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The Justinian

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THE JUSTINIAN

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

$15 Million BLS Annex To Rise In Adjacent Park

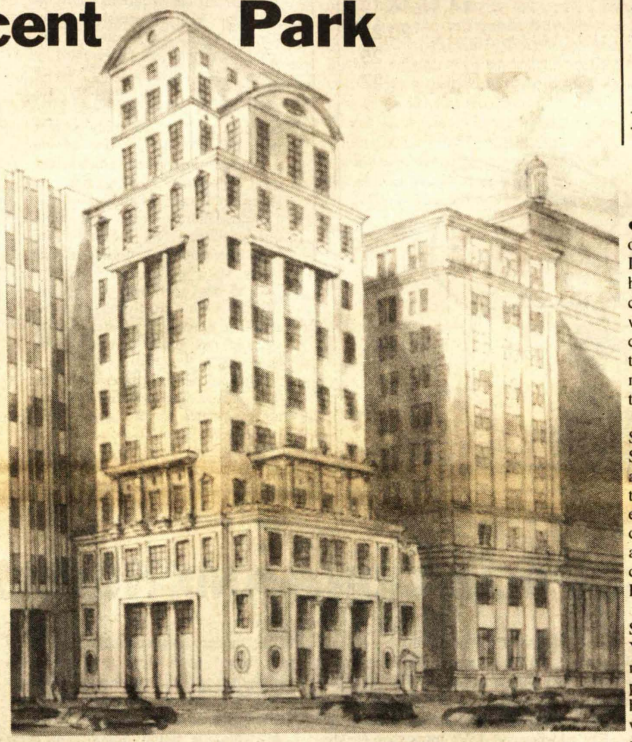
New Building to House Library Expansion, Modern Cafeteria, Lounge

by Bruce Kaufman

An adjoining vacant alley occupied only by rusting steel drums and neighborhood rodents is expected to be the site of a magnificent 10-story, $15-million Brooklyn Law School annex, according to Dean David Trager.

A fair selling price for the 4,415-square-foot parcel, located at 234 Joralemon Street, between the Municipal Building and Brooklyn Law School, is currently the subject of negotiations between the city and BLS, Trager said. The city is also looking at the prospect of leasing the property to BLS on a long-term contract if an adequate selling price cannot be worked out. The lot is only 30 to 40 feet wide at its greatest point and is considered impractical for most residential uses.

Once built, the annex will house an expansive new library, a modern cafeteria, additional faculty offices, a spacious auditorium, a meeting hall, and much-needed classroom space, Trager said. The in-house clinics, now located at One Boerum Place, may also move. Construction is expected to begin as early as the fall of 1989 but could be delayed till the spring of 1990, pending approval of the site by the Board of Estimate under the city's Uniform Land Use Review Procedure (ULURP).



The new building, designed by the Manhattan architectural firm of Robert A.M. Stern, is to be constructed along classical lines with a vaulted roof and multifloor mezzo-relief columns. It will be in welcome character with the neighboring Municipal Building and old City Hall (now Borough Hall) across the street, and is designed to mediate with the sleek, modern lines of Brooklyn Law School's main building.

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Justice Department's Policy Results in Legal Limbo for IRA Member

by Katherine Mullen Sidlauskas

Joseph Patrick Thomas Doherty has the dubious distinction of being the longest-held prisoner in the history of the Metropolitan Correctional Center. In a little over a month, he will celebrate his fifth year of captivity in MCC. Ironically, Mr. Doherty has never been charged with a crime in the United States. His continued incarceration is a reflection of the determination of the Justice Department to insure the return of Doherty to the United Kingdom any way it can.

Mr. Doherty was arrested by the United States Immigration and Naturalization Service on June 19, 1983. Following his arrest, the United Kingdom of Great Britain and Northern Ireland requested his extradition to the UK on the basis of his conviction, in absentia, for the murder of a British soldier and for offenses allegedly committed during his escape from H.M. Prison, Crumlin Road, Belfast.

In a trial before the Honorable John E. Sprizzo in the Southern District of New York, Mr. Doherty acknowledged his membership in the Provisional Irish Republican Army (PIRA). He testified that he was acting under orders of the PIRA when he and three others stationed themselves at a home on Antrim Road and waited to engage and attack a British Army convoy. An eight-member Special Air Services unit of the British Army stormed the house, and during the exchange of gunfire, a British Army captain was killed.

During his trial, Mr. Doherty refused to recognize the jurisdiction of the court and offered no defense. After the trial—but before a decision was reached—Mr. Doherty and seven other members of the PIRA escaped from Crumlin Road prison. This escape was also undertaken on orders of the PIRA.

Judge Sprizzo found that the offense for which Mr. Doherty's extradition was requested was a political offense and thus fell under the political-offense exception pursuant to Article (1)(C)(1) of the Treaty of Extradition between the United States and the United Kingdom. He ruled that the facts of this case constitute "the political-offense exception *in its most classic form*." Referring to the centuries-old

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Rent Control Symposium

by Bill Purdy

The historic Federal Hall was the site of the April 19 Brooklyn Law School sponsored symposium, entitled "Rent Control and the Theory of Efficient Regulation." The symposium was organized by the Brooklyn Law Review and was moderated by Professor George W. Johnson III of Brooklyn Law School. Richard A. Epstein, the James Parker Hall Professor of Law from the University of Chicago Law School, presented the principal address. Commentaries by Professor Jules L. Coleman of Yale Law School, and Professor Peter D. Salins of Hunter College followed Professor Epstein's presentation. The symposium severely criticized the theory, practice, and politics of Rent Control.

Professor Johnson opened the symposium with a comment on the environmental regulation of the early seventies and the possibly overlooked social costs of such regulation. Johnson pointed out the analytical advantage of a law and economics approach but noted that an economic analysis doesn't take into account other issues such as fairness. Johnson then reached the topic of the evening with an introduction of three recent Supreme Court decisions in the area of land regulation: *James Patrick Nolan v. California Coastal Commission; First Evangelical Lutheran Church v. County of Los Angeles*; and the Court's recent decision on rent control, *Pennell and Tri-County Apartment House Owners Association v. City of San Jose*.

Photograph: Arnold Save

Professors Jules L. Coleman, Richard A. Epstein, George W. Johnson III, Dean David G. Trager, and Professor Peter D. Salins.

Principal speaker Professor Richard A. Epstein attacked all rent control as a 'taking' in violation of the U.S. Constitution

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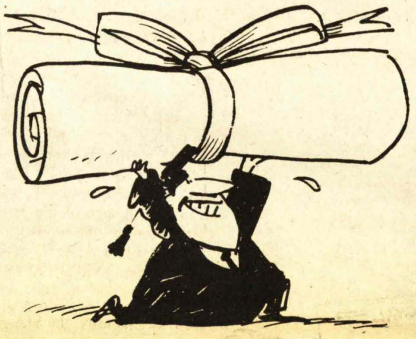

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ABA Convention Meets; Problem: Will Lawyer Supply Meet Demand

By *Steve Rubenstein*

The American Bar Association held its annual general meeting to consider various problems confronting the legal profession, from August 6-9, in St. Louis. Brooklyn Law School was represented by Dean Gerard Gilbride and Professor Donald Sealy. Their primary concern was the section on Legal Education, which met to study current needs in that field. One of the urgent questions posed, was whether legal education was getting its share of the talented students.

Dean Gilbride noted that while our population has increased, the legal profession has remained relatively static in number over the past twenty or thirty years. He further noted that there is an increasing demand for learned lawyers in the smaller cities of our country.

The problem emanates from the lack of funds and scholarship assistance available to the smaller law schools located in these areas. In contrast, the large national law schools provide abundant financial assistance and therefore attract law students from these smaller areas. The result is a wealth of students at the national schools and a lack of students at the smaller, less financially secure schools.

By 1970, 73,000 more lawyers will be needed to meet the ever-growing demand for legal services. To add to this dilemma top law students who are graduated from these smaller institutions, inevitable migrate to the larger cities where they are welcomed into firms. If the present trend continues, the smaller cities will be deprived of scholarly, enlightened lawyers and consequently the national body will lose its source of legal creativity.

With these factors in mind, the House of Delegates adopted resolutions from the committee calling on the Association to assume leadership in providing high school and college students with accurate up-to-date information about opportunities for careers in law and to create a special committee of 9 members to study and report to the Board on Ways and Means to implement the program.

T-SHIRTS, POLLUTION, AND NUCLEAR POWER

by Joseph Cardieri

A long haired, bearded man was recently seen walking through Washington Square Park wearing, a tee-shirt with the words "End Pollution" displayed prominately on the front. Naturally, my immediate inclination was to confront this prophet and demand an explanation, and possibly an apology, because pollution is generated by tee-shirt manufacturers. Yet, being by nature non-confrontational, I left the inconsistancy alone and began reflecting upon a closely related concern; namely, what's all the hoopala about the pit-falls of nuclear power?

The issues here are related by a shared mental attitude. Our concerned environmentalist above has arrived at his position without the benefit of sustained thought. Are the antagonists of nuclear power similarly guilty? I think so. Yet before explanations are demanded, let me be fair to my misled village friend by outlining briefly why his position is ludicrous.

To do away with pollution is to do away with the industrial age. A conclusory statement self evident enough to stand on its own. People like cars. People like couches and chairs. People like television and indoor plumbing. Unfortunately, these likes have concommitant risks associated with their manufacture and use. Society has accepted the reasonable risks associated with industrialization by supporting the continued consumption of the products of industrialization. The village soothsayer above has accepted, by his tee-shirt purchase, the pollution and accident-related deaths associated with tee-shirt manufacture. He's made a decision that the risks associated with the pollution that he perpetuates do not outweigh the necessity of citizens having a suitable variety of clothing choices. Hence, we should not do away with industrialization because we like couches and T.V. more than we dislike pollution.

Those against nuclear power argue that if a meltdown should occur the death toll will be enormous and that therefore let's not use it. My response is simply that policy objectives must turn upon probabilities rather than possibilities. While opponents of nuclear power speculate that a single accident may wipe out 10,000 people, the fact is that the alternative to nuclear power, coal, will emit pollution that will definitely kill over 50,000 people over the next 5 years. This does not even include the damage caused to vegetation by the greenhouse effect to which coal pollution is a major contributor.

The modern industrial age was paved with blood associated with trial and error—or as one BLS professor eloquently stated "carcusses on the road to progress'. Nuclear power, however, has a safety record which is unparallelled with new technologies. How many people died in the course of perfecting airplane travel? How about sea and ocean travel? The Three-Mile Island accident, for all the attention given it, did not result in a single death and the effect on the public, if any, has yet to be discovered. While the level of scrutiny upon a new technology should be proportional to the level degree of damage which may be caused by an accident, it makes no sense to call for the abolition of nuclear power when its alternative would cause greater environmental problems. (I don't consider nuclear waste a significant environmental problem as deep well injection appears a safe and reliable remedy.)

Getting back to coal . . . Those who favor the abolition of nuclear energy should know a few facts: The long term release of carbon dioxide from coal burning will increase global temperature with detrimental effects on vegetation, and effects of dangerous activities do not raise much concern — think of the media coverage accorded to disasters of a moment, such as an airplane crash, compared to the minimal attention given to 50,000 auto deaths a year. I know the sight of a mushroom cloud arising from a nuclear reactor (which by the way cannot possibly happen) makes for sensational journalism. However, prudent public policy should not be guided by exaggerated concerns sprouted from such sensationalism.

I don't expect the Tee-shirt wearer to understand this argument, though. As a wise man once said: "A man who is apt to spit on a subway platform is similarly apt to disregard signs prohibiting it." Similarly, those who are inclined to adorn shirts with 'End Pollution' displayed are usually not inclined to hear reasonable opposing factual arguments.

Legal Developments In The Financial Services Industry

Sixth Annual Financial Services Institute
The New Role of Banks, Thrifts, Securities Firms, and Insurance Companies

by Robert J. Roth

It used to be that bankers could ensure the success of their institutions and careers by adhering to the long-followed 3-6-3 Rule. This rule, simply stated, required that bankers take deposits at 3 percent, make loans at 6 percent, and be on the golf course by 3 o'clock.

Those idyllic days have gone the way of the dinosaur, and banking has moved from a staid, gray-flannel solidity to one of the greatest states of flux it has ever seen. Banks are no longer restricting their businesses to traditional deposit-taking and loan-making functions but have now made considerable forays into areas that were once considered the exclusive domain of securities firms and insurance companies.

The various legal questions arising from the new roles of banks, thrifts, insurance companies, and securities firms served as a focus for the recently held Practicing Law Institute's Sixth Annual Financial Services Institute Seminar. The event was co-chaired by Joseph Diamond, of New York's Skadden Arps Slate Meagher & Flom, and Robert M. Kuracza, of the Washington, D.C. — based Morrison & Foster. Topics covered included recent legislative proposals for repeal of certain sections of Glass-Steagall, recent regulatory approval of nontraditional bank activities, asset securitization, and international banking.

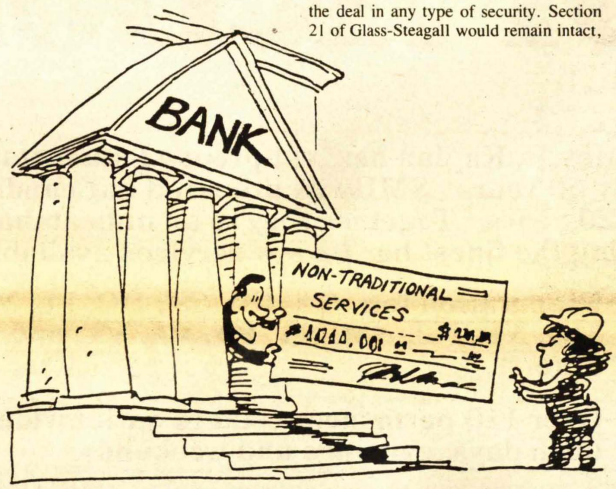
The distinguished panel of sixteen speakers ranged from legal counsel for various regulatory agencies, such as the Securities and Exchange Commission and Office of the Comptroller of the Currency, to representatives of law firms challenging the varied financial services now offered by banks and their subsidiaries. They discussed the recent legal challenges to new banking services, the statues involved, and the new banking legislation currently pending in Congress. An overview of the relevant statutes follows.

Overview

A likely starting point for an examination of all the tumult and talk of Glass-Steagall, et. al., would be a good look at what these laws are and what their repeal or change would result in. The activities of banks are governed primarily by the Banking Act of 1933. Sections 16, 20, 21, and 32 of this act are known collectively as the Glass-Steagall Act. As traditionally interpreted, these sections generally prohibit banks from engaging in certain securities activities, such as underwriting corporate debt and equity. The Glass-Steagall Act, undertaken during the Depression, had as its main objective the safety and soundness of the banking system.

As to the thrust of the provisions of the Glass-Steagall Act, Section 16 limits securities — and stock-related activities of national banks to purchasing and selling securities on order of and for accounts of customers. Bank trust department activities have traditionally been permissible under this section. Section 20 restrains member banks from affiliating with any entity that is "engaged principally in the issue, flotation, underwriting . . . of stocks, bonds, debentures, notes or other securities." The effect of Section 20 is to extend the prohibitions of Section 16 to bank subsidiaries and affiliated companies. Section 21 prohibits any company engaged in the business of taking deposits from the public from involvement in "issuing, underwriting, selling or distributing . . . stocks, bonds, debentures, notes, or other securities." As the emphasis in this section is on "company," it prevents securities firms from taking deposits and prevents banks from underwriting securities. The final section of Glass-Steagall, Section 32, imposes restrictions on interlocking directors between member banks and companies that are "primarily engaged" in activities listed in Section 20.

In addition to the Glass-Steagall Act, the Bank Holding Company Act of 1956 has also been a source of the controversy over the abundance of new financial services offered by banks. The Bank Holding Company Act applies to any company that has control over a bank. Its intent was to separate banking from unrelated industries and to prevent an undue concentration of banking resources in the United States. Section 4 of the Act prohibits a bank holding company or its nonbank subsidiary from engaging in any nonbanking activity except as otherwise provided in the Act. Under Section 4(c) (8) of the Act (Sect. 12 U.S.C. 1843(c) (8) and Regulation Y (12 C.F.R. 225.25) of the Board of Governors of the Federal Reserve System (FRB), which implements this section, a bank or its subsidiary may engage in a nonbanking activity only if the FRB determines that the activity is so closely related to banking as to be properly incident thereto, and the public benefits would outweigh the possible adverse effects.



WHAT LIMITS?

The Moratorium Ends

In August 1987, Congress passed the Competitive Equality Banking Act (CEBA), which established a moratorium until March 1, 1988, on the expansion of bank incursions into securities, insurance, and real-estate activities. CEBA's purpose was, in effect, to give Congress the opportunity to review the overall structure of the regulation of bank securities activities and to determine whether and to what extent bank regulators should be allowed to expand bank powers. By redefining the definition of *bank* to include institutions insured by the FDIC, CEBA effectively closed the "nonbank bank" loophole. CEBA mandated, with certain exceptions, that no federal banking agency approve by action or inaction any entity subject to the moratorium: bank applications to engage in the flotation, underwriting, public sale, dealing in, or distribution of securities. Unfortunately, the moratorium expired before any comprehensive regulation could be passed. The strongest hope now lies in passage of the pending Financial Modernization Act of 1988.

Legislative Developments

On March 30, 1988, the Senate overwhelmingly passed the Financial Modernization Act of 1988 (S. 1886). But the bill hailed as the "most important new banking legislation since the National Bank Act of 1863" faces a potentially long debate in the House before becoming law.

The bill adopts the concept of "functional regulation," whereby a company's different financial services would be regulated separately according to the nature of the financial activity involved. This would limit the turf battles between the Securities and Exchange Commission and the bank regulators by distinctly parceling out regulatory jurisdiction. As to specific provisions, the bill would repeal Sections 20 and 32 of Glass-Steagall, thereby permitting bank holding companies to own securities underwriters and to underwrite the deal in any type of security. Section 21 of Glass-Steagall would remain intact, prohibiting securities companies from taking deposits and preventing banks from underwriting corporate and other securities. The proposed bill would also have an impact on the way a bank holding company's capital is calculated and would remove from FRB examination and capital requirements those bank holding companies that have an 80-percent interest in the securities business.

To allay concerns over the so-called subtle hazards inherent in banking-securities overlap, the bill contains a number of "firewall" provisions that ensure adequate separation of bank and security-affiliate activities. Examples of these firewall provisions include restrictions on loans from a bank to its security affiliate, prohibitions on director interlocks, and sharing of confidential information between the bank and its security affiliate. Significantly, the bill would be inapplicable to thrift institutions and would thus give the Federal Home Loan Bank Board substantial leeway in developing policies to facilitate the sale of failing thrifts and attracting new capital to the thrift industry.

Court Challenges To Banking Gains

Because legislators have become increasingly lax in responding to the ever-more-sophisticated financial services proposed by the banking industry, regulators and courts have over time become the ultimate arbiters of permissible bank activities. A sampling of some of the most recent cases attests to this development.

In the past year, two significant cases have allowed the expansion of securities activities of bank holding companies to include approval of National Westminster Bank, PLC, to offer "full-service brokerage" activities and the approval of limited underwriting powers for seven money-center bank holding companies. These cases required an interpretation of Section 20 of the Glass-Steagall Act (discussed above). A third case still pending in New York has challenged Security Pacific National Bank's authority to pool mortgage loans and sell pass-through certificates representing interests in the pool.

In the National Westminster case, the Board of Governors of the Federal Reserve System approved, pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956, an application by the bank to provide investment advice and securities-brokerage services to institutional customers through a newly formed subsidiary. The application was approved as being properly incident to banking within the meaning of the exception and was not viewed as a public sale of securities for the purposes of Sections 20 and 32 of the Glass-Steagall Act. The Securities Industry Association (SIA), a trade group representing the securities industry, petitioned for review of the decision, which was subsequently upheld by the United States Court of Appeals (District of Columbia Circuit). *Securities Industry Association v. Board of Governors of the Federal Reserve System,* 821 F.2d 810 (D.C. Cir. 1987), *cert. denied,* 108 S. Ct. 697, —U.S.—(1987).

The second noteworthy decision involved a Board of Governors approval of proposals by certain banks to engage in limited underwriting and dealing in certain types of "bank ineligible" securities. "Ineligible" securities are securities other than those that banks have been authorized to underwrite and deal in under Section 16 of Glass-Steagall. As in previous actions where bank powers have been expanded into areas traditionally left to the securities industry, the SIA petitioned for review of the board's order. Although the SIA petition was denied by the Second Circuit Court of Appeals, the cross-appeal filed by the applicants and other bank holding companies was denied in part and granted in part. *Securities Industry Association v. Board of Governors of the Federal Reserve System,* No. 87-4041 (2d Cir., Feb. 8, 1988).

After a recent ruling by the Office of the Comptroller of the Currency that the Glass-Steagall Act does not prohibit the sale by a bank of mortgage-backed pass-through certificates, the SIA responded by filing suit in the U.S. District Court (S.D.N.Y.). The association seeks a judgment that the Comptroller's decision is null and void. *Securities Industry Association v. Clarke,* No. 87-4504 (S.D.N.Y., filed June 25, 1987)

Under the comptroller's analysis, the Act does not restrict the manner in which the national banks may sell or transfer interests in their mortgage, or mortgage-related, assets. Under prior Comptroller's decisions and the aptly named transparency theory, it does not matter if a transaction appears to be a purchase of securities if it is actually a different position, viewing mortgaged-backed certificates as securities for purposes of Glass-Steagall. Whether the district court will adhere to the comptroller's treatment of the certificates remain to be seen.

Conclusion

Although the direction banking entities will follow in developing creative new financial services is anybody's guess, one thing remains certain: Banking, for better or for worse, has evolved into a highly sophisticated area of legal specialization. Regulators and congressmen continue to investigate the impact of new developments on individual institutions and on the banking industry as a whole. One can only hope the industry does not become oblivious to the very abuses that prompted the legislation it now seeks to avoid under the guise of progress.

