

# The Justinian

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## The Justinian

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October, 1988 Vol. LVIII, No. 1

# THE JUSTINIAN

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



## Justinian

"... a function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger."

Mr. Justice Douglas

Volume XXXIV - No. 8

MONDAY, APRIL 1, 1974

Page One

## THE JUSTINIAN BROOKLYN LAW SCHOOL

VOL. XXVIII, No. 1 OCTOBER 25, 1967  
BROOKLYN, NEW YORK



## The Justinian

Brooklyn Law School St. Lawrence University



MONDAY, DECEMBER 18, 1933

## THE JUSTINIAN

Brooklyn Law School St. Lawrence University



BROOKLYN, N. Y., MONDAY, APRIL 18, 1932



# THE JUSTINIAN

Brooklyn Law School



St. Lawrence University

BROOKLYN, N. Y., MONDAY, APRIL 18, 1932

Supreme Court, Kings County, Special Term, Part V with Edmund L. Mooney sitting as presiding justice. The dinner will be held at 8:30 p. m. at Joe's Restaurant, Fulton and Pierrepont Streets, following the trial.

#### To Hold Informal Dinner

Prominent members of the bar and judiciary who sat at the practice court trials during the past year, will be present at the dinner. The gathering will enjoy the informal atmosphere of a "get-together," and members of the third year class will provide the traditional entertainment in which the students will present short skits burlesquing members of the class and faculty.

Attorneys for the final trial, who  
(Continued on Page 4)

Governor Roosevelt, Police Commissioner Mulrooney, Judges of the Court of Appeals and of all the Criminal Courts will be asked to give their views on what Mr. Daru terms the "more important aspect" of the question, that is, whether or not the belief that "third degree" methods are in general use, does not impede the administration of Justice by prejudicing Courts and Juries against the police to the detriment of prosecution even where no charges of unlawful extortion of confessions are made.

Some of the evidence which has been presented to Mr. Daru, he will turn over directly to the District Attorney if private investigation discloses that alleged assaults have actually occurred during custody.

"We are not starting with the Po-  
(Continued on Page 8)

On behalf of my associates, I invite members of the Alumni Association, to renew our acquaintance, but form the spirit of the Brooklyn Law School.

## SCHOOL TO HONOR PUBLICATION STAFF

### Justinian and Law Review Staffs To Meet Prominent Bar Mem- bers At Banquet

The dinner of the combined Law Review and Justinian staffs will be held at the Hotel Bossert on Saturday, April 23. Prominent members of the Bar and Judiciary will be guests of honor.

The dinner to be tendered by the Law School to the two staffs will celebrate the occasion of the inaugurations of the two publications which have met with instant success and the approval of outstanding legal authorities and prominent attorneys throughout the country.

Among the guests will be Dean Richardson, Judge Frederick E. Crane of the Court of Appeals, Justice William D. Carswell of the Appellate Division, Max D. Steuer, Prof. I. Maurice Wormser, Vice-Dean Easterday, and Prof. Jay Leo Rothschild.

Arthur Garfield Hays, George Gordon Battle, Professors Edwin Welling Cady, Donald F. Sealy Franklin Ferris Russell and other contributors are expected to be present.

#### To Name New Board

The new Law Review board will be announced at the dinner. The selections will be made by members of the present board upon the recommendation of a faculty committee.

Fifteen second year men will be selected with alternates.

## LAW REVIEW WINS HIGH PRAISE IN FIRST APPEARANCE AT BANQUET

### Wormser, Rothschild, Bennett, Callaway and Jackson Contribute Leading Articles to New Publication

The inaugural issue of the Brooklyn Law Review, after several months of exacting preparation on the part of the Board of Editors, makes its official appearance today. Five leading articles, book reviews, decisions and notes comprise the contents.

"The ideal judge," declares Professor Jay Leo Rothschild in his leading article "Men and Law," "must focus the beams of his searchlight upon the preponderant public opinion, which he must ascertain in the field of vision of judicial precedents. It is from the facts as viewed by the judicial mind that the law emerges."

"No individual in any system administers his own fancies. At most he formulates and employs his personal conception of principles representing the aggregate social views of

the body politic."

Professor Rothschild describes the part of the lawyer in molding the judicial process, and then advocates the judicial system which will maintain the balance between the subjective emotions of the men who administer the laws and the objective legal standards which are handed down to them.

Following along the lines of his recently published "Frankenstein, Inc." I. Maurice Wormser, former editor of the New York Law Journal, renews his condemnation of the lax practices of corporate directors in an article entitled "Directors — Or Figures of Earth?"

"Directors," sums up Wormser, "must be vigilant, they must be faith-  
(Continued on Page 4)



# The Justinian

A Forum for the Brooklyn Law School Community

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# Correspondence

## DAY CARE FOR BLS

To the Editor:

I would like to address an issue which has not as yet been dealt with, probably because it is one which does not affect men, i.e. day care for children of single mothers attending Brooklyn Law School.

As a single parent with two young children, one of which is not yet school age, I found it extremely difficult and nearly impossible to devote any time to my studies while single-handedly juggling all the responsibilities of parenting. To this overwhelming burden one must then add the problem of finding good, affordable child care and the resultant stress is so formidable that it can overcome even the most ambitious student.

The Law School should be able to provide, or at the very least facilitate the providing of, affordable and reliable child care.

I look forward to hearing from the administration concerning this matter, and I am confident that a solution exists to this dilemma.

Sincerely,  
Annalise Lepore



## PHONE HANG UP

To the Editor:

Whose bright idea was it to rip out the phone booths and install wall phones which are totally unbuffered from hallway noise??? It galls me to think that my tuition goes towards making the facility less convenient. And, to add insult to injury, to do this at the height of placement season, instead of during the summer break!

Jenny-Anne Martz '88



## Tuition Surprise

To the Editor:

Students who are contemplating a change from part-time to full time study should be given notice that they will have to pay a surcharge equivalent to the difference between the previous year's part-time and full-time tuition, which amounts to over \$2400.

Students and their families have to plan their finances in advance, loan applications and savings require time. The administration is aware of this because all students requesting a change to full-time status are required to explain how they will pay the upcoming year's tuition, without being made aware that the Bursar will be sending them a bill in August for \$6500 without any explanation. When I went to the Bursar I was told that I was being charged for the degree, and not the services being rendered to me as a full-time or part-time student as is the custom in the rest of the education industry. Furthermore, the Bursar was not surprised that I had no previous notice of the surcharge since this policy is being pursued independently, without notice to the Dean, Registrar, or Financial Aid offices of the school.

As a student such conduct makes the administration of my school seem uncoordinated and unjust. As a BLS student I was taught that such conduct is illegal. I believe that the students to whom this applies deserve an explanation as to why

they were never given any notification nor an adjustment to their bills.

Sincerely,

Allen I. Klus

IN REPLY TO MR. KLUS:

The financial obligations of our full-time students is precisely the same as that of our part-time students. For example, the tuition for this year's entering class in the fulltime division is \$10,750.00. If tuition were to remain constant for the next two years, the total tuition for a student who began law school in September 1988 would be \$32,250. To complete the tuition for a part-time student entering this fall, this total is divided by four, the number of years that student would need to complete his or her legal education. Thus, the tuition rate for our entering part-time students is \$8,062.50, exactly one-quarter of \$32,250.

Because we permit our students to transfer from part-time to full-time and vice versa, our Bursar's office is forced to adjust the tuition of these students so that their total tuition (i.e., \$32,250, from the example discussed above), is the same as that of all other students. Otherwise some students would figure out the number of credits they needed to graduate, take some semesters full-time and some part-time, and end up paying less for their educations than their colleagues. Obviously, we accommodate our students' needs to transfer divisions for educational and personal reasons, not because they might have a financial incentive to do so.

I am sorry that this policy was not clear to you. I think if you study page 22 of the Student Regulations Handbook, which describes students' financial obligations, you will understand how tuition for each class is calculated.

I believe that I have pointed out the ramifications on tuition charges to students contemplating a transfer of divisions. From now on, I will be certain that this is done.

If I can be of any further assistance, please let me know.

With all best wishes,

Sincerely,

Joan G. Wexler  
Associate Dean for Academic Affairs



# **Why Worry?**

**This year, another bar review course has put out a poster inducing students who have already signed up with other bar review courses to switch programs.**

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**After all, we're attorneys. And we intend to help you become attorneys, too.**

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# Correspondence

## JUSTINIAN BIAS

To the Editor:

I was disappointed in the one-sided reporting by Katherine Mullen Sidlauskas in the June 1988 issue of *The Justinian*. Ms. Sidlauskas's two pieces on Joseph Doherty, an IRA member who illegally entered the United States after escaping from prison in Northern Ireland where he was convicted of murder, exuded sympathy for Doherty, who has spent five years in jail in the United States while he has fought extradition and deportation to the United Kingdom. I wonder if Ms. Sidlauskas is as sympathetic to the plight of Mohammed Ali Hamadei, currently imprisoned in West Germany as he fights extradition to the United States for trial in the 1985 hijacking of TWA flight 847 and the murder of Robert Stethem, the American serviceman shot and dumped on the tarmac. No doubt Mr. Doherty and Mr. Hamadei both would rather walk free, but that hardly seems relevant and certainly does not seem newsworthy.

