre told what is happening to fellow students? Mysteriously, last year the women's bathrooms were suddenly unlocked without any explanation, as if the danger that had necessitated the locks in the first place had gone away. Is this somebody's idea of "protecting" student from an upsetting or scary attack? If you really want to protect us how about letting us know what in the world is going on in our own school?

When we walk into our school building where security guards (who are friendly and concerned) clearly make their presence known and where bathroom doors contain heavy locks (albeit unused), many of us are lulled into a false sense of security. I certainly wouldn't think about someone hiding in a dark bathroom or that a midday study break in a classroom is a setting for sexual assault. Without a firm policy requiring students to produce identification cards (as do other NYC law schools) and using the bathroom keys we were all so scrupulously issued, school security is ineffective and cosmetic.

Andrea Montague
Lisa Muggeo
Legal Association of Women (LAW)

HOW WE DOIN'?

The Verdict Is Finally In: BLS '87 Graduates

THE FOLLOWING TABLE INDICATES THE PASS RATES FOR FIRST TIME TAKERS BROKEN DOWN BY CLASS RANK (JULY 1987 EXAM)

STATEWIDE PASS RATE: 65% BLS '87 AVERAGE: 71%

*CLASS RANK	PASSING %
TOP 25%	96.2
2ND QUARTER	87.7
3RD QUARTER	69.2
4TH QUARTER	29.3

*Source: Dean Wexler

An Open Letter to Professor Ronayne

To the Editor:

On Tuesday, February 16, you began your criminal law class with the customary anecdote pertaining to criminal law. Tuesday's "amusing" story dealt with a quote of a California Judge who wryly observed that an illegal alien from Mexico who was a criminal defendant should not be deported because "after all, we let the 'Cuban faggots' stay."

Most of the class found this quote uproariously funny. Some were outraged by the perpetuation of bigotry and the lack of historical perspective displayed by both the Judge and those members of the class who found it funny (including yourself, Prof. Ronayne).

"Cuban faggots" were deported via the Mariel Boatlift when Castro allowed prisoners to emigrate to the U.S. The fact that homosexuals were persecuted and imprisoned in Cuba because they were gay is only the beginning of their hardships: in the U.S., they are further subjected to the stigma of being "Marielitos" and the snide comments perpetuating homophobic bigotry such as yours. Prof. Ronayne, as a law professor, you have a greater responsibility to your classes than you showed on February 16th when you allowed your students to wallow in their ignorance.

The Gay and Lesbian Law Students at BLS write you this letter because those Gay and Lesbian students in your class who were offended by your joke are also sufficiently intimidated by the homophobic atmosphere of this school that they are afraid to bring their complaints to you personally.

Gay and Lesbian students of Brooklyn Law School refuse to bear in silence homophobic jokes in the classroom and from this day forward, will respond loudly and actively against institutional homophobia.

We hold you personally responsible for perpetuating bigotry.

Gay and Lesbian Law Students (GALLS)

BLS Divestment Policy Must Be Monitored Closely

To the Editors:

Apartheid is one of the great crimes against humanity. History will remember its supporters in the same diabolical light as it does other enemies of humankind.

The Black Law Students' Association (BLSA) of Brooklyn Law School is pleased that the Board of Trustees has finally decided to divest the school's investments in companies doing business in South Africa, thereby avoiding this taint of inhumanity. As stated in our previous letters to the BLS community, BLSA believes divestment will facilitate an end to the reprensible policy of apartheid and lends moral support to the African struggle for freedom.

Now that the decision has been made, the Trustees and the Administration face a greater challenge which is the rapid implementation of the divestment policy. These parties must now set goals and timetables for complete divestment. Both the students, through the SBA and groups like BLSA, and the faculty must continue to pressure the Board and the Administration to go through with their decision. BLSA does not want the school's divestment process to mirror the slow desegregation of schools which occurred after *Brown v. Board of Education* was decided. The Trustees and the Administration must establish a reporting system whereby the students and faculty will be able to monitor the progress of divestment.

THE WORK HAS ONLY JUST BEGUN!

Black Law Students' Association, Brooklyn Law School Chapter

Keep Your Sleaze To Yourself

Overheard conversations, as far as I'm concerned, are the bane of my law school existence. In the first year, they served to aggravate my slightest anxieties about papers, exams, grades, and jobs. Not to mention class participation. "Oh yeah, I've heard that professor really embarasses students if they don't understand the question."

I'm well out of first year, however, and overheard conversations continue to bother me. Of course one of the things you *learn* first year (there should be a syllabus of non-academic subjects) is to discount seventy-five percent of everything you hear, directly or indirectly. So perhaps I'm making a mountain out of a molehill. Nevertheless.

I was in the cafeteria, reading and munching. Two guys sat at a table behind me, close enough that I couldn't avoid hearing their conversation. They must have known I was there, and could hear. (I don't know who they were, didn't recognize the voices, and couldn't pick them out of a lineup if they were pointed out to me. I also don't know if the tenor of their conversation would have been any different if they had been women.) Partway through their conversation, it started to register on me.

One guy intimated that he had lifted large sections of text from something and used them in a paper he was doing. Although I had registered some talk about using the language from judges' opinions, it seemed this was beyond that. The second guy remarked casually, "You pulled a Joe Biden?"—which the first didn't deny, exactly. In fact, he said, the piece from which he'd worked was so full of mistakes that he had spent a lot of time on it, fixing it up. The second one said this professor really looks for copying, which I took to mean, you better have altered it or you'll get caught. They agreed, laughingly, that this course was "bogus" anyway.

Conversation turned to a lawyer in the news who was being investigated for drug use, which, to give them their due, these students took reasonably seriously. However, eventually this, too, gave rise to a joke: "He's not smoking crack anymore—he's too overweight." (Don't ask me to explain the connection.) There was the barest of pauses. "Did you go to the party last night?" I thought it was interesting that discussing a crack-using lawyer would remind a law student of the party he'd been to the night before.

Now, I have been called an alarmist on occasion. It may be that I allowed my first impression of these guys' attitudes to snowball into paranoia. But I came away from this conversation—correction, *moved* away—thinking, "Those are two sleazy-lawyers-in-the-making." Cheating, conniving, scornful—and to blasé

continued on page 12

Justice Begins At Home

A Student Speaks Out

What are the chances that a first-year law student will get above 90 in all his classes, except Contracts, in which he will get only a 78? What are the chances that another first-year student will get in the 70's consistently, except for Contracts, where that student will get a 92?

Brooklyn Law School professors who have graded thousands of students over the years will tell you those deviations are highly unlikely. Then, what can you say about a Contracts professor who has many aberrant grades among his classes, year after year?

The evidence indicates that a certain first-year Contracts professor is derelict in his duty to grade his final exams responsibly. This professor may be assigning completely arbitrary grades in his 5-credit Contracts classes, ruining the averages of many of his students. First-year students, distraught at receiving their only low grade in a major class, go to the professor and ask to see their papers, to see where they went wrong when they were so sure they understood the subject matter. The professor tells something different to each student who comes to see him. Some, a very few, get to review their papers. But to most of them he says, "I don't review exam papers with my students," or, "come back next week, next month, maybe." Needless to say, next week and next month never come. This makes us wonder, what is he hiding? Does he refuse to go over the exams because his students would see there were no marks of any kind on them? Because his students would know he didn't read them and would have nothing to say about them?

Complaints are levied against this professor every year. Yet the administration has done nothing to address those complaints. The professor is allowed to wait for the pension wagon while hiding behind the protective cloak of tenure, even though he may be ruining the chances of his students who would otherwise have to get top jobs upon graduation.

The administration seems to feel it is in the best interests of the school to have a happy, secure faculty that doesn't have to worry about review by its superiors. But, does this laissez-faire attitude mean a professor could give any student any grade for any reason, even if he felt like ruining the career of a student he didn't particularly like, and the administration would be behind that professor one hundred percent? Why are the deans of this school so uninterested in the welfare of the students they are employed to teach? Aren't the students the reason why we're all here in the first place?

I do not mean to suggest that the tenure system is valueless. It provides job security for deserving professors, and allows them the privilege of academic freedom. Unfortunately, the downside of tenure is that undeserving professors are also protected. They can behave irresponsibly, with no concern that anyone will question them.

I recognize that acting on complaints about one professor could be construed as inviting dissent about any and all professors. However, the administration must know that widespread complaints about a professor are the exception, rather than the rule. If they weren't extremely well-grounded, they would never draw support from large numbers of students. These complaints, when they do arise, are worthy of being addressed.

There needs to be a system of review, one that would only be used on a case-by-case basis, when the weight of evidence strongly indicates review is warranted. When a large number of students are angry and suspicious enough about the grading of one professor that they feel the need to protest; when the same complaints are levied against that professor every single year; when he refuses to go over exam papers with his students, denying them the chance to see what they might have done wrong, and making them even mor suspicious that they will find no marks of any kind on their papers; when the same professor never takes the time or trouble to learn his students' names, or get to know them at all . . . when all these facts are taken together, they point to a strong possibility of some wrongdoing. In such a case, the professor's exam papers should be reviewed by another contracts professor, or by a panel of professors. And those grades should be entered. I believe this approach would be fair for everyone. It would maintain autonomy for the school's respected faculty, yet would no longer shield a professor who abuses that autonomy. As far as the students are concerned, some would get better grades, others would not. But at least the grading would be fair. That is all we ask. Judicial decisions are subject to appellate review by a panel of judges. Certainly the decisions of a law profesor that smack of irresponsibility might be subject to similar review and accountability.

I feel it is in the best interests of the school to expect excellence from its faculty, the same way it expects excellence from its students. If the outrage felt among the students who were wronged is not addressed, Brooklyn Law School will suffer. It will suffer in future years when it calls alumni asking for donations and they slam down the phone. It will suffer when trying to build an alumni network and those alumni won't give the school the time of day. It will suffer because it has failed to uphold the standard of excellence that it professes to pursue.