THE WAR POWERS DEBATE
Another Technological Time Warp

by Ching Wah Chin

Recent events have confirmed the U.S. president's ability to commit American forces to combat around the world. That the president is able to do this should come as no surprise. The Constitution makes the president the commander-in-chief of all our armed forces. Members of the military are sworn to obey the commands of their legitimate superiors. Yet military maneuvers often stir up the uneasiness with which we regard the constitutional separation of war powers between the executive and legislative branches of our government. Perhaps we can help settle this uneasiness by examining the powers the president possessed in the past and possesses in the present. A historical approach may shed some light on what practical restraints can be placed on the president. This approach reveals the parallel expansions of military technology and the president's war powers.

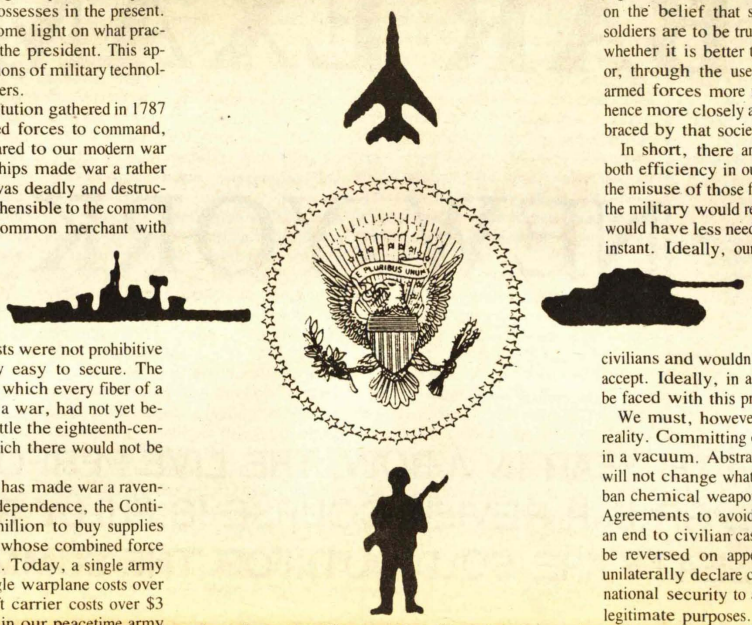
When the framers of the Constitution gathered in 1787 and gave the president the armed forces to command, war was a slow business. Compared to our modern war equipment, cavalry and sailing ships made war a rather plodding sport. Of course, war was deadly and destructive, but the pace was still comprehensible to the common farmer with his horse and the common merchant with his barge. War was costly, but costs were not prohibitive and replacements were relatively easy to secure. The application of a "Total War," in which every fiber of a nation's being was committed to a war, had not yet become commonplace. There was little the eighteenth-century president could order for which there would not be ample time for reversal.

Today's technology, however, has made war a ravenous beast. During the War of Independence, the Continental Congress authorized $2 million to buy supplies for the army, navy, and marines whose combined force totalled at its height 250,000 men. Today, a single army tank costs over $1 million, a single warplane costs over $10 million, and a single aircraft carrier costs over $3 billion. We have 750,000 troops in our peacetime army alone. Our active arsenal consists of roughly 8,000 combat planes, 400 warships and over a million troops, much of which can be rapidly thrown into combat. Technological changes in our military equipment and the global stature of the U.S. has necessitated a greater investment in our military resources. And these increased resources are all at the immediate command of the president.

These increases in the president's available military resources constitute a drastic escalation in the president's present war powers from those powers vested in him by the framers. Meanwhile, the constitutional debate over the war powers remains stalled on the question of the framers' intent and the desirability of giving excessive power to the president. These two constitutional questions, however, are rendered virtually irrelevant by the technological progress of warfare over the past two hundred years. The framers had no conception of modern warfare, and their intent has little bearing on the practical demands of modern military command and control. Technological change has already granted powers to the president beyond any the framers envisioned.

A comparison of present-day warfare and that of the past shows that: today's forces are more widely scattered and have a greater projection of destructive power; there is a greater investment in the troops and equipment necessary to wage war; and the president has come closer than ever to being able to personally direct a war. A recent incident in the Persian Gulf involved a field commander who both requested and received a direct command from the president via satellite within the space of half an hour. This rapid communication showed that the president was able to risk over $500 billion worth of our nation's military resources in an instant. This ability, however, is undeniably necessary in order to control our global forces and protect our interests. In short, the armed forces can and must act faster, over greater distances, and possibly at an extremely high cost before there can be any nonexecutive checks on their activities.

But, then what of placing more checks on the president's role as commander? We could, for instance, have orders decided by committee. We could have a policy memorized by each soldier at the front regulating every reaction. We could even have a civilian tagging along with each military unit as a watchdog to make sure the unit performs according to policy. Given the changes in the technology of warfare, however, these "solutions" would be disasters.



Decision-making committees are inherently incapable of keeping pace with the modern battlefield. Spanish Civil War Republican forces during the late 1930s, during a time even before jet planes and missiles, experimented with committee-command structure to their severe disadvantage. By the time the committee made a decision, it was usually too late to enact it. The battlefield requires a chain of command that allocates responsibilities and duties in such a manner as to limit any paralyzing indecision. A committee works directly counter to such a purpose.

The armed forces can and must act faster, over greater distances, and possibly at an extremely high cost before there can be any nonexecutive checks on their activities.

Neither can we simply have our soldiers commit to memory a particular government policy. If memorization were the rule, our forces would be incapable of reacting in unanticipated situations. Military history has demonstrated that the "fog of war" is a genuine phenomenon that disrupts the application of best-laid plans. A policy could be stated, but if an unforeseen situation occurred, a new policy could not be generated before our soldiers were eliminated. Soldiers would find it difficult to survive if they were forced to wait for a policy change against an equal enemy who had no such handicap. It must be remembered that in our modern, fast-paced warfare, seeing the target can assure destruction of the target. Policy making, however, is usually a slow and tedious process that can at best manage only broad directives. Our soldiers would die in the field before a typically negotiated policy were arrived at.

Another unacceptable alternative is to have civilian watchdogs insinuated into our military. An example of what might occur was seen during the McCarthy era, when people spent much of their time looking over their shoulders to see who was watching them. An even clearer example of this is the political comissar system used by the Soviet Union in their enforcement of Communist Party discipline on the Red Army. The Soviet system inherently degrades the soldier's morale because the system is based on the belief that soldiers cannot be trusted. Even if soldiers are to be trusted, however, the question remains whether it is better to simply whip obedience into them or, through the use of a universal draft, to make the armed forces more representative of a free society and hence more closely approximating the civilian ideals embraced by that society.

In short, there are no easy decisions that guarantee both efficiency in our armed forces and security against the misuse of those forces. Ideally, whoever commanded the military would represent our entire population, so we would have less need to suspect our armed forces at every instant. Ideally, our troops would share the values of civilians and wouldn't do anything that civilians couldn't accept. Ideally, in a world at total peace, we wouldn't be faced with this problem in the first place.

We must, however, consider not only ideals but also reality. Committing our troops to combat does not occur in a vacuum. Abstract discussion of how war should be will not change what war is. International agreements to ban chemical weapons have not put an end to their use. Agreements to avoid war on civilians have not brought an end to civilian casualties. An exploding bomb cannot be reversed on appeal. Although it would be nice to unilaterally declare civilized conduct, it cannot serve the national security to apply one-sided rules that disregard legitimate purposes.

However, there is no problem when the president clearly acts with a legitimate purpose. The problem arises when there are questions concerning purpose and Congress is asked to legitimize the president's act. Modern war cannot be controlled by Congress, however, the same way treaties can be ratified. The implementation of a treaty is usually a lengthy enough procedure for Congress to take part in it. By the time Congress can make a decision in a modern war, however, their decision might no longer be appropriate, given a modern war's fast pace. Asking Congress to legitimize a presidential action after it has already been taken and its results are permanent is begging for a constitutional crisis without any remedial effect. External congressional controls on the presidential war powers are inadequate. Such external controls are at best irrelevant to the consequences of the action and at worst a hindrance to the ability of the military to maintain our security. It would be more effective to place the control in the military itself.

A better way to control the president's use of the military would be to imbue the troops with the same values we instill in our civilian population. This internal control in the hearts of soldiers would remain constant even as technology changed the weapons in their hands. As long as troops are loyal to principles, those principles are less likely to be violated merely because technology advances. Congress should enact more long-range legislation which fosters a sophisticated military loyal to our society's ideals, rather than brute-force legislation which simply hampers presidential authority in foreign policy. An even better alternative, however, would be to encourage nonmilitary solutions for foreign policy in the first place.

Nonmilitary solutions are admittedly slower in achieving results and therefore less attractive to a short-sighted population. If we are willing to plan and implement coherent long-range foreign policy, however, we can avoid resorting to military "quick fixes" whose methods change as fast as military technologies. And in a similar manner, if we consider the long-term consequences of technology, we can avoid making "quick fix" policy choices that strain the foundations of the Constitution. A prominent science-fiction writer once wrote, "Violence is the last refuge of the incompetent." If this includes violence to the ideals of a functioning democratic society, perhaps he should have added, "Violence is the first choice of the impatient."

FACULTY CORNER

Would you do business with the Nazis?

Et tu, ABA?

by Erika and Henry Mark Holzer

If, 50 years ago, an association of Nazi lawyers had proposed to enter into a "Declaration of Cooperation" with the American Bar Association—mutually pledging to advance the rule of law and work for human rights—the revulsion of most lawyers would have been palpable.

To the "practical" arguments—that open doors are preferable to closed ones, that Nazis can be talked out of their "excesses," that to this end a continuing "dialogue" should exist even as victims of the Nazi regime suffer and perish in Buchenwald and Auschwitz—American lawyers would have protested—loudly—that to sit down with thinly disguised agents of the Third Reich was to sanction that regime. That to shake the hands of its "legal" representatives was to bloody their own. That for lawyers to cooperate with men who had helped destroy the rule of law in their own country was obscene.

Yet the American Bar Association, in a flagrant assault on its own Canons of Professional Responsibility and their professed commitment to individual rights and the rule of law, has entered into such a declaration of cooperation.

Not with the Nazis. With another totalitarian regime whose *substantiated* record of human rights violations—from mass murder to an institutionalized system of slave labor to systematized persecution of dissenters—surpasses in numbers and duration, if not in horror and bloodshed, even the Nazis.

In May 1986, the ABA agreed to sit down with thinly disguised agents of the Soviet secret police. It entered into a "Declaration of Cooperation" with a group that, in brazen parody of the ABA, chose the label "Association of Soviet Lawyers." It pledged to advance the rule of law with puppet lawyers who, in their own country, take part in rigged trials, uphold censorship, and regard public protests, teaching Hebrew, and attempting to exercise one's right to emigrate, as "crimes" against the state.

Just recently, at its national convention in San Francisco, the ABA defeated a proposal to end its cooperation with the Soviets. The watered-down proposal, aimed at abrogating only "formal" ABA/Soviet dialogue, was voted down, 156 to 32 (out of a total non-attending ABA membership of roughly 340,000).

What did a small but entrenched minority of the ABA achieve by its dubious victory in San Francisco?

It will continue to discuss human rights with KGB functionaries even after hearing firsthand evidence of torture and death in the gulag from dissident psychiatrist Anatoly Koryagin, whose credentials include six years in the camps—four of them spent in solitary isolation and on hunger strikes—and who traveled from Switzerland to deliver an eloquent message and an impassioned appeal, which the ABA chose to ignore.

It will continue its "open dialogue" with a Soviet group that, as Nicholas Daniloff (the American journalist arrested in Moscow last year) pointed out to ABA members, is *not* the ABA's equivalent but was created by the communist Party's Department of Agitation and Propaganda to promote Soviet foreign policy.

It will go on fraternizing with the legal arm of a regime that slaughtered 50 million of its own people, subjugated Eastern Europe and much of the Far East, and today ravages and depopulates Afganistan while pursuing a *government policy* of blowing off the limbs of children with "toys" that explode.

Most ominous of all, the ABA's irresponsible dabbling in a kind of "legal detente" will cloak a group of pseudo lawyers in a mantle of legitimacy, even as the legal system they represent can boast that it has *never*, in its 70 year history, permitted the rule of law within its own Soviet-dominated borders.

Why should all Americans object? Because the ABA, in the eyes of the world, is this country's most prestigious legal organization—the self-appointed guardian of our liberties.

But the problem obviously doesn't begin and end with the American Bar Association or even with lawyers making unholy alliances with the Soviet Union. Unfortunately, too many American businessmen are—and it seems always have been—only too eager to do business with totalitarian regimes, often donating good-old-Yankee ingenuity and technological expertise at the precise time when regimes like the Soviet Union are in dire economic straits and need bolstering by the West.

It's happening right now. Experts at analyzing the domestic Soviet scene, such as Russian dissident Vladimir Bukovsky, have been telling us that Gorbachev's vaunted *glasnost* strategy is calculated to buy time while he digs his regime out of critical economic difficulties—with desperately needed Western help, of course—after which this new spirit of detente will revert to the old spirit of confrontation and hostility. And while unprincipled lawyers and businessmen need no encouragement from on high, it must be said that President Reagan's lovefest with Gorbachev and his current revisionism (from "Evil Empire" to "Afganistan? He didn't know the gun was loaded!" in a few short years) have unquestionably encouraged these people to make their deals with all deliberate speed.

The question today's entrepreneurs must ask themselves is: If they wouldn't have sold Eichmann the trucks with which to convey millions of Jews to gas chambers, why would they sell the Soviet Union the equipment for an "Alaskan" pipeline built by slave labor? And if today's lawyers wouldn't have sat with the Nazis on tribunals which sentenced innocent men to concentration camps, why would they sanction the KGB's rigged trials which send innocent men to the Gulag?

The question every American must ask is: Can one give aid and comfort, of whatever kind, to totalitarian regimes without losing one's soul? □

This essay is based on a November 27, 1987 article in the Washington *Times*.

BIRDS OF A FEATHER

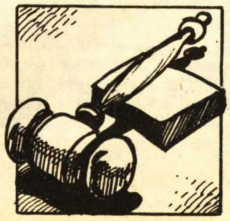
The dove and the sparrow had a fight,
O'er which right is wrong and which left is right.
Said dove, "Though much embraced
— and often kissed —
By many strange birds, all named with an 'ist,'

"It seems a slight, which lack of sight, in spite,
That might remains tight, why this 'ist' is right.
While I left, bereft, my leaden heart cleft;
Dialectic deft: 'ist' — as eft — is left."

"Ah," said sparrow with sing in his song,
"Clear 'ist' to me why right is to wrong!"
He shook his head, with logic so full,
And took to wing, as the dove cried, "Pull!"

The sparrow glanced back, saw no spark of shame,
"So ends our discussion . . ." and he burst into flame.

—Bill Wempren

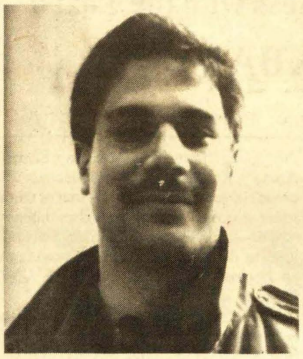


Question: Do you think the school's new security measures are effective?

Inquiring Photographer
by Jeff Schagren

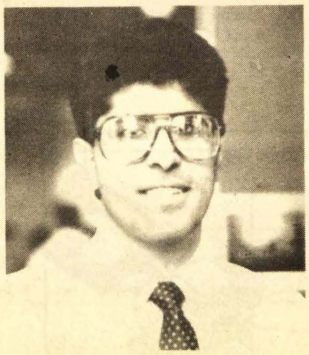
Harry Dunsker 2nd year: Anything is an improvement over the previous methods. It's nice to see our school's security Personnel Performing an identifiable function.

Annalise Lepore 1st year: Long overdue.

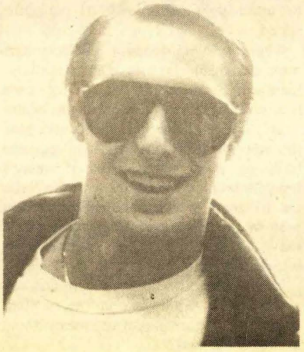


Michael Furman 2nd year: It was an intelligent decision by the school faculty and a quick response to an unfortunate circumstance.

Karen Mohan 2nd year: I think the students are still insecure.



John Lutfy 2nd year: I think it would be easy enough for outsiders to get into the school if they really wanted to get in. But it keeps the average bum out of the school.

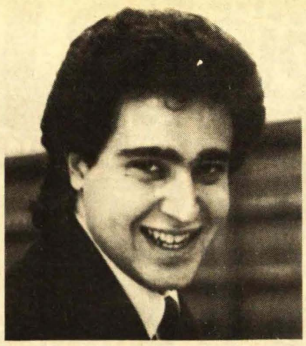


Austin Jacobson 2nd year: They would be if they were enforced.

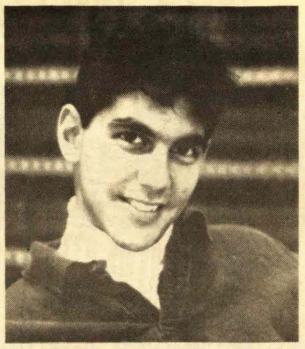
Mitch Brill 2nd year: You couldn't think of a better question?

Sher Silverman 1st year: No. there are too many people going in and out at the same time. Also, no one gets checked when they go straight into the library.

Laurie Greenberg 1st year: I think it would be effective if everyone got checked when coming into the building.



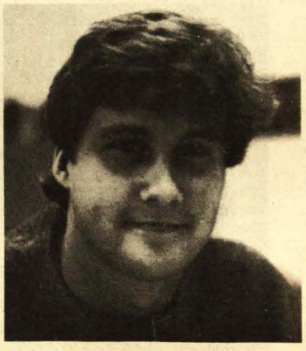
Scott Rusczyk 2nd year: Absolutely.



Robert J. Bellinson 2nd year: If the security measures protect a single person, then the benefits clearly outweigh the burdens imposed.

Andrew Silverstein 1st year: No because I've seen people without an I.D. walk through while I'm still fishing around for my card.

Andrew Richards 2nd year: Although its not a perfect solution, it keeps your average sleazebag from the street out of the school.



David Bolton 2nd year: I think it's an effective system but unfortunately they still let the Professors in.

Joy Weber 2nd year: Yes. But I still see people walking through that the guards don't stop. Some of them I'm sure the guards know but others slip right by.

Donna Farfinski 2nd year: I would, except for the fact that I saw a drunken man walk in one afternoon when the guard stepped away from his desk. In the meantime, I get checked every morning, books in hand, and the guards recognize me.

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BROOKLYN, NEW YORK

Work progressing on new school building

by Marv Robbins

Work has been progressing on schedule on the new Brooklyn Law School building with the foundation already completed. However, a steel strike has occurred forcing a temporary halt in the construction. Without steel, construction of the building cannot continue and if the weather becomes unbearable before the structures is closed, delay will be incurred. If however, the steel strike is settled within a reasonable time, and if the weatherman cooperates, there still will be a good chance to have the law school ready for occupancy by its target date of September 1968.

Ground breaking ceremonies for Brooklyn Law School's new multi-million dollar building at Joralemon Street and Boreum Place took place on June 16, 1967. Among the dignitaries attending were the late Justice Henry L. Ughetta (President of the Board of Trustees), Dean Jerome Prince, Assistant Dean Gerald Gilbride, Judge John Van Voorhis of the State Court of Appeals, and Assembly Speaker Anthony J. Travia.

Although the new fully air-conditioned ten story building will be more spacious than the present site and thus permit an increase in enrollment, it is for the improvement of facilities and not the enlargement of the student body that this building has been conceived. The improvements will be seen in many areas, such as library twice the size of the present one, a reading room with lounge chairs and a seminar room for every three classrooms. More office space will be available for student organizations, such as the Student Bar Association and *The Justinian*. A student lounge and cafeteria will also be provided. In addition, there will be a faculty lounge and library twice the size of the present one. Finally, all full time faculty members will occupy private offices.

GROUND BREAKING CEREMONIES: (l-r) Assembly Speaker Anthony J. Travia, Borough President Abe Stark, the late Justice Henry L. Ughetta, Dean Jerome Prince, Abraham M. Lindenbaum, Judge John Van Voorhis.

$15M BLS Annex Planned

continued from page 1

"Once built, the new annex will appear to be much older than the current building," said Professor Michael Gerber, who is assisting Dean Trager in the project.

Impact on Tuition

The costs of construction are to be paid out of funds raised under a planned major-capital campaign, according to Trager, and should not result "directly" in any tuition increase.

"Directly, [tuition] will not increase, but it could indirectly, in the sense that endowment income that has been used to subsidize costs of the day-to-day academic program may not be available, and tuition will have to cover more of the costs of the school's program," Trager said. He added that any tuition increase resulting from the proposed annex will not affect currently enrolled students.

"If a tuition increase will dramatically affect the quality of the law school, I don't think students will have any problem with it," said Barry Yablen, president of the Student Bar Association. "If this will improve our reputation and growth, I think it is a great idea."

Library Expansion Cited

The proposed annex will offer BLS the opportunity to remedy two of its most-criticized shortcomings—the inadequate size of the library, now at only 178,000 volumes, and the lack of study space. Library size is an important criterion in most national rankings, largely because it is indicative of a school's financial resources and physical plant. By comparison, the law-school libraries of New York University and Fordham stand at 637,000 and 254,000 volumes respectively.

"The current school library is inadequate," said second-year student Rayf Berman. "Schools of equal and lesser quality are better equipped with state reporters and other legal periodicals. As a research assistant, I've had to go to other libraries to get the books I needed."

"We are looking at a very large expansion of the library," Gerber said. "There is no question that our present library is too small and uncomfortable for students," he said.

According to Gerber, three floors of the annex will be devoted to library space as will two additional floors in the main building—the third floor and the basement, which now houses the cafeteria and bookstore. The third floor—occupied by the student lounge and the offices of the International Law Journal, the Moot Court Honor Society, Law Review, Justinian, and S.B.A.—will be used entirely for library space, compelling a move of these organizations.

Perhaps the most amusing change of all will be the location of the new entrance to the library. According to Sara Robbins, BLS law librarian, the new entrance will be on the second floor of the main building. The lobby entrance will be sealed, she said.