Regardless of one's view on the solution

to the situation in Northern Ireland, a reporter examining the legal situation of an imprisoned IRA member should do more than report the IRA's viewpoint. Unfortunately, Ms. Sidlauskas did not pose searching questions, nor did she undertake careful analysis of Mr. Doherty's legal claims. I found it striking that a newspaper published by law students made space for Mr. Doherty's rather partisan remarks, but contained no discussion of the threat posed by the IRA to the rule of law. The IRA's campaign to intimidate the judiciary — last year the IRA assassinated the Chief Judge in Northern Ireland; last month the IRA attempted to assassinate another judge in Northern Ireland, but instead murdered a family returning home from a vacation to Disney World — similarly went unmentioned.

If *The Justinian* reports on similar topics in the future, I hope that it will do so in a more analytical and even-handed manner.

Very Truly Yours,

Maryellen Fullerton

Catholic minority who claim to be suffering discrimination at the hands of the Protestant majority. But the United States made progress against racial discrimination with a Black minority consisting of only one-tenth of the total population. Can it be that a more brutal discrimination based on more stark physical differences can still offer hope of judicial and legislative remedies while discrimination between two closely-related white Christian groups cannot? The British succumbed to the pacifist tactics of Gandhi, even after a hundred years of British rule in India. Does the IRA need to continue killing the British, when there is a recognized independent Irish state and a strongly anticolonialist United Nations? Although many died in the acts of civil disobedience, one might still hope that the rule of law is more humane and effective than what the IRA assumes. More importantly, one wonders what kind of world is offered by the IRA if opposition is always voiced by bombs and assassins. What is it about the rule of law, however, that makes it more desirable?

The rule of law is neither invincible nor incorruptible. Law meant nothing to Hitler's Lidice or Stalin's Katyn. Law meant nothing to the Syrian opposition or to the Cambodian intellectuals. Whoever has the more effective weaponry and the determination to use that weaponry will easily supplant the law. In our time, there are countless examples of the breakdown of law in all parts of the world. In many areas, violence remains the only real hope to change violent oppression and tyranny. Unfortunately, change often becomes inseparable from the violence that made it possible. Much of the world remains under the rule of violence rather than law.

The rule of violence or "might makes right" remained an acceptable philosophy well into the Age of Reason in the eighteenth-century. To many, might makes right is still operative dictum. Upholding the rights of the weak was hardly the norm in the thousands of years of brutal human history. The rule of law remains a fragile thing, easily crushed by the hatred and greed. There are still some survivors who remember when Hitler wrote that terror and force will easily overpower reason. Do we need any more incentive to protect the rule of law?

## JUSTINIAN APOLOGIZES

The *Justinian* apologizes for giving the impression in our June 1988 issue that we support the partisan views of the Irish Republican Army (IRA). We made a special effort to accompany the articles with a table listing IRA-caused civilian casualties to point out the terrible cost of IRA activities. We recognize, however, that our effort may have been insufficient. Our emphasis was on the American judicial system, and we neglected the important background of the foreign conflict. We hope that Professor Fullerton's pointed observations will fill in the gap left by our omissions. In addition, we take this opportunity to add another observation concerning the "rule of law."

The law student in the cloistered library and the wood-paneled office can too easily take for granted the rule of law. We discuss rights and compensations as if those concepts were physical realities, glorified by our casebooks and deified by judges' opinions. But the niceties of law must seem distant to the soldier on patrol or the cop under fire. The law must seem hollow

to the activist being tear-gassed or shot. The law must seem like an enemy when it protects what one opposes.

What the IRA allegedly opposes is the "unlawful" British occupation of Ireland. There can be little doubt that the military might of the British dwarfs the power of the IRA. In a direct confrontation, the IRA would not stand a chance against one of the best urban-combat forces in the world. The only way the IRA sees to force the British out of Ireland is to erode the British determination to remain. Such a strategy is not new.

From the Fabian tactics of Rome to the Peninsular War of Napoleonic Spain to the Partisans of World War II and the endless brushfires of the twentieth century, weaker powers have attempted to impose an intolerable attrition of violence on stronger powers. The law did not help those oppressed groups, and thus there was no rule of law they needed to heed. Revolution, after all, comes from the barrel of a gun. But does it always have to?

One-third of Northern Ireland is of the



But what is law? Whose law? How effective is the law? Is it lawful for the British Special Air Service to kill IRA members while in foreign countries? Was it lawful for the Israelis to rescue their people from Entebbe? Is it lawful for a state to attempt to rescue their hostages from Iran? How about bombing Libya? Beating up protestors? Threatening the survival of a state? Giving medical aid to a military force? Denying economic sustenance to another nation? What is the rule of law? Is it more important for the weak or for the strong? What if the law is right but the rule is wrong? What if the system of law itself is wrong?

The staff members of the *Justinian* are merely students of law. We cannot claim to hold the ultimate answers to these questions. We serve to provide a forum for the BLS community, and we recognize the differing viewpoints within our community. Though we try to provoke thought among our colleagues, we unfortunately are unable to provide as complete coverage of some issues as we would like. We try, however, to relate outside events to and promote the exchange of ideas within the BLS community. We hope that our readers will continue to support us with their comments, positive or negative. We welcome and appreciate their added perspectives.

Ching Wah Chin  
Editor-in-Chief



HAITIAN VOTING BOOTH



"HOW'M I DOING?"



## CORRESPONDENCE

### Vote Dukakis

#### An Open Letter to the BLS Community:

Poll after poll suggests that the race for president is over and George Bush is to be crowned the victor. I want to share with you some sobering thoughts in an attempt to avoid the Republican celebration on November 8.

A glance at the unemployment rate would lead some to the conclusion that all is well. But one must look beyond the mere unemployment figure and understand its interrelationship with world trade. Since President Reagan took office, about two million manufacturing jobs have been lost, replaced in most cases by lower paying service jobs. This explains today's unfortunate phenomenon that has found young Americans between the ages of 20 and 34 unable to purchase their own homes, long a centerpiece of the American dream.

This is the result of the Administration's absolute adherence to a free trade ideology. Most economists will admit that free trade is indeed the most efficient and productive economic system. However, we do not live in a laboratory and must deal with the realities of the real world. We provide a large and accessible market for foreign competitors but many of them, such as Japan, will not let us compete fairly in their markets. They do not freely permit the importation of our beef, produce, cigarettes, manufactured goods and even saki, yet they are permitted to sell their products here. The key here is that the world does not work as efficiently as the market model does. The laboratory fails to take into account political and local pressures that one must own up to in the real world. How ironic it is that those who proclaim with zeal that they will always protect America's vital interests are the very ones facilitating our economic decay. In just one administration we have gone from the world's greatest creditor nation to the world's greatest debtor nation. A vote for Bush is a vote for a continuation down this road. A vote for Dukakis, however, is a vote for an effective trade policy. Do not forget that Lloyd Bentsen authored the recent landmark trade bill while his fellow Senator Dan Quayle opposed it.

Bush hails today's economic situation and claims credit for it. He's now allegedly a "true believer" in supply-side economics. This conversion is suspicious in light of his harsh criticism of Reagan in 1980 by referring to it as "voodoo

economics." Bush knows well that today's prosperity is a product of huge federal deficits. Lloyd Bentsen put it well when he stated during his debate with Dan Quayle that "he too could create a façade of prosperity if he could write \$200 billion worth of 'hot' checks every year." We now spend 13 cents of every dollar in the federal budget on interest payments; before President Reagan took office the figure was about eight cents per dollar.

And who do we pay this interest to?—Foreign bankers. We are now in the perilous position of having to rely on foreigners to fund our deficits, with no insurance policy in place in the event they choose not to. A vote for Michael Dukakis is a vote for a man who can make the tough choices that are necessary to insure our economic independence.

Bush has so far successfully portrayed Dukakis as weak on foreign policy and defense matters. He claims that unless you are in favor of deployment of every item on the Pentagon's wish list of weapons, you are not strong enough to defend America's vital interests. Dukakis realizes that without a strong economy, a strong defense is not possible.

If we continue with the Reagan-Bush military policies, we may well end up no more battle-ready than prior to it. This is because if a next war must be fought, it would be suicidal for either side, winning or losing, to resort to these weapons. Dukakis is right on the mark when he argues for a Conventional Defense Initiative ("CDI") to fortify our nation's defenses. This means more fighter planes, rifles, jeeps, submarines and tanks. Thus a combination of a sensible modernized nuclear deterrent will strengthen America and ensure world peace. Hence, on the issue of who will maintain America's military strength, Dukakis is the better choice.

In 1980, George Bush argued against Reagan's nomination by asserting that foreign policy is too complicated and important an area to entrust it to an amateur, a characterization Bush believed then to fit Reagan. Bush today is trying to use that very same accusation against Governor Dukakis. This is in spite of the fact that he takes substantial credit for the foreign policy achievements of the Reagan administration. Further, he conveniently overlooks the impressive foreign policy achievements of former Governors Woodrow Wilson and Franklin Delano Roosevelt.