We are students of the American system of justice. We don't feel it is unreasonable to expect to find justice for ourselves within the walls of the very institution that is teaching us how to find it for others.

The opinions expressed in this article do not necessarily reflect the opinion of the Justinian Editorial Staff.

CORRESPONDENCE

Sleaze

from page 11

about it that they review the details in the school's cafeteria.

Again, I admit the possibility that my conclusions were offbase. But the alternative to thinking that these students *are* sleazy is to believe that, however decent they are, they think social status is enhanced by *sounding* sleazy. Take your pick.

Perhaps I should have confronted the students with my impressions at the time, but I'm sure that would have been seen as a horrible breach of cafeteria etiquette. Instead, I am appealing to the student community to be aware of the impression your words create. I'm sure the percentage of sleazy lawyers-in-the-making at Brooklyn Law School is about the same as the percentage of sleazy lawyers admitted to the Bar. But do we have to advertise it?

Jenny-Anne Martz

Where There's Smoke . . There's the Lounge

It's another semester. A little work to do? You have the usual places to study at BLS—the library, cafeteria, an empty classroom or the lounge. Let's say you're a little hungry and your throat's dry, so the library's out. The cafeteria's fine if you don't mind a sauna without windows and poor air circulation. Now it's the classroom or the lounge. The fact is, the only place where you can relax and study in the comfort of lounge chairs is in the lounge. The only hitch is that you must either be a smoker or be willing to put up with a scratchy throat, burning eyes, and clothes that smell like smoke when you leave. Why is this? I've been here two-and-a-half years and have always had to consider these pros and cons when I needed to study or just relax for a while. Who wants to relax in a classroom or the library? The cafeteria has improved with the new chairs and tables, but you still can't get a glimpse of daylight or moonlight. It shouldn't be this way. I'm as much entitled to use of the lounge with breathable air as a smoker will claim he has the right to smoke there.

What are the alternatives? Either we prohibit smoking in the lounge, section off the lounge into smoking and nonsmoking areas, or we create a second lounge and designate one nonsmoking. (After all, each floor has a smoking section. During the breaks, most nonsmokers prefer to remain in the classroom rather than brave the thick smoke of the hallways. To walk in the hallway during the break would mean instant sore throat.) Sliding doors to divide the lounge in half would be a good idea and go a long way to keep the nonsmoking side smoke free. On the other hand, a physical barrier would not be necessary if the air circulation were adequate. Unfortunately, the present ventilation system is far from adequate for filtering smoke. (The same ventilation problem exists in the classrooms. However, because the signs say "SMOKING PROHIBITED except in designated areas," several professors will smoke in class and may allow students to smoke as well, despite the lack of adequate ventilation for the smoke.)

In any event, something needs to be done, and the solution can't be half-hearted. Sure we have a smoking and nonsmoking section in the cafeteria, but I often see people smoking in the nonsmoking area and see ashtrays on the tables there as well. Many students don't even know that there is a separate smoking section. Who does the policing? The areas certainly aren't well posted to give notice at all. I was even told once that I couldn't tell someone smoking in the nonsmoking area that they shouldn't be smoking there. Its time to act, and I only wish that I had said something earlier about the smoking problem.

L. Ewall

PERSPECTIVES

In Reagan's Twilight Abortion Tops Political Agenda

by Bruce Kaufman

With less than a year left to make good on campaign promises that as president he would bring an end to abortion on demand, Ronald Reagan is waging his most sweeping assault to date in his war against abortion.

Nearly seven years of crusading against the wide availability of abortion services has failed to generate the support necessary to turn back the clock on abortion. The Reagan Administration's approach has taken on new dimensions in recent months with a bold reinterpretation of Title X and severe restrictions on the availability of funds for private organizations in the third world that offer abortion services.

To many, Reagan's anti-abortion agenda has amounted to little more than breast beating. Even his most loyal supporters, who saw his election as evincing a change in the nation's moral attitudes, were frustrated by the slow pace of his anti-abortion crusade. Many had resigned themselves to electing a "real" conservative, like Pat Robertson, in 1988, who could finally eradicate the word *abortion* from our vocabulary.

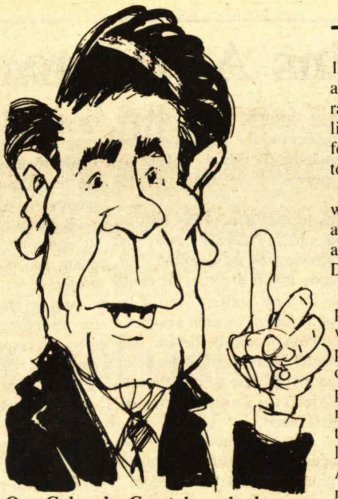
Anti-Abortion Rules to Take Effect

After all, isn't this a president on his last lap, terribly weakened by the Iran-Contra affair, the humiliating Bork-Ginsburg nominations, and a trillion-dollar deficit? At times he has appeared to be closer to a dead duck than a lame one. But press reports of his demise appear greatly exaggerated.

On March 3 the most restrictive anti-abortion regulations in recent years are scheduled to take effect. If not overturned as unconstitutional, these new rules will force nearly four thousand federally funded family-planning clinics to divest themselves of any relationship with abortion or lose government funds. Although current law prohibits federal funds from being used for abortion, except in certain life-threatening instances, the new regs go much further; they will place a stone wall between clinics that provide prophylactic services, prenatal counseling, and referrals and those clinics that actually perform abortions.

How comprehensive are these restrictions? If a pregnant woman needs an abortion to save her own life, the new rules prohibit a federally funded family-planning clinic from sharing its medical records with an abortion clinic. At risk are the clinic's federal funds.

If a pregnant woman asks a health-care provider at a funded clinic to explain her legal rights and options, the provider is prohibited from even mentioning the word *abortion* except to express disapproval. He is in full compliance, however, if he responds by showing the film *The Silent Scream*.



One Colorado Court has alreday enjoined the Administration's new rules.

Opposition to the regulations has been swift and severe. More than seventy-five thousand comments were received opposing the rules. Robert Abrams, the state attorney general, called them a "mandate for malpractice." He said they violated the client's right to informed consent by forcing prenatal-care providers to avoid discussing abortion with a client even if an illness or disease may complicate the pregnancy and endanger the client's life.

Janet Benshoof, director of The ACLU Reproductive Freedom Project, said the new rules "impose a gag rule on constitutionally protected speech about abortion. Under the regulations," Benshoof said, "women will receive counseling that is deliberately biased. They will go unwittingly to family-planning clinics, receive a distorted, lopsided, and untruthful counseling, and be foreclosed from exercising their constitutional rights."

Restrictions Extend To Third World Countries

Reagan's hostility toward granting poor women their right to an abortion is not limited to those residing in the United States. Last year the President successfully imposed restrictions on the availability of federal funds for family-planning and abortion programs sponsored by the Agency for International Development. The order, also in litigation, denies funds to any foreign private association that sponsors abortion or abortion-related activities. With nine out of every ten children on this planet being born in the third world, some critics have accused the Administration of playing cruel anti-abortion politics that will aggravate already serious population concerns in third-world countries and strain international relations.

Fourteen years after *Roe v. Wade*, abortion on demand is an American institution, and despite Reagan's efforts, little is expected to change soon. In recent years the number of abortions performed has remained steady at about 1.5 million per year. The number of demonstrators during the annual prochoice and right-to-life rallies in Washington, D.C., has also remained constant. And for the third straight presidential campaign, abortion, more than ever a litmus-test issue, is being viewed by candidates according to strict party lines.

Absent a Supreme Court decision upholding the HHS regulations (unlikely, given their enormous encroachment upon free-speech rights), the final year of the Reagan Administration's moral crusade against abortion will have netted no appreciable diminution of abortion rights, little change in the nation's attitude—perhaps even a reaffirmation of the right to privacy as evidenced during the Bork hearings—and only a thinly veiled, plainly unconstitutional attempt to limit abortion. Perhaps it is time for the ERA to make a comeback.

"It's almost as if the Administration had a death wish. Did they really believe the rules would pass muster?"

The regulations were drafted in August 1987 by the U.S. Department of Health and Human Services (HHS), based on a radical reading of Title X of the 1970 Public Health Services Act, which established federally funded family-planning clinics to serve low-income families.

The "interpretation" of the Act, under which the HHS derives its rule-making authority, has been challenged by Abrams and Benshoof in a suit filed February 2 in District Court in Manhattan.

A similar suit in Colorado seeking a preliminary injunction against the rules was successful, and another challenge is planned in Boston in late February. The outcome of the Colorado case has temporarily thrown HHS into a quandary, as normal procedure is to delay implementation of an enjoined rule pending an appellate decision upholding its enforcement. At press time the Administration's next move was unclear.

Regardless of their response to the Colorado court, HHS's efforts in drafting the law would have made most draftsmen cringe. One can only wonder whether the cabal running HHS were driven by such moral zeal that they were blinded to the obvious constitutional infirmities in the proposed rules. Even in the face of massive opposition to the proposed rules, no substantive changes were made in the final regulations. It's almost as if the Administration had a death wish. Did they really believe the rules would pass muster? Did they really think they had the entire judiciary buying into their anti-abortion agenda? Either the Administration is more naïve than commonly thought or they are going to have a lot of explaining to do to their supporters on the far right.