The expansion in the size of the library will coincide with other major changes, including the addition of several new study rooms and a more comfortable microfilm room, Robbins said. Several new computers and a bevy of new Lexis and Westlaw terminals are also planned.

According to Robbins, the expansion of the library, now 95-percent full, will increase capacity to 300,000 volumes. This will permit the library to expand at a healthy rate of 5,000-8,000 volumes per year.

"For a long time we have had the money to buy new books, we just needed a place to put them," said Robbins.

Meeting Hall Planned

In addition to the library, a large auditorium and a meeting hall are planned. The auditorium, which will seat 300 to 500 students, according to Gerber, will probably be located on the top floor. A smaller meeting hall, designed to seat up to 300 students, is planned for the fourth floor. Neither room will be large enough for commencement exercises, Gerber added.

Other plans for the new building include a modern cafeteria, smaller moot-court-rooms, and possibly a smoker's lounge. The lounge presently located on the third floor is to be moved to the lobby, opposite the current entrance to the library. This is the same spot it occupied before moving to its present location. The planned cafeteria will boast a wooden dance floor, making it suitable for formal receptions.

Although most elements of the project have been provided for, some details remain to be worked out, according to Gerber. Among them will be the fate of the front garden and assurances that classroom disruptions are kept to a minimum during construction.

The latter is expected to be no easy task as design plans call for knocking out several outside walls in the main building to permit continuity of each floor from building to building.

"The [west] garden will be gone," Gerber said. That side is to be occupied by the new annex. "A larger garden will be built on the Boerum Place side."

A new plaza is expected to be built in front of the building, Gerber said, but details are still unclear.

Newsstand Will Move

Concern over the construction of the new building was raised by a local newsstand operator, Joan Miller, at a community board meeting in February. Miller, who feared her stand—situated in an easily accessible location in front of the vacant lot—was threatened, said she is no longer concerned. The city has agreed, she said, to move her to a new location 10 feet to the west in front of the Municipal Building. The proposed spot is the same one she held two years ago, before she was moved to her current location after first-floor office workers in the Municipal Building complained that their view of the street was blocked.

"I bear no malice toward anyone," Miller said. "The city has promised to move me at no cost."

Miller, whose stand has been in her family since 1932, added that she has seen the design of the new building and "liked it."

Rent Control

continued from page 1

and as a "naked transfer of property from one party to another." He considered rent control not only a taking, but a taking for private, not public use, without just compensation.

Finding rent control constitutionally unjustifiable, Epstein examined whether rent control can be brought within the elusive "police power" of the government. Epstein rejected the police power justification, citing the distinction between the justified use of police powers to protect non-involved third parties and, as here, the inappropriate exercise of police power over parties to a contract.

Epstein also found rent control unacceptable on social grounds. He contended that since rents are artificially held below the market value, tenants are encouraged to use land inefficiently. In addition, by making the building market unattractive, rent control discourages new development and encourages abandonment of buildings. Finally, Epstein argued that rent control widens the social schism between landlord and tenant. He reasoned that rent control encourages the landlord to make new leases any time he can, causing the landlord to "pounce on the dereliction" rent control has produced.

Professor Epstein's presentation was followed by commentaries from Professors Jules L. Coleman and Peter D. Salins. Professor Coleman criticized what he characterized as Epstein's libertarian argument against rent control and suggested that any argument for rent control must be non-liberal. He agreed, however, with most of Epstein's argument, criticizing rent control as a "bull in a china shop." Coleman attributed the prevalance of rent control legislation to its promise of quick tenant benefits which makes it "politically palatable."

Professor Salins called rent control "bad law, bad economics, and bad policy" and joined the other two speakers in criticizing rent regulation. Salins distinguished himself from the prior speakers by addressing the situation directly and suggested that a truly pragmatic argument is the only way to combat rent control laws. However, Salins did not elaborate on exactly what that argument should be.

Following the speaker's presentations the audience—which included housing planners, Federal Court judges, city officials, housing representatives, the leaders of various watch organizations, attorneys, law professors, and members of the press—had the opportunity to ask questions. Later, the speakers and audience had the opportunity to meet at a cocktail reception.

Reflection on Women

by Lisa Muggeo

On March 10, I left Brooklyn Law School to journey to Austin, Texas. To my delight, I had been selected to attend the Nineteenth National Conference on Women and the Law as a representative of the Legal Association of Women. My great expectations grew during the trip out in anticipation of the scheduled events. After a cab ride, two flights, and a second taxi ride, we arrived (my mother came along) at the Stouffer Austin Hotel.

The theme of this year's conference was "Stirring the Water in the Pool—Changing Reflections of Women." The focus was on exploring issues and developing strategies for a coordinated response to the legal, political, and economic issues faced by women. The various issues were to be examined through a multitude of continuing hourly workshops over a three-day period.

There were so many workshops available each hour it was hard to choose which to attend. All the workshops sounded equally important and interesting. They ranged in topics from women in the criminal justice system to women with AIDS, privacy rights in health care, and issues concerning lesbians, women of color, and disabled women. I made my choices and enjoyed all the workshops we attended.

At each workshop two to four panelists—specialists in a particular area of law—gave a presentation focusing on a specific problem in that area. Then each proposed changes and solutions. Following these presentations, the panelists opened the floor to audience participation and questions. The majority of the audience was composed of practicing attorneys, although many law students (mostly from Austin) attended.

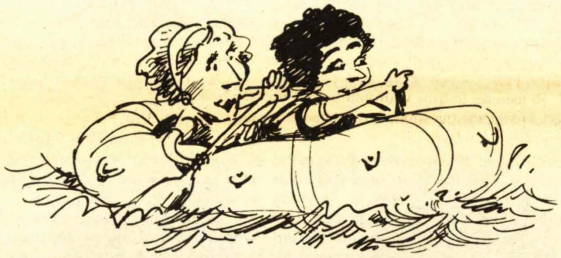
Exposure to these problems provided a valuable learning experience. Yet it was distressing to witness the ongoing battles that continue to confront women in the legal community. Because of these problems, the dominant message conveyed by the speakers was that women must initiate changes to achieve a more just society.

The keynote speaker was Delores Huerta, the Vice President of the United Farm Workers of America. Her message was that when women unite and work together, they have the power to make changes. She stressed the importance of fighting for what we believe is just in order to achieve our goals.

Another feature of the conference was a large room set aside for a variety of exhibits. The exhibits consisted of arts and crafts created by women, books focusing on women, and free informative literature concerning various women's organizations.

At the conclusion of each day's workshops, one could choose from the special films being shown or just linger at the luxurious hotel piano bar to recap the day's events. One evening there was a show featuring all-women entertainment. Many of the women who performed were very talented.

In sum, the conference was memorable, educational, and thoroughly enjoyable. And for me, the most precious part of the experience was having my mother along. Initially, she just viewed the trip as a chance to see Austin, Texas. But she wound up accompanying me to most of the workshops and events offered at the conference. She may not be a feminist or agree with my political beliefs, but for one weekend she came close.



Legal Association of Women: A Triumphant Year

In the 1987-1988 academic year, the Legal Association of Women of Brooklyn Law School presented the following events:

October '87	Rap session for first-year students on stress
	Forum on gender bias in the court system, with Lynn Hecht Schaffran
November '87	Rap session on study aids
	Forum on prostitution with Judge Margaret Taylor, presented jointly with National Lawyers' Guild Presentation by Judge Pearle Appleman, BLS alumna
December '87	Rap session on stress and exams
	Candlelight holiday party
March '88	Tour of the Kings' County Family Court
	Women's History Month Film Series:
	ANANPURNA
	BUT SHE'S BETTY CARTER
	BEAUTY PAGEANTS: MISS OR MYTH
April '88	Luncheon with Professor Liz Schneider
May '88	Forum on interviewing with Jane Ezersky
	Reception with Women's Alumnae Network
	(presentation videotaped to preserve oral history of women at Brooklyn Law)

L.A.W. sent ten students to the NYU Conference on Domestic Violence. We were represented at Columbia Law School's conference on gender bias, and we sent a representative to Austin, Texas, to attend the National Conference on Women in the Law.

The Legal Association of Women was also instrumental in changing the security policies in the law school in response to the sexual assault that occurred here.

Many thanks to all of our members and friends who helped to make these events possible. Good luck to our sisters and brothers who are graduating.

If you are interested in joining us, contact Andrea Montague '89 or Lisa Muggeo '89 by leaving a message in the SBA office.

A meeting place?

Open eyes can see the real that's inside of me. As we meet I let reality become a part of thee.

Once you were seen I asked were you an agent of reality? When we meet I know I'll keep reality.

A soul is what was touched when I spoke to thee. As we spoke I felt the growth of reality. Your soul became an intangible reality, and I experienced an inner part of thee. Yet as we spoke I worried that our souls would not completely peace the other's. And I realized that mine is forever a part of me.

As we parted, there was no return—push forward is what I'd hoped to find inside of me and thee. And I asked what it was said or that it was said by me?

At the departure what was said is gone, but I hope we can use it all to find another soul to care along.

ANTOINETTE MONICA WOOTEN

Lawyering and Mothering CAN Mix!

A Woman's Perspective

by Lisa Muggeo

Why Should a Woman Have to Choose? Lawyering and Motherhood Are Not Mutually Exclusive!

Recently there has been a distinct though debatable message running rampant through the printed media. The message conveys the warning that motherhood and lawyering don't mix. In the past few months, there have been several articles in the *National Law Journal* and the *New York Times Magazine* delivering this message. Who is heading this conspiracy to indoctrinate professional women with the notion that they must choose between motherhood and careers?

I do not deny that women attorneys face a very distressing dilemma when they seek to combine career pursuits and child rearing. But merely highlighting this problem without pinpointing its cause or offering a solution will not bring needed changes to the workplace. Media presentation of this problem indicates that a woman has no alternative but to choose between her career and her children. This is neither an acceptable nor a feasible choice.

The problem is twofold. First, no state or federal law today mandates that a woman be given time off from work when she gives birth. Fortunately, because of the vast number of women in the workforce, some businesses have implemented their own policies. These companies usually provide a woman with six to twelve weeks of maternity leave. But this in itself is not enough. Second, the burden of balancing a professional career and child rearing is borne primarily by women today. Rarely does a company promote any type of leave for men when their wives give birth.

Although a bill was introduced to the state legislature several years ago to establish parental leave, it has not yet been passed. Parental leave would include time off for both men and women for the birth or adoption of a child or to care for a sick child, mate, or aging parent. Failure to pass this bill into law reflects our society's patriarchal view of women as primary caretakers.

The notion that women should bear the entire burden of child care must be challenged! Men must be confronted with their failure to adequately share in the responsibility of child-rearing. Women must demand that their partners accept their share of the burden. As long as they don't, child rearing will remain within the sphere of female responsibilities.

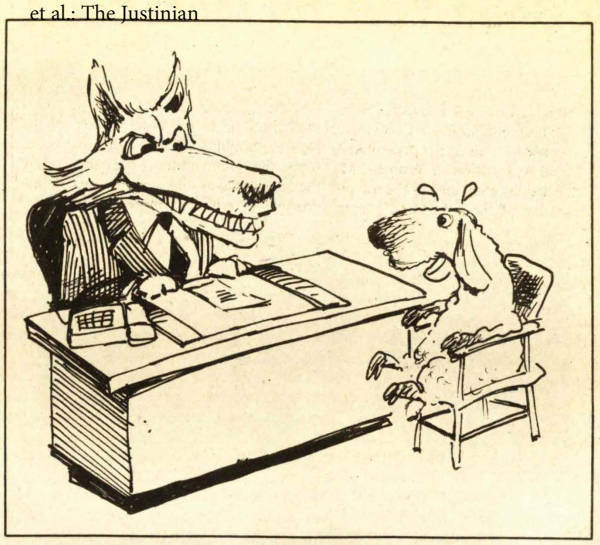
But even if fathers and mothers take equal responsibility for child care, they are faced with inadequate and limited child-care facilities. Part of this problem can be alleviated if employers appropriately respond to the needs of employees. Surely it is possible for many more companies to provide child-care facilities. This would help ease the burden on working parents. Additionally, the state should be able to provide acceptable day-care centers for those parents unable to afford private day-care.

Flexible hours in the workplace would provide working parents needed time for child care. If employers were more receptive to this idea, fewer employees would be forced to leave work altogether. Employers in the legal community, as well as elsewhere, must provide flexible work schedules to accommodate their employees.

Women won't have to make either/or choices if these alternatives are made available in the business community. The alternatives exist. Now they must be implemented. Women won't have to continue bearing the brunt of child-care responsibilities if their partners share equally. Lawyering and motherhood can mix if women fight for the changes they need and deserve.

Illegal & Impermissible Interviewing

by Andrea Montague and Julie Murphy



Do you know that it is illegal for an interviewing employer to ask you if you are married or how old you are? That it is not appropriate to ask what your parents do for a living? To ask a woman if she would have an abortion if she became pregnant? Under Title VII of the Civil Rights Act of 1964 (the employment discrimination law) an employer may not discriminate on the basis of race, sex, religion. Generally the law requires that employers ask questions on issues that are job related and that are asked of all applicants equally.

However, employers interviewing on law school campuses ask illegal and inappropriate questions routinely. Many students incorrectly assume that because the interviewer is an attorney he or she knows the law and therefore would not engage in any illegal questioning. Some questions may not be illegal because of how an employer frames them but nevertheless are intrusive and unrelated to the job. Employers ask these questions because of persisting negative stereotypes about women, minority, lesbian, gay, older and disabled students. Many interviewers are not aware that these questions are insulting and inappropriate and that they reflect the hiring practices of their firm. For example, a woman with young children may not be considered for a job because she would be unreliable and unable to make an adequate commitment to the office. A single woman with a lover in another city might not be a desirable candidate to an employer who might assume that a single woman would readily leave her job to join a loved one. In other instances, an interviewer may not want to hire a black person or a gay person believing that they would not be able to handle the work or that they would not "fit in" with the other employees. Employers are also sometimes unwilling to hire older students because of a belief that an older person would not take direction from a younger supervisor or that an older person would not work as hard as a younger employee. Interviewers may ask particular questions to eliminate anyone their firm does not want to employ.

Some examples are, "Is anyone in your family a lawyer?" "What kind of work do your parents do?" "Are you aware of the rigors of billing 2100 hours a year?" "Can you take orders from someone younger?" These questions are not asked of all students but only of those the interviewer has stereotypical concerns about. Most often this means black, hispanic, women and older students.

An interviewer may ask a very open ended question like "Why did you choose Brooklyn Law School?" or "Why are you interested in relocating to Boston?" This might lead a student to discuss personal information about themselves they did not originally intend to, such as their sexual orientation, marital status or family obligations. Although these questions may be less direct, they are sometimes asked so that the employer may learn more about the interviewee's personal life in order to eliminate those with "undesirable" traits or lifestyles. The difference is that the student has more leeway in formulating a response to these less direct questions that does NOT have to include irrelevant personal information. Instead, you have the opportunity to take the interview into a direction you want to discuss such as, your professional abilities.

There are different responses to these questions depending on how strongly the interviewee feels. One possible response is "Mr./Mrs. -------, I am interested in your firm because of ------- (patent law/admiralty law/securities) and I would really prefer to talk about --------- (my work experience in this area/my interest in this area/your firm's work in this area)." Another stronger response is "I don't see how this information is related to the job." Some students may not feel comfortable responding to questions this way but should report these questions to the placement office so that other students may be informed of firms' discriminatory behavior and so that appropriate action may be taken by the placement office. It is certain that if such a question has been asked of you, it has been asked of many other students as well. Some law firms and companies have been denied permission to conduct on-campus interviews at schools due to the behavior of interviewers or existing discriminatory policies (i.e., the military's refusal to hire gays).

Women, minority, gay, lesbian disabled and older students are most often the targets of these questions. However, all students are affected by discriminatory conduct.

For some students, discriminatory questions may reveal biases of a particular firm that would indicate that such a firm would not be a work environment they would want to be in. If you are such a person, you can do some informal research to find out which employers abide by non-discriminatory hiring practices and maintain egalitarian working environments.

It is important to remember that this is a business interview which is designed to be an exchange of information about the prospective job and your qualifications for this particular job.

A few interview basics:

1. You are there to talk about business, not your private life.
2. Be wary of questions that ask about family, social or leisure activities.
3. Consider what you want to share with the interviewer about yourself in advance, so that you may be on your guard and prepared if inappropriate questions are asked.
4. Report any incidents to the Brooklyn Law School Placement Office at One Boerum Place, if you feel you were asked an inappropriate question.
5. Remember to trust your intuition. If you feel uncomfortable or embarrassed when asked a particular question, it is probably because your interview is not the appropriate setting for the question.

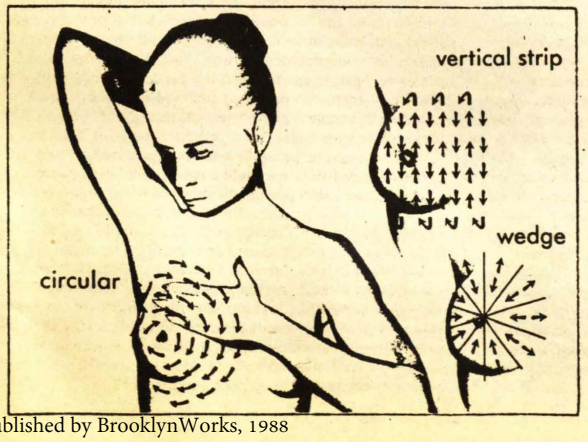
Information for this article provided by the National Association for Law Placement.

Breast Cancer Prevention

by Andrea Montague

For those who may have missed the "Breast Cancer Prevention" program sponsored by the Legal Association of Women, the following is some important information that was provided by the American Cancer Society. Although fear makes many women reluctant to read or learn about breast cancer, when breast cancer is detected at an early stage, the chances for cure are almost one hundred percent. In fact most breast lumps are detected by the woman and not by the physician. This underscores the need for women to take the responsibility of availing themselves of information on breast cancer prevention and doing monthly breast self examinations.

Breast cancer, a leading cause of death and illness among women, affects approximately one out of every ten women in the U.S. Some women are at greater risk than others because of genetic and lifestyle differences. Risk factors that have been recognized include: age, diet, history of breast cancer in close family relatives (mother, sister, grandmother, aunt), late age at menopause, onset of menstruation after age 12, older than 30 years at birth of first child, never giving birth, and obesity. Every women should discuss her own level of risk with her doctor to determine what is individually appropriate.



The American Cancer Society encourages all women to do monthly breast self examinations and to request their doctors to do breast exams during regular health checkups. For women with no breast symptoms, a one time baseline mammogram is recommended for women between 35 and 39 and for women over forty a mammogram every one to two years and for those over fifty a mammogram every year. For women with Fibrocystic disease (nodular breasts) a physician should be consulted.

The importance of a low fat, high fiber diet was emphasized as a means of reducing the probability of breast cancer. This includes eating more vegetables, beans, and grains and eliminating fatty foods such as ice cream and potato chips. Although not too many people can really envision a life including the former and excluding the latter, a little consciousness can go a long way.

Pamphlets on how to do Breast Self Examination (BSE) and other breast cancer prevention methods are available in the SBA office, Room 301.

HOW TO DO BSE

1. Lie down. Flatten your right breast by placing a pillow under your right shoulder. If your breasts are large, use your right hand to hold your right breast while you do the exam with your left hand.
2. Use the sensitive pads of the middle three fingers on your left hand. Feel for lumps using a rubbing motion.
3. Press firmly enough to feel different breast tissues.
4. Completely feel all of the breast and chest area to cover breast tissue that extends toward the shoulder. Allow enough time for a complete exam. Women with small breasts will need at least 2 minutes to examine each breast. Larger breasts will take longer.
5. Use the same pattern to feel every part of the breast tissue. Choose the method easiest for you. The diagrams show the three patterns preferred by women and their doctors: the circular, clock or oval pattern, the vertical strip and the wedge.
6. After you have completed examined your right breast, then examine your left breast using the same method. Compare what you have felt in one breast with the other.
7. You may also want to examine your breasts while bathing, when your skin is wet and lumps may be easier to feel.
8. You can check your breasts in a mirror looking for any change in size or contour, dimpling of the skin or spontaneous nipple discharge.

Your monthly BSE should be carried out when your breasts are likely to be the least lumpy. If you have a regular menstrual cycle, you should examine your breasts at the end of your menstrual period. If you do not have menstrual periods, BSE should be done on the same day of every month.

If you notice any changes, see your doctor without delay.

Take the opportunity whenever you see your doctor to discuss how you do BSE and what you feel when you do self-exams. Ask if you are doing BSE correctly and for comments to improve your BSE skills.

Remember, the best means of controlling breast cancer is by finding it early. Talk with your doctor. As partners, you will want to share information and you'll want to request advice on where to go to have a mammogram and how often you need to have the exams done.

A Good Year for Moot Court

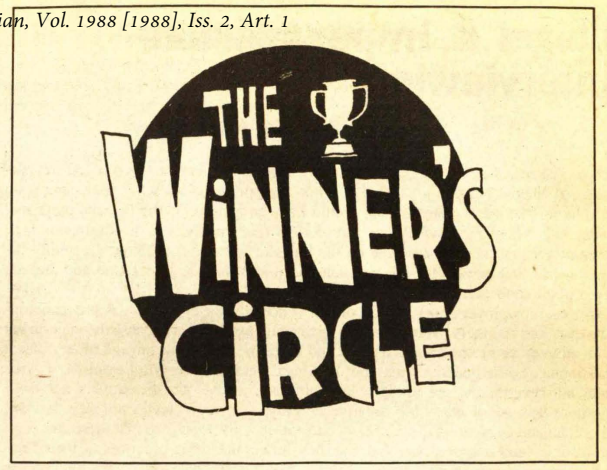
by Randall Chiera

The 1987-1988 Moot Court competition year was an overwhelming success. For the first time in the history of the Brooklyn Law School Moot Court Honor Society, Moot Court Intermural teams were successful in six national competitions. Congratulations to the following national intermural teams on their success: Constitutional Law team (octafinalists), Evidence Law team (quarterfinalists and third-best brief), Insurance Law team (quarterfinalists), Labor Law team (quarterfinalists), Tax Law team (semifinalists and third-best brief), and Trial Advocacy team (quarterfinalists).