Michael Dukakis is a known quantity.

He is consistent on the issues, and does not alter positions for the purposes of political expediency. As his mother has remarked, "What you see is what you get."

George Bush, despite all his years in public life, is a political chameleon. He has changed his long held positions on abortion, the Equal Rights Amendment, and supply-side economics. He claims that he has always been an environmentalist, yet he is part of an Administration that tried to block utilization of the Toxic Waste Superfund, as well as James Watt's ridiculous idea to mine our national parks for coal and petroleum. If he was an environmentalist then, then he is devoid of character for failing to stand up for what he believed, just as he did during the Iran-contra scandal and the "arms-for-hostages" deal. Let us not forget either how Bush was the loyal soldier (or lapdog as many have referred to him) who publicly supported Reagan's ill-conceived and immoral trip to Bitburg to visit the gravesites of former Nazi SS troops. This is also the man who caved in to the far right extremists in his party by selecting Dan Quayle as his running-mate. Dukakis, in contrast, selected Lloyd Bentsen, ignoring the extremists in his party.

How can one put faith in a man who has changed his mind on so many key issues in the space of just one Administration? Even today, well respected veteran political commentators are unsure if Bush is the moderate Republican he spent almost his entire political career as, or this new conservative model. The sad reality is that no one knows.

I urge you not to purchase anything blindly. Vote for Michael Dukakis for President and ensure that America will have a strong leader who can lead this country instead of a man who is led by political expediency.

Steven Reiss  
President, BLS Democrats



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SAMPLE.**



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**OK WILLIE, WE GOT YOU SURROUNDED.**



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BLAM BLAM BLAM!



TURN OFF THAT  
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A BUSH  
CAMPAIGN  
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## INTER ALIA

by Michael Harding

**Lighten up, Amy.** In the June 1988 issue of the *Justinian*, Amy Rhodes wrote a letter to the editor complaining about the paper's "flagrant disregard for journalistic and legal ethics" and the "harm caused" by the "crass humor" in the April Fools issue. Amy was concerned about those potential students, parents, and members of the legal community who would not realize that a paper with an April 1 date and stories about Brooke Shields attending BLS and faculty offices being set up in a men's room (accompanied by a photo) was a joke. Amy, relax! Anyone who took those stories seriously doesn't deserve to be in the legal community. If you didn't like the humor, that is your prerogative. But please don't try to sentence everyone else to your world of humor. As for the school's reputation, Harvard Law School's student publication, *Harvard Law Record*, puts out an April Fools issue in March, and I don't think they are worried about what others think.

**Book lists.** It was pretty disgusting that M.J. & K. Bookstore refused to issue a book list without a purchase. Could they be attempting to monopolize the sale of books to BLS students? Of course not. It took a phone call by Joy Heintz to the Registrar's Office to make the lists available. Thanks, Joy.

**New students welcome!** You're probably wondering what to do with all your free time, now that you've got a handle on things. Seriously, stick with it. The year will pass and you'll actually come to know that *pro bono* is not Sonny's football-playing brother.

**On-campus interviews.** Is it me or did you notice that the same names keep popping up on those lists? Don't be discouraged. As Professor Leitner says, "There is the top 10 percent, and then there is everyone else." So 90 percent of us are in good company. However, Jacoby and Meyers is beginning to look good.

**Writing competition.** There was no writing competition for the journals — it was a reading contest. Requiring a student to read 600 pages of material and write a paper within 10 days is not an ideal way to find the best writers. As a result, some of this school's top writers never submitted their papers. New York University School of Law gave their students 170 pages and 15 days to hand in "a well-written and organized paper." In any case, congratulations to those who were offered membership on a journal and to those who completed and submitted an entry.

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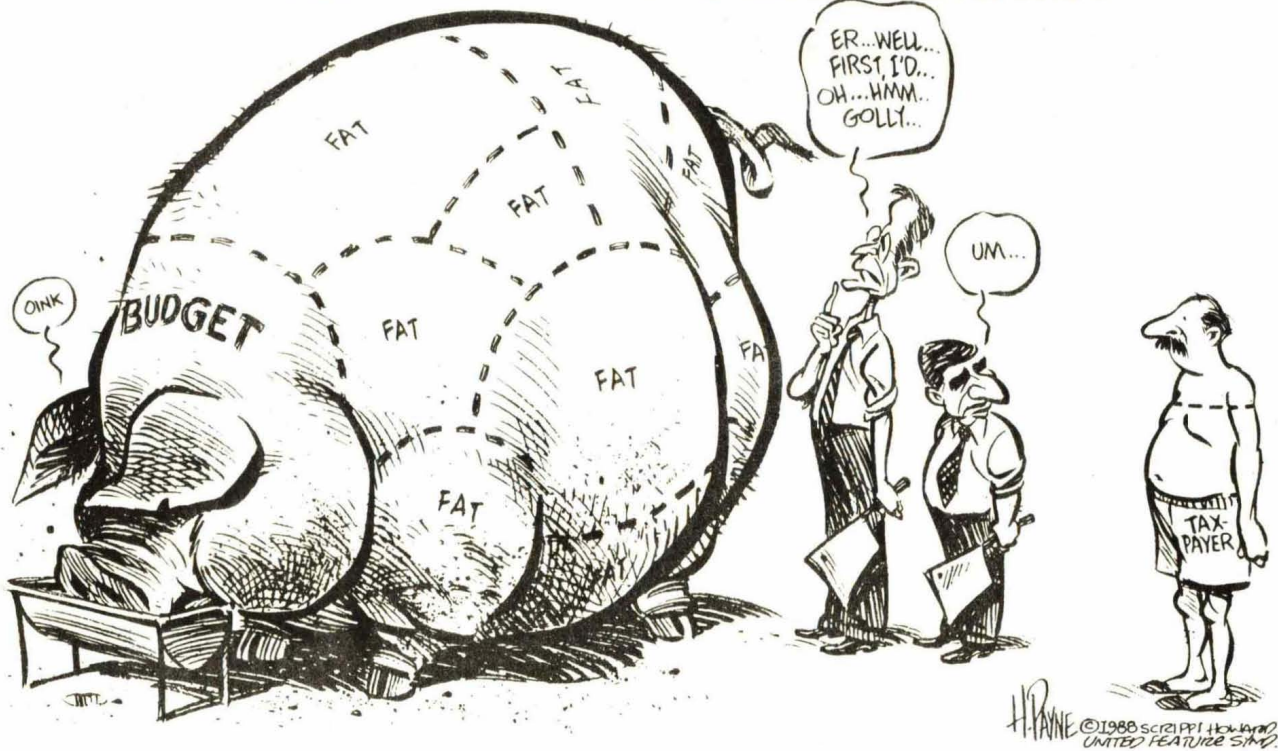
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October, 1988 • Justinian 11



★ QUESTION FOR THE CANDIDATES: ★  
WHAT WOULD YOU CUT TO REDUCE THE DEFICIT?





## Moot Court Team Reaches Quarter Finals

During the last weekend in October, the Moot Court Honor Society competed at the Benton National Privacy and Information Law Competition at the John Marshall Law School in Chicago, Illinois. Team members Marc Agnifilo, Steven Brown, Barrier Cave and team coach Howard Hershenhorn were the only New Yorkers to advance to the quarter final round. BLS finished within the top eight teams in a field of 35 teams from around the nation.

Each team entered a brief and took part in oral arguments held over the weekend. Among the Schools which BLS argued against were the University of Cincinnati, University of Florida, Cleveland Marshall School of Law and Villanova Law School.

## Open Note Competition

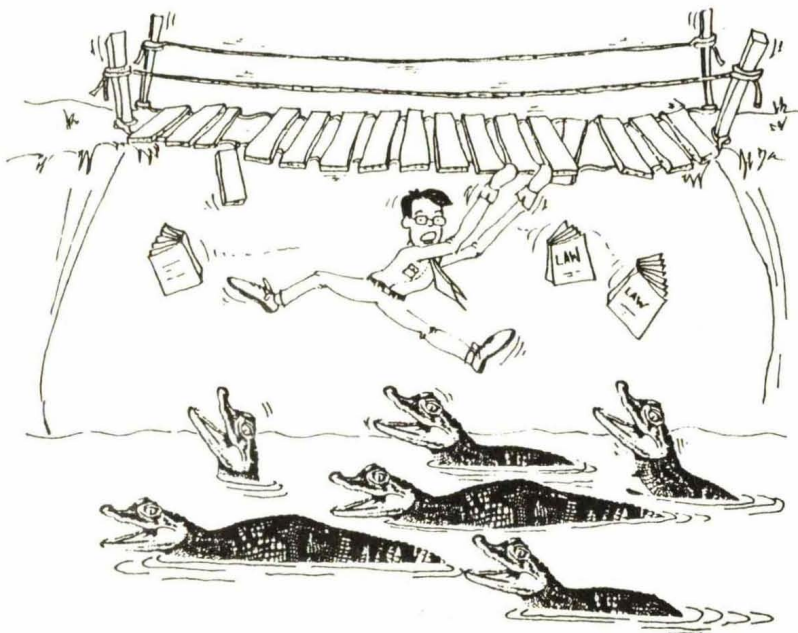
BLS's two publications, the Law Review and the International Journal of Law, are holding open note competitions this year. These competitions enable students who are not presently members of the law journals to submit articles of publishable quality, with the possibility of being offered a position. Notices were posted in the lobby at the beginning of the semester.