LONDON LETTER

Liberal Media — Not Missiles, Are Astray

by Eduard M. Jordan

At the time of this writing, President Ronald Reagan is preparing to sign away American cruise and Pershing missiles currently deployed to protect Western Europe. Whilst American liberals rejoice at merely hearing the words *arms control*, the people here in Europe are afraid. Yes, afraid. Their two greatest fears just happen to coincide with the Soviets' two greatest objectives. The first of these is to destroy Europe's ability to deter a Soviet invasion via European-based nuclear weapons which would force the U.S. to commit its own long-range missiles and risk retaliation, something the Europeans and the Soviets are equally pessimistic toward. The second is to eventually remove Western Europe from the protective shadow of the American nuclear and conventional umbrella.

Yes, the Western Europeans are afraid, because they realize that the presence of "lightning fast" highly accurate American missiles will provide for the defense of democracy and sovereignty far better than the era of good vibes promised by the Soviet dictator and mimicked thoughout the liberal Western press. Everyone rally 'round the hammer and sickle now.

Debate Excludes Western European Position

It is interesting, isn't it, how in leading the nationwide debate in a support of the upcoming arms treaty the liberals in the press and government take no account of the Western European position. The treaty will reduce tensions and usher in good vibes they tell us happily. The Western Europeans are not amused, and they should know. They're the ones staring down the barrels of a Soviet conventional force four or five times as powerful as NATO's and nothing to defend themselves with but a smelly cartload of glasnost. I think I've got a little stuck to my shoe. . . .

I've got to give them this much, the liberal element is dedicated, and dedicated propagandists will never disseminate information contrary to their political objectives so why give heed Western European warnings while spreading the good news of arms control?

It's not as if the liberals even have a clever response to European fears regarding the upcoming arms treaty — they just pretend not to hear. It's happened before: while the world has screamed at them over the sound of the pitiful Vietnamese boat people fleeing from "enlightened" communism in the face of death and disease and rape and slavery on the high seas; while East Berliners continue to risk life and limb climbing westward over the Wall to freedom; while innocent Afghan children have their hands blown off by booby-trapped toys left for them by the Soviet invaders; while Cuban inmates in America's harshest prisons explode over the threat of repatriation to their Cuban socialist-workers' paradise, the liberals in the press and government just pretend not to hear, so certain are they that socialism at any cost is "progressive."

So it's not too hard to ignore the Western Europeans and their fears over the upcoming arms treaty. Just turn up the volume and drown them out. It's time for "Let's Make a Deal."

"Deep pain is that this is Ronald Reagan."

The real pain, deep pain — the salt in the wound — is that this is Ronald Reagan, old R.R. the Gipper. I may never have trusted R.R. intellectually, but I always believed, I always trusted that we wanted the same things. With foreign policy now in the hands of Secretary of State Monty Hall and his merry band of appeasers, former Secretary of State and Supreme Allied Commander of NATO Alexander "American Hero" Haig said, in a recent interview, that he had never witnessed anything like the "arm-twisting" presently being applied to the Western European governments, inducing them to publically support the upcoming treaty. Ronald Reagan has indeed been led astray. The big prize is no longer the defense of Western interests and the knowledge and recognition of a job well done by a worthy few, but the short-term gratification of the masses who are unfortunately represented by a media and political establishment with hidden political objectives adverse to their actual interests.

It is surprising to note how often the positions of the liberals in the media and government coincide with the objectives of the Soviet Union. I was at a university here in England four years ago while the cruise and Pershing missiles were being deployed over and against the massive socialist-inspired uprising staged in opposition. NATO went ahead, thanks in large part to the commitment of former Secretary of Defense Cap Weinberger (oh, where are you now?). The press on both sides of the Atlantic were in support of the opposition, a position that had it been successful, would have left the West outgunned in both the conventional and nuclear areas. How could this possibly be in our best interests? At that time, European radical chic was news. Today, European pragmatism goes unheeded, so anxious are the media to support the arms-control movement. If they had had their way four years ago, the Soviets would have maintained their superiority at the cost of printing a few posters and organizing a few rallies. Today at least we are giving them their continued superiority at the cost of their own medium-ranged missiles in Europe. What an achievement! Europe is now safe . . . for conventional war. And in whose best interest is this?

So while you're all cheering at the liberal victory over there in Sodom City, don't forget to say a little prayer for those of us over here who will undoubtedly have a difficult time surviving on good vibes alone. God Save the Queen, and may the American Senate stand tall in the coming months of debate over ratification.

Edward M. Jordan is a BLS student spending his last year studying abroad at the Notre Dame Law Center in London, England.

Environmentalists Issue A Call to Action

By Larry Andrea and John Picarazzi

The first Environmental Law Society Convention, hosted during February at the University of Michigan Law School brought together nearly 170 students from 50 law schools throughout the country. The convention was called to discuss the formation of a national organization to provide support and information to all of the environmental law societies.

Panels consisting of government, corporate, and public agency lawyers addressed the group. Each panel explained its role in environmental litigation, and the panels joined to debate the values which they strive to uphold.

Among the well — known speakers included John Bonine of the University of Oregon Law School Lori Potter, managing attorney, Sierra Club Legal Defense Fund in Denver office and Mark Van Putten, Clinical Assistant Professor, University of Michigan Law School.

The weekend's meetings culminated with the creation of a national organization. The 50 schools, as well as those who will be joining in the future, have become part of the National Association of Environmental Law Society offers a refreshing alternative to traditional law school classwork.

The tone of the convention was set on the morning of the first full day by Bonine. His speech, "The Future of Environmental Law on an Endangered Planet" focused on the need for today's law student to shed the standard idea of success as the high-powered job promising great sums of money, and suggested that one could achieve success simply by finding an area of the law which give him or her a sense of purpose and enjoyment. Bonine spoke of finding a "place," one which encompassed not only geographic dimensions, but which included the people and activities unique to that place. In this place, Bonine said, the young attorney should commit himself or herself, not to a specific area of the law, but to any job for which there was a need. The job one is doing is not as important as the people and the place for whom that job. He stressed that all people should stand by their words; that through their acts, people make statements, and contribute to their own "place."

Convention Spurs Revival of BLS Environmental Club

The convention has spurred the revival of the Environmental Law Society at Brooklyn Law School. Several events to take place this spring in conjunction with other schools in the New York area. The Society is seeking those students who share an interest in environmental issues and who would like a chance to learn about this field of law. We anticipate inviting guest speakers to Brooklyn to discuss everything from careers in environmental law to specific issues such as habitat preservation and land use planning within the metropolitan area. We think participating in the Environmental Law Society will provide a refreshing alternative to the grinding routine of classwork and give those who join us a sense that they are contributing, in however small a way, to the environmental efforts being made in the city, our own "place." Anyone interested in joining Brooklyn's Environmental Law Society, please contact either of us by leaving a note, care of the SBA, on the third floor.

Student Bar Association Update

by Tara Christie, SBA Represenative

The Student Affairs Committee and the Academic Grievance Committee are engaged in the production of a course instructor evaluations booklet based on evaluations filled out by students the last week of the fall semester. The premise is that when completed, the booklet will guide first and second year students in selecting courses.

The Student Affairs committee is also engaged in efforts to provide a TV and VCR for the 3rd floor lounge; a microwave and refrigerator for the cafeteria; a separate smoking lounge and a loan forgiveness program.

The SBA Presents Committee is looking forward to coordinating a trip to see the U.S. Supreme Court in session this spring, they will also be presenting a movie entitled "Palsgraf" along with a video tape series called "Retainers to verdict" which will demonstrate top litagator's trial tactics and strategies.

The SBA's three parties last semester were a huge success. 1st prize for the halloween party went to Frank Biangiardo and friends for "the Adams Family," second prize went to Andrew Rothstein for "Batman," and third prize to Jon Wynne for "Ms. Gorbachev."

Thirty-five pints of blood were donated to the greater N.Y. Blood program on Nov. 17. Thank you to all those students who gave a little of themselves.

An *Ongoing* food drive was started on December 7. The donations will go to "Food For Survival," a N.Y. organization that distributes food from Several food drives, throughout N.Y. The Food drive is being conducted in conjunction with the National Lawyers Guild. Please continue to donate non-Refundables in the cafeteria. *And for those who wondered, last year's clothes drive collected over 30 bags of clothes which went to the St. Vincent De Paul Society.

The SBA would like to thank Dean Wexler for meeting with us in various issues and for establishing a set time to discuss student concerns.

*The executive board of the SBA would like to encourage students to speak to their class delegates and voice their concern on any issue.

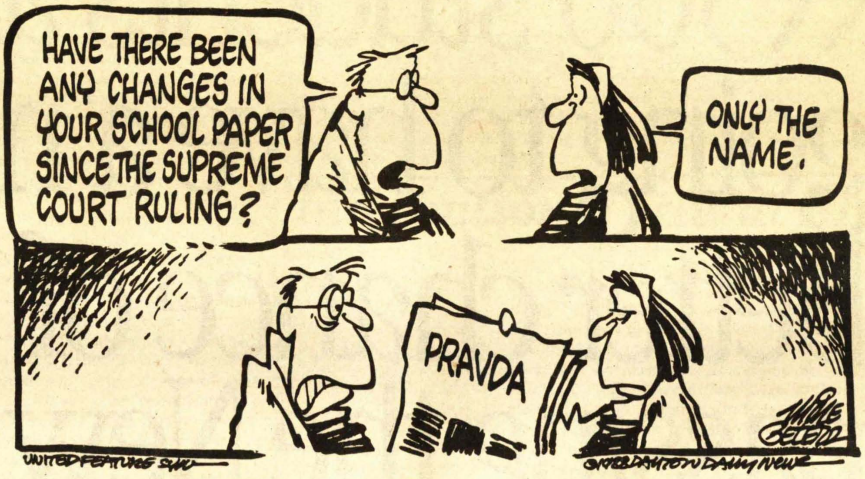
Hazelwood: Does the First Amendment End at the High School Gate?