The third annual Jerome Prince Invitational Evidence competition, held from March 18 to 20, proved to be a well-attended national event. Twenty-three teams from as far away as California and as close as Brooklyn competed in this prestigious competition. Many complimented the quality of the problem and bench brief as well as the organization and administration of the competition. Competitors, judges, and Moot Court Honor Society members were treated to a reception at the Water Club in New York City after the semifinal rounds on Saturday. The final round, held in the Ceremonial Courtroom in the Eastern District Courthouse, was presided over by three Federal Court of Appeals judges. The final round pitted University of Florida Law School against St. John's University School of Law, with University of Florida the victor. Brief awards went to Maryland, St. John's, and Brooklyn Law School.

The Intramural Trial Advocacy Competition, held from March 26 to 30, had more participants than in the past. This year the problem was criminal, a murder case. The winners—Mitchell Brill (who also won best advocate), Tracey Kelly, Elise Weinstein, A. Michael Furman, Consettina Sacheli, Julie Schwartz, and alternates Victoria Rook and Alisa Margolis—comprise next year's intermural Trial Advocacy teams.

The First Year Intramural Moot Court Competition is now over. The obligatory first round, which all first-year day-division legal-writing students must participate in as part of their legal-writing class, is run exclusively by Professor Walter and the legal-writing department. The Moot Court Honor Society takes over for the second and final rounds. Based on a combination of brief and oral scores, approximately a third of the total first year legal-writing class advanced to the second round. Approximately one-third of the second-round competitors advance to the final round. Winners of the final round are automatically invited to join the Moot Court Honor Society. In addition, some students participating in the final round but not winning may be invited to join the Society based on their individual performances.



There will be no Intramural Fall Appellate Advocacy Competition next year. Students interested in the Society who do not get on through the first year competition are encouraged to take the course in Appellate Advocacy. Participation in this course is analogous to the Law Review and Journal Open Note Competition, since most Moot Court Honor Society members will now be taken on through the first-year intramural competition, just as the bulk of Law Review and Journal's members come on through the summer writing competition. However, the Appellate Advocacy course gives interested students another opportunity for entrance into the Society. Those interested are strongly encouraged to register for this course.

Finally, the outgoing executive board of the Moot Court Honor Society welcomes the new executive committee for 1988-1989. The Committee members are Jack Heinberg (Chairman), Mitchell Brill (Vice-Chair of Intramural Affairs), Howard Hershenhorn (Vice-Chair of Intermural Affairs), Jennifer Nelson (Vice-Chair of the Prince Evidence Competition), and Barrier Cave (Secretary-Treasurer).

Shea Gould v. Me

by Michael C. Harding

Most Brooklyn Law School students dream of having a position with a firm like Shea Gould. My nightmare was an adversarial confrontation in court with two attorneys from Shea Gould.

It all began one sunny Saturday afternoon in September 1987. I was just finishing up the first month of my first year in law school. I needed a break, so I attended a New York Mets game with my wife and another couple. It was Fan Appreciation Weekend, and the Mets, having fallen from contention for a playoff spot, had heavily billed the day as a massive gift giveaway for their loyal fans. "Hey," I said to myself, "I'm a loyal fan. This is my day." Before that day would end, I was to know that the only thing the Mets appreciated was paying customers in the stands munching on weenies and downing those three-dollar beers. As Ron Darling had pointed out the year before, world-series tickets aren't made available to the loyal fans. Instead, they go to white-collar cronies of the Met organization who attend only world-series games, where they try to look chic, refuse to lower themselves to cheering, and duck out in the sixth inning to beat the traffic. How foolish I was to believe that the Mets had seen the light, that they had developed loyalty to their fans.

As part of the day's festivities, the Mets had advertised that during and after the game there would be drawings for automobiles, cruises, audio systems, watches, dinners, color televisions, trips to Paris, and more. The plan was that the drawings would be made from the ticket stubs taken as one entered the stadium. If the fan's stub matched, he won. Between innings, winning-seat locations were announced over the public-address system and were displayed on the diamond vision screen.

Midway through the game, my prayers were answered. They announced the drawing for matching his-and-hers diamond watches. Then the announcer called out, "Upper deck!" followed by my section, box number, and finally my seat number. The information was displayed on the board. Everyone in the section stood and applauded me. Nervously, I pulled out my stub and gave it to my wife, who compared it to the scoreboard. I must have checked my box and seat numbers twenty times in thirty seconds. I had won. It wasn't the trip to Paris, but I figured I'd be a sport and graciously accept. I couldn't believe it. It sounded too good to be true, and like any consumer advocate will tell you, if it sounds too good to be true, it usually is.

I proudly went to claim my prize. My loyalty had finally paid off. As I walked to the prize-redemption area, I thought about the lean years when I could count the number of fans who sat sparsely dispersed throughout the stadium watching the last-place Mets. I was there then and I was there now. I attempted to claim my prize but was told to come back after the game. I returned to my seat empty-handed. People in the section called out to me. They wanted to see my prize. When I told them I had to return later, one guy yelled out, "I bet they stiff you!" Everyone laughed. Not my Mets, I thought.

At the conclusion of the game, I returned to the redemption area and waited on a line about as long as the one for the log flume at Great Adventure on a sunny ninety-five-degree day. When I reached the front, I was told that the watches had already been given away. WHAT? I couldn't believe this was happening. Arguing was futile. The friendly New Yorkers on line behind me were yelling for me to beat it, to stop tying up the line, so I left.

Letters and phone calls to senior Met officials went unanswered. My studies took up more and more of my time, and the Met sting operation was pushed to the back of my mind. After the semester ended, I went to small-claims court and filed my suit against Sterling Doubleday Inc. (the official name of the Mets) and E. Gluck Corp. (manufacturers and donators of the watches as joint venturers with the Mets). Who said I didn't learn anything from Professors Leitner and Stempel? I placed my damages at two thousand dollars. Our court date was scheduled for April 11, 1988.

In March, I received a call from E. Gluck Corp. They wanted to know if I would settle if I received my watches. I told them that in October I would have settled for an explanation, but now the watches would satisfy me. They said they'd call the next day. I never heard from them again. During the last week in March, I came home to find a message to call Laurel Bedig of Shea Gould. "Gee, did I send them my resume?" I thought. When I returned the call, I learned that Bedig would be representing the Mets in this matter. During our five-minute conversation, I learned that she was a Brooklyn Law School graduate, class of 1987. She was getting out when I was going in. It was soon apparent that our common denominator was going to get me nowhere. The Mets were fully prepared to spare no expense in litigating this matter all the way. A quick check of last year's yearbook confirmed my suspicions: Laurel was a member of Law Review. I hadn't even done my moot-court argument.

On April 11, I couldn't decide if I should wear a suit or a Mets jacket with a matching cap. I decided that I wasn't going to join their league and play in their ball park. I opted for a loyal-fan's outfit of jeans, sneakers, and a nice shirt. It would be the high-powered attorney of the megabucks firm Shea Gould v. Poor Little Ole Me. We were called before the judge. Laurel was not alone. She was joined by a male associate. Standing before the bench I felt like a Christian at the Coliseum. My adversaries moved for an adjournment. The judge began looking over his calendar. I asked, "Can I object to this?" The judge said yes. So I said, "Well, I object." I informed the court that I was ready, willing, and able to proceed. I pointed out that my adversaries were from Shea Gould, one of the largest and most prestigious firms in New York, with an abundance of resources including paralegals, secretaries, and funds. If I could be prepared, why couldn't they? The judge looked sympathetic, but he said it was their first request and he would have to grant an adjournment for two weeks. I pointed out the rigors of final exams, and he changed the date to June 6. As I left the bench, I asked the judge, "Really, your Honor, Shea Gould v. me and they can't be ready?" He gave me a look that seemed to say, I know, I know.

Out of the courtroom I spoke to Laurel. She was personable. If we had met at an alumni affair, we might have become friends. I told her that the Mets should settle, because they are wrong. Her associate, who looked like he just walked out of Gucci feeling superior to us common people, said I don't think so and we'll see you in court. He can bet his life on that.

Shea Stadium was named after the Shea in Shea Gould, and the man knows his ballgame. While the Mets are refusing to honor their commitment to this fan, Shea Gould has probably already billed the Mets for three times the value of the watches. Do they bill double-time when their lawyers spend their evenings in court? How about that taxi fare home? In any case, my battle goes on. I guess by now they received my subpoena for any and all records relating to the giveaway, including contracts between the Mets and E. Gluck Corp., any video recordings or documents reflecting what was displayed on the diamond vision screen, the names and addresses of all the winners, and any records regarding complaints, disputes, and civil suits in connection with Fan Appreciation Weekend. If you can think of anything else, let me know, because like the Mets, I'm playing to win! Stay tuned for the results in the fall *Justinian*. In the meantime, I 'll keep having visions of a white-collar Met crony wearing my watch to the world series.

Fundamentalists Anonymous: Religious Consumerism

by Stanley Lee

When the address of an organization's national headquarters has to be kept secret due to harrassment in the form of bomb threats, you know that someone is raising a ruckus about something. That someone is a group called Fundamentalists Anonymous, labeled number one on Jerry Falwell's enemy list, placing them above the ACLU and NOW.

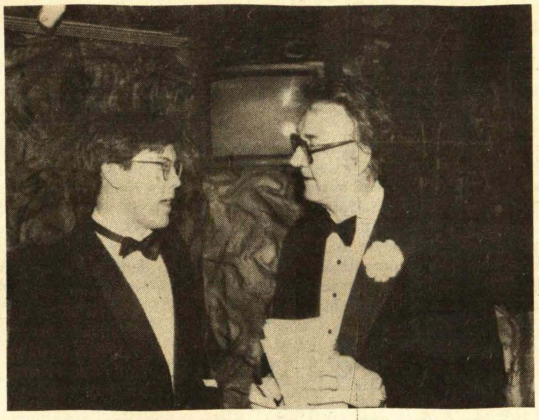
Fundamentalists Anonymous (FA) is a support system for people leaving fundamentalist religious groups. In recent years, the realization by thousands of fundamentalists that there was a complete lack of accountability on the part of television evangelists for millions of dollars of donations has led to their leaving the fold, with resulting depression and anxiety. This disruption in their lives had not been addressed until the formation of FA.

It began with a classified ad placed in the Village Voice by Richard Yao, Executive Director of FA. Yao, a graduate of NYU Law School and Yale Divinity School, and a former associate at Mudge, Roe, Guthrie, Alexander, & Fenton, is a former fundamentalist himself who was dissatisfied with the rigid life style it presented. The ad drew the attention of Jim Luce, who was an assisant bond portfolio manager at Daiwa Bank at the time. They pooled their savings of $70,000 and began FA.

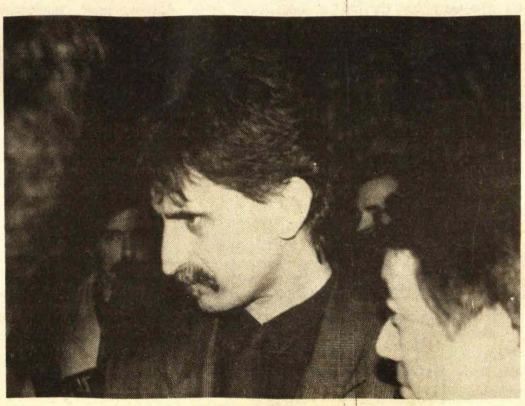
An appearance on The Phil Donahue Show got them off to a rousing start, drawing thousands of letters from all over the country written by ex-fundamentalists who were going through all the withdrawal systoms described by Yao and Luce on the show. Since then, Yao and Luce have appeared in many publication and network television, espousing the principles upon which FA was found. FA was also the only public interest group invited by Congress to speak about the problems that fundamentalist groups were causing for its members. At the same session, Jerry Falwell lashed out at FA in a two minute diatribe.

"We are not an anti-Christian group, as some people perceive us," says Yao. "What we are is anti-fundamentalist. Fundamentalism is not a theology. It's more of a mind-set that controls through authoritative command, that has an all-or-nothing attitude, which is what hurts people. What we say we don't consider divine, as opposed to what the televangelists claim about themselves." Yao also described his cause as "religious consumerism." "Just because you are a minister doesn't mean you have a right to defraud or unduly influence elderly or sick persons. There have been some 'counseling' situations where the minister takes people to bed." When asked about the PTL scandal with Jessica Hahn, Yao smiled and described it as "an act of God."

Recently FA held a fundraiser at the Manhattan club 4D. Celebrities who appeared included Frank Zappa, who spoke about rock censorship, "Grandpa" Al Lewis of Munsters fame, and Steve Allen, who performed. Allen also spoke about the importance of the work that FA is doing. Even though the event was labeled a fundraiser, Yao thought that a much more important need was served in showing the public that they are a credible organization, with media support as well as celebrities who are willing to take a stand on their behalf. James Taylor and Paul Simon have also expressed an interest in lending their services to FA.



Actor Steve Allen (right) supports Fundamentalists Anonymous.



Singer Frank Zappa concerned about Rock censorship.

Jonathan Glasser (BLS '86), an associate at Lord, Day, Lord, is doing pro bono work through his law firm for FA. He first heard of FA while a student at BLS, when they had come to give a presentation on their Legal Task Force, which they were trying to recruit law students for. Coincidentally, when he joined Lord, Day, Lord, there was an attorney there who was doing pro bono work for FA. Glasser expressed his interest in working with FA pro bono, and is currently writing an appellate brief for a case in South Carolina, where 300 partners of the PTL are suing for amounts ranging from $500 to $30,000 that they had contributed. These felt they had been doing God's work when they donated the money, but found instead it was going to air-conditioned dog houses and squelching sex scandals.

The Legal Task Force of Fundamentalists Anonymous, which supplies free legal services to those seeking action against fundamentalist groups, is comprised of attorneys from several large law firms doing pro bono work for FA. They are now working on an amicus brief for a cased in the California Supreme Court. The parents of a young man who committed suicide are suing the Grace Community church in a wrongful death action for a form of "religious malpractice." It seems that the counselors of that church, who did nothing to prevent the suicide, even though the young man was openly suicidal, described suicide as "God's way of taking defective souls."

Fundamentalists Anonymous is seeking law students who would be interested in interning for them this summer. The work would entail research for briefs, and looking at claims by those who are seeking action against fundamentalist groups. Anyone who might be interested in doing public interest work after graduation would benefit from seeing what goes on behind the scenes of a group that is relatively new. Fundraising, for instance, is a major part of any public interest group's work, and they would certainly learn much about that at FA. Anyone interested can call Fundamentalists Anonymous, at (212) 696-0421, or can write to P.O. Box 20324 Greeley Square Station, New York, N.Y. 10001.

EDITORIAL

RESTROOM INEQUITY

The Washington State Department of Transportation has analyzed the use patterns at highway rest stops and concluded that the traditional 50-50 ratio of men's and women's toilets is guaranteed to create lines in women's rooms. It seems that the men's average toilet time is 45 seconds each and the women's average is 79 seconds each. While this technical data is illuminating, we at BLS have long noticed the lines which can gather outside the women's rooms. The number of women at BLS has increased significantly since the design of our building. Perhaps it is time for our administration to consider expanding some of the women's rooms or converting one of the men's rooms to women's room.

BEST WISHES!

This being the last issue of this academic year, we take the opportunity to congratulate those students who will be leaving BLS for the world outside. We congratulate those students who now see the light at the tunnel's end. And we also congratulate those students who survived their first year.

The Justinian has served as a forum for the BLS community only through the participation and contributions of the members of that community. With your help in telling us about school events and the issues you are interested in, we will continue to serve as your forum. Many thanks to all those who supported us. And particular thanks to Bob Roth, who held us together for another year.

Have a great summer and best wishes for future success!

THE JUSTINIAN
A FORUM FOR THE BROOKLYN LAW SCHOOL COMMUNITY

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JUDICIAL CLERKSHIPS

Professor Henry Holzer, chairman of the Judicial Clerkship Screening committee has made the following announcements:

Terri Pandolfi has been offered, and has accepted, a clerkship beginning September 1989 with the Honorable Edward R. Korman, United States District Judge, Eastern District of New York. Laura Hastings has been offered, and has accepted, a clerkship beginning September 1989 with the Honorable Thomas C. Platt, United States District Judge, Eastern District of New York.

CORRESPONDENCE

No Joking Matter

To the Editor:

Much of your April, 1988 issue was informative and interesting, but I fear that harrm caused by some bad editorial decisions in the April Fools section may, in the long run, outweigh the few quick laughs that were apparently intended. Within the paper-proper, more bad decisions exemplified a flagrant disregard for journalistic and legal ethics.

First, with regard to the April Fools section, did it never occur to you editors that you publication date coincided with the Prince Evidence Competition? Personally, I am embarrassed that students from other schools around the nation here to participate in the competition were exposed to the crass humor found in the first page headlines. I observed several BLS students and faculty members when the issue first came out and many, initially, didn't understand the joke. For some, it took an explanatoin that this was an *April Fool's* edition (albeit two weeks early) and no, sorry guys, Brooke isn't really coming to Brooklyn. What do you think "outsiders" thought? More to the point, what do you think it says about the opinion we hold of ourselves? I think it is very sad that parents, prospective students and other visitors will, for the next few months until a new issue comes out, pick up the *Justinian* to see what BLS students are thinking and instead see two pages of BLS mockery.

The silliness of the issue could be overlooked, however, were it not for the meanspiritedness of some of the "jokes". Most of the items in the lists on Page Two were in very poor taste. Granted, all law students welcome a little levity—satire such as Second Circus is fun. But given the relative infrequency of the *Justinian* publication, it seems that the sophmoric April Fools section was merely a lazy, *National Enquirer*—like way to grab some attention. The result is another example of the "sleazy lawyer-in-the-making" attitude described by Jenny-Anne Martz in her letter to the Editor of the same *Justinian* issue—the words "scornful" and "blase" are particularly relevant. What kind of lawyers will result from students who think that humor is nasty little zingers aimed at hurting people and disparaging the law school? Maybe, I too am overreacting, but the *Justinian* speaks to the outside world as the collective voice of BLS students. The voice of this issue is, I think, harsh, self-deprecating and hardly representative of the way any of us want others to see our school.

Finally, within the real paper, I have a problem with *unsigned* editorials which accuse professors of grave charges citing no facts to back the allegations up, specifically, "Justice Begins at Home", p. 11. Although I agree that a system to investigate charges of unfair grading should be implemented if deemed necessary, editorials which imply a lot and evidence nothing are not only unethical journalism but, as you certainly must know, are the stuff of law suits in the "real world." Why is the *Justinian* staff so cowardly? If you're going to make accusations, don't cloak it with vague references to unspecified improprieties; do some investigative reporting and give us the whole story. (If the view wasn't that of the editors, or at least of the staff, why was it blocked off in the body of the paper, rather than part of the "Letters to the Editor" group? Notations that the view doesn't reflect the opinions of the editors further exemplifiy your chicken-heartedness).

Brooklyn Law School admittedly has problems which need to be overcome, but it helps nothing and no one when the school newspaper makes ungrounded accusations and stupid, hurtful jokes. As Ms. Martz wrote in her letter to you in the last issue, "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?"

Amy Rhodes '90

The Editor Responds:

While I believe Ms. Rhodes' letter is an attempt at constructive criticism, a number of points require clarification if not outright correction. Plans for an April Fool's issue were made known to the student body via leaflets on bulletin boards throughout the school during the month of March. In fact, we received some of the student pieces included in the edition in response to the fliers. The April Fool's issue should thus not have come as much of a surprise to members of the Brooklyn Law School community. Furthermore, the timing of the issue prior to April 1st was not mere caprice. It had to be released before April 1st, because by that date the entire student body had already left for spring break.

Ms. Rhodes' suggestion that the issue would have a particularly harmful impact on visitors to the Prince Evidence Competition suggests either that none of the material was laughworthy or that our visitors were too ignorant to realize that the cover sheet was an April Fool—despite the clear cover date of April 1st, the obvious pseudonyms, and ridiculous story lines and photographs. And if any reader remained in the dark after finishing the front page, the second masthead—on page one of the "real" issue—should have shown him the light. At any rate, I hardly think the timing of the Prince Competition should dictate editorial decision making.

As to the claim of "mean-spiritedness,"

The Final Chapter

by Robert J. Roth

Dickens' immortal opening line from *A Tale of Two Cities* describes my law-school career to a *T*: "It was the best of times, it was the worst of times."

Start to finish, the law-school experience is fraught with emotional highs and lows. Before the student ever sets foot in a classroom, decisions abound: to go part-time or full-time, directly from college or take a year off, get a part-time job or just study and be poor. These decisions weigh heavily not only on the student but on his family, as well.

Then comes first year, and reality sets in—hard. Now the student must juggle studying with maintaining personal and professional relationships and—perhaps most frightening—paying for this three- or four-year jaunt. Learning a whole new classroom language (that enables the student to "think like a lawyer") while enduring the time-honored rigors of the Socratic method adds up to *agita* for the first-year student. First year is truly the worst of times.

With the second year comes the resolve of a seasoned veteran hardened by front-line experiences in the trenches called first year. Nihilism, rather than the overbearing professor has become the student's main adversary. This second-year phenomenon is a product of two forces: the shedding of first-year compulsiveness and the realization that no matter what study method is employed, grades refuse to move outside the range established the year before. Besides, there are no longer any five-credit courses to boost you back into the running for top 15 percent.

As one emerges from second year, certain things become clear that often work to lessen the sting of the grading stigma. In this category is the realization either through clinical programs or outside work experiences that there are practicing attorneys who have more positive things to say about your work than your professors do. Additionally, students often find that employers are more interested in demonstrated ability than in impressive transcripts. Perhaps the most enjoyable aspect of second year is that by this point many of us have had the opportunity to develop friendships that will endure long after the diplomas are passed out.