There is no deadline for submitting an article for consideration to the Brooklyn Law Review. If a student's article is accepted, the student may be offered a membership position. Those interested may speak to Marian Lupo, Editor-in-Chief, Brooklyn Law Review.

The International Journal does prescribe deadlines for the open-note competition. In fact, if this is the first that you've heard of the Journal's competition, it's too late to enter. The International Journal guarantees membership to a student whose article is accepted for publication.

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by Amy Rhodes

Six Brooklyn Law School students and three BLS professors took part recently in the Eleventh Annual Critical Legal Studies Conference, held this year in Washington D.C.

Approximately 450 "Crits," as proponents of the Critical Legal Studies (CLS) movement refer to themselves, met at American University during the weekend of October 1 to discuss the topic of "Gender, Race and Class" as related to the practice and study of law.

CLS is a movement of jurisprudence which departs radically from the mainstream perspective, according to BLS Professor Gary Minda, a conference speaker and organizer. CLS he said, is not a formal organization but is the progeny of a group of left-oriented lawyers who met at the University of Wisconsin in 1977 to network and discuss each other's work. Today there is a solid core of "Crits" and an adjunct group of "fellow travellers" who attend the annual conferences and summer workshops, according to Minda. "[CLS] has been very successful in that it's hard today to pick up a law journal without reading some CLS," he said.

This year, the conference was filled with workshops and plenary sessions ranging from the esoteric ("The Politics of Interpretation: Deconstruction and Post-Structuralist Critique") to the practical ("Radical Lawyering and Its Alternatives") with most focusing on at least one aspect of the theme "Race, Gender and Class." Certain sub-themes reappeared in many of the sessions, including: "question authority," question legal language to see how it reinforces discrimination, question the status quo, and keep an open mind in studying law and society.

The controversial nature of the theme of the conference intensified much of the discussion. A highlight for many was a plenary session Saturday morning entitled, "Critical Perspectives of Racism in the Post Civil Rights Era." Each of the sessions four speakers remarked upon society's desire for color blindness from different

## From "Post-Structuralist Critique" to "Radical Lawyering"

perspectives.

Gerald Torres, Professor of Law at the University of Minnesota Law School submitted that while the claim that society should be color blind is universally agreed to, the word means different things to different people. In an economic context, color blindness means equal access to capital which is ultimately a means to gain control over one's own life, he said.

Neil Gotanda, Professor of Law at Western State College of Law discussed different ways to achieve color blindness — none of which, he asserted are feasible. For instance, he noted that, historically in America, one drop of non-white blood makes a person non-white. This inference of "impurity" must be taken into account in the U.S. Legal system's struggle for neutrality and an end to racism. He rejected a utopian vision of homogeneity as inevitable cultural genocide.

Pat Williams, the third speaker and professor of Law at Stanford University put the issue on a personal level. She described an incident which occurred to her one Saturday afternoon in Manhattan, two weeks before Christmas. Williams, a black woman, rang the buzzer of a Benetton's store only to be told through the door by the young, white clerk, as he looked her up and down, "We're closed." Her rage (and vicariously, the audience's rage) was only intensified when the *New York Times* ran a letter-to-the-editor responding to her letter describing the incident, saying in essence — put yourself in the boy's place — if you were him looking out to the street at you, you wouldn't let yourself in either.

Finally, Cornell West, Professor at Yale Law School brought the session to an electric end. In an oration somewhat in the style of a revival minister, West called for "Crits" to band against the "grand prosperity of the business assault." He said he sees CLS as a movement of people "refusing to be subsumed under the greedy orientation that is so much of our culture." He expressed concern however, that there is a constant threat of elitism in the movement since CLS originated as a group of white male law professors. He explained his observation as "not a criticism but a circumspection" and a warning to Crits not to allow an insular movement.

The other plenary sessions, while not quite as electrifying were generally fascinating. A plenary on "Feminist Resistance and Structures of Power" again echoed the theme of struggle against historical authority figures for power to create equality. Among the speakers was BLS Professor Elizabeth Schneider who discussed domestic violence, describing abuse against women as a symbol of all female inequality. Such violence is the logical culmination of the historically subordinate role women have had in the marital relationship and is furthered by the societal perception that the woman is somehow at fault, she said.

Students who spoke at the conference displayed a more practical, less theoretical, perspective than did the more experienced speakers. At a workshop on "Strategies for Student Resistance" students from Harvard, Yale, Pittsburgh, Virginia, New York and Brooklyn expressed their frustration in opening fellow students minds to new ideas. Specifically, they voiced dissatisfaction with fellow students who, they said were generally apathetic. Mern Horan, a Washington College of Law student explained, with tongue in cheek, that her colleagues view the problem in revamping a National Lawyer's Guild chapter was to find an answer to "how to revamp radical chic?" On a more serious note, a student from Yale defined the source of frustration as how to merge CLS, which he said is "out



there in ivory towers of theory," with practical social problems that need to be solved.

Practicality was also the theme expressed in a workshop entitled "Radical Lawyering and Its Alternatives." There, practitioners who are proponents of CLS described how they try to blend their ideals with their practice. Attorney Wayne Eastmond explained that CLS focuses mainly on the indeterminacy of legal language, and on socializing law students to be open to a different way of "thinking like a lawyer." The problem there, he suggested, is that more emphasis should be put on the micro relationship with clients and the efficacy of practice.

Attorney Adam Thurschwell warned however that there is a danger in the ego of a radical lawyer. "As a

radical lawyer, you begin to think of yourself as kind of a solitary white knight. The tendency is fatal and you must remember that you are in the service of whatever group you are representing," he said.

These two workshops were among the most practical of the approximately 50 sessions that were offered during the weekend. The extent and variety of the offerings led one attendee to describe the event as sort of a mosaic, where each tile is so beautiful to look at up close that the admirer cannot back away to look at the whole picture. Topics of the workshops ranged from "Labor Law Practice and Political Possibilities," to "CLS, Spirituality and Nature," to "Men and Feminism" to "A Marxist Critique of CLS."

Jeremy Solomon, one of the six

BLS students that attended the conference reported great satisfaction with workshops. Solomon, a second year student, said: "On the cynical side, I'd say that it's funny when a bunch of academics get together to criticize the academy, but overall, I think they were saying some really valuable things—in essence giving one's mind a lot of really good tools to use in thinking about the law and how to be a lawyer. To my mind, that's why I went and what CLS is all about."

According to a pamphlet prepared by Jamie Boyle, Visiting Professor of Law at Washington College of Law at American University, the CLS mailing list currently includes 1400 members, most of whom are law teachers, with students and practitioners making up the balance.

## CLS Abroad in Washington

by Jacqueline Rishty

Critical Legal Studies is not merely an American phenomenon. It is a method of critically approaching the law that has a strong foothold in other parts of the world as well. In order to represent such non-American contingencies, professors from Canada, Poland and Australia attended the CLS Conference in Washington, D.C. this past month.

The Canadian, Toni Pickard, a professor of law at Queen University in Kingston, Ontario, incorporates critical legal analysis into her classroom discussions. Instead of instructing her students to continue in the traditional manner of reading casebooks and understanding the law within the parameters of a judge's opinion, she encourages the students to look beyond that to other issues surrounding a particular topic. She explains that the pitfall of law is that "it only pretends to make sense," and that students must be encouraged to keep their eyes wide open in order to understand how the law fits in to the realities of society. To facilitate her efforts, Pickard is collecting materials to create a "new" law book, that includes not only cases, but articles on varying perspectives of the law.

### Professors from Canada, Poland and Australia

The Pole, Jacek Kurczewski, a Professor at the Interdisciplinary School of Social Problems at Warsaw, teaches classes consisting of law and sociology, though neither as independent disciplines. Though Poland follows a civil law system, where codes and statutes constitute the body of law, Kurczewski believes that it also warrants a more critical look at the law. He explained that such critical analysis arose because of the "political struggle [in the country] permeating legal education." As a result, students are receptive to the idea of looking beyond the rigidly-structured law to an alternative perspective that takes into consideration social issues not otherwise addressed.

The law professor from Australia,

Drew Fraser, from the Macquarie University School of Law at Sydney, though also an advocate of critical legal analysis, employs a different method than Pickard. Instead of pursuing the deconstruction of law, he believes that critical legal analysis is meant to open new avenues of thought. Such a method of teaching, he says, is buttressed by the structure of legal education in Australia. The five-year program in which a student obtains a B.A. and a law degree, is broken down into three years of history/sociology and two years of legal education. By affording a student such an experience, the latter obtains the necessary introduction to the social context in which the law is to be applied. Fraser noted that though law school is meant to train students to become lawyers, "it should first and foremost train them to be citizens."