Brian M. Rattner

The Supreme Court has dangerously narrowed the free speech of public school students in its latest opinion on students' First Amendment rights. The Court's decision in *Hazelwood School District v. Cathy Kuhlmeier*, No. 86-836, has sent an ominous warning to students throughout the United States that freedom of the press is merely a textbook ideal, not an everyday reality.

The Hazelwood case arose after the censoring of two pages of articles from the Hazelwood East High School *Spectrum*. The *Spectrum* was published by the high school as a portion of the coursework of Journalism II, a regular part of the school's curriculum. Students wrote and edited the paper under the direct supervision of their teacher, and the finished product was given to the principal for final approval.

The articles in question, along with four accompanying articles, spanned a total of two pages out of a planned six-page newspaper. The articles were censored three days prior to publication by Robert Eugene Reynolds, the high-school principal. The first article Reynolds objected to detailed three high-school students' experiences with pregnancy and birth control. The second article concerned a student's impressions of divorce and the impact divorce had on her family. According to Reynolds, the remaining four articles were censored not because of their content but on the basis of their location on the same pages as the censored articles. Reynolds saw that there was not enough time prior to publication to edit the paper to save either the censored articles or the additional four articles. If Reynolds had asked, he would have found that the remaining articles could still have been published on schedule, according to the student editors. The court found that his behavior was reasonable under the circumstances, however.



Principal's Objection Reflects Imposition of Personal Values

Reynolds states that he was concerned that three girls profiled in the article on teenage pregnancy could be identified, even though their names had been changed in the story. He also felt that the article's discussion of sexual activity and birth control was inappropriate for younger students. The objections raised by Reynolds seem to reflect the imposition of his personal values upon the school newspaper rather than a genuine concern for the protection of student confidentiality.

The principal arbitrarily decided that the best interests of the pregnant girls would be served by denying publication of the article. The three girls knew that they could be identified when they approached the *Spectrum* to tell their respective stories. They were willing to take the risk of public exposure in order to inform the other students of the problems they experienced once becoming pregnant, with their efforts hopefully resulting in more responsible behavior on the part of their classmates.

Reynolds' opposition to dissemination of information concerning pregnancy and contraception is most likely a reflection of his desire to deny the existence of sexual activity among his students and to keep younger students sexually uninformed. Reynolds' actions will only contribute further to the problem of teenage pregnancy among the Hazelwood student population. Now students involved in sexual experimentation will not be able to profit from the valuable lessons on the risk of pregnancy the three girls sought to teach other students.

> ***"Reynold's opposition is most likely a reflection of his desire to deny the existence of sexual activity among his students."***

Reynolds' objections to the article on divorce were that the girl interviewed in the article was identified by name and that there was no chance for rebuttal by her parents. The girl's name had actually been deleted in the final version of the article, but Reynolds did not know this, as he simply pulled the entire article rather than discuss the problems with the paper's staff.

The Supreme Court, in a five-to-three decision, upheld Reynolds' censorship of the two pages of the *Spectrum*. The Court based its holding on a finding that the *Spectrum* was not a newspaper that could be classified as a public forum. The Court stated that the intended purpose of the paper was as a supervised learning experience for journalism students, not as a newspaper open to use and contributions by the general public or by some segment of the public, such as student organizations. This distinction between a curricular newspaper and a public forum was crucial to the Court's decision to allow higher journalistic standards to be imposed, standards that a public newspaper is not required to meet.

The curricular-versus-public differentiation allowed the Court to distinguish the instant case from *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969). In *Tinker*, the Court acknowledged the school's power to bar student expression only when that expression would "substantially interfere with the work of the school or impinge upon the rights of other students." Id., at 509. But the *Hazelwood* court stated that the *Tinker* standard "need not also be the standard for determining when a school may refuse to lend its name and resources to the dissemination of student expression." It instead adopted the position that educators can act as censors of school-sponsored student expression "so long as their actions are reasonably related to legitimate pedagogical concerns." The Court stated that a principal may have reasonably found that the censored articles were inappropriate for a school-sponsored publication because of their "frank talk." The Court sought to prevent the exposure to adult topics of fourteen-year-old freshmen and their younger brothers and sisters, who might happen upon a copy of the high-school newspaper at home. Parents will now have to guard their *New York Times* carefully, lest a youngster be school officials seek to exert greater influence over the contents of student newspapers. A principal of a California high school heard about the decision on the radio and immediately censored an article on AIDS, arguably a topic that should be discussed as part of the school's curriculum. No one is sure where the line between censorship and "legitimate pedagogical concerns" lies, and there is sure to be much debate on this subject in the coming months.

Will Holding Extend In Future To Public Universities?

An important question left unanswered by the Court is whether the holding in *Hazelwood* may someday be extended to encompass all public schools, including public universities. The Court has stated that its present holding does not apply at the college level, but it is certainly conceivable that a future decision may push the *Hazelwood* holding one step further to grant complete editorial control of state-university newspapers to college administrators.

One possible side effect of the *Hazelwood* decision may be a resurgence of underground newspapers. Recently, such newspapers have not enjoyed the popularity they had some 20 years ago. Following *Hazelwood*, students will be forced—as they were before *Tinker*—to utilize the underground format to fully express their views on subjects that concern them without fear of censorship.

Matthias Rust: A View of Soviet Law

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and extemporaneously explained his actions as a Russian translated.

On day two of the trial, the Soviet prosecutor, Vladimir Andreyev, asked for an eight year term for Rust in a strict regime labor camp: two years for the first charge, eight years for the second, and four years for the third. The strict regime labor camp is the second most severe of the four types of Soviet penal colony (gulag) in terms of diet, work rules, and housing conditions. The other three camps are labeled reinforced, strict, and special, each progressively more restrictive.

Sentencing

On the last day of the trial, Rust expressed remorse during his final appeal before sentencing. The Supreme Court convicted and sentenced him to two years for the first charge, three years for the second charge, and four years for the fourth charge, hooliganism — the only charge he denied. Because his sentences are being served simultaneously, the maximum Rust will serve is four years. He is serving his time in an ordinary camp, the least restrictive of the four types, where first offenders and petty criminals are usually incarcerated. He is served plain food (about twenty five hundred calories a day), works long hours, and is allowed visits from his parents five times a year. Judge Tikhomirov stated that Rust's youth, clean record, and expression of remorse were taken into consideration but stressed the "premeditated nature, recklessness, and danger" of the flight. It is not possible to appeal a Soviet Supreme Court decision but Rust can petition the Soviet parliament, the Supreme Soviet, for clemency. No fine was charged, and the Cessna was returned to the Hamburg flying club.

As for attorney compensation, the approximately seven hundred and fifty dollars in court and attorney fees were paid by *Stern* magazine. Soviet advocates are paid according to the amount of work done, unlike any other profession in the USSR. Fees are listed openly in every legal office. An oral consultation with an advocate costs one ruble (a dollar fifty), and the drafting of a legal document requiring research costs about six rubles. A preliminary investigation by an advocate costs twenty rubles for the first two days and twelve rubles for each subsequent day. The first two days of a criminal trial cost forty rubles, and each subsequent day costs twelve rubles.

The Media

Before Rust's trial began, the Soviets offered to sell the films of the trial to the three major American networks for a reported price of two hundred and fifty thousand dollars. All three rejected the offer, questioning the ethics of purchasing a news event, a rare reversal of capitalist and socialist philosophies. Wyatt Andrews, the former CBS bureau chief in Moscow, was quoted in the *Times* as saying, "We are not interested in buying anything, we consider it tasteless to say the least." In late fall, Andrews said rumors were circulating that Rust would be granted clemency in time for Christmas. In December, Rust was not released, but his parents were allowed to visit again and reported that he was holding up well. Andres now believes that the heavy publicity Rust received may have adversely altered his chances of being home by Christmas but that he will probably be released after serving a year. Andrews, who attended the trial, felt that the trial was fair and that Rust was "defended vigorously" by the appointed attorney.

In the end, Gorbachev, himself trained as a lawyer, turned the situation to his advantage with a brilliant tactical move designed to consolidate his power as the USSR's highest military authority, the head of the Defense Council. Rust's invasion provided him with a good excuse to replace the old regime with hand-chosen loyal successors to the open posts. The Cessna is on tour in the U.S. and France, promoted as a symbol of peace and freedom. As for Matthias Rust himself, he received worldwide notoriety, good autobiographical material and at least a year — long free intensive Russian language course.

BLS Divests Funds From South Africa

The Board of Trustees of Brooklyn Law School has approved a policy of divesting the school's investments in companies that do business in South Africa. The divestment is a protest against the policies of apartheid practiced by the South African government.

Earlier this year, the Brooklyn Law School faculty adopted a resolution stating that "the faculty at Brooklyn Law School abhors the official policy of apartheid now practiced by the government of South Africa and . . . requests that the law school divest all current investments in . . . any business entity currently doing business in South Africa."

The law school is committed to a policy of total divestment similar to that adopted by many other educational institutions. Divestment decisions will be based on the analysis of corporate activity reported by the Investor Responsibility Research Center.

International Law at BLS

from page 3

Journal.)

The International Law Society at Brooklyn Law School, with membership open to all members of the law-school community, sponsors lectures on international law as well as BLS delegations to international-law conferences. This past semester, for example, the society hosted a lecture on the human-rights impact of China's intervention in Tibet. Members also attended an international-law conference at the New York Bar Association. There are plans for lectures on terrorism and debates on recent Israeli policies in the West Bank and Gaza Strip.

In addition, for students wishing to gain a broader perspective of international-law issues, the American Foreign Law Association (AFLA) holds monthly luncheon meetings. The AFLA is comprised of lawyers who practice international law. Lectures are given at each meeting on current topics by active practitioners. Membership in this organization will give students the opportunity to discuss career opportunities and issues as they arise.