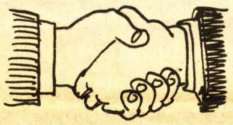
Third year leaves many students feeling like Lebanese hostages anxiously awaiting their release. If only someone would please let them go a year early. Boredom runs rampant. This syndrome is especially acute among students who have firm job offers for the following fall. Alas, for them there is no escape from the holding tank. And for those less fortunate, third year means an imminent release into a hostile world with the clock ticking on impending loan repayments. For these students, the nights are less kind. Dreams that induce malarialike night sweats haunt them. To think, all this for a mere twenty-four thousand dollars!

For most of us, thankfully, the future is not so bleak. While corporate-level salaries elude most of us, many members of this year's graduating class will find meaningful employment in less lucrative but less sweatshoplike firms or agencies. For some, opportunities will surface more quickly than for others. We must remember that attending law school was an act voluntarily undertaken. No guarantees came with the acceptance letter. In the final analysis, BLS as an institution has kept its commitment to provide quality legal education and opportunities for its students.

Looking back on my three years at BLS, I can't say that I harbor any particularly bitter feelings toward the school. It still has a long way to go in terms of aggressive attempts in placement. While we all realize that students must take on the primary burden of finding a job, substantially greater efforts must be devoted to assisting the non-top-15 percent of the student body. After all, these are the same people who very soon will be alumni. And embittered students do not make particularly generous alumni. It's time the administration addressed this problem with the same zeal it has exhibited in pursuing top faculty, planning expanded facilities, and purchasing downtown Brooklyn real estate. It must not lose sight of the needs of BLS's, current denizens at the expense of long-term goals.

Finally, as outgoing editor-in-chief of *The Justinian*, I would like to thank all those individuals on the staff who have made this past year a particularly enjoyable one. Specifically, I'd like to thank Gail Rothman for her professionalism and talent in editing pieces ranging from public interest to securities law, C.W. Chin for his enthusiasm and industriousness, Bruce Kaufman for his ability to clearly articulate his views, Stan Lee for his cynical wit, Esther Rowin for bringing new meaning to the concept of "deadline," Freddy Jacobs for his flexibility in photographing events on a moment's notice, and Ruth Bernstein, Ethan Gerber, Risa Messing, Judith Norrish, Brian Rattner, Darren Saunders, and Rosemary Townley for the many articles they have contributed over the past years. Further, I'd like to thank the many organizations such as L.A.W. that provided us with news updates and articles when we were unable to provide coverage directly. Finally, I'd like to thank all the faculty and students who have contributed to the newspaper, be it through articles, graphics, or letters to the editor. You have helped us carry out our purpose: to provide a forum for the BLS community. For this, I thank you all.

CORRESPONDENCE



"Justice" Continued

Editor's Note: Not including the Professor's name in this exchange on "Justice" was an editorial decision to focus attention on the issue of academic accountability rather than on specifically attacking any member of our Faculty. The author of "Justice" had made the point earlier that such complaints are rare at BLS. We hope discussions of such nature will not be seen simply as an attack on our School, but instead as part of a vital discourse concerning how our School can improve.

the articles should have been taken in the spirit in which they were offered. Some gibes perhaps were not as tame as others, but only readers with the thinnest of skins would have been particularly offended. If BLS students were totally incapable of laughing at themselves, we would truly be in a sorry state.

While discretion may be the better part of valor, I fail to see how Ms. Rhodes can conclude that the decision to print the piece *Justice Begins at Home* was an act of cowardice. The article was *not* an editorial. It ran with the other student-opinion pieces on the correspondence page. The headline introducing the piece, *A Student Speaks Out*, amplifies this point. That the article was unsigned is of minimal significance for two reasons: First, the student author had already voiced his/her accusations both, directly to the professor involved and to the dean of students to no avail. At no point did the student attempt to conceal his/her identity from either the professor or the administration. Second, the decision not to print the student's name was intended to minimize the chilling effect a byline might have on students who need to voice their concerns on equally controversial matters in the future.

It has consistently been our policy at *The Justinian* to provide a forum for the BLS community.

There will always be disagreements as to which views are worthy of this forum. In our opinion, the student involved had a legitimate point worthy of space in the newspaper. We did not view it as an anonymous attempt to get even or the mere grumblings of a disenchanted student. And if some students do not share our views on editorial discretion, we welcome their comments, as they enable *The Justinian* to fulfill its very purpose: the exchange of ideas.

Robert J. Roth

The author is the former Editor-in-Chief of *The Justinian*.

To The Editor:

This letter is a response to the letters that attacked the "Speak Out" commentary printed in the April 1 issue of the Justinian.

First of all, on the question of anonymity: the writer of the commentary wished to remain nameless for a very important and legitimate reason, one having nothing to do with cowardice, as Mr. Brown suggested. The writer wished to remain nameless, as did the other students whose feelings the writer represented, out of fear of reprisals. Plaintiffs are sometimes permitted to litigate lawsuits anonymously for the very same reason. Anonymity is a tool that allows freedom of expression and pursuit of individual rights in a real world that often discriminates against people who exercise those rights.

Rest assured that the students who feel to the bottom of their hearts that the Professor involved graded his exam papers improperly have made their feelings known, in person, to the deans of this school. Should the Professor care to know who his accusers are (and as a tenured professor, I assure you, he couldn't care less), he has only to ask. But the deans of this school have made it quite clear that the protections of the tenure system are to be upheld. And if a few students are hurt along the way, well that's a small price to pay for academic freedom (a small price for the professor, not the students). The important thing is that a professor who has long since stopped caring about his job can continue to do the bare minimum, without review. After all, he'll retire soon, and then the administration will hire a younger, more vital professor. Of course by then it'll be too late for those poor students. And too late to prevent the damage to the standard of excellence BLS has set for itself and its students.

The letter written by Mr. Brown in the last issue had many errors in fact, not to mention an accusatory tone that was unwarranted. Mr. Brown based his arguments on his mistakes. I will not waste time and space to refute each and every problem with the letter, but the most important one does bear addressing.

The writer of the commentary was not speaking for him or herself only, but for many people. It seems that the professor's "Guess My Grade?" system backfired this year. He guessed wrong on more papers this year than he has in recent years. But even the most arbitrary grades will only affect relatively few students. That's why it's so difficult to prove there was any wrongdoing.

In a *completely* arbitrary grading system, chances are only a very few people will be dissatisfied with their grade. You will have several classes of students in such a situation: There will be a majority who get in the mid-80's. That's about right for the majority of students, or if it seems a *little* low, it's not enough to complain strongly about. Then you have the people who got high grades who probably deserved them. No problem there. Then you have the people who got high grades and *didn't* deserve them, like the one student who barely wrote a sentence on her fourth esay and got a 90. *She's* not going to complain, and neither is anyone else in that class. Then you have the people who got bad grades and probably deserved them, and finally, the statistically small group of students who got bad grades and know they couldn't possibly have deserved them. Especially when they finally do get to see their exam papers and go over them with the Professor, and he can't tell them what's wrong. All he can talk about is the first part of the first question. After question 1A he can't remember anything about the answers he was looking for, or even the questions he asked. did he grade question 1A only, and flesh the rest of the grades out from there? Is that a legitimate method of grading test papers that asked for knowledge that covered a whole semester of a Contracts course?

There are students who feel these arguments are groundless. Either *they* got a good grade and don't want to think that they didn't deserve it, or they feel that a professor wouldn't do anything wrong. To these people we say, "Wake up!" I would never want a lawyer who didn't even stick up for his or her own rights, and argue those rights to the last appeal.

Rather than being cowardly, it takes great strength to write coherently about something so personally upsetting. It takes courage to go out on a limb and organize a committee to complain to the deans when one feels that a great injustice has been done. The only thing to do in such a situation is register the complaints, and build up a record of circumstantial evidence against this professor (who is not likely to step forward and admit his impropriety).

I can assure you it is a terrible terrible feeling to know that a wrong has been committed, and find that no one will do anything about it. If you know any students who feel they have been wronged in this way, they do not need or deserve your disdain. Whether you agree with them or not, they could use some sympathy

Name witheld at student's request

To the Editor:

No one at BLS, not even those of us who sincerely believe that a certain contracts professor has been delinquent in his duties, would want to subject any faculty member to a McCarthy-like interrogation just because a few students feel they have been shortchanged. However, there are bound to be situations, regardless of how rare, which require a minimal amount of investigation by the administration to determine whether certain allegations of wrongdoing have merit. Although it is nice to believe that law professors are above the frailties of human nature, by believing so, the administration may in fact be condoning the issuance of arbitrary grades to countless first year students. As the only body capable of protecting the interests of the students as well as the faculty, the administration is under an obligation to develop a procedure which can adequately deal with such problems as they arise.

The student who responded to the article published in the April issue of the *Justinian* attributed the author's suspicion to the mere fact that he/she may not have received the grade he/she thought they deserved. The fact is, however, that the author was not speaking as an individual, but as a representative of a large number of students who sincerely believe that

continued on page 16

continued from page 15

there is sufficient evidence to call this professor's conduct into question. It is of course virtually impossible to obtain any "smoking gun" evidence in this type of situation. However, there is enough circumstantial evidence to cast serious doubt as to whether this professor actually graded his exams.

All semester we heard from second year students that this professor grades his exams by casting them down the stairwell to see which ones land the furthest. Of course, we attributed this to the fact that they were upset about their own grades and never took their allegations very seriously. This all changed when the first semester grades were posted. A large number of the best students, who had received consistently high grades in all their other classes, had recieved grades in the 70's and low 80's in contracts. Everyone was dumbfounded. If it had been one or two students, no one would have thought twice about it. Obviously, students receive unexpectedly low grades every semester, but this was more than a few students. A student who had received the Am Jur award in torts and legal writing as well as 90's in civ pro and legal process had received a 78 in contracts. Conversely, another student who had recieved 70's in all his/her classes, with the exception of 81 in legal writing, received the Am Jur Award in contracts. In addition, although the exam consisted of four essays each worth 25 points, one student who only managed to write a couple of sentences toward the last essay received a 90 in the course. How is that possible? The list goes on and on. I challenge the administration to review all the transcripts and determine how many contracts grades are inconsistent with all the other grades on a student's transcripts. The disparities will soon become apparent.

Of course, there are plenty of students who received grades comparable to their ability. However, that can also be attributed to the luck of the draw. This professor was very careful to grade along the curve. Only after a handful of exams are examined by another professor to determine whether an entire re-evaluation is warranted, will we ever really know the truth. Although grading can be very subjective, there is a big difference between finding that one professor may have given a student an 87 instead of an 84 and finding that a student who received a 78 deserved a 92. Grading can not be that subjective. The students who received high grades should have no cause to worry about the possibility of an investigation if they were deserving of those grades.

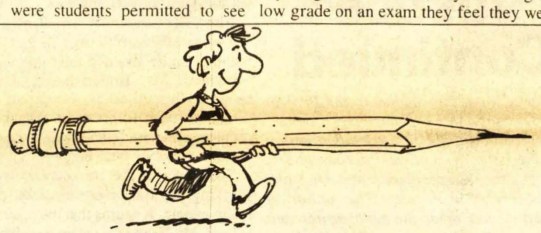
It was not until a few of us went to see the professor personally that our suspicions begin to materialize. The professor, in fact, flatly refused to allow us to look at our own exams. Instead, we heard a discourse on how, in his day, fifty percent of the first year class failed in order to weed out those students whom the faculty felt were incapable of passing the bar exam. Since BLS prides itself on its open door policy, this attitude seemed extremely out of place. What possible reason could he have to deny us access to our own papers? Even the professor seemed surprised, and a bit embarrassed, at one student who accompanied me to his office, since this students was obviously one of the most brilliant students in the class. Not until the administration exerted some authority, were students permitted to see their own papers. A few students who had the honor of having the professor review their exams said that he focused on the first part of the first essay, but then could barely remember the other questions, let alone tell them what he was looking for. Something about "a flash of brilliance" was the standard response.

Of course, no one can say for sure whether this professor read his exams. However, there are certainly grounds for suspicion. According to the administration, even if it were true, there is nothing they can do. The administration chooses to ignore this situation for fear that an investigation into this professor's grading practices would open the floodgates to unwarranted accusations against other faculty members. The fact is, however, that this kind of outrage is rare at BLS. All the students that I know who received low grades in other courses felt satisfied after having reviewed their exams with their professors. A committee established for these sorts of problems comprised of students, faculty members and administration could certainly weed out the unsupported claims from those which may require further investigation. At least the students would have an opportunity to air their grievances. Some students who went to the administration were actually told that if they pursued this any further, they could be hurting their law school career by being branded a complainer. That is the reason why the author of the original article did not sign his/her own name.

I would just like to add that it is not the grade that bothers most of us, it is the sense of frustration that, if it is true, no oone cares and no one is willing to do anything about it. Sure, anyone can get a low grade on an exam they feel they were all prepared for, but when you get a low grade simply because a certain professor may have been too lazy or too disinterested to grade his papers, that is devastating.

In support of "Justice"

GAYS



To the Editor:

Michael Lesher, in his letter reprinted in the April 18, 1988 Justinian, misrepresents the position of Gay and Lesbian Law Students. Mr. Lesher defends Professor Ronayne's use of the word "faggot" during one of his classes and attacks gay members of the class for accusing Professor Ronayne of bigotry in an anonymous letter.

Professor Ronayne has an unquestionable right to think what he wants, and an equal right to express his views in the proper form. The professor's lectern is the proper forum from which to instruct students, not to insult them. Professor Ronayne, and any other member of the Law School community, has a right to advance their ideas upon homosexuality during a balanced discussion that deals with the issues and does not degenerate into insults. Professor Ronayne, however, used the most insulting word that can be thrown at a gay man during a "joke" that had no relevance to any class discussion. Legal instruction and legal argumentation are founded upon rationality and respect. Words such as "faggot," "kyke," "nigger," "chink," "spic," or "bitch" are symbols of blind hatred and closed minds. These words are NEVER appropriate in a legal classroom.

Professor Ronayne's use of the word "faggot" is particularly disturbing because it sends a clear message that homophobia is tolerated and even encouraged at BLS. The lesbian and gay students in the class who wrote to the Justinian were understandably afraid to sign their names or speak up in class. Is it so surprising that the gay students were afraid to identify themselves to a professor who had publicly insulted them? Is it so surprising that gay students were afraid to stand up before their classmates who were laughing at the "Cuban faggots"?

Michael Lesher claims that these students' demand that "faggot" not be used in class reveals a sinister homosexual plot to produce a world "bare of all moral judgments." On the contrary we are fighting for a truly moral world. We do not demand that Professor Ronayne, or Michael Lester, think like we do; we do demand that Professor Ronayne not abuse his position by insulting those who think differently than he does. We hope that the administration of BLS will do more to foster an atmosphere in which gay and lesbian students feel comfortable. We are angry at our straight classmates who rip down our posters and who write "kill faggots" and "Got AIDS yet, Homo?" on the bathroom stalls and library carrels we much use. Most importantly, we hope that all lesbian and gay students will become more open and vocal. Anti-gay bigotry can only be defeated by taking it head on.

Luke Martland
Julie Murphy
Co-chairs
(Gay and Lesbian Law Students)

To the Editor

At the risk of appearing to suggest that Mr. Lesher's commentary has any merit, I begin instead from the premise that he is simply suffering the ills of ignorance. I therefore address his commentary in the hope that it will serve to enlighten him.

It seems Mr. Lesher doesn't understand the meaning of the word "bigotry." I should begin by pointing out that bigotry is NOT an "excuse for local publicity." A bigot, as defined by Webster's dictionary, is "one who holds blindly and intolerantly to a particular creed." I emphasize the words "blindly" and "intolerantly" and suggest that Mr. Lesher re-read his letter with this definition in mind.

Mr. Lesher's confused analysis seems to suggest that lesbians and gay men can't be the victims of bigotry because the issue is one of morality and the difference between right and wrong, rather than prejudice, ignorance and self-righteous intolerance, which can only be dismissed with "proof."

One can't help but wonder what kind of "proof" Mr. Lesher is looking for: Is it proof that two people (of the same sex!) who share a life together are *equally* denied benefits given to heterosexual couples? Is it proof that a person can be *legally* prohibited from seeing their lover who is confined to a hospital after a serious accident or because they are dying from AIDS? Is it proof that lesbians and gay men can have their children taken from them because the judge thinks they are unfit parents? Is it proof that gay men can't rent an apartment because the landlord is afraid he'll get AIDS? How about proof closer to home—consider the fact that countless lesbians and gay men have been fired from law firms because of their sexual orientation—and the effect this has on those lesbian and gay students currently attending BLS.

If the Gay and Lesbian Law Students are "spurred by an immoral goal" (namely, equal protection of the law) does Mr. Lesher feel the same is true of blacks, women, handicapped people and other minorities who have had to fight for recognition of the fact that they deserve equal treatment by the law? If the struggle for equality constitutes "irresponsible thinking" I'm relieved to know I'm on the "immoral," "corrupt" side!

If Mr. Lesher hasn't been persuaded to reconsider his thinking, perhaps the fact that he is in good company will serve as solace. After all, Mr. Lesher's views have been shared by the likes of Adolf Hitler, Jerry Falwell and, of course, Jimmy Swaggart. But maybe this will serve as a warning—if you're not careful, Mr. Lesher, your destiny may be as theirs.

Rosemary DiSavino

Loan Forgiveness

To the Editor:

The reputation of BLS is on the uprise and something that can further this movement is the implementation of a loan assistance or loan forgiveness program to afford students a meaningful choice to enter the field of public service.

Public interest law is a vital segment of the legal profession. It provides a vehicle for the protection of basic fundamental rights including access to justice which would be otherwise unavailable to worthy litigants who have little or no money. Ironically, for such an essential part of the law there is initially little financial reward. Consequently, the costs of obtaining a legal education presents a substantial obstacle to those individuals who are or would be disposed to public interest law.

In this light, a loan assistance program would provide a welcome relief for those individuals committed to public interest law but are hindered by the heavy burden of accumulated loans, which can average $20,000-$30,000 and more upon graduation.

Although the methods of loan assistance varies, the basic technique is to restructure the students' debt obligation. For example, the school or an independent organization, such as a Public Interest Law Foundation (PILF) would pay the students' loans and allow the student to reimburse the beneficiary at a much slower rate, reducing the initial impact of paying off the loans. This enables the student to pursue a career in the public sector free from the shock of substantial financial obligations.

According to the National Association of Public Interest Law (NAPIL), there are presently 14 law schools that offer loan assistance or forgiveness programs. Moreover 35 other law schools are currently looking into establishing such programs. The goal of the Student Loan Assistance Committee is to see BLS among those institutions that offer such programs. I would urge students interested in Public interest law to keep an eye out for updates on BLS progress on loan assistance in the fall and encourage them to take this opportunity to get involved in this worthwhile project which can provide a valuable future resource.

Andrea Sharrin
Member, Student Loan
Assistance Committee

Registration Drive

The Brooklyn Law School Democrats and the Brooklyn Law School Young Republicans co-sponsored a bipartisan voter registration drive during the week of April 18th through the 22nd. Individuals representing each group registered students in the cafeteria between 1-2 pm and 5-6 pm. As a result of these efforts, more than fifty applications were completed during the week. In addition, many registration forms were distributed to students on behalf of friends and relatives.

Our thanks to the following students who participated in making the registration drive such a success: Doug Cohn, Harry Dunsker, Robin Garson, Jan Gowthrop, Debbie Gruskin, Jack Heinberg, Joshua Just, Jerry Maline, Lenny Marks, Steven Reiss, Elizabeth Salmon, Alexis Santa Maria, Cheryl Savetz, Jeff Schagren, Anthony Scheller, Larry Scherer, Bennett Silverstein, Brian Solomon, and Martin Valk.

Steve Reiss, President, BLS Democrats
Larry Scherr, President, BLS Young Republicans

CORRESPONDENCE

To the Editor:
An open letter to the person who stripped my bike.

Although you may have the costliest parts of my bicycle, you will *never* possess my wonderful memories of riding aboard that fine Atala. Since you have stolen so much I thought you should know of all that you may never obtain. The stripped bike behind the elevators has a history of its own that my family has enjoyed for nearly two decades.

Born in Italy, a product of the late sixties, the Atala first belonged to a wealthy Manhattan resident. I imagine the bike was christened along the paths of Central Park. My father purchased the Atala from its original owner in 1971 for $90. On weekends he would take the bike through the park while I, age 8, pedaled furiously to keep up with him. I rode a little Peugeot fold-up, with white Michelin tires. More than that Peugeot itself, I loved the chequered flag that attached to the brake wire and read "PEUGEOT—RECORD DU MONDE."

As one may guess, I grew up impatiently waiting to be tall enough to ride my father's Atala. I was always concerned with the bike's physical fitness—in anticipation of a change in ownership (from him to me!). Once, when an offer to purchase the bike was made I was adamant that he reject the offer.

In September of 1985, my first year of law school, Dad turned the bike over to my care. I brought the bike into a shop, had the cables changed the cranks oiled and a steam cleaning that brought the bike back to its original elegance.

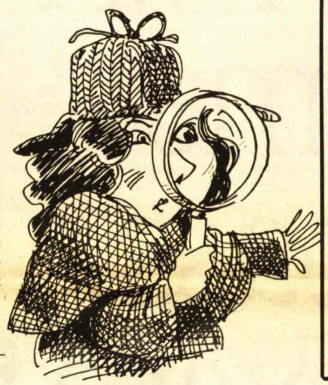
I would use the bike to return from the library when I stayed after midnight. Walking home was out of the question because Court Street seemed so deserted and menacing to pedestrians. Aboard the Atala, I could get home safely in two minutes, travelling too fast for even the fittest of criminals to catch me.

The bike's most glorious moment, however, probably came my Second year in law school. I had entered the 38 kilometer Citibank Five-Borough Bike Tour with friends Ethan Gerber and Steve Gold. We biked on that splendid day in April from 7:00 am to 4:00 pm and strengthened the bonds of friendship that generally do not develop from ordinary law school acquaintances. We woke up early that Sunday (Ethan and Steve never really slept—they had been out all night drinking to the Law Review elections) breakfasted, biked, lunched, biked, biked and biked until a wonderful exhaustion took hold. We were windburned and sunburned, but above all-damn proud of our commemorative Citibank Tee-Shirts.