Earlier, Fraser had told professors during a workshop on alternatives to the First Year Law School Curriculum, that he was amazed at how little plurality exists in American law schools.

Fraser said that there are only four law schools in Australia and that all teach law differently including the first year schedule. In the U.S. few schools differ in their first year curriculum.

"It is shocking that there is more pluralism in law schools in Australia than there is in the United States, where everyone boasts of their diversity," Fraser said.



# NEW FACULTY

by James Sherman

The Brooklyn Law School community has been enlivened by the arrival of two new professors this fall. Both Professor Vincenzo Varano, who is teaching Comparative Law this semester, and Professor John Cirace, who is teaching Torts this fall and will teach courses in both Law and Economics and Regulated Industries in the spring, bring unique backgrounds and perspectives to BLS.

## PROFESSOR VINCENZO VARANO

Vincenzo Varano, who will be here only through November, is an expert in comparative law. He is a 1962 graduate of the University of Florence Law School and was admitted to the Italian bar in 1965. He has been a member of the Institute of Comparative Law at the University of Florence since 1963 and a professor there since 1983. Prior to his appointment to the University of Florence Law School faculty, Professor Varano was First Associate Professor of Comparative Law at the University of Siena Law School from 1973 to 1983.

In furtherance of his study of different legal systems, Professor Varano spent the 1965-66 academic year under the tutelage of John Merryman at Stanford University Law School, the fall of 1979 at Cornell Law School, and served a term as a visiting research fellow at All Souls College, Oxford University, in England. Next fall he will be going to Northwestern University Law School.

All this experience puts Professor Varano in a fine position to make comparisons. As he noted, "The other great Western law tradition, the so-called civil-law tradition, is founded on quite a different approach to the legal process than the common-law tradition. The study of comparative law provides an important way to look at legal problems for a variety of reasons — scholarly, scientific, or practical.

When asked about some of the more practical aspects of comparative law Professor Varano responded that "with today's extremely mobile societies, relations between people are increasingly transnational in nature. Increasingly, judges are called upon to apply foreign laws, as when a contract between corporations of two countries declares a foreign country's law will apply to the contract.

*The Justinian*, Vol. 1988 [1988], Iss. 3, Art. 1  
You need to know how to handle foreign law, especially in commercial transactions."

Looking at the bigger picture, Professor Varano declared that law students everywhere are confronted with other legal traditions and must realize his or her approach to the law is not the only one. "There are others that originated in a different way. Students should take note that there are divergences in legal traditions. The important question is why." At the same time Varano noted that "There is also ample room for convergencies in matters of constitutions, judicial review, and human-rights issues."

As a scholar, Professor Varano admits to being attracted by constitutional law. "America was the birthplace of modern constitutionalism, and that is one of the lessons we on (the Continent) have to learn. After World War Two, it was necessary for Germany and Italy to establish a bulwark against arbitrariness and against oppression. American constitutionalism was an important model." Varano commented that he considered judicial review to be the most significant feature of U.S. constitutionalism. Otherwise he admits to being basically a proceduralist and feels the U.S. procedural system provides excellent judicial process "insofar as you can afford it. You cannot always afford that kind of machinery."

For the most part, lawyers are viewed in the same way worldwide. As Professor Varano pithily put it, "You don't want to run into lawyers." He also observed that the Italian criminal system is in the process of being overhauled with an eye toward the American system, and this is where "comparative law can be and must be of great use to legislators."

Varano likes the collegial atmosphere at BLS, his fellow scholars, and his classes. "I like it. I have an impression of a school that is active and moving forward." He is an opera and symphony fan, likes traveling, and is an avid skier.

## PROFESSOR JOHN CIRACE

John Cirace brings an equally interesting background to Brooklyn. After receiving a bachelor's degree from Harvard in 1962, Cirace picked up his law degree at Stanford in 1967 and earned a doctorate in Economics from Columbia in 1975. He was a professor of law at Hamlin Law School in St. Paul, Minnesota from 1983 to 1985 and has been a professor of economics at Lehman College, City University of New York, since 1975. At the close of this academic year, Professor Cirace will return to Lehman.

"I'm excited," Professor Cirace gladly admitted about the new text he'll be using to teach Law and Economics. The Cooter and Ulen Law and Economics text is brand new and is based on a different theory than the standardbearer, Professor Posner's *Economic Analysis of the Law*.

As Professor Cirace put it, Professor Posner, "as a member of the Chicago School, has dominated the field to now. His conservative theory is based on wealth and maximization, like any other utilitarian ethic, doesn't take into account distribution. To them, if there's a net plus, it should be done."

Cirace is hoping the new book will replace Posner's book. The new book covers economic theories and their applications to common-law torts, property, and contracts. Cirace believes different criteria should be developed for each of the common law areas: "For example, in torts, we can use an egalitarian criterion to determine which liability rules are most efficient. If individuals act as if nobody should subject another to a risk they wouldn't accept themselves, then this will justify using efficiency criteria of minimizing the cost of accidents and the cost of preventing accidents. Implicitly, we're asking, What is the price of life?" In contracts, the question will be, when is it efficient to breach a contract? What is the most efficient remedy for the breached party?

The Cooter and Ulen text also rejects Professor Posner's overarching wealth-maximization premise and substitutes different criteria for different areas of the law.

The course in Regulated Industries will address the question of which industries should be considered public utilities and therefore have price and entry restrictions. Anyone who has ever wondered who will pay for unused nuclear-power plants or considered the larger implications of, say, banking deregulation should be interested in this course. Professor Cirace says the class will be looking at a whole slew of "deregulated industries — airlines, trucking, and rail, to some extent — and we may, if time permits, look at the recent changes going on in the banking industry. The cases will revolve around the determination of the properly regulated efficient price.

"Regulated Industries tend to be stultified, to lack initiative, whereas if you deregulate, it may be that the industry becomes unstable, such as the savings and loan industry in the U.S. today."

Professor Cirace finds BLS to be "excellent. The faculty is very active, and there's a lot of interchange." He likes tennis, running, the movies, theatre, and Nautilus.



# PROFESSOR JEFFREY MORRIS

by Ruth Bernstein

Visiting faculty member Jeffrey Morris brings a distinguished background in law and political science to BLS, highlighted by his five years working for the Supreme Court as chief research associate to former Chief Justice Burger. He comes to BLS most recently from the University of Pennsylvania undergraduate political science department.

Professor Morris is teaching two courses at BLS in the fall semester. American Legal History and Constitutional Law Seminar. He will teach Constitutional Law in the spring.

"I'm really a New Yorker," says the Westchester native. "It's a delight to be back here." Morris got his law degree from Columbia Law School, and stayed on at the University to do a Phd in Political Science. He was then invited to join the Administration as Special Assistant to the Vice President of Academic Affairs. That position led to his appointment at the Supreme Court.

After five years in Washington, Morris decided to return to academia and took a teaching position at the University of Pennsylvania. Now that he is back in the graduate school environment, Morris says he is enjoying the experience. Teaching graduate students is a different experience from teaching the students he had at Penn, who are largely from the same type of background: the children of wealthy, professional parents. Morris finds that not to be the case at BLS. "I've been terribly struck by how many older students I have, how many women. I like the diversity."

Morris says he also enjoys working with the BLS faculty. He finds them to be a very warm group of people, and applauds their approach to teaching. "As best as I can tell, from my vantage point, the faculty here is more accessible than the faculties at other schools I've been at."

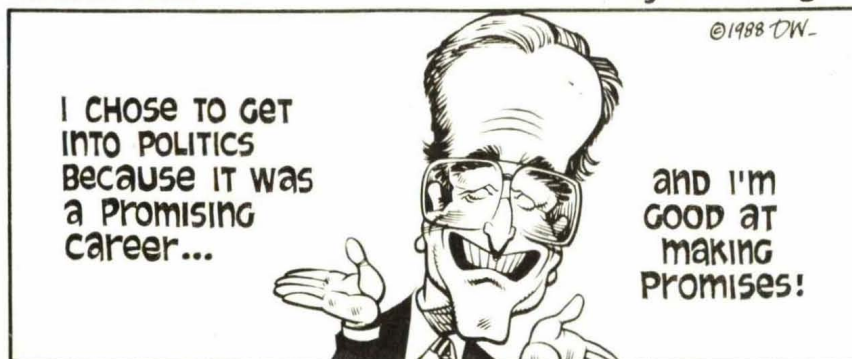
Professor Morris is unsure at this point whether he will return to Penn when his year at BLS is up, or look for another position in New York City. Now that he's back, Morris says, it will be difficult to leave his hometown again.