The International Law and Practice section of the American Bar Association offers to its members a quarterly journal, *The International Lawyer*, which contains timely articles concerning all aspects of international law practice, and a quarterly newsletter, The *International Law News*. Other current publications are available at an added cost. This section also administers the International Legal Exchange program, through which one may acquire a hands-on understanding of judicial procedure and legal practice in foreign countries.

There are many opportunities at BLS to become familiar with international law issues. The placement office offers information regarding summer positions in the government or private sector. For students who seek more information about the courses at BLS and career opportunities overseas, Dean Lisle, Professor Sherman, the adjunct faculty members offering courses in this area, and the advisors at the placement office, are often available to speak with you.

International law will continue to have an impact on many facets of domestic law. Students who choose to familiarize themselves with that interaction will become better lawyers with greater breadth and greater career opportunities.

Is Holtzman Opening a Pandora's Box?

Tampering With Voir Dire

by Ariel Michael Furman

During the course of a criminal trial, the voir dire looms as a critically important stage for defense counsel. The jury-selection process affords the defense attorney the opportunity both to insure a fair trial by making sure an impartial jury is chosen and to establish a relationship of trust with his client. The vitality of voir dire has been recently threatened by an action brought by Elizabeth Holtzman, District Attorney of Kings County, in which she questions the constitutionality of a defendant's right to exercise peremptory challenges based on race, religion, sex, or national origin. In a state plagued by racial tension, the outcome of this action will have a pronounced effect on how our judicial system will respond to claims of racial prejudice within the halls of justice. It may also determine whether the attorney—client relationship will fall by the wayside.

An explanation of the ground rules for the jury-selection process (voir dire) should help clarify the problem. After a panel of prospective jurors is chosen and herded into the courtroom, both defense counsel and prosecutor are given the opportunity to examine them to discover their qualifications to serve as jurors. Questions may concern a prospective juror's background, occupation, education, and biases. Each party seeks to pick a jury that is at best sympathetic to their case and at worst fair and impartial.

Each party is armed with two weapons to eliminate prospective jurors; the peremptory challenge and the challenge for cause. Challenge for cause requires articulable reasons for excluding a particular juror. For example, if a prospective juror admits that she cannot accept the principle that the defendant is presumed innocent until proven guilty, that juror can be challenged for cause based on a state of mind likely to preclude her rendering an impartial verdict. The inarticulable reasons for excluding a prospective juror — the hunch or the gut feeling that a prospective juror, as a result of his experience, occupation, or ethnic background, will be prejudiced against your case — serve as the basis for peremptory challenge.

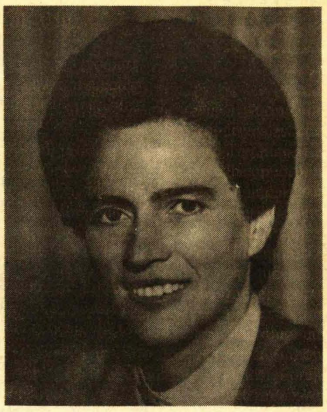
The criminal defense bar will be watching this one closely.

In New York, the Criminal Procedure Law (CPL 270.25) gives both prosecutor and defense up to twenty peremptory challenges, depending on the nature of the crime. When a peremptory challenge is made, no reason need be assigned. This is important, since many of the reasons for excluding a prospective juror are inarticulable. For example, in a murder case where the defendant is the victim's spouse and justification is the theory of the defense, the prosecutor may wish to exclude as many married jurors of the defendant's sex and age as possible out of fear that these jurors may identify with the defendant and see him in a sympathetic light. The prosecutor may not base such challenges upon articulated reasons — his reasons are clearly discriminatory, albeit of strategic importance. For such exclusions, he will use his peremptory challenges, so no reason for the exclusion need be assigned.

Peremptory Challenges Important to the Defense

For the defense, the utility of peremptory challenges is of extreme importance. For example, in a robbery case where the defendant is a minority member and the victim is an upper-middle-class white, exclusion of white jurors with backgrounds similar to the victim's will be important to the defendant. The defense will be concerned that such jurors might sympathize with the victim and prevent the defendant's getting an impartial jury. Of course the reasons for such an exclusion are discriminatory. Yet they are undeniably of strategic importance and their discriminatory effect is limited, because the defense may make only 20 peremptory challenges.

Another advantage of peremptory challenge is that it promotes a closer relationship between attorney and client. In many instances, a defendant's reason for excluding a juror will differ from his attorney's. Being able to confer with a client and allow the client to participate in his defense from the outset works to establish a rapport. The defendant's participation is crucial to his defense, so his willingness to be frank and honest with his attorney is important. The security of knowing that his reasons for excluding a particular juror will not be divulged to the court goes a long way toward building confidence and furthering attorney — client communication.



Brooklyn District Attorney Elizabeth Holtzman

The action by Elizabeth Holtzman threatens to disrupt this process. Holtzman seeks to prevent defendants from exercising peremptory challenges based on race, religion, sex, or national origin. Additionally, she seeks to require that judges question defense attorneys' use of peremptory challenges when the prosecutor makes a prima facie showing that the challenges were discriminatory. Such an order was made in the recent Howard Beach case in Queens, where Judge Demekos made a pretrial ruling enjoining the defendants from using peremptory challenges based on race. Whether the action by Holtzman or the Howard Beach appeal reaches the Appellate Division, one thing is clear. The criminal-defense bar is watching this one closely.

The major criticism of the proposed order is the effect it will have on the attorney-client relationship. The contention is that attorneys will have to choose between revealing confidential communications and facing contempt charges. Obviously, the choice won't be pleasant.

Holtzman's Move May Have Chilling Effect

If the use of peremptory challenges is restricted as proposed by Holtzman, the defense attorney will be forced to inform every client prior to trial that during voir dire, certain confidences may have to be surrendered to the court. This would cast a shadow over the attorney — client relationship from the outset.

"Once a defendant is told that *something* he says to his attorney may be repeated in open court," "the defendant may be hesitate to share other confidences and secrets with his attorney," said Barry Kamins, president of the Kings County Criminal Bar Association. Kamins, who is opposed to Holtzman's proposed order, said the move could have "an enormous chilling effect on the attorney-client relationship."

Holtzman's action is not without its proponents. Prosecutors throughout the country have sought to enforce this restricted use of peremptory challenges ever since the Supreme Court's ruling in *Batson v. Kentucky* in 1985. In *Batson*, the Court made it unconstitutional for prosecutors to exclude jurors on the basis of race. Although the *Batson* court clearly stated that it reserved opinion on whether the ruling applied to defendants, prosecutors have been quick to suggest that the *Batson* rule should be applied across the board.

On its surface, the *Batson* rule appears to be difficult to disparage. Those who believe in truth, justice, and the American way could find it hard to oppose a rule intended to eradicatte racial prejudice in jury selection. However, on closer inspection, prosecution and defense grounds, and essentially, "what is good for the goose" is *not* "good for the gander."

The *Batson* rule should not be extended to defendants for a number of reasons. First and foremost, the prosecutor is a public servant; the defendant is not. The prosecutor has an obligation to the ideals of the community, while the defendant does not. This important difference means that restricting a defendant's peremptory rights is more critical than restricting the prosecutor's. Secondly, the trial judge will be put in the compromising position of having to decide what is discriminatory and what is not. Where will the line be drawn — at racial discrimination, gender discrimination, age discrimination? Judges will be in danger of being led down the slippery slope regarding what constitutes discrimination. Of course, the most important reason why the defendant should not be restricted in his use of peremptory challenges is that the harm will cause the defendant and his relationship with his attorney clearly outweighs any gains for the jury-selection process. In the long run, the jury-selection process is a "Pandora's Box" better left untouched.

The World of Battered Women: A Cycle of Fear and Violence

by Lisa Muggeo

"No, not me. I'd never become the victim of an abusive spouse. If he ever hit me, he wouldn't get away with it. I'd guarantee he'd be sorry."

It's easy for a woman to speculate about what she would do if her husband began abusing her. Many women, like me, will vehemently claim that under no circumstances would they endure any kind of physical abuse from a spouse. Others insist they would take retaliatory measures to end the abuse.

It is difficult to predict how a woman would react if her spouse actually began to abuse her. Personally, I envision myself becoming uncontrollably enraged, gaining superhuman strength, and inflicting great harm on my abuser. After that episode, I'd turn my back on him for good! Anyone with a creative or vindictive imagination can conjure up scenarios of the revenge she'd invoke on her spouse. Yet when a woman is actually confronted with violence by her mate, she may be unable to use any defenses.

A Woman's Perspective

Battered-women's syndrome does exist. This psychological condition is one result of the repeated psychological and physical abuse of women in our society. A pattern of abuse usually begins with a husband inflicting demeaning verbal abuse upon his mate, which crushes her self-esteem. The batterer will intentionally isolate his wife from her family and friends, eliminating all means of emotional or financial support previously available to her. The abuser makes himself the only one she can depend on. As his pattern of verbal and physical abuse escalates, she is left with no one to turn to. Ironically, many battered women blame themselves for the abuse they endure, believing they deserve cruel and degrading treatment. Self-blame and endurance of violence contribute to the perpetuation of battered-women's syndrome.

Ultimately, a battered woman feels trapped by the actions of her husband. She will not confide in anyone, both because her low self-esteem leaves her feeling humiliated by his battering and because she justifiably fears reprisal. A batterer will often fervently seek out his wife if she leaves the abusive household. Often upon finding her, he will severely beat her, causing serious bodily injury. It is not uncommon for an abusive husband to kill his wife for attempting to escape his wrath or for fighting back.