Fall of '87 began, on a very depressing note. Someone began a slow and constant vandalization of my bike. I wish I had removed the Atala immediately. Now it is too late — the bike is almost worthless now. I imagine the person who got away with the fine Campagnolo parts is quite content. What he/she does not know, however, is exactly how much they left behind.

Dawn Dubois '88

Any information leading to the vandal would be appreciated and can be left at the Justinian.



Booklets for Crime Victims

The Brooklyn District Attorney's Office has released two new booklets for crime victims.

"Crime victims, many of whom have suffered terrible trauma, are often further confused and intimidated by a criminal justice system which appears to be too often insensitive to their plights," said Brooklyn D.A. Elizabeth Holtzman. "These two publications are designed to help victims get the services they need, whether psychological, material or physical, and to help allay the fears of child crime victims," she added.

The first book, "Counseling Services for Victims of Crimes." is a comprehensive listing of services for Brooklyn crime victims. It lists services for victims of child abuse, spouse abuse, elder abuse, rape and sexual abuse, and anti-gay and anti-lesbian violence including hours, fees, languages spoken, and services offered. It contains information on shelters for crime victims, financial assistance, and day care and transportation for crime victims. "Counseling Services for Victims of Crimes" will be given to adult crime victims by the D.A.'s Sex Crimes, Investigation and Criminal Court Bureaus, by the Crime Victims Counseling Unit, and by the Sex Crimes unit of the Police Department.

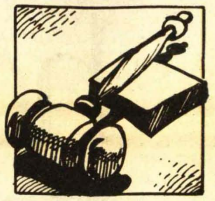
The second book, geared towards helping child crime victims understand how the criminal justice process works, is titled "A Book to Help You." It describes the officials children might interact with as they go through the criminal justice system, such as police officers, detectives, doctors, and assistant district attorneys. It also discusses signing complaints, testifying, and the use of anatomical dolls. "A Book To Help You" will be distributed by assistant district attorneys to all children in cases where arrests have been made.

1989-90 JUDICIAL FELLOWS PROGRAM

The Judicial Fellows Commission is inviting applications for the 1989-90 Judicial Fellows Program. The Program, established in 1972, is patterned after the White House and Congressional Fellowships. The Judicial Fellows Program seeks to attract and select outstanding individuals from a variety of disciplinary backgrounds who have an interest in judicial administration and who show promise of making a contribution to the judiciary.

Two Fellows will be chosen to spend a year, beginning in September 1989, in Washington, D.C. at the Supreme Court of the United States or the Federal Judicial Center. Candidates should be familiar with the judicial system, have at least one postgraduate degree and two or more years of successful professional experience. Fellowship stipends are based on salaries for comparable government work and on Fellows' salary histories but will not exceed the GS 15, step 3 level, presently $58,567.

Information about the Judicial Fellow Program and on application procedures is available upon request from Vanessa Yarnall, Associate Director, Judicial Fellow Program, Supreme Court of the United States, Room 5, Washington, D.C. 20543. (202) 479-3374. Application materials should be submitted by November 15, 1988.



To the Editor:
An open letter to the female faculty at Brooklyn Law School:

As difficult as it is for women in law school, it is additionally difficult for those of us whose experiences are framed by differences image, minority status, language barriers, lesbianism and/or poverty. Such experiences shouldn't be handicaps as femaleness shouldn't be either. Yet, a few of us who have had the courage to acknowledge our own societally enforced limitations and have sought some affirmation from our female professor, are often ridiculed, condescended to, blatantly rebuffed, and treated with extreme impatience. The impatience hurts the most. I have been exhorted to forget my age, my years on the welfare roles, my politics, my educational deficiencies, my past work experience and my status as a single parent. Forget about these experiences that have made me a radical feminist . . .! Forget about who I am . . .!, instead of radical feminist . . .! Forget about who I am . . .!, instead of building on a foundation of my experiences, my female professors warn me to start anew. The very characteristics that make me a feminist and spurred my desire to question authority and to study the law are the very characteristics that have made law school so difficult for me. They are my only experiences and they are invalidated by my female professors.

As a veteran of the feminist movement for thirty years, my law schooling at Brooklyn has increased my skepticism about my future in the law. Despite its public image as the law school that has the largest female faculty in the country, I find the system of oppression, that I've spent my life fighting, alive and well at the bastion of Brooklyn Law School. Consciously, and with a majority of men at its helm, the school has made an extraordinary effort to relieve itself of the legal establishment's prejudices against women in the law. It has provided a work place and equitable professional experience for many young female legal educators. But, on the other hand, feminist students, like myself, have continued to suffer irreparable harm under its aegis. Instead of finding an environment where I would be encouraged and, hopefully, find a professional mentor, I have found myself discouraged by a majority of the female professors and administrators that I have encountered. I am constantly being told that my way of thinking is too inappropriate to succeed in law school.

Brooklyn's large faculty of women, in itself, *is encouraging*. Today, role models *are* available. For one like myself that is an *apparent* change and a step ahead since 1964. (The year in which I *should* have graduated from college.) But, we all know appearances can be deceiving. After all, what good is the appearance of female role models if those models choose to play the same role as the males who came before. My experience as a radical feminist has taught me that apparent change is far from fundamental change. More women working has never meant less oppression. We all know the statistics: fifty-nine cents to the dollar, male decision makers and supervisors, unemployment amongst minority males, lower paid work force, etcetera and so forth. The rhetoric still applies.

At Brooklyn, the women who have been teaching me the law, teach me that I will fail as a lawyer in the profession unless I am, as they try to be, aggressive and masculine in my outlook upon the law. That, as the system stands, may well be true. But, am I to be penalized as a student for my conscious choices and for my differences? The true feminists amongst us seek and have always fought for fundamental change. We are very revolutionary. We don't want to perpetuate heirarchy and aggression that has been historically, and typically, associated with the arenas dominated by a male power structure. We want to see cooperation and equality for *everyone*.

The sixties taught feminists that, between the two prevailing methodologies of action, female passivity and male aggression, assertiveness is what would truly bring change. It joins humanity and doesn't recreate a dominant/subordinate class structure. Even as my politics continue to grow more radical and I reflect upon my own historical perception and experience, I believe strongly that radical change comes out of assertive action rather than out of aggression. I am too old to want to trash authority without responsibility. After all, even with the changes that did come out of our aggressive actions of the sixties, look how far behind we have come today. Yet, I still want to question, analyze and then, see created, a new methodology to replace the oppression of authority. My female professors aren't as open minded to my probing as I'd hoped they might be.

I understand that the female faculty came up the hard way, without any role models. But, if they are truly going to put action into their feminist lip service, the female faculty has got to rid itself of its own incorporation of lessons in the law that perpetuate the dominance of some over the many. Our law school should not continue to be elitist, accepting only the opinions of those who would maintain the status quo. A law school environment that is capable of encouraging and fostering some strong new ideologies is necessary to any movement for progress.

I only ask that those, allegedly feminist, professors take into account and validate, if you will, all experience. Law school is extraordinarily difficult for me and for others like me who are atypical students. But, after all, every female law student, less than seven years ago, was the atypical student. Today especially, at Brooklyn, where women predominate as students, the time has come to accommodate *every atypical* student with an educational method that doesn't alienate the individual. The teaching method is important. The changed attitude of the teachers is essential.

Discrimination against women takes many forms. One form is the subjugation of women by women who wish to maintain the status quo. The subjugators are comfortable as they are. With all due respects for those female professors who have made it to their positions of power, against great odds, one hopes they can retain some modicum of traditional female humanity and humility to help others who come from other experiences to shatter the status quo and to take their place side by side in the legal world. Quantities are irrelevant. There will never be enough women in the law if the law continues to reject women's experience in the larger world. An educational system willing to acknowledge cooperative inter-relationships, team-work, empowering students and the validity of each student's unique experience, will be a very powerful place to work and to learn. Indeed, such a system will benefit all society, including men. Law school with that power will effect a real change in our suffering legal system. Ellen D. Bate '88

Purpose of Law Journals

by James Frechter

During my two-year tenure as a member of the *Journal*, a question I sometimes raised with *Journal* and *Law Review* colleagues was: "What is the purpose of a law journal." The question forced my colleagues to think about the significance of law journal writing generally and to articulate a philosphical approach to law journal writing. On only a handful of occasions did my colleagues formulate what I thought to be truly thoughtful responses. That so few of my colleagues formulated a meaningful response to my question is significant but not surprising. It is my understanding that such a phenomenon is by no means limited to *Journal* and *Law Review* but reflects a phenomenon that many law journals experience.

The most obvious and frequently cited purpose of law journals is to publish "scholarly" articles on significant aspects of the law. Such a response, however, avoids the thrust of my question because it merely recognizes the ultimate end-product of a journal's production process. The publication of well-researched, thoroughly documented, and "scholarly" articles is indeed an important part of journal publishing, and journal staff-members must possess the skills to produce such articles. Yet, producing "scholarly" articles has little to do with the reason for the existence of law journals.

In pursuing an adequate response to my question some have suggested that it is important to distinguish articles written by outside authors from student written articles. Outside authors are generally deemed "scholars" in their fields and are considered competent to develop theories about the development of a particular area of law. Student authors, because of demonstrated writing and analytical ability, are determined to be capable of analyzing and articulating extant legal materials but are often dissuaded from exploring heretofore unrecognized theories. It is thought that as students, they have no authority with which they can support their arguments.

This perhaps is the greatest failing in law journal writing and the primary reason my question is often difficult to answer. Though most journals contain student-written articles, student pieces are viewed predominately as a showcase for academic excellence rather than as serious legal commentary. This is due to no inherent limitation on the ability of student authors but primarily to the myopia of student editors who do not feel that students are competent to make statements for which little or no authority can be cited.

Students, are as qualified, if not more qualified than professional commentators, to develop viable solutions to legal problems. While students generally do not possess the experience that an expert develops only after years of practice and study, a student's methodology and scope of inquiry, however, are unfettered by decades of intellectually constraining specialization in a particular area of law. Students are usually unconcerned with how articulation of a novel theory will affect their professional credibility or how their arguments will be received by institutional colleagues, considerations that undoubtedly affect professional commentators. Moreover, what a student lacks in experience is often offset by excellent research skills and a desire to master a legal issue.

Every student author must feel a certain indignance when reading "blue book" Rules 16.1.1 and 16.1.2 which provide in relevant part: "Except for student-written law review pieces . . . cite the last name of the author . . . and the articles name . . . cite student-written law review materials by the designation used in the periodical, such as 'Note,' 'Comment,' or 'Special Project.' . . ." *(Harvard Law Review Ass'n, A Uniform System of Citation)* 91 (14th ed. 1987). Though a seemingly minor citation detail, this citation rule embodies an institutional belief that student-written articles are subordinate to those of "scholars" in the world of legal criticism. Also significant in this regard is the situation of a student author's at the end of her law journal article while an outside author's name is situated prominently on the article's title page. That a student name "may be indicated parenthetically" at the end of a citation, according to the new "Fourteenth Edition" of the authoritative handbook on legal citation form, does little to improve the institutional perception of student-written articles.

The goal of law journals is not merely to publish "scholarly" articles but to provide a forum for commentary aimed at solving legal problems. To effectively realize this goal law journal editors and faculty advisors must recognize that student authors may contribute significantly to the solution of complex legal problems. Editors and faculty advisors must resist the temptation to censure student articles that make an unconventional argument or adopts an unpopular position.

At least a handful of incoming *Journal* and *Law Review* editors indeed recognize the importance of student-written law journal articles, and will encourage student authors to articulate creative approaches to solving legal problems. Increased emphasis on the purpose and importance of student-written law journal articles can lead only to greater recognition of student-written pieces and the publication of higher quality articles. Ultimately, we all benefit from encouraging the brightest students to articulate their most creative ideas. Such an approach to our student-run law journals, however, may result in the obsolescence of "blue book" rules 16.1.1 and 16.1.2 but will Harvard really mind publishing another edition of the "blue book?"

James Frechter was the Executive Notes Editor of the Brooklyn Journal of International Law.

FINALE!

The end is near—I hope. Looking back on several years, it has all been worth it.

It was not all a carousel—the elevator often could not find its way down.

And those times when it did—there was a great deal of smooth sailing.

To do it all again would be insane. But I'm glad I gave it a—chance remains.

The bottomless pit is still in view—but with love could come another . . . What? you decide. It is, after all, your energy.

I sit and watch—cautiously—for what will come ahead of me. When it is done I'd like to know that like the past it had its fun. The carousel I hope will not have won.

PEACE—
ISAIAH LORD THOMAS
ANTOINETTE MONICA WOOTEN

OVATURE

Return—but do not stay a while—move on and keep the past in mind, for it will help you on your journey of growth.

Don't look back and not ahead for reality exist in more than just one time my friend.

Take the time to find life's friend and seek yourself within reality. Do not forget on your journey of growth or you will lose that part of thee.

Question—what you ask of me. Communicate so we all will know. Never look back with tunnelvision eyes, and remember dulve deeper than what is revealed by mine.

Reality awaits for those who seek and always is a part of me.

End?
ANTOINETTE MONICA WOOTEN

Dukakis Will Win in '88

By Steven Reiss

After his smashing victories in the New York & Pennsylvania Primaries and the suspension of the campaign of Senator Albert Gore, it appears certain that Governor Michael Dukakis of Massachusetts is going to be the Democratic nominee for President in 1988. Since most, if not all, polls have predicted this election to be a relatively close one which could well turn on who occupies the second position on the ticket, there are only two questions that need to be resolved.

They are: (1) who will he choose to be his running mate, and (2) will he be victorious in his quest for the presidency?

Dukakis should certainly not select Rev. Jesse Jackson for his second position. While Jackson has clearly struck a responsive chord in the hearts of many Americans, it is my belief that his appearance on the ticket would be a mistake. This is not to say that Jackson's support would not be essential. The Democrats need to retain those Jackson supporters, who ironically are many of the same people who in years past supported the candidacies of George Wallace and Ronald Reagan. Jackson's campaign agenda is genuine, and not the product of political opportunism. But Jackson is an astute politician and realizes that a Democratic victory is a prerequisite to achieve the political successes he so desires. Therefore, Jackson will go all out to campaign for Dukakis so as to realize from a Dukakis Administration the political accomplishments he knows he cannot yet achieve on his own. Some on the Republican side look to Jackson as the Democrat's problem and breathe a sigh of relief that Pat Robertson, their potential analogue, never materialized. The opinion of this author is quite the contrary. The active support of Jesse Jackson is quite valuable. He is a proven vote getter because not only do people agree with him, but he has the ability to motivate his supporters to make their views count by speaking at the ballot box. This phenomenon is especially striking in an electorate that often appears apathetic, generating turnouts of barely over fifty percent in presidential contests. Certainly this phenomenon of low turnout is not going to be aided any by the generally passionless candidacies of either Michael Dukakis and George Bush. This author cannot resist reminding readers that Bush actually begged Republicans to vote for him in a debate shortly preceeding the New Hampshire primary and explicitly apologized for being so boring, but that voters should cast their ballots for him, "warts and all." In such an emotionless contest, America could well be more apathetic than normal, and thus an increase in participation by Democrats motivated by Jackson would be even more critical.

There is strong evidence that Jackson does not even want to be Vice-President. In response to a reporter's question on this subject, Jackson unequivocally stated that he does not believe that the nominee, whether it be Mr. Dukakis or himself, should be bound to offer the second position on the ticket to the runner-up, but that the winner should be.

The question thus remains as to whom Dukakis will choose. To answer this question, one has to be cognizant of the political realities. Dukakis is almost certain to sweep the Northeast, but seems especially weak in the South, the region which will cast the single greatest number of electoral votes. The Democrats have not won in the South since 1976, when native son Jimmy Carter was the nominee. Even then though, Carter won without winning a majority of the votes of white Southerners in any state but his home state of Georgia. In fact, the last time the Democrats won a majority of the white Southern vote was in 1964 when Lyndon Johnson trounced Barry Goldwater. However, even though Goldwater won only thirty-nine percent of the vote nationwide and only six states, outside of his home state of Arizona, the other five states were in the South. My point is that the Democrats cannot expect to win in 1988 unless they can curb the electoral hegemony the Republicans have demonstrated in the South.

Voters in the South are generally more conservative than voters in any other region of the country. This is true of the Democrats who reside there as well. In recent years, these moderate and conservative Democrats have defected from the party and have established a tendency of voting Republican in presidential elections. Because of this political reality, a more moderate or conservative Democrat on the ticket is essential to its success.

The Democrat who would be most effective in solving this dilemma is Senator Sam Nunn of Georgia. However, Nunn also has the most to lose in becoming Vice-President and thus is unlikely to do so. Senator Nunn is the powerful chairman of the Senate Armed Services Committee and a recognized expert in matters of foreign policy and defense. Since silence and powerlessness are two of the attributes of the Vice-Presidency, Dukakis is going to have to look for a less influential Southerner. Senator Albert Gore, Jr. of Tennessee would be an excellent choice. He has much less to lose since he has been a Senator only since 1985 and thus would not be ceding any hard fought seniority or power. He might even be more effective nationwide as he is a far better speaker and campaigner than Mr. Nunn.

Assuming then that a Dukakis-Gore ticket is chosen to compete against George Bush, the next question that must be addressed is who Bush will choose as his running mate. Bush has already stated that his selection for Vice-President will be a reaction to whoever is chosen by the Democrats. Assuming Bush can be taken at his word, that would mean that if Dukakis chooses Gore (a Southerner), Bush would choose a Southerner as well. Thus, the final contest shall take the form of Dukakis-Gore versus Bush-Southerner.

In terms of image, Dukakis will be aided by the fact he is perceived as a moderate, winning the nomination by defeating a candidate from the party's left wing (Jackson) and one from the right wing (Gore). Secondly, since Jackson was the one who garnered the union endorsements, Dukakis, unlike Mondale before him, will not be seen as a stooge of special interest groups. Finally, Ronald Reagan has gotten a great deal of political mileage from the belief that Democrats are not competent enough to handle the nation's economy. George Bush is certain to contrast Reagan's America with Carter's. While Reagan was quite successful in using this tactic in 1980 and 1984, Bush will be unsuccessful in using it in 1988. This is because Dukakis is seen as the architect of the "Massachusetts Miracle." Furthermore, Bush will be burdened with repeated questions concerning his role in the Iran-Contra affair.

With these advantages, Dukakis is going to be inaugurated the 41st President of the United States. Dukakis will virtually sweep the populous Northeast, his home region, with the notable exceptions of Maine, Connecticut (two of Bush's home states) and New Hampshire. The key, of course, to the election though will be the South. Gore's inclusion on the ticket will by no means result in a Democratic triumph in the region. However, to win, the Democrats do not need to triumph, they need only to win a few states and thereby deny George Bush electoral votes that he must win if he is to be successful in his quest for the presidency. Gore would certainly deliver his home state of Tennessee, and probably at least Kentucky, North Carolina and Arkansas.

The Midwest should also prove to be friendly territory to Mr. Dukakis. As was demonstrated so vividly in the 1986 elections, every incumbent Midwestern Republican Senator who did not repudiate the Reagan Administration's positions on farm policy was defeated. Since George Bush is not likely to repudiate Reagan's positions on agriculture, Bush will also be defeated. Moreover, Bush has demonstrated his own weakness in the midwest when he was embarrassed into a poor third place showing in Iowa that nearly terminated his candidacy. Then after winning in New Hampshire, he also lost South Dakota and Minnesota. The Democrats, therefore, should win a substantial majority of the regions electoral votes.

The last region to be considered is the West. In recent elections, Republicans have demonstrated great strength there, sweeping the region regularly. That will change markedly in 1988. One-third of the region's electoral votes lie in California, and recent polling indicates that Dukakis has a substantial lead there.

This is especially striking since California has not given its electoral votes to a Democrat since LBJ's landslide victory in 1964. That victory in fact was the only Democratic triumph there since Truman's victory in 1948. The traditionally liberal states or Oregon and Washington should also end up in the Democratic column. In reality, this split of region's electoral votes amounts to a huge Democratic electoral gain. Thus, the only region in which Bush should outperform Dukakis is in the South, and in 1988 that will not be sufficient. Get ready for President Dukakis.

Steven Reiss is president of the Brooklyn Law School Democrats.

Brooklyn Law School Democrats Host Candidates Program

By Benett Silverstein

The Brooklyn Law School Democrats sponsored a preprimary program for guest speakers on behalf of the three Democratic Presidential Candidates who ran in the New York primary on April 19, 1988.

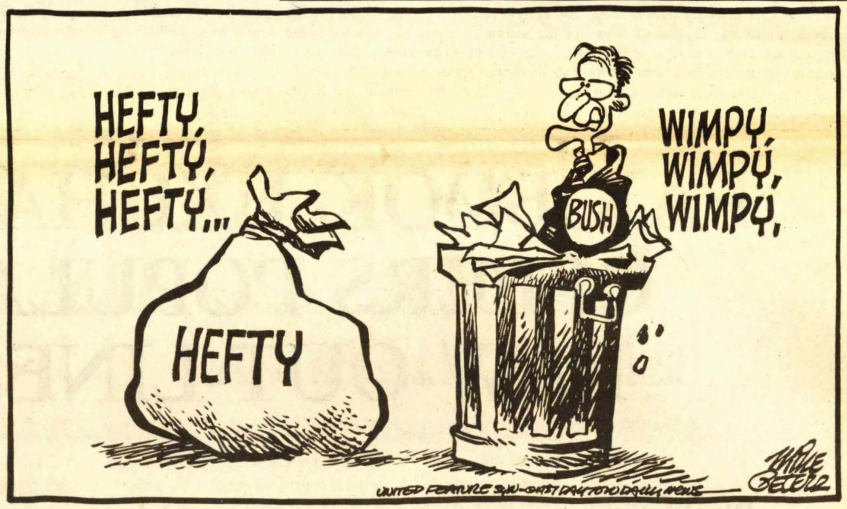
Invited to address Brooklyn Law School students were: City Councilman Sam Horwitz for Massachusetts Governor Michael Dukakis; City Councilwoman Mary Pinkett, for the Reverend Jesse Jackson; and Michael Veit, Ohio State Campaign Manager, for Tennessee Senator Albert Gore, Jr.