# et al Justinian SHORT RIBS by Dick Wright

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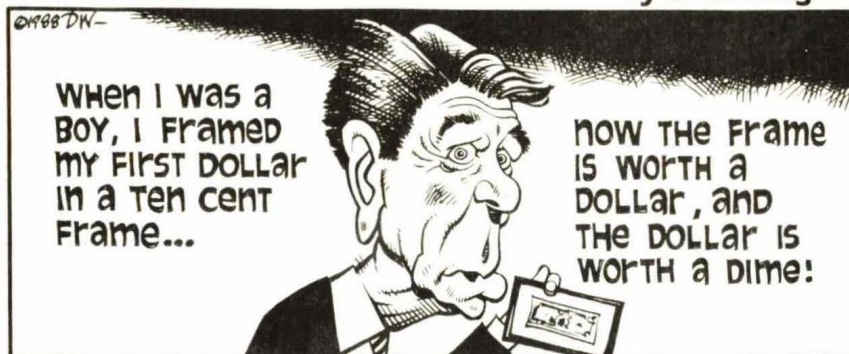
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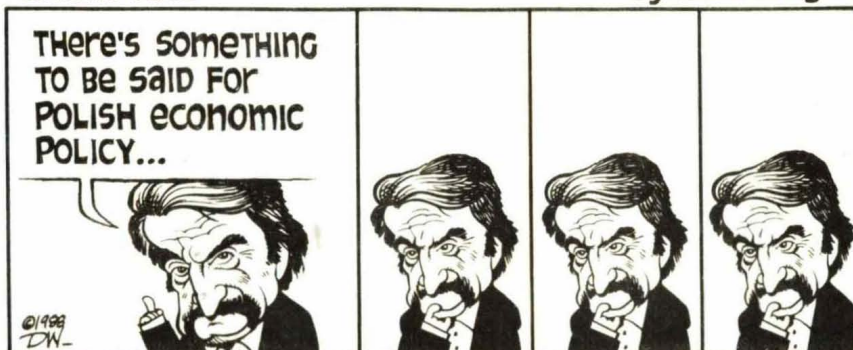
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# Federal Sentencing Guidelines Symposium

by William Purdy


A symposium exploring alternatives to traditional prison sentences under the recently enacted Federal Sentencing Guidelines was held on June 15. The forum was sponsored by Brooklyn Law School, judges of the United States District Court for the Eastern District of New York and the Aleph Institute. Developed for the purpose of eliminating disparity of prison sentences in this country, the controversial guidelines mandate the imposition of minimum periods of incarceration for all but the most minor crimes. The effect of the guidelines is most strongly felt by those who in the past were most likely to receive probation or suspended sentences, usually first offenders and white-collar criminals. This result has been perceived by some in the legal community as unduly harsh and draconian.

The symposium, entitled *Alternative Punishments under the New Federal Sentencing Guidelines*, was moderated by Dean David G. Trager in the Ceremonial Court Room of the Eastern District Court House. The agenda consisted of presentations by Chairperson of the New York State Committee on Sentencing Reform, Kenneth R. Feinberg; Commissioner of the United States Sentencing Commission, Ilene H. Nagel; United States District Judge, Jack B. Weinstein; Director of the Federal Bureau of Prisons, J. Michael Quinlan; Chairperson of the New York State Assembly Committee on Corrections, Daniel L. Feldman; and National Director of the Aleph Institute, Rabbi Sholom D. Lipskar.


Attorney Kenneth Feinberg, the first speaker of the symposium, said that the guidelines were the "law of the land" and declined to address either the constitutionality or wisdom of Congress's adoption of the rules. His discussion of alternatives to prison focused only on white collar criminals and petty offenders. This approach reflected the basic assumption underlying the symposium that the guidelines are facially too harsh for white-collar and petty offenders but perfectly acceptable for other criminals.

Judge Weinstein, next on the agenda, praised the work of the sentencing commission and argued that the guidelines do not prevent judges from acting sensibly. Weinstein's approach, described by Dean Trager as "driving a truck right through the guidelines," focused on the guideline's loopholes and opportunities for judicial

discretion. He urged attorneys not to lose hope, and insisted that the opportunities for "downward departures" from the guidelines were available to attorneys who made the right arguments. Weinstein raised a variety of alternatives to the traditional prison sentence expressing special favor for halfway houses and drug treatment centers. However, he criticized the current lack of funding for drug rehabilitation, commenting, "when government gets around to funding it, then we'll be serious about the drug problem."



## dealing with options instead of individuals...



Judge Nagel criticized the search for alternatives to prison sentences. Defending the guidelines, she insisted that deviations undermine the basic purpose of the guidelines. Non-imprisonment options, according to Nagel, suffer from the same judicial inconsistencies that originally prompted the adoption of the guidelines, namely that whites are more likely than non-whites to receive alternative sentences which are not publicly perceived as real punishment.

Disagreeing with the previous speakers, Mr. Quinley, the director of the Bureau of Prisons, said he was dissatisfied with the notion that guidelines are an effective means of dealing with the criminal problem. He criticized the paradoxical situation in which society demands more police, tougher judges, and longer prison sentences, particularly for drug offenses, yet resists increased funding for prisons and drug treatment centers. Pointing out that federal prisons are currently operating at 158% of capacity, Quinlan said he was at a loss to describe how the federal prison system will deal with the increased numbers of prisoners expected under the guidelines and the increasingly harsh drug laws.

Next, judge Feldman acknowledged that the future for white-collar offenders does not appear as bleak as initially feared. Feldman was, however, strongly critical of past attempts at criminal rehabilitation. Calling the New York City probation system "a fraud, sham and a disgrace," he insisted, "this did not have to happen," and that properly funded probation systems are capable of very low rates of recidivism. Feldman joined Weinstein in criticizing the small amount of money allocated to drug treatment centers.

The most emotional presentation and strongest criticism of the guidelines and the concept of prison as a punishment was voiced by the only non-lawyer in attendance, Rabbi Sholom D. Lipskar. Lipskar insisted that locking a human being away does not allow society or the individual to deal with the problem of crime. He criticized the approach taken by the guidelines and suggested that "instead of dealing with options, maybe we should deal with the individual." He condemned the prison system and the guidelines's policy of increased prison sentences, arguing that prison merely contributes to the problem of crime by creating alienation and hatred in not only the prisoners but in the spouses and children of those swallowed by the criminal justice system as well.

By the end of the evening the variety of alternatives to prison suggested included private and state sponsored community detention centers; home detention, particularly when coupled with some form of electronic monitoring; and incarceration in drug treatment centers.

The most innovative alternative punishment of the evening was an experimental "boot camp" type of incarceration. Classified by Feinberg as "shock treatment custodial punishment," it consists of a program of "brief, intermittent, quick hit incarceration, coupled with conditions of release." The program is premised on the theory that by combining periods of intense incarceration with periods of release, the effect of the incarceration on the individual is maximized. Under a pilot program now operating in New York, a convict can get a reduction in sentence for participation in the program. The program also found support with Quinlan who was troubled by the current situation of prison overcrowding. Feldman characterized that the New York program as "extremely promising," not only as a form of incarceration but also as a form of rehabilitation.



# BALLOT PROPOSALS

(as reported by Citizens Union)

## *Proposal One.*

### *A Proposition*

## ROADS AND BRIDGES BOND ACT

This proposal would authorize the issuance of \$3 billion of bonds, the proceeds from the sale of which would be used for construction and repair of roads and bridges throughout the State. There is *no* funding in this act for any mass transit project. The funds are to be divided by region, with New York City to receive 23%, Long Island, 23%, the Hudson Valley, 14% and the balance of the State, 40%. The proceeds, to be used between 1989 and 1992, must supplement usual State expenditures.

There is general agreement that New York State must substantially increase the amount spent on highway and bridge repair and replacement. The dispute centers around the propriety of financing these expenditures by a \$3 billion bond issue, the largest in the State's history, rather than by other means.

Opponents argue that it is irresponsible to increase New York's debt of \$24 billion, the highest in the country, and that the cost of the interest will negatively impact on highway projects after 1992. They contend that New York should earmark the revenues from highway use taxes, gasoline taxes and motor vehicle fees, and use them exclusively for highways and bridges, as do 47 states and the federal government. The proposed bond issue will add another \$2.082 billion in debt service over the 10-20 year life of the bonds. New York's state gasoline tax is the 7th lowest in the nation and has been unchanged since 1973.

## *Proposal Two.*

### *A Local Question*

## GOVERNMENT ETHICS

"Shall the Board of Ethics be renamed the Conflicts of Interest Board, be made up of three independent citizens with no ties to government or political parties, appointed by the mayor and confirmed by City Council, and be given the power to enforce prohibitions that shall both be strengthened and clarified, as proposed by the Charter Revision Commission?"

et al.: The Justinian

Proposal Two would greatly strengthen the city's present charter provisions on ethics. Renaming the Board of Ethics as the Conflicts of Interest Board more accurately describes its mandate. The Board's independence is more assured by removing the director of personnel and the corporation counsel as members and requiring City Council confirmation of the mayor's appointees, who are to serve for staggered six year terms. The Board's basic powers would include issuing rules and advisory opinions; educating public officials and employees about the charter's conflict of interest provisions; receiving complaints, conducting hearings, and assessing penalties; and reviewing financial disclosure statements.