Because of this, battered women frequently remain in abusive situations feeling utterly powerless to rectify them. The batterer's powerful control over his victim causes her to become both psychologically and emotionally dependent upon him. Additionally, many battered women rely on their husbands as their sole means of financial support. These dependencies, together with a negative perception of their own self-worth, prevent battered women from finding the courage or the initiative to seek help.

For those who live in a world that does not include the pain, humiliation, and suffering of a battered woman, it is difficult to fathom how an individual can remain the victim of continual violence. But this lack of awareness must be overcome. All members of society, especially the legal community, must recognize and acknowledge the plight of battered women. One of the ways these women can end the violence in their lives is through the help and understanding of the legal community.

Domestic violence is a crime! It should be treated the same as any other violent crime. But before legal remedies can succeed, attorneys must be willing to shed their own biases concerning battered women. Their disregard and disbelief of the problem have only made legal relief and emotional healing unavailable to these women. As members of the legal community, we should exert our best efforts to provide battered women with the emotional and legal tools to make right what is wrong.

Sexism

from page 7

was probation because he was married, a hard worker, this was his first offense and, principally, because the victim "was not hurt." A woman judge in the group tried to explain to these judges that their belief that the woman was not hurt had been discredited as far back as the sixties, when women's rights advocates began to reform the country's rape laws to reflect the seriousness of the long term psychological harm suffered by rape victims. But these judges insisted that it wasn't as if the victim had been beaten or stabbed, making it the type of "serious" assault which in their view warranted incarceration.

In "Sex Bias in the Teaching of Criminal Law," the forthcoming study of how the seven most commonly used criminal law casebooks deal with gender related topics such as rape, domestic violence, the "reasonable man" standard for self-defense and prostitution, the origins of current stereotyped notions about rape law are glaringly apparent. Five of the seven casebooks mention marital rape, but four give it half a page or less. Only one cites a case. The overall focus is strictly on defense. All seven casebooks cover the mistake of fact defense to rape with an average of 4.7 pages, and the mistake of fact defense to statutory rape, with an average of 5.3 pages. No casebook discusses what rape is, the history of its treatment as a crime of sex rather than violence, the presumption in the Lord Hale jury charge,

Presumption is that women taunt men and then cry rape

until recently standard throughout the country, that women tempt men and then cry rape, or the long term psychological consequences for the victim.

Law school education about rape for judges on the bench today was defense oriented and made worse by authoritative commentary that trivialized rape victims' claims, such as Wigmore's assertion that every woman charging sexual assault should undergo psychiatric examination to be certain she is not fantasizing. How little we have progressed is evident from the comment made by a criminal law professor at a discussion of the study at a law teachers' meeting. "The impression that I had from reading the casebook through [was that] the crime of rape came across as not being a crime at all but just a mechanism for illustrating how defenses worked."

Criminal law professor asks: "Is it sexist to not cover rape?"

Professor Nancy Erickson of Ohio State University Law School, principal investigator for this study, reports that while it was underway criminal law teachers frequently asked whether they would be considered sexist if they did not cover rape. Some teachers reported that women students have accused them of sex bias because they don't cover the topic. Others who have tried teaching it reported being criticized by women students because of the way they teach it, and because the men students do not view rape as a serious crime but instead crack jokes about the victim. Harvard criminal law professor Philip Heymann told *American Lawyer* last year that although he and others at Harvard now teach rape based on materials and teaching strategies developed by Harvard law professor Susan Estrich, the author of *Real Rape*, he had "shied away from the subject for years because he thought he'd end up with 'the women in the class furious with me or with the men and women at each others' throats.'"

The controversy is worth it. Those criminal law professors who teach rape from a different perspective than that in the casebooks are helping to change the views of the future judiciary. A University of Kentucky Law School professor, for example, asks each woman student to tell the class what precautions she takes to avoid rape. The women describe such strategies as not arriving at the campus too early, not staying too late, not being in campus buildings alone and not going to malls at off hours. The men students are amazed to learn how women's daily lives are circumscribed by the fear of rape. (One woman student staggered everyone when she said that she is not afraid of anything—she carries a loaded gun.)

But we cannot leave the teaching of rape or any other aspect of law in which gender bias may be a factor to the vagaries of chance, hoping they will be taught by teachers attuned to the bias factor who will develop their own materials to supplement the casebooks. Many teachers don't understand these issues or make these efforts. Moreover, it is unfair to put the burden of integrating these issues into the curriculum on individual law professors. Some professors, particularly women, who have tried to discuss gender bias in their courses have been criticized by men students and faculty colleagues. Some women students who have raised the issue have been rebuffed by professors and ridiculed by peers.

Casebooks are seen by most students as authoritative. They validate the subjects they include and the point of view they express about those subjects. Marginalizing, trivializing or omitting gender related topics or addressing them without reference to the viewpoint of the woman victimized or implicated sends a distinct message to students about what is important in the law and how to think about the issues. The lead taken by professors who are trying to eliminate gender bias from the courts by using supplemental materials in the law schools deserves applause, support and emulation. But the critical next step, full integration of the issue into casebooks so that it is understood by everyone in legal education as central to achieving equal justice under law, remains to be taken.

This article was originally published by the Harvard Law Record.

What You Owe?

Well it seems that it s all over now. In the past you have become. But the one thing lingers on—it is something you owe.

I now ask you give it back. I'm not going to steer you wrong — give it back and I'll be gone.

Not a little at a time-all at once and ease my mind. Don't you know that it is a fact there is something that you owe!

Leave no flowers at my door — I don't wish to play no more. I have grown from you — away. It is sad but I'm content. Wasted time is what I've spent.

So just please return my own — give it back it's what YOU OWE

Just remember to give it back — it's because it's me you owe.

I don't need your friendship — please — just return my own to me.

I'll survive like in the past — but I must have what is owed!

Just return it and I'll be gone — from my life you'll hear no more.

Please just give what you owe.

Yes I want what you owe.

Uncertainty

I am not sure where you're coming from.

I wish I knew what you are!

Complete certainty is not necessary — I just like to know I could turn my back.

When the focus is on uncertainty it leaves little room for PEACE.

Escape is not the answer — let's touch reality for a change.

It is not conformity that I ask. If everyone were so *GODDAMN* agreeable learning would be a bore.

But keep in mind it is the —

Uncertainty which creates hostility, anger, and WAR!

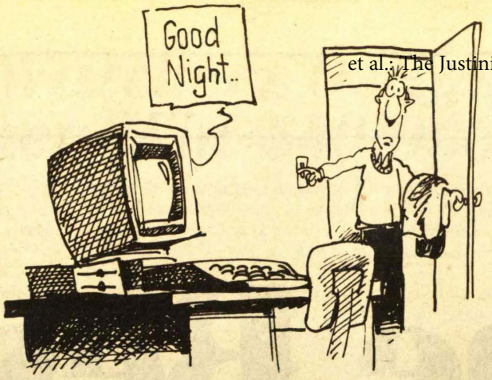
I am not asking for your bloody sympathy. I only ask that you take peace out of its cage and make it here to grow.

ANTOINETTE MONICA WOOTEN

COMPUTER CORNER

giphts for the wearie

by CHING WAH CHIN



By this time of the year, those who have finished yet another paper without the benefit of a word processor have a definite item to add to their hope list. That item is (surprise!) a word processor! Those with infinite bank-accounts may buy the fanciest schmansiest new machine out there with professional typesetting capabilities and animated color graphics. But even if you have to consider where your next meal will come from, an affordable word processor is still within your reach.

First of all, you could purchase one of the newer machines which combine everything into one container. The Magnavox, Brother, and Smith Corona companies have such single-box machines that go for less than $500. (The Smith Corona is shaped more like a normal typewriter.) Each includes a word-processor and a printer so that everything is ready from the time you plug it in. (A&S has them on display.) Well, if you don't want to think about what you're getting, maybe something like this is the thing for you. But remember, these machines are strictly word processors. So you won't get much out of them besides word processing.

Another option is to buy a cheap computer, known usually as an IBM clone. And yes, in today's wonderful world of charge cards, you, too, can own a REAL computer! The only (ha, ha) problem is you have to assemble all the pieces yourself. This means that you have to get AT LEAST:

- a computer with: 64K RAM
  Two disk drives (at least both 360K DS/DD)
  printer port
- monitor (whatever you like but TTL and hi-resolution is okay.)
- a printer with: Near Letter Quality (NLQ)
- software for: operating system
  word-processing

Scared pink? Wretching down the halls? Willing to take the Bar Exam now instead of going to the store? WAIT!!!

You could always take the list from above and use it for comparison with the advertisements you see in the newspapers. Just scan down the columns on the Science Section of the Tuesday New York Times and ignore any sale with more than three digits following the $ sign. (Or even use the New York Post, it has a better sports section, doesn't it?) If it says XT or AT somewhere on the ad it usually means that it copies the IBM XT or the IBM AT respectively (both which are no longer being made, but it doesn't matter since these IBM machines known as DOS machines will live longer than those old dinosaur CPM machines which aren't quite extinct yet.) AT means that it is faster (speed measured in MHz's) and costs more, but you can live without it if you're more interested in word-processing anyway. The numbers with the K's just tell you how much memory you are going to get for your money. In terms of written text, about 2K is equal to one page. (Something that says Meg or MB means 1000 × K, which might be worth it if you want to pay for it.

The main thing to do after all the above is to decide what type of monitor and printer you want. Drop by any store with a large number of machines (like either J&R Music World or 47th St. Photo near City Hall) and look at the characters that come out from those machines. Remember, it's your eyes which later have to read all the stuff . . .

Printers of adequate quality can be gotten for less than $200. Make sure you have got a sample of print-out to see if you can live with it. Also check its speed. The faster, the more expensive, usually. Monitors can be had for less than $100. (And note that advertisements often say monitors are "optional" but that doesn't mean that you have a choice about buying one.)