Councilman Horwitz told the audience that Governor Dukakis's competence makes up for his lack of charisma. Dukakis is a family man with a proven track record and the ability to do the job. As Governor of Massachusetts, he set innovative programs in motion that had never before been tried in Massachusetts. He introduced employment training for welfare recipients and improved child care and health care for the elderly. While accomplishing all this, Dukakis balanced the state budget. His performance in these areas led to his being cited as the best Governor in all fifty states by *Newsweek* magazine.

Councilwoman Pinkett told the students that Jesse Jackson challenged New Yorkers to do something that has never been done before. Jesse Jackson offers an alternative to the voters. His candidacy is a message that emphasizes the significance of the platform rather than what a candidate looks like. Councilwoman Pinkett said that a major priority of Jesse Jackson's platform is to halt the exporting of jobs and capital to foreign countries. The time has come to stop paying for the Japanese and Korea economies. A major Jackson goal is to promote reinvestment in America. Jackson would end all tax breaks for corporations that invest in foreign countries and would spend American money on American economic development. Jackson would end a system whereby President Reagan saved money on his own tax policy and limited the people severely. Increased funding for education is another major Jackson goal, Ms. Pinkett said.

Mr. Veit said that Senator Gore displays leadership in the field of foreign policy and the only candidate who offered a nuclear-arms-control proposal that would reduce the fear of nuclear strike. Senator Gore has shown leadership in the area of Civil Rights in Congress and was one of only two senators from the South to vote against the confirmations of William Rehnquist as Chief Justice and Robert Bork to the Supreme Court. Gore has spoken out on the necessity to fund AIDS research. Veit reminded the crowd that this demonstrated unusual courage on the part of Senator Gore, since the South is not considered friendly to the issue of gay and lesbian rights. Veit said that Senatore Gore had middle-ground appeal and could reach out to independents.

All three speakers agreed that change was needed in America.



Bush Will Win in '88

By Martin Valk

A very safe prediction is that George Bush will be the 1988 Republican nominee for President. A less safe prediction, but a good bet nonetheless, is that the next President of the United States will be George Herbert Walker Bush. We have seen Bush on our televisions and in our newspapers and magazines, yet few know what the man stands for and what makes him tick. After a brief biography, some of his stances on a few major issues will be outlined.

Although Bush was born in Massachusetts and was reared in Connecticut. (Bush is not from an aristocratic family.) In World War II, Bush enlisted in the Navy on his eighteenth birthday. As the youngest Navy pilot of his time, he flew 58 combat missions, was shot down in the Pacific theatre, and was awarded the Distinguished Flying Cross and other medals for bravery.

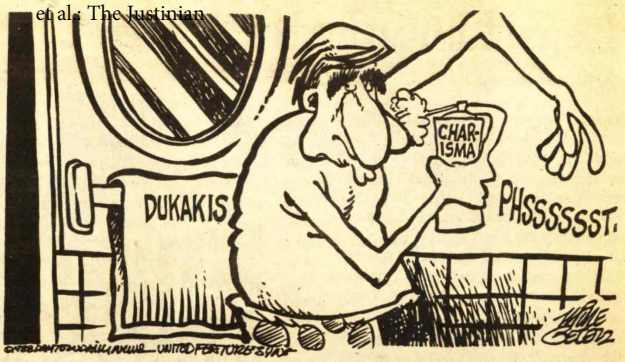
After the war, Bush moved to Texas, where he became successful in the always risky and rough-and-ready oil business. In 1966, he became the first Republican Congressman elected from his district. After a losing U.S. Senate race, he was appointed Ambassador to the United Nations. After this, he served as Chairman of the Republican National Committee, Chief of the US Liaison Office in Peking, and Director of the Central Intelligence Agency. Since January 1981, he has served as Vice-President. Throughout his business and government career, he has been a war hero, an industry leader, a foreign relations official, a diplomat and agency official. No other candidate comes close in having the credentials for the office of President the way George Bush does.

As President, George Bush will look to the future, not to the past. He is for extending progress on arms control with a verifiable agreement to eliminate all chemical and biological weapons. He wishes to be known as "the President who eradicated the earth of chemical and biological warfare." Bush is also in favor of bringing economic growth to the areas of the country and the segments of the population that have not participated in the longest US peacetime expansion in more than 100 years. As a former businessman, Bush knows first-hand the obstacles and challenges today's workers and businesspeople face. He will expand upon the pro-growth, job-creating and free enterprise spirit of the Reagan years.

In the area of women's rights, he is a firm supporter of equal pay for equal work. "We should not be satisfied until women earn not just 70% of what men do, but 100%."

George Bush strongly believes in making higher education affordable. A foundation of this is his college savings bond proposal, which would be modeled after a regular U.S. Savings Bond, except that the bond's interest would be tax free if applied to college tuition. Bush also favors expansion of the income-contingent loan program, which adjusts payments annually to fit within the income a graduate earns after college. He believes in strengthening debt collection procedures to ensure repayment from those who are fully capable.

The Vice-President stresses increased accountability in elementary and secondary education. He feels that students must demonstrate certain levels of achievement on required standardized testing in order to advance. Computer literacy should be a requirement for high school graduation. Bush favors competency testing and merit pay for teachers. He favors greater cooperation between schools and private business in education of students. He believes "we should teach our children the four R's: reading, writing, arithmetic, and respect." In short, Bush wants to be known as the "education President."



George Bush believes that the country most do all it can to stop the spread of AIDS. Continued research on the virus combined with public education and testing are the best path to curb the spread of AIDS. Although the government will spend close to $1 billion next year on AIDS, money alone won't solve the problem. Those at high risk must be educated on how to avoid contracting the disease.

Because those who do not have the disease must be protected, Bush favors testing. The government should require testing of prisoners, immigrants, and aliens seeking permanent residence. Tests are already being conducted in the military and in the foreign service. Bush will encourage the states to offer routine testing for those who visit sexually transmitted disease or drug abuse clinics. Bush would also encourage states to require routine testing in state and local prisons.

Any testing under a Bush administration would be *confidential*. He feels that if society must test its citizens, then it is absolutely imperative that the records are kept confidential. Help would be available to those who test positive.

Also, Bush believes in high defense budgets, strong support of the CIA, and an assertive foreign policy. He is also not a big spender—"Government should not throw money at problems in the hope that they may go away."

George Bush's experience, added with his views, add up to a strong contender for the White House. Since he is a WWII veteran, and has seen the horror and destruction of war, he will work to build and preserve a lasting world peace. Because he is a former congressman, he knows how to deal with excessive government spending, taxes, civil rights, and environmental concerns. Because he is a former diplomat, he has vast experience in foreign relations, including unrivaled support for Israel. This is why George Bush should be our President, why I am supporting him, and why I urge you to do the same.

Martin Valk serves as Executive Chairman of the Kings County Young Republican Committee. He is also Recording Secretary of the Association of New York State Young Republican Clubs.

Legal Limbo for IRA Member

continued from page 1

hatred "spawned by England's conquest of Ireland in medieval times," he noted that "the offenses which gave rise to this proceeding are but the latest chapters in that unending epic." Judge Sprizzo also compared the lack of political consensus supporting the PIRA to the large number of colonists who, at the time of the American Revolution, thought armed rebellion against the crown would be both "treasonous and abhorrent."

The Justice Department's criticism of the decision and Judge Sprizzo was swift and scathing. The head of the Justice Department's Criminal Division called the decision "outrageous," saying, "A guy can kill somebody, hide in another country, and it's a political offense? Give me a break." The *National Law Journal* published an editorial chastizing the Justice Department for "demeaning the judicial process by expressing such outrage and making sarcastic remarks.

The Justice Department then sought a declaratory judgment from another district judge, claiming that Judge Sprizzo's decision was erroneous as a matter of law and an abuse of discretion. This action was dismissed for failure to state a claim. The U.S. Court of Appeals for the Second Circuit affirmed the district court's dismissal and the Justice Department petitioned for rehearing with the suggestion of rehearing en banc. This petition was also rejected.

The matter of Mr. Doherty was then shifted to the Immigration and Naturalization Service (INS), where deportation proceedings were commenced. Mr. Doherty had previously made an application requesting political asylum, but withdrew that application and requested to designate the country of deportation, according to Title 8 of the United States Code, section 1253(a). He designated the Republic of Ireland. Despite the fact that under the Irish Constitution Mr. Doherty is an Irish citizen and that the Republic of Ireland had agreed to accept him, the INS opposed this designation, claiming it would be prejudicial to the interests of the United States for Mr. Doherty to be deported anywhere but to the United Kingdom. The claim that

an order of deportation to a designated country would be prejudicial to the interests of the United States had never before been raised.

The INS requested three adjournments but offered no evidence of this asserted prejudice other than a few newspaper articles and a copy of a speech by the secretary of state. The immigration judge finally entered his decision and order designating Ireland as the country of deportation. The INS appealed this decision to the Board of Immigration Appeals (BIA), offering only an affidavit of a Justice Department official in support. Because the INS had failed to comply with the governing regulations, the BIA rejected its motion. However, in deference to the INS, the BIA reopened on its own motion and examined the affidavit but found nothing in it to support the request to reverse its original decision.

This decision upholding the order of deportation was then referred to the attorney general for review by the INS. Although the BIA is empowered to refer decisions to the attorney general at the request of its chair or a majority of the board, neither party saw the need for this referral.

In December of 1987, Mr. Doherty filed a motion to reopen or to reconsider with the BIA to once again request political asylum.

As of December 1987, a new extradition treaty between the Republic of Ireland and Great Britain was in effect. Because of the delay in the execution of the order, the deportation of Mr. Doherty to Ireland would be a de facto extradition to Great Britain under the new treaty. The BIA has not yet ruled on this motion.

Mr. Doherty has also filed a motion for the recusal of the attorney general. After accepting this matter for review, the attorney general must decide if the repeated decisions against the Department of Justice were wrong and that the positions argued by the Department of Justice on his behalf should have won. In an interview broadcast on the CBS news program "60 Minutes," the acting deputy district director of the New York district said: "In the extradition proceeding, the objective was to get Doherty to the United Kingdom. And in the deportation proceeding, our objective is to get him to the United Kingdom. [It] is just an alternate means to accomplish that."

With all the public statements issued by the Justice Department, there is little doubt as to how Mr. Meese would like to see this case resolved. He has already delimited the scope of his review to the issues of whether it would be prejudicial to the interests of the United States for Mr. Doherty to be deported to the Republic of Ireland. He has declined to consider the threshold issue of whether the executive branch, in moving to reopen the proceedings to present new evidence, complied with the regulations governing motions to reopen or violated the basic concept of due process.

Meanwhile, Joe Doherty sits in MCC, about to begin his sixth year of imprisonment. He is currently collecting signatures to petition the attorney general to take the necessary steps to secure his prompt release on bail. On June 18, 1988, there will be a rally by friends and supporters in Thomas Paine Memorial Park in lower Manhattan to mark the beginning of Mr. Doherty's sixth year of captivity in an American prison. Joe Doherty is hoping it will be his last.

Interview with Joseph Patrick Doherty

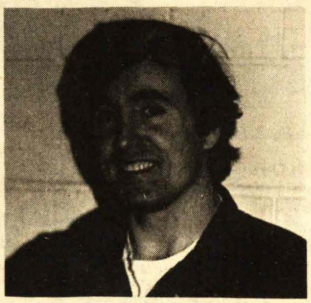
by Katherine Mullen Sidlauskas

Q: When Britain petitioned the United States to have you extradited, the charges on which the extradition warrant was based were found by two district-court judges and the Court of Appeals to fall under the political-offense exception. Deportation proceedings were then commenced, and an immigration judge ordered that you be deported to the Republic of Ireland. Why did the government appeal that order?

A: They stated that it was contrary to the interests of the United States that I be deported to the south of Ireland. They wanted to deport me to the north. We approached the court to state that under the 1937 Irish constitution, I am an Irish citizen and have every right to fly into Dublin rather than Belfast. The Irish consulate furnished us with an affidavit stating that fact. The INS nonetheless felt I wasn't an Irish citizen but a British citizen, which is contradictory to international law, based on the Irish constitution. They were really taking sides.

Q; Since the federal judge found that you could not be extradited to Britain, and there was an immigration order that you be deported, what interests were the government trying to protect by blocking your deportation?

A: Well, they did that at the behest of the British government. They pushed the American government. Margaret Thatcher stated herself in 1983 when I was arrested in New York City that she wanted me back. People high up in the American justice system, assistants to Edwin Meese, extraditions. We went through all that and



Joseph Doherty

doubt that I am an Irish citizen.

Q: What effect has the new extradition treaty that was signed between Britain and Ireland had on your case?

A: It means that now if I am deported to the south of Ireland, it will be a de facto extradition, and once the plane lands in Dublin, I'll be sent up to the northeast of Ireland. I have made a decision not to go back there and refiled a motion for political asylum within the United States. Apparently the motion is somewhere between the INS and Ed Meese. It's very confusing. Everytime I go into the court and want something, they always want the reverse. When I was first arrested, the INS wanted to deport me to the south, and I applied for political asylum. Then they came up with the provisional warrant for arrest from the British government for my extradition. We went through all that and then we came back to the Immigration Court. I said I wanted to go back to the south, and they looked a bit confused and said, "No, he can't go to the south." Now I am saying that I don't want to go to the south, and I don't know what they will do—whether they will try to force me to go to the south, or have me deported to the north. A lot of these statements are coming from people who are resigning. I think there is just utter confusion within the Justice Department. It could be a deliberate policy to keep my case on the back of the book—that they don't want to deal with it—or it could be a policy requested by the British, or it could be just utter confusion.

Q: Has the poor economy in the south of Ireland affected the attitude toward the north? Is the concern that if the British withdrew today, the republic could not support the welfare state of the north valid?

A: That's a neocolonial mentality that has been imposed on us for years, the idea that the Irish depend on the English, that the English came and built our roads, gave us factories, education, showed us how to farm, which of course is untrue. We were a nation, we had our own school system, our own economy, and when the British came, they confiscated the land, turned the Irish into a serf class, and after eight hundred years of this, the Irish have developed a slave mentality. We won't starve when the British are gone. We believe through a united Ireland there will be a rejuvenation of the national spirit. I don't see that with our fertile agriculture and our minerals, we can't stand on our own economy. We just have to get up and do it.

Q: Do you see the Provisional IRA playing a role in a united Ireland? Will it disband, or will it take part in the formation of the government?

A: The immediate goals of the IRA are: first, the evacuation of all armed forces and government administrations from the north of Ireland and the reunification of Ireland; and secondly, amnesty for all political prisioners. The IRA is a nationalist army out to obtain these goals. So quite naturally, when the British pull out, the IRA will disband. On the other hand, Sinn Fein, the political party, will take part in a new constitutional conference to decide about a future democratic process—a constitution, a bill of rights, the separation of church and state. The British propaganda is that the IRA is out to form a Marxist republic. This is untrue. Our only goal is against British control in the north, period. What happens after that will be the democratic will of the people.

Q: Lately, Gerry Adams, a representative of Sinn Fein, and John Hume, of the Socialist Democratic Labor Party, have been having talks. They have been both praised and criticized for this. How do you feel about that?

continued on page 23

On June 18, 1988 there will be a rally from 3 to 5 p.m. in Thomas Paine Memorial Park in Lower Manhattan to mark the beginning of Joe Doherty's sixth year of imprisonment in an American prison.

Doherty Interview

continued from page 22

A: I think that Sinn Fein has always given the view that they are willing to talk to anybody. You have got to understand that our war is about Thatcher's persistence in the north and centers around a government that is corrupt and sectarian. The IRA decided to try the political way. We tried to get civil rights with housing committees, to go about the process within the system, to obtain reform—but this did not work, as everybody has seen. The police and the British Army came to the civil-rights marches, where innocent people were shot on the street, and people like me, my generation, came to see that you can't work for reforms within the state, because it is so corrupt. You have to bring the state down. And we made a decision to go to war, and that decision was the last choice on the agenda. We didn't want it, we couldn't afford it, but we couldn't do it any other way.

Along the last 17 years, Sinn Fein and the IRA have been trying to think of other ways to obtain civil rights and the reunification of Ireland, and this is just another one of them. We had the 1972 peace talks when Gerry Adams flew over to meet with the British government, which led to a cease fire. And in 1975 we had the same thing, the IRA met with the British government to try and think of a more peaceful solution to the problem, but that failed. We are willing to talk to anybody. If Margaret Thatcher wishes Gerry Adams to come over to 10 Downing Street, Gerry Adams will fly over there, because we want peace. I have fears that any day a priest will walk into my cell and say, "Your sister was killed in the north." My mother, my home is there. My family has spent over 14 years with someone in prison, so I really want peace. But not at any price. I am willing to talk to anybody.

If someone can put a solution to the north of Ireland on the table, I'll be the first one jumping to condemn the IRA and the war, but no one can do that. I'm no Rambo. I've seen too many people killed on both sides. I have fears that my family may be killed or kill another human being. I don't want that. It is the same with Gerry Adams. Gerry Adams has had four weeks of talks with John Hume that may not get anywhere, but he will do it on the off chance that it could spark some progress.

Q: Bobby Sands and the rest of the hunger strikers went on strike knowing that death was the likely outcome. In Bobby Sands' writing, he describes his deep resolve. His depth of commitment is readily apparent. What is it about Ireland that inspires such commitment?

A: Well, Bobby Sands was the same age as me. We were in prison together during the seventies, and he had the same background as me. As a small kid, he saw degradation. At a very early age you come by political maturity, you are aware of discrimination. You know from an early age that you are a second-class citizen. From the time I was four or five, I was beaten from one end of the street to the other, and called all sorts of names, and it hurts. I think about my father, and my mother, who probably feels the same way, that they went through this whole life struggling, trying to provide for their children, but they couldn't because they happened to be Roman Catholics and happened to be Irish. I've always been conscious that if I can't get freedom, my kids are going to have to fight for it. This is probably why my generation has fought the most relentless war, more than any other campaign, and if it has to go on another twenty years, and I have to do another twenty years in jail, and our children have to kill or be killed or be kept in prison when they begin to fight, they are going to do it. So Bobby Sands realized that in prison, that he had to make the ultimate sacrifice, so maybe his generation or this generation coming after him will not have to go through all this. That gives me inspiration. I think that getting the British out will be a stepping stone for the Irish people, and people will get together in rebuilding the country economically, politically, and, more importantly, socially.

Q: You get a lot of mail, and you answer it all yourself. Why do you do that?

A: I think it is important, because it is an opportunity to tell the people of the United States about my situation, to tell them about the situation in the north, to tell them they are only shown one side of the story. When people write to me and ask me what is going on, why I did what I did, why I've spent so many years in prison, I tell them I want freedom. I'm not a warmonger, I don't love war, there is no romance in war, but we have war for a reason. I've had people write to me who think I have horns on my head, because we are depicted as terrorists, murderers, so I try to be totally honest with them. I feel sorry for the British soldier, that he had to die. I feel sorry for his family. I feel guilt, and we all should, because we all contribute to wars going on all over the world in some way. The British government has the power to bring peace. I am a victim, I am one of the oppressed victims, I'm just one little person who has been trapped all of his life.

A lot of school kids write to me, asking me how I feel. I tell them to stick with school, and the importance of an education. I had to leave school when I was 14. I could hardly read and write. I had to go through years and years in prison, and try to develop myself. With education I could have been a doctor or a teacher or a politician or a political activist. I tell them not to follow my role of picking up a gun. It was the last thing I could do. I went through every other phase of trying to preserve my freedom. I couldn't do it any other way. With a better education, maybe I could have been a political activist or a political scientist, but I was just a ghetto kid with a machine gun in my hands. So now I am a thirty-three-year-old political activist in jail. And probably I am achieving more here today, just with you, than through five military operations. That gives weight to the argument that the pen is mightier than the sword. I have seen that in the courts here. That's why we are pleading with Irish-Americans. Because our backs are against the wall. We went to the London Government, and they sent in the troops. We went to the Dublin government. They voted in Draconian laws, gave us lip service, and turned their backs on us. I try to tell Irish-Americans that the more they get involved with me, the more they get involved in the north, and that is important. If we can bring this war from 20 years down to 10, we can save two or three thousand lives, so it is so important that the Irish Americans rally around us.

Q: Do you think anybody in the north of Ireland is happy with the presence of the British Army?

A: In recent years, polls taken in Great Britain show that more than 50 percent of the population want the troops out of the north of Ireland. The Anglo-Saxons in the north are getting away from Great Britain, and there is a lot of talk of having an independent north of Ireland. There was a time when Irish Protestants were at the forefront of republicanism, and were the backbone of Irish National Independence. But the British like to see us divided into two religious sects, and all are beginning to see that maybe it could be better with an independent northern Ireland. It is up to us and the Irish government to show them. We don't want to destroy their culture or religion, we want a pluralist society with separation of church and state.

Q: Do you have any regrets about joining the IRA?

A: No, I don't think so. I think if I was back there and I were out of jail, I could be doing other things but as for regret for the stand I have taken, I don't have any. I have been in prison for 13 years, and I am only 33 years of age. That is a big portion of my life that has been in prison. I feel my position is moral and just, otherwise I could not face the sixth year in this prison.

Q: Has the way you would like to see a legal system in a united Ireland been influenced by your experience with the American legal system?

A: Since being here I have had a great experience. It is something that I will carry back to the movement. When I came here, I came here with the experience that courts gave totally arbitrary decisions. They were special courts, and there was no justice at all. But I was really amazed that the court that I came before protected my rights. Especially Judge Sprizzo, because he came under so much pressure from the secretary of state and other people, to give a favorable decision to the administration and the British government. We brought our facts and evidence into the court, and back where I come from, you can't even make a statement to the court as a defendant.