Among the prohibitions which are strengthened and clarified are some dealing with the "revolving door" whereby public officials and employees have moved to the private sector and immediately used their inside knowledge and connections to benefit their new employers. The new prohibitions include:

- \* a one year ban on any former public servants appearing before the agency they had served;
- \* a one year ban on any former members of the Board of Estimate, deputy mayors or seven specified high level mayoral appointees appearing before *any* city agency;
- \* a one year ban on former city councilmembers appearing before the Council;
- \* a life time ban on any public servant, paid or unpaid, appearing on a particular matter with which he/she had dealt "personally and substantially."

A new charter provision defines "ownership interest" for the first time and requires disclosure and, in some cases, divestiture of any such interest in firms doing business with the city. The defined "ownership interest" is \$25,000 or a 5% interest in a firm (whichever is less) and extends to spouses and dependent children of public servants.

Community and paid advisory board members are included within the provisions of this new charter chapter, but the application of the conflicts of interest standards is narrowed to avoid discouraging anyone from civic participation. For example, while community board members may not vote on a matter before their board which may result in personal and direct economic benefit to the board member or his/her immediate family, they may continue to hold an interest in a firm affected by their boards' action.

## *Proposal Three:*

### *A Local Question*

## INFRASTRUCTURE MAINTENANCE

The proposed charter changes would mandate that city agencies prepare and update multi-year maintenance schedules and cost estimates for the capital assets under their control and that those schedules and estimates be certified by professional engineers or architects. The mayor is required to ask for infrastructure maintenance funding in the Executive Budget and indicate, if necessary, why the proposed expenditures differ from those in the certified maintenance schedules. In addition, after the completion of the fiscal year, the mayor would be required to explain, if necessary, why actual spending did not match approved amounts for maintenance.

## *Proposal Four.*

### *A Local Question.*

## ADMINISTRATIVE PROCEDURES REFORM

(Proposal Four includes four different subjects but can be answered by only one yes or no vote.)

### *ADMINISTRATIVE PROCEDURES:*

Under the present system, rules adopted by agencies, while having the effect of law, have been adopted with little or no public discussion. The proposed changes would require each agency annually to publish a brief description of the subject areas in which it anticipates rule-making, reasons why action is being considered and a summary of the anticipated contents and their effects. Each proposed rule would be published in the City Record. Public comment would be allowed and agencies would be required to consider the comments received.

An especially welcome change is that no rule would be effective until 30 days after the final rule is published in the City Record. No rule could remain in effect unless it was included in an indexed and regularly updated compilation. The corporation counsel is given the responsibility of publishing the compilation and its semi-annual supplements.

The proposals would also mandate minimum requirements for agencies authorized to adjudicate disputes. Reasonable notice, opportunities for hearings and guarantees of due process are required. Agency hearing officers, unless otherwise specified by law, could only recommend determinations to the head of the agency

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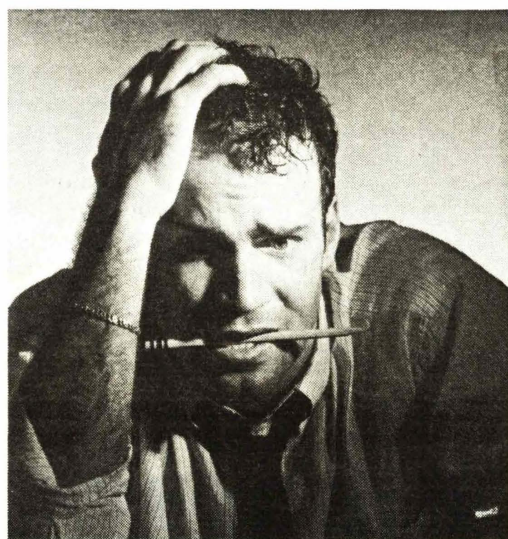
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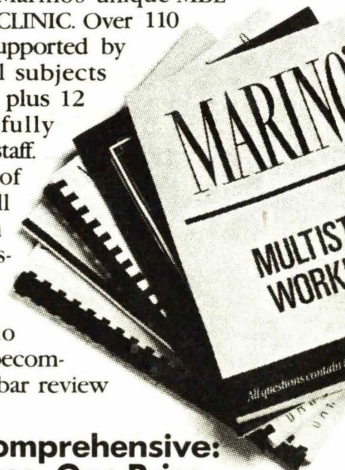


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for action. Alternative means of disposition are also allowed.

**INTERNAL CONTROLS:** Internal controls include administrative procedures to provide information on operations and to monitor performance; accounting controls to protect assets and assure the reliability of fiscal information; and internal audits.

Some of this is already in place, but the proposed charter amendment gives the mayor and city agency heads explicit responsibility for internal controls and for maintaining the effectiveness and integrity of city government operations. They clarify and coordinate the executive agencies' responsibilities in this area.

**TAX APPEALS:** The new tax tribunal would consist of three commissioners, appointed by the mayor to six year terms, they must be attorneys with special expertise and competence in the field of taxation. The tribunal would hear appeals from non-property taxes (e.g. the unincorporated business and commercial rent taxes) assessed by the Department of Finance and now heard by that same department).

Fairness dictates a separation of the assessment and collection process from the appeals process as proposed by the Charter Revision Commission.

**CHARTER REORGANIZATION:** Reorganizing the Charter to make it a more usable document is clearly welcome. New sections would draw together provisions regarding the responsibilities of agency heads now scattered throughout the document. Ease of use may encourage greater citizen participation in the political process.

### *Proposal Five.*

#### *A Local Question*

### **SUCCESSION AND FILLING VACANCIES**

(Proposal five includes two different subjects, but can be answered by only one yes or no vote.

**MAYORAL INABILITY:** The current charter now provides that the city council president act as mayor in case of the temporary inability of the mayor to discharge his or her powers and duties, but it does not specify how a determination of inability can or should be made.

The proposed amendment sets up a five member committee of high government officials, all in regular contact with the mayor and thus able to recognize an illness that would prevent the mayor from discharging his or her duties. The committee would consist of the corporation counsel, comptroller, the borough president with the most seniority, council majority leader

and a deputy mayor. Four of the five would be needed to make a declaration of temporary or permanent mayoral inability.

A  $\frac{2}{3}$  vote of another panel would be required to review any declaration of permanent disability within 21 days as well as any mayoral challenge to a declaration of temporary inability. State legislation is required to permit the use of a panel of judges as preferred by the Charter Revision Commission. In the interim, the Commission has opted for a charter provision designating the City Council as the reviewing panel.

**FILLING VACANCIES:** The existing process of filling vacancies results in games of musical chairs, leaves out the public and gives unfair incumbency advantages to temporary replacements not chosen directly by the electorate. The changes proposed by the Charter Revision Commission fill all vacancies in the offices of councilmember, council president, borough president and comptroller by prompt nonpartisan special elections in which candidates file independent nominating petitions and run without party designation. There would be no run-off; the candidate with the largest number of votes would win and remain in office until the next general election.

At that general election, the new procedures ensure that primaries will always be possible for party nominations to fill vacancies for the remainder of the term.

### *Proposal Six.*

#### *A Local Question*

### **VOTER ASSISTANCE AND CAMPAIGN FINANCE REFORM**

(Proposal Six includes two different subjects, but can be answered by one yes or not vote.

"Shall the following changes to the charter, as proposed by the Charter Revision Commission, be adopted:

"establish a panel of city officials and representatives from community and civic organizations to oversee a nonpartisan program to encourage voter registration and voting; (Voter Assistance)

"establish the powers and duties of the Campaign Finance Board, including (i.) publishing and distributing a nonpartisan voters' guide with information on candidates, ballot proposals and referenda, and (ii.) administering any voluntary system established by local law that limits campaign contributions and spending, and insure that candidates in the 1989 elections abiding by such limits receive the matching grants earned under such law? (Campaign Finance Reform)

**VOTER ASSISTANCE:** The proposed changes would make the promotion of voter registration and voting an explicit city responsibility under the direction of a new 16 member voter assistance commission. Its importance is underlined by its membership which would include the chair of the Campaign Finance Board, the first deputy mayor, the director of the Office of Management and Budget, the presidents of the Board of Education and the City Council, the executive director of the Board of Elections and the corporation counsel as well as nine public members.

The commission would appoint a coordinator of voter assistance. The commission and the coordinator's responsibilities would include: encouraging and facilitating registration and voting efforts by all city agencies and nonpartisan voter registration groups in the city; monitoring voting registration and voting and hearing citizen complaints; submitting an annual report describing its activities; and making recommendations to identify and involve groups with low rates of voter participation.

**CAMPAIGN FINANCE REFORM:** The proposed charter change would strengthen New York City's commitment to campaign finance reform by placing the Campaign Finance Board in the Charter and mandating partial public funding. In accordance with the formulas established by local law, to candidates in the 1989 election who *voluntarily* limit campaign contributions and expenditures. Local Law 8, passed by the City Council in February 1988, provides for such a system of campaign finance reform.

The Campaign Finance Board would have the power to supervise, investigate, render advisory opinions, promulgate rules, develop a computer data base on campaign contributions and expenditures and in general, take any actions necessary to carry out Local Law 8 or any other local law establishing a system of campaign finance reform. The Campaign Finance Board and the Voter Assistance Commission will make up a new city Department of Campaign Financing and Voter Assistance.