The computer itself should go for under $600. Which means you can probably get a complete system for under $800. (Some dealers will even throw in a word-processing package. Hey, we're lawyers! We're supposed to be able to negotiate favorable settlements!) But don't get a machine at all if it's going to strain your eyes, because your pencil-holding knuckles can probably take more abuse than your eyeballs.

Some of those who are more savvy out there might have noticed that no mention was made about Apple or Commodore computers. Well, there is a slight bias in operation here. Commodores can be very inexpensive, but have slightly less available software and the keyboards tend to feel like toys. If you can deal with their failings, you can actually get the Commodore equipment you want for your work. Apples such as the Macintosh, are just as, if not more sophisticated than the IBM clones, but generally are more expensive. This article is trying to keep your budget deficit to a minimum.

In addition, it is an unfortunate fact of computer life that any machine you buy will take at most half a year to be further down on the already blunt edge of technology. So, unless you have reasons for chrome-plated silliness, why pay for the extras you don't need? The IBM clones promise to have parts and replacements for a long time, and are readily expandable to fit your future needs. (IF IT COMES WITH SOMETHING KNOWN AS EXPANSION SLOTS!) Neat things like hard drives and automatic clocks, etc., are all very useful, and can be added on as desired.

If you insist on getting these extras now, remember the clock by itself is worth a lot less than $100 (which is usually come with extras which jack up the price) and the complete hard drives start at less than $200 for a 10 Mb, less than $300 for a 20 Mb, and less than $500 for a 40 Mb. (If you want more, you shouldn't be reading this column!) By the way, a usual spare 360K DoubleSided/DoubleDensity floppy drive is worth under $100 and you can get a controller card which handles four of them for less than $50.

So are we all set? Ready to go bargain shopping?!!!

But I haven't gotten to all the things you can do if you had a real computer! Things like games and spreadsheets! Databases and financial forecasting! Things like electronic bulletin boards where you can meet and discuss issues with other lawyers from all across the country, all while sitting comfortably at home. Things like arranging blind dates with people who you respect only for their minds. (Ooops, that just slipped out.)

But it looks like we're out of space. So we'll have to get to these things another time. And by the way, if you want to know anything in particular about computers, drop a note to the *Justinian* and tell us. And if you hated this column, drop another note so our editors will arrange a suitable end to this feature . . . A CRASH!!! And if you want to write this column instead, drop by yourself, you're MORE THAN WELCOME!!!

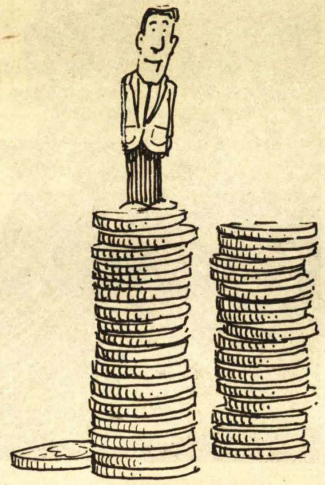
Wheel Watchers Delight As BLS Freshmen Win $40,000 in Prizes

by STANLEY LEE

None of us would admit to regularly watching Wheel of Fortune. However, if you happened to be taking a break from studying or grading exams the night of February 2, you might have caught BLS First year student Steve Hershkowitz win $40,000 in cash and prizes, as well as instant celebrity status at BLS.

Hershkowitz began his 'Visit with Vanna' a year ago, as an undergraduate at NYU. He competed with 150 applicants in tryouts for College Week. He did not make the cut for the College tournament, but was impressive enough for the producers to invite him to be a regular contestant. Preparations came solely from a lifetime of watching game shows. A WOF game book had been purchased, but wasn't used.

Taping was scheduled in Burbank on December 20. Hershkowitz was responsible for all expenses incurred for travel and accommodations. Four hours were spent at the studio having the rules explained, getting makeup, signing releases, taking a tour of the studio, asking questions, going through a sound check, and getting practice spins on the wheel. Practice spins?



BLS' Steve Hershkowitz stands on top of the world after appearance on the *Wheel of Fortune*.

Being on Wheel of Fortune means that you also get to meet Vanna and Pat. What was Vanna really like, Hershkowitz was asked. "She's a sweet, softspoken person, not at all stuck up, real down to earth." When pressed for further details, he said, "She's real skinny." As for Pat Sajak, ditto on everything except the skinny part.

After winning a baby grand piano in the earlier rounds, Hershkowitz did not think that he would make it to the final round. One of the other contestants had accumulated some of the fabled Free Spins, allowing them to go again after missing a letter. After the contestant had missed a letter, Pat told Hershkowitz to spin the wheel. "If you watch the video (and who among us did not tape the show after Hershkowitz said that he was a student at BLS?), you can see that as I put my hand on the wheel, the other contestant started to open her mouth, suddenly remembering that she had a free spin. By then it was too late for her to say anything." Hershkowitz went on to finish the phrase, and advance to the final round.

In the final round, in which one is allowed to pick five consonants and a vowel, Hershkowitz chose E-S-T-R-L, and N. "People who watched the show said that they could never have gotten it, or figured it out immediately. Of course, it's a lot easier when you're not doing it under pressure." The answer was *Of Mice and Men*. "Luckily even though I read one book in high school, that was the one," Steve mused. Coincidentally, the phrase came up again later. Contestants are given as a parting gift the home version of the game on a computer diskette. Steve noticed on the way home that on the back of the packaging for the diskette, the sample phrase that was used to demonstrate the game was *Of Mice and Men*.

Asked why he did not pick the $65,000 log cabin kit, or the $40,000 Jaguar XJ6, but opted instead for the $25,000 in cash, Hershkowitz said that after taxes, and with the attendant hassles of trying to sell the Jag or the log cabin kit, the cash seemed a more sensible choice.

He did not tell his family how he did, so they had to watch the show to find out. Steve did tell people in his section about it, however, and it surprised him to find out how many of them told their families about it. Also surprising is the number of people on the street who recognize him from his appearance. "People are still coming up to me and saying, 'Hey, weren't you on . . .?'" Steve doesn't care for all the attention, which is why he turned down our request for a photograph. However, if you're interested in buying a Schaeffer and Son's baby grand piano cheap, ask around for him in first year classes.

Best Brief Winners Announced for 1987

Dean Trager and Professor Walter would like to congratulate the following students who, in 1986-87, 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, Cary, Dietz, Green, and Walter chose the five finalists. From this group Professor Walter selected the Best Brief.

Best Brief

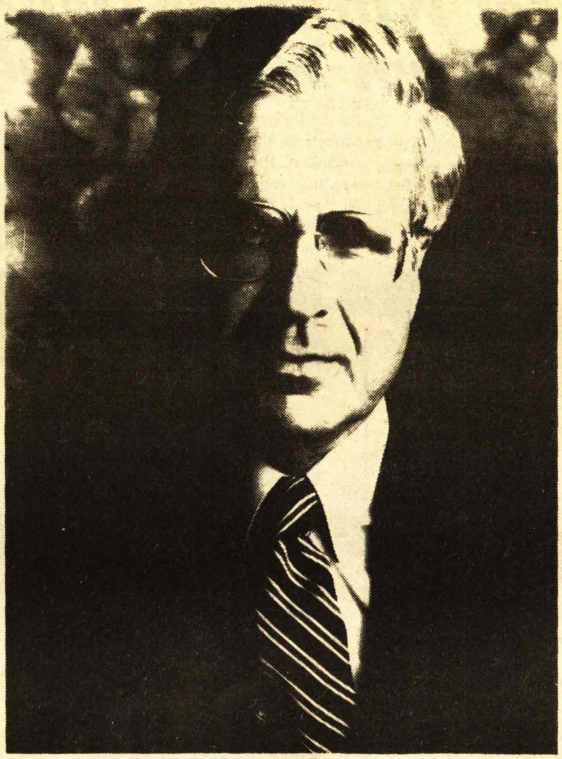
Marian Lupo

Semi-Finalists

Steven R. Charno
Susan T. Epstein
Bruce E. Loren
Judson Vickers

Honorable Mention

Judith A. Cartisano
Lorraine Cody
Amy Gelber
Lawrence Katz
Jennifer Langley
Beverly Leffers
Karen Leibowitz
Steven M. Levy
Jean Mandic
Laurie J. McPherson
Catherine E. Needham
Ivy Ozer
Kenneth Pasquale
Dominique Penson
Dorothy Ryan
Elizabeth R. Schustyer
Nancy Strohmeyer
Jason D. Turken
Alan Mark Winchester



Prof. Arthur Miller Joins BAR/BRI

BAR/BRI is excited to announce that Prof. Arthur R. Miller, of the Harvard Law School, will be lecturing for BAR/BRI, beginning with the 1988 bar examination.

Prof. Miller, who lectured on the bar examination for more than 10 years before joining BAR/BRI, will lecture in New York, California, Michigan, Massachusetts, and other states.

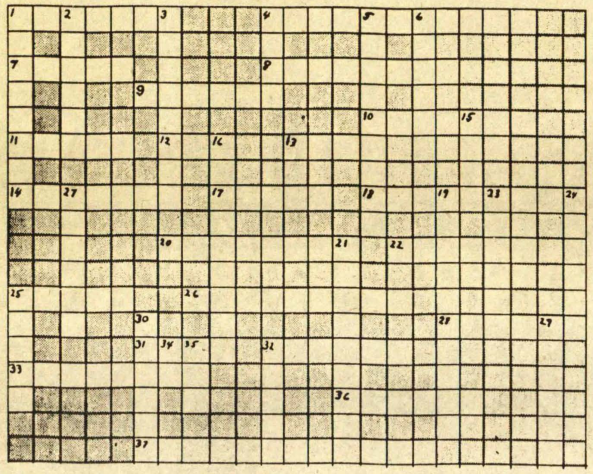
The addition of Prof. Miller is just one more reason that more law school graduates throughout the United States take BAR/BRI than take any other bar review.