The last time I was in a Diplock court I stood up to explain why I was refusing to recognize the jurisdiction of the court, and I was beaten up in the court. When I stood up the judge said "what's your verdict," and when I said I don't have a verdict, and he asked why and I said because I refuse to recognize the jurisdiction of a foreign court, he banged the gavel and the guards held me down and beat me up in front of the whole court. So when I came here and I saw this federal judge sort of wrapping his arms around me legally to protect my rights, I was amazed. And that gives me a great respect for this federal system. It is probably the greatest system in the world. Now I can explain to the people I write to the dangers of the administration's policy, of continually denying me bail, the destruction of treaty law. It is a danger, because if they can do it with me, they can do it with you next. I am a person who believes that law can work, it can work in the north of Ireland, as it works here.

NUMBER OF INJURIES IN NORTHERN IRELAND AS A RESULT OF TERRORIST ACTIVITY 1968-1986

	RUC	ARMY	UDR	CIVILIAN
1968	379	—	—	—
1969	711	54	—	—
1970	191	620	—	—
1971	315	381	9	1,887
1972	485	532	36	3,813
1973	291	525	23	1,812
1974	235	453	30	1,680
1975	263	151	16	2,044
1976	303	242	22	2,162
1977	183	168	15	1,017
1978	302	127	8	548
1979	165	132	21	557
1980	194	53	24	530
1981	332	112	28	878
1982	99	80	18	328
1983	142	66	22	280
1984	267	64	22	513
1985	415	20	13	468
1986	622	45	10	773
TOTAL	5,894	3,825	317	19,290

RUC — Royal Ulster Constabulary (Police)
ARMY — British Army
UDR — Ulster Defense Regiment (attached to Army)

This information is from "Criminal Justice and Human Rights in Northern Ireland" by William E. Hellerstein, Robert B. McKay and Peter R. Schlam.

Arts and Theater

JUDITH A. NORRISH

A Shayna Maidel, by playwright Barbara Lebow, opened last October and is still running at the Westside Arts Theatre, 407 West 43 Street, tel. (212) 541-8394. Set in New York in 1946, it is a moving drama about two sisters, their father, and the circumstances that have torn the family apart (Hitler's occupation of Poland). An emotional powerhouse, this stirring drama affirms the resilience of the human spirit. This production stars Melissa Gilbert, best known as Laura in "Little House on the Prairie." Thespians Paul Sparer and Gordena Rashovich give memorable performances.

A Walk in the Woods, by playwright Lee Blessing, stars Sam Waterston and Robert Prosky. This work places an American diplomat and his Soviet counterpart together discussing and negotiating the fate of the two superpowers, vis à vis nuclear weapons. These are two outstanding performances. Producer Lucille Lortel has volunteered to contribute all profits from this production to the Lucille Lortel fund for New Drama at Yale, which nourishes new talents and the growth of American theater. The Booth Theatre, 222 West 45 Street, tel. (212) 239-6200.

Frankie and Johnny in the Claire de Lune stars Kathy Bates and Kenneth Welsh, who spend the two acts in her apartment in the West 50s. It's a humorous and insightful commentary on urban relationships in the 1980s. Kathy Bates' performance is truly exceptional, and Terrence McNally's script is right on point. Directed by Paul Benedict at the Westside Arts Theatre, 407 West 43 Street, tel. (212) 541-8394. Upstairs theater.

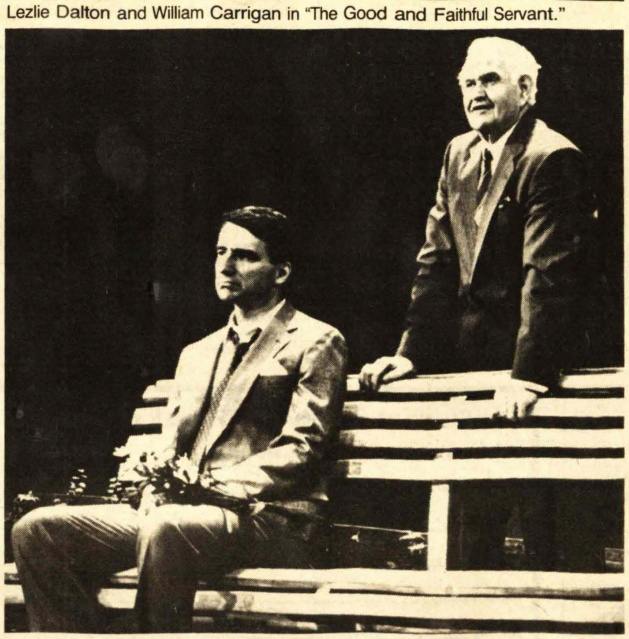
Oil City. This delightful musical farce captures the spirit of a 1950s gymnasium soirée complete with campy sentiment and nerd musicians. Written, conceived, and performed by Mike Craver, Debra Monk, Mary Murfitt, and Mark Hardwick. Their talents are to be admired. Lots of fun! Be ready for belly laughs. Running at Circle in the Square (downtown), 159 Bleecker Street, tel. (212) 254-6330.

The Good and Faithful Servant. This was Joe Orton's penultimate work. The action takes place in a small English factory town and develops themes about the inhumaneness of modern industrial life. Joe Orton's untimely death at the hands of his lover is echoed in the final scenes. One could almost fell and see the entrance of his ghost. An excellent play within an adequate production. A must for those who enjoyed other Orton works, such as *Loot* and *What the Butler Saw*. With Michael Allinson, Terry Ashe-Croft, William Carrigan, Lezlie Dalton, Eddie Lane, Laura Lane, and Gene R. Morra. Directed by Will Lieberson. Actors Playhouse, 100 Seventh Avenue South, tel. (212) 691-6226.

Fences, by August Wilson, is an amazing dramatic vehicle for any acting troupe. It is perhaps the *best* script in production on Broadway at this time. The current cast features Billy Dee Williams in the lead role. This story of a man and his family is done with compassion, honesty, humor, and love. Not to be missed.

Gordana Rashovich and Melissa Gilbert in "A Shayna Maidel."

Lezlie Dalton and William Carrigan in "The Good and Faithful Servant."



Sam Waterston and Robert Prosky in "A Walk in the Woods."

LIMITED RUNS THAT I HOPE WILL RETURN

Mass Appeal. Written and directed by Bill C. Davis, it was produced on Broadway in 1981 and adapted for the screen. The film starred Jack Lemmon. The story surrounds an idealistic seminarian and priest mentor. The Irish Arts Center, 553 West 51 Street, tel. (212) 751-3318, presented *Mass Appeal* with Malachy McCourt and Tony Carlin. Fabulous play! good production.

Tapman starred Moses Gunn, who is a gifted stage and television actor. Playwright Karen Jones-Meadows gives us a glimpse into the lives and hearts of a Tennessee blues singer and his loved ones. Produced most recently at the Hudson Guild Theatre, 441 West 26 Street, tel. (212) 760-9810. Hats off to this community theater (off-Off Broadway), which presented *Tapman* and other hits such as *Da* and *On Golden Pond*.

ROSENFELD'S WAR
Now Playing at 92nd Street YMHA
by Samuel Abrahams '56

The Mosaic Theatre at the 92nd Street Y is currently showing a moving documentary drama, Rosenfeld's War, about the failure of the American government to rescue Jews who were being annihilated by the Nazis on the even of World War II. This dramatic presentation revolves around the Wagner-Rogers Bill to permit the entry into the United States outside of the quota restrictions of 20,000 children from the cauldron of Nazi oppression in 1939. The staging of the Congressional hearings before the defeat of the measure is a sharp examination of the anti-Semitic attitudes then prevailing in this country.

The drama portrays the background of the Nazi assault on the Jews from the time of the ascension of the Hitler to power in 1933 leading up to the Holocaust. The views of significant segments of American and foreign leadership toward the horrors of Nazism are fully exposed, especially the approach to the 1936 Olympic Games in Berlin when the directors of the event refused to take any action to alleviate the plight of suffering Germany Jewry such as a protest or boycott. The Evian Conference on refugees in France in 1938 was shockingly treated by the world's representatives as a farce and evasion of moral responsibility to help the victims of brutality; the drama shows the delegates playing tennis, taking their diurnal strolls in the gardens and engaging in frivolities.

President Franklin D. Roosevelt has been held by American Jewry in the highest esteem as a model of integrity. In contrast, the drama is labeled Rosenfeld's War to illustrate the extent to which haters of Jews opposed any help to the Jews of Europe. Those anti-Semites pinned a "Jewish" name on Roosevelt even though Roosevelt virtually ignored the pleas for assistance and action on all fronts.

Some of America's most illustrious luminaries of the arts, government and public life testified in behalf of the Wagner-Rogers Bill to admit 20,000 children from the ovens of bestiality. Helen Hayes, Quentin Reynolds, Dorothy Thompson, Joey Brown and numerous others told the Joint House and Senate Committee that the adoption of the humanitarian resolution would again establish the United States as a beacon of freedom for the oppressed of the world. Unfortunately, opponents of the bill represented by assemblies of "patriotic" societies and the American Legion were successful in preventing the passage of the bill by their scare tactics, distortions of the effects of immigration on the American economy and fear of the change in the demographic nature of the cities of this country.

The British are roundly condemned in this drama for their imposition of the infamous White Paper in 1939 limiting the quotas of Jews allowed to enter Palestine (now Israel). The play quotes the late Chaim Weizmann who berated the British for violation of the terms of the League of Nation's Mandate; Weizmann had been an inveterate admirer and supporter of the British through thick and thin down through the years of his research in British universities.

The author of the play, Gus Weill, has engaged in remarkable studies and has researched this tragic era in European and American history with a fine tooth and comb. It warrants viewing at this time of world tension in Israel and elsewhere.

Law Student Full-Tuition Seminar Scholarships

In order to introduce law students to the continuing legal education programs conducted by Practising Law Institute, full-tuition scholarships are being offered to individuals enrolled as full-time law students during the Spring 1988 semester to the PLI programs listed in this announcement and being held from May through August, 1988. Each student is limited to one scholarship. To register for a program, *please complete the scholarship coupon below and return it to* **PLI's Registration Department, 810 Seventh Avenue, New York, New York 10019, (212) 765-5700.** Brochures describing the programs listed below may be obtained from PLI's Registration Department.

May 2–August 26, 1988 Programs

MAY

2–3
Use of Experts in Commercial Litigation: Discovery and Trial Techniques
New York City
Doral Inn

5
Directors' and Officers' Liability Insurance
New York City
St. Moritz-on-the-park

5–6
Protecting the Real Estate Lender: Workout, Bankruptcy, and Financing Strategies
New York City
PM&M Executive Education Center

6
Bad Faith Litigation and Insurer vs. Insurer Disputes
New York City
St. Moritz-on-the-park

The New Delaware Takeover Statute
New York City
The New York Hilton

9–10
Corporate Restructurings
New York City
The Westbury Hotel

12–13
Venture Capital Financing: The Practical Aspects
New York City
Hotel Parker Meridien

OSHA
New York City
PM&M Executive Education Center

Commercial Real Estate Leases
New York City
Doral Inn

16–17
Legal and Business Aspects of Book Publishing
New York City
The Westbury Hotel

19–20
Developing an Export Trade Business
New York City
PM&M Executive Education Center

Acquiring or Selling the Privately Held Company
New York City
The New York Helmsley Hotel

Employee Welfare Benefit Plans
New York City
St. Moritz-on-the-park

23–24
Leveraged and Single Investor Leasing
New York City
The Barbizon Hotel

Interest Rate and Currency Swaps
New York City
The Westbury Hotel

JUNE

1
Securities Arbitration
New York City
The Westbury Hotel

2–3
Securities Enforcement Institute
New York City
The Westbury Hotel

29th Annual Antitrust Law Institute
New York City
Doral Inn

9–10
Retail Financial Services: Current Developments
New York City
PM&M Executive Education Center

Responsibilities of the Corporate Parent for Activities of a Subsidiary
New York City
St. Moritz-on-the-park

10
Child Abuse and Neglect: Protecting the Child, Defending the Parent, Representing the State
New York City
Doral Inn

13–14
Bank Acquisitions and Takeovers
New York City
The Westbury Hotel

Current Developments in Trademark Law and Unfair Competition
New York City
Doral Inn

15
Representing Clients in Failing Financial Institution Investigations
New York City
The Westbury Hotel

15–17
Representing Professional Athletes and Teams
New York City
PM&M Executive Education Center

16–17
Hazardous Waste Litigation: Current Problems and Practical Solutions
New York City
Doral Inn

17th Annual Institute on Employment Law
New York City
St. Moritz-on-the-park

20–21
Libel Litigation
New York City
Doral Inn

27
Program Trading After the Crash: Can the Equity and Futures Markets Be Integrated?
New York City
PM&M Executive Education Center

JULY

7–8
Introduction to Qualified Pension and Profit-Sharing Plans
New York City
PM&M Executive Education Center

7–9
Acquisitions and Mergers
New York City
Hotel Inter-Continental New York

11–12
Creative Real Estate Financing
New York City
Hotel Inter-Continental New York

14–15
Legal and Practical Aspects of Doing Business with The Soviet Union
New York City
The New York Helmsley Hotel

Accountant's Liability
New York City
Hotel Parker Meridien

Blue Sky Laws
New York City
The New York Hilton

Art Law
New York City
The Westbury Hotel

18–19
Business Loan Workouts
New York City
The Westbury Hotel

21–22
Accounting for Lawyers
New York City
The Warwick

Computer Software: Protection and Marketing
New York City
PM&M Executive Education Center

Evaluating a Personal Injury Case
New York City
St. Moritz-on-the-park

28–29
Medical Malpractice in the Emergency Room
New York City
St. Moritz-on-the-park

AUGUST

4–5
How to Prepare an Initial Public Offering
New York City
The New York Helmsley Hotel

11–12
Legal Services for the Elderly
New York City
Doral Inn

The Prosecution and Defense of the Multi-Million Dollar Personal Injury Case
New York City
The New York Hilton

August 15–18
Basic UCC Skills Week
New York City
Doral Inn

August 15
Basic UCC Skills: Article 2 and Article 2A

August 16
Basic UCC Skills: Article 3 and Article 4

August 17–18
Basic UCC Skills: Article 5 and Article 9

Special Offer: **Students may attend all the Basic UCC Skills Courses**

18–19
Non-Qualified Deferred Compensation Plans
New York City
Hotel Parker Meridien

25–26
Workshop on Legal Writing
New York City
The New York Hilton

Scholarship Terms and Procedures

1) Good for tuition to one PLI program through August 31, 1988 whose fee is $500 or less
2) Coupon is for the use of individuals who are full-time law students during the Spring 1988 semester
3) Attendees must register before the date of the program
4) Scholarship is subject to space availability
5) *To register for a program, complete and return this registration form to:* **Practising Law Institute, Department LJ, 810 Seventh Avenue, New York, N.Y. 10019.**

Law Student Scholarship Registration Form:

Please enroll me in the following program:

Program Title _____ *City* _____ *Date* _____

(Signed) _____

Please print:
Your Name _____

Mailing Address _____

Apt. No. _____ *City* _____ *State* _____ *Zip Code* _____

Telephone Number _____

Law School _____ *Anticipated Graduation Date* _____

Practising Law Institute, Department LJ, 810 Seventh Avenue, New York, N.Y. 10019.

Learning to Think Like a Lawyer

Excerpts from *29 Reasons Not to Go to Law School*
by Ralph Warner & Tony Ihara, illustrated by Mari Stein

The first day of law school:

A middle-aged professor stands in front of a roomful of bright, confident, articulate students. All have worked hard and gotten top grades for years. They are in a good mood, plainly delighted by what they regard as a new challenge. In contrast, the professor seems a bit washed out and haggard. Several students wonder if he is up to the job ahead.

The 10th day:

By now, the professor has assigned and discussed a few hundred cases. They are presented out of context and out of order. An 1840 decision from a Massachusetts court follows one decided in Los Angeles in 1957, which in turn comes after a 14th century English opinion. When a particular decision appears to make internal sense, students gratefully grasp at it as they might a life raft on a stormy sea. Unfortunately, their slender hold on security is soon washed away by the next wave of cases which manage on similar facts to arrive at several completely different conclusions. The cases do, however, have one thing in common—they all introduce new jargon and unfamiliar concepts which are nowhere defined. Students, mostly undergraduate social science majors, desperately try to fathom the basic principles on which the new material rests by invoking the tried and true problem-solving techniques. The professor airily dismisses these attempts not merely as wrong or unworkable, but with the most damning indictment of all: "No one is thinking like a lawyer."

Interim result:

Confusion and disorientation are rampant, and most students conclude that the only way to get through the material is to dig harder and faster. Others become depressed and think of quitting. A few do, breathing great sighs of relief. The majority, who have elected to stay, take two uppers and pretend not to notice.

The 20th day:

The professor has become more demanding. Students who persist in trying to see legal information in the context of a larger world view are routinely humiliated. Those who look no further than what Justice Marshall said in *Marbury v. Madison* and refer confidently to the rule in Shelley's case are praised. As a result, fewer students persist in involving considerations of good, bad, right or wrong, more resolve to "think like lawyers."

Interim result:

Long gone are the days when the students seemed bright and brash. Indeed, several have contracted mononucleosis and a few have begun to stutter. Several more students drop out but are viewed as failures by the ones who remain.

The 30th day:

The professor is quite relaxed now, almost friendly. Any hope students may have held of relating their law school experience to the larger picture has given way to a feverish determination to master the technicalities of their new field. They now pride themselves in the use of legal lingo, complete in trying to remember the names of esoteric cases mentioned in casebook footnotes and answer hypothetical questions by referring only to well-established legal precedent. Even when they get "res ipsa loquitur" mixed up with "proximate cause," the professor benignly encourages them. Now that they are all members of the same club, he seems to feel that it matters little if it takes some longer to learn to knot their ties than others.

Final result:

The students have come full circle. Their sense of confusion and helplessness has given way to a swaggering feeling of power and exhilaration. They are back on top again, but this time they are thinking like lawyers.

Intimate Pleasures — The Fall-Off Rate

At a cocktail party during my second year I overheard the following conversation between two young women:
"What form of birth control do you use?"
"Oh, I don't use any—my husband is a law student."

Jeanne S. Stott
University of San Francisco School of Law
Currently: Small Claims Advisor

Sexual Frequency If Married or Living with Someone:

Before Law School		*During Law School*
3 times per day	=	once a week
once a day		once a month
four times a week		New Year's Eve
once a week		don't hold your breath

Sexual Frequency If Single:

Before Law School		*During Law School*
once a day	=	once a semester
4 times a week (or less)		try masturbation

*If married to or living with another student, frequency rates should be halved.

Disorder in the Court: A Collection of 'Transquips'

by Richard Lederer

Most language is spoken language, and most words, once they are uttered, vanish forever into the air. But such is not the case with language spoken during courtroom trials, for there exists an army of courtroom reporters whose job it is to take down and preserve every statement made during the proceedings.

Mary Louise Gilman, the venerable editor of the National Shorthand Reporter has collected many of the more hilarious courtroom bloopers in two books — Humor in the Court (1977) and More Humor in the Court, published a few months ago. From Mrs. Gilman's two volumes, here are some of my favorite transquips, all recorded by America's keepers of the word:

Q: What is your brother-in-law's name?
A: Borofkin.
Q: What's his first name?
A: I can't remember.
Q: He's been your brother-in-law for years, and you can't remember his first name?
A: No. I tell you I'm too excited. (Rising from the witness chair and pointing to Mr. Borofkin.) Nathan, for God's sake, tell them your first name!

Q: Did you ever stay all night with this man in New York?
A: I refuse to answer that question.
Q: Did you ever stay all night with this man in Chicago?
A: I refuse to answer that question.
Q: Did you ever stay all night with this man in Miami?
A: No.

Q: Now, Mrs. Johnson, how was your first marriage terminated?
A. By death.
Q: And by whose death was it terminated?

Q: Doctor, did you say he was shot in the woods?
A: No, I said he was shot in the lumbar region.

Q: What is your name?
A: Ernestine McDowell.
Q: And what is your marital status?
A: Fair.

Q: Are you married?
A: No, I'm divorced.
Q: And what did your husband do before you divorced him?
A: A lot of things I didn't know about.

Q: And who is this person you are speaking of?
A: My ex-widow said it.

Q: How did you happen to go to Dr. Cherney?
A: Well, a gal down the road had had several of her children by Dr. Cherney, and said he was really good.

Q: Do you know how far pregnant you are right now?
A: I will be three months November 8th.
Q: Apparently then, the date of conception was August 8th?
A: Yes.
Q: What were you and your husband doing at that time?

Q: Mrs. Smith, do you believe that you are emotionally unstable?
A: I should be.
Q: How many times have you committed suicide?
A: Four times.

Q: Doctor, how many autopsies have you performed on dead people?
A: All my autopsies have been performed on dead people.

Q: Were you acquainted with the decedent?
A: Yes, sir.
Q: Before or after he died?

Q: Officer, what led you to believe the defendant was under the influence?
A: Because he was argumentary and he couldn't pronunciate his words.

Q: What happened then?
A: He told me, he says, "I have to kill you because you can identify me."
Q: Did he kill you?
A: No.

Q: Mrs. Jones, is your appearance this morning pursuant to a deposition notice which I sent to you attorney?
A: No. This is how I dress when I go to work.

THE COURT: Now, as we begin, I must ask you to banish all present information and prejudice from your minds, if you have any.

Q: You say you had three men punching at you, kicking you, raping you, and you didn't scream?
A: No ma'am.
Q: Does that mean you consented?
A: No, ma'am. That means I was unconscious.

Q: Did he pick the dog up by the ears?
A: No.
Q: What was he doing with the dog's ears?
A: Picking them up in the air.
Q: Where was the dog at this time?
A: Attached to the ears.

Q: When he went, had you gone and had she, if she wanted to and were able, for the time being excluding all the restraints on her not to go, gone also, would he have brought you, meaning you and she with him to the station?
MR. BROOKS: Objection. That question should be taken out and shot.

Before we recess, let's listen to one last exchange involving a child:
Q: And lastly, Gary, all your responses must be oral. O.K.? What school do you go to?
A: Oral.
Q: How old are you?
A: Oral.

The above article is taken from the New Hampshire Business Review under the category of lawyers. This was one of Richard Lederer's columns on Looking at Language. Original date unknown.