We are excited to welcome Prof. Miller to our faculty.

barbri
BAR REVIEW

HAPPY SPRING BREAK!

RES IPSA LOQUITUR



(Courtesy of *The Barrister*, Albany Law School.)

ACROSS

1. A contract between the state and a public corporation
4. One for whose benefit a trust is created
7. A ranking, or setting forth in order
8. Defamatory
9. A dangerous weapon
10. To bear witness to; to certify
11. To bar or preclude
12. "There is always room at the — — —"
13. Applies to a proceeding in equity
14. A military man
17. A proposal to make a contract
18. The act of checking out more money than one has on deposit in a bank
20. A cause of action has several — — — — — — — —"
22. To renew
25. A person authorized by another to act for him
26. Giving up one's claim or title
28. The removal of a cause from an inferior to a superior court for review
31. Proportional or relative value, measure or degree
32. An offer of money or performance
33. That which is no longer used
36. That which enables the possessor to deduce inferences from facts or from propositions
37. A writ generally used to bring a party before a court or judge

DOWN

1. Articles of personal property
2. To deprive a person of his liberty by legal authority
3. To record formally; to enroll
4. — — — — of lading
5. The relation of parent and child
6. Tribunals officially assembled under authority of law for the administration of justice
15. "— — — — to the highest bidder"
16. The mode of proceeding by which a legal right is enforced
19. The recall of some power, authority, or thing granted
21. One who maliciously imputes a crime to another of which he is innocent
23. To give a new form to while using the old materials (colloq.)
24. To journey
25. The malicious burning of a house of another
27. A barrister
29. A reply to a complaint
30. The violation of a law, right or duty, either by commission or omission
32. Assessments on persons or property for support of government
34. "— — law"
35. — — — chest — a box containing a definite and prescribed amount of tea, otherwise called whole chest. (Language of trade.)

Word Search: Supreme Court Justices

O	C	O	N	N	O	R	O	M	C	L	E	A	N	M	F	K	R	A	L	C	B
C	G	N	E	L	S	O	N	T	Y	R	O	T	S	I	R	E	E	D	H	H	A
A	Y	O	N	B	A	R	B	O	U	R	E	Y	E	L	D	A	R	B	O	D	L
M	E	C	L	O	J	A	Y	N	O	T	N	I	M	L	E	I	S	L	E	R	D
P	N	A	D	D	S	G	R	A	Y	B	U	R	G	E	R	E	M	T	W	O	W
B	A	R	G	L	B	N	E	K	R	A	L	C	H	K	H	E	I	D	O	F	I
E	T	D	N	S	E	E	I	S	H	I	R	A	S	G	S	H	A	T	O	N	N
L	P	O	O	W	D	I	R	V	P	W	T	N	U	H	W	V	A	I	D	A	R
L	A	Z	T	S	H	L	F	G	A	R	S	H	O	F	I	D	A	Y	S	S	E
J	T	O	S	C	I	I	O	I	K	C	A	L	B	S	C	A	T	R	O	N	I
G	E	F	G	L	U	E	T	N	R	E	H	N	O	U	I	S	T	M	N	J	R
N	R	O	N	I	R	E	D	E	Y	N	O	S	P	M	O	H	T	A	O	O	G
O	S	R	I	F	E	O	S	N	N	E	P	E	C	K	H	A	M	R	T	H	S
R	O	T	V	F	D	S	B	N	A	O	R	N	E	R	R	A	W	S	R	N	W
T	N	A	I	O	N	B	A	E	E	R	T	C	Y	D	O	O	M	H	U	S	H
S	T	S	L	R	A	L	R	H	R	V	B	R	M	I	B	C	E	A	L	O	I
S	S	H	W	D	L	A	E	P	C	T	E	H	U	R	R	I	A	L	B	N	T
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A	A	R	C	R	E	K	T	W	L	R	E	W	S	B	R	E	N	N	A	N	A
Y	C	L	K	U	H	M	U	E	A	O	E	M	M	T	R	A	W	E	T	S	K
N	N	A	I	B	T	U	B	L	M	R	O	N	L	T	R	I	M	B	L	E	E
E	O	N	N	D	U	N	A	L	A	S	W	A	Y	N	E	T	N	D	C	E	R
W	T	S	L	O	S	A	M	M	R	E	S	E	N	C	T	S	H	U	U	G	T
I	G	E	E	O	O	O	Y	W	C	H	A	S	E	S	M	A	N	V	S	D	O
L	N	N	Y	W	O	H	J	T	A	F	T	I	Y	P	A	A	I	A	H	E	D
S	I	R	R	R	P	O	P	I	T	N	E	Y	R	N	C	L	S	L	I	L	D
O	H	Y	E	R	H	A	A	N	N	E	K	C	M	E	O	U	G	L	N	T	L
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W	W	O	M	L	R	E	T	N	A	V	E	D	N	A	V	A	L	C	I	D	N
O	N	A	J	A	C	K	S	O	N	S	W	E	H	T	T	A	M	L	A	S	A
R	L	N	A	L	R	A	H	T	F	R	A	N	K	F	U	R	T	E	R	J	D
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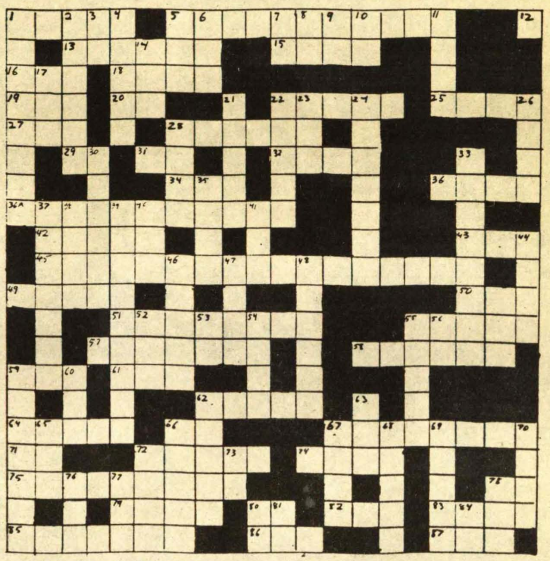
BLS in 1971



By Donald Birnbaum

ACROSS:

1. Faculty chef
5. Not corporeal
12. Most prevalent grade in Taxation.
13. Cockney pronunciation of William Shakespeare's last name, or rare fur
15. Meehan's ancestral home
16. Official B.L.S. spelling of number after 7
18. Pie are squared
19. Camptown races sing this song, doo- ——
22. Tucci's ——
25. ——Tock
27. What a liberated woman does not wear
28. Criminal Law field trip
29. Opposite of yes
31. Italian River
32. Mrs. Palsgraf's defendant
34. Cockney for "hope"
36. Unlikely Women's Lib member
36a. Stella's specialty
42. When you flunk tax, you will take it ——
43. When you can't brush after eating, use a water ——
45. When the hero of Phillip Roth's novel sues someone, he will serve a summons and ——
49. Society for Hot Rods and Toga Apparel (abbr.)
50. Bon —— (witty saying)
51. Shaver with R at the end
55. Where we sit to listen to teachers
57. Supplement
58. Italian City
59. Our initials
61. Big problem down south, or the thing
62. Movies or filth or windows
64. Synthetic Fabric
66. Sic
67. New fashion
71. In (french)
72. Welfare hotels
74. To walk in shallow water, or the elevator man
75. Only word that could fit in this space
78. Talking horse Mr. ——
79. Pig sound
80. Short form of "axe"
82. —— Pendens
83. Duboff's average is "A ——"
85. Members of Secret Special Committee
86. Long form of "ax"
87. —— pants, or not cold

DOWN:

1. Herrmann's hero, who possesses color TV
2. Sancho Panza's BLS counterpart
3. Eric the Red (inits.)
4. City where feelings are mutual
5. Chemical suffix
6. National Education Association
7. Legal spaceman might zonk you with his —— gun
8. 3. 14159 . . .
9. No. 1 for Milwaukee Bucks
10. See 7 down
11. Brand of candy, or upstairs factory
12. See 12 Across
14. Subway
17. Misspelled name of Selective Service Director
21. Irelands
22. Male Cattle
23. Hawaiian flower necklace
24. What a man!
26. Famous modern painter
28. Satellite, not in East Europe
30. Likely vehicle mentioned in Vehicle and Traffic Law of Code of Hammurabi
33. IRC 2201 (b) (4) (C) iii (2)
35. Little horse
38. Composer Stravinsky
39. Auto accident or baseball strategy
40. Outt
41. Interstate Commerce Commission
44. What dogs chase
46. Monsters
47. Bought and ——
48. To diagram or not to diagram; that is the question
52. Work of Hank Schwarzberg
53. In (French)
54. —— for Phillip Morris
55. To close tight or snap shut
56. Los Angeles (abbr.)
57. Infrequently enjoyed letter grade, not available for work on this cross word puzzle
59. Test given to prospective lawyers and tavern employees
60. Spanish type of sauce in Chinese eating places
62. Remember the Dom. Rel. 36
63. Robert Reuben ——
66. —— Massey, Hungarian Actress
67. Bearded bridge player
68. Taunt
69. First Hebrew letter
70. Unlikely beverage in Cafeteria
72. Between knee and ankle
73. Most important person in the world
76. Between hip and ankle
77. Edgar Allen ——
78. Edward Ulysses Thompson
80. Alcoholics Anonymous
81. What you see next to your answers on the short answer part of finals
83. Not hi