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# LAW STUDENTS AND PUBLIC INTEREST

The National Association for Public Interest Law (NAPIL), a coalition of law student organizations devoted to promoting public interest work, recently organized three events in Washington, D.C. that brought together students from around the country. At the kickoff of these events—the Public Service Challenge, the Fourth Annual NAPIL Conference and the First National Public Interest Law Career Fair—students demonstrated that they are ready, willing and more than able to forge ahead in providing legal services to the underrepresented.

On their campuses, many of these law students run income sharing groups, which raise over one half million dollars annually to fund students and recent graduates working in the public interest. This past summer over 300 summer projects were funded by NAPIL's 40 member groups.

This fall, NAPIL announced the Public Service Challenge, a joint project of law firms and income sharing groups designed to raise over one million dollars for public service grants in 1989. According to Michael Caudell-Feagan, the Executive Director of NAPIL, "Despite our success, student-run income sharing groups are unable to meet the growing demand for funding from students and public interest organizations. The Public Service Challenge is designed to create new opportunities by providing a way for firms to reach into the law schools and demonstrate their

commitment to public service." Four law firms—Arnold & Porter, Beveridge & Diamond, Kutak, Rock & Campbell, and Sullivan & Cromwell—joined the students in launching the campaign. All of the money raised will be distributed to the local income sharing groups to allocate according to their established funding mechanism.

In order to train law students establishing new income sharing programs, as well as students who are advocating for loan forgiveness programs and public interest placement resources, NAPIL held its Fourth Annual Conference, Advancing Justice in America: The Law Student Challenge. There were over 200 representatives from approximately 70 law schools. Myra Nakelsky, a student at UC-Hastings Law School in San Francisco, said, "The conference provided a great opportunity to network with other law schools and share energy and ideas. It is so exciting to learn what is going on all over the country and that I am not alone in trying to get my law school to devote resources to public interest law."

In conjunction with the conference, NAPIL co-sponsored the First National Public Interest Law Career Fair with the National Association for Law Placement and over 70 law schools. The event drew 600 law students and recent graduates and gave them the chance to discuss career planning and potential employment positions with over 75 public interest and gov-



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ernment employers.

Further information is available from NAPIL at 215 Pennsylvania Avenue, SE, Washington, DC 20003.



A THOUSAND POINTS OF LIGHT.....



# THE CAREER PLACEMENT OFFICE

## What Can It Do For You? A Lot!

by Perry Tischler

"Apex Tech has a better placement record, and at least there you get a free tool kit when you graduate." "If you're not in the top 10% [the Placement Office] can't help you." Sound familiar? These and other, similar, laments have become commonplace among frustrated Brooklyn Law students in their quests for employment. While I, too, was a Placement Office basher in my first year, I decided to keep an open mind and investigate the matter firsthand, to see if there is any truth to these One Boerum Place complaints.

The Career Placement office, presently spearheaded by Grace Glasser and Jane Ezersky, has historically been a clearinghouse for job opportunities and a source of career guidance. The question is, how much of an impact among the student body has the office had in these areas? Most students seem to have minimal contacts with the office and are only familiar with the on-campus recruitment program. Those students who are able to benefit from that program feel the office has fulfilled its duty to help them. But students whose class standing does not enable them to benefit from the on-campus interviewing program feel the office has failed them. Is this a fair assessment? Not in this student's eyes.

A closer inspection reveals that the Placement office and its new supporting staff have brought a tireless approach to the need for broadening its career services. The on-campus recruitment program that takes place each fall, has continuously grown in the amount of law firms and agencies that come to Brooklyn Law School seeking associates and employees. This fall, over 100 employers participated. Placement Office personnel point out that this program takes many weeks of work to prepare. The staff must recruit new law firms, coordinate resumes, design and print the Career Planning Directory, and prepare interview schedules, as well as handle late additions and cancellations. The Placement staff says one of the reasons for this expansion of the on-campus interviewing program is the increase in the alumni outreach campaign conducted by the school. A school's reputation is only as good as its graduates in the field, say staff members, and Brooklyn's reputation has been growing.



This alumni outreach program has also made it possible for the Placement Office to institute another helpful career program for students, the Distinguished Alumni Lecture series. From time to time, noted alumni are invited back to speak about the area of law in which they have worked in. Talking to alumni who are already established in an area of law may be the best source of career guidance the school can offer.

The Placement Office also provides another program, the Specialty Series, which presents a panel of alumni who share the same specialty of law. After each panel discussion, students have the opportunity to meet informally with the alumni at a buffet dinner. These lectures are perfect opportunities to hear practicing attorneys discuss their respective areas of specialization. Recent topics have included Labor Law, Public Interest, and the Road to partnership. I was fortunate to attend the dinner buffet given for Real Estate Law alumni. The panel of four attorneys, representing both large law firms and small, spoke from different perspectives on Real Estate law. After the program the speakers joined students at their tables for dinner and conversation. The program provided helpful career planning information, and an enjoyable evening.

The services offered by the Placement Office don't stop here. The office keeps a listing of part-time, full-time and graduate jobs that are available throughout the year. These jobs are often telephoned in by firms, agencies and corporations that need clerks and researchers. Some jobs are on a volunteer basis, but others offer

salaries as high as \$20 per hour. These listings are updated daily and are available at the front desk of the office.

Another important service offered by the Placement Office is the resume writing and interview counseling program. One of the two key essentials to any job search, according to the Placement Office staff, is to have a clear, concise and impressive legal resume. On an appointment basis, the counselors will help you mold your education and experience into a presentable one page biography. The other key essential is the ability to present yourself positively on an interview. What should a student expect from an interview? What should he or she wear, bring and say? Through counseling and mock interviews, the placement counselors can teach students how to curb nervousness and communicate proper body language, as well as explain why a blue suit, white shirt and red tie is the best interview outfit.

So, why are so many students disappointed with the Placement Office? Perhaps the primary reason for student disappointment is the misconception that the Placement Office is the one and only source of student employment. Most students don't realize that they should "network" and explore other employment options on their own. Speak to friends, associates, and, of course, professors. Join professional and community organizations. Do a target mailing to select firms. Take a part-time job in the spring that may lead to a full-time job in the summer. If you speak to a hundred different people and ask them how they got their positions, chances are you will get a hundred different answers. The important thing is to take initiative for your own career, and not to get discouraged. A rejection letter from Skadden Arps is not a sign to drop out and join the Foreign Legion. Smaller firms, government and public interest can often provide careers as rewarding as those to be found in big law firms. Success in the legal profession is not governed by how much money you make, but by what's right for the individual in terms of the type of work and lifestyle that he or she desires. It is very easy to blame the third floor of One Boerum Place. It's not as easy to look within and realize you must work at making yourself the most marketable candidate possible.

Statistically, the office claims a 98% placement rate for Brooklyn Law graduates six months out of school. Financially speaking, the starting salary for these graduates averages out to \$35,500. While the apartment at Trump Tower will have to wait, we can certainly kiss the macaroni and cheese days goodbye.



# New Face at Placement

by Lori Stites

First, the good news: the consensus among members of the BLS community is that the school's reputation is improving, and that Brooklyn is achieving the long-overdue recognition it deserves. However — and this could be bad news to many current and future job seekers — we are also told across the country, applications to law schools are way up, making increased enrollments likely, which in turn means already hard-to-come-by positions will be even more elusive to lawyers just entering the job market. Placement and Career Planning, in an effort to assuage the fears of law students at every level, has expanded its counseling staff again this year to meet the needs of the career-bound.

"Teaching people how to market themselves" is Anne Singer's business. Since arriving at BLS this summer, her goals have been to help Placement improve its listings and work with all students, whatever their career objectives. Singer noted that the placement office's obvious purpose is helping students get jobs . . . but making a good fit between the person and the position the main point.

With an MBA in Marketing/Advertising, Singer enjoys working in the personnel area, where the person is the focus of the market. Personnel management was part of her graduate study at Syracuse University, which led Singer to combine marketing with people. In any event, she said, "I knew I wanted to get into something more creative than number-crunching."



As the former recruiting specialist for Weil, Gotshal & Manges in New York, Singer knows firsthand what law firms are looking for. Singer scrutinized candidates from the vantage point of the large law firm. Her involvement in the firm's recruiting program, however, provoked a curiosity about what the counseling side of the search process would be like.

Besides coordinating Brooklyn's participation in the NALP Job Fair at Fordham University (held annually for minority law students across the country), Singer has been searching for new practice areas to present in numerous panel discussions and lectures offered by the placement office. Practicing real estate attorneys and faculty lectures on public interest careers have already added to individual counseling efforts this year. Singer urges students and others to continually check for posted announcements of speakers from every practice area.

Like the rest of the counseling staff, Singer's main focus is helping students with resume/cover letter writing, and with those all-important interviewing tech-

niques. She shows students how to identify their "most sellable lawyering skills" by tying together past career and undergraduate backgrounds with significant projects taken on during law school. Her particular method for sharpening students' abilities to market themselves draws from her awareness of the current needs of hiring professionals.

Singer's impression of BLS formed before her length of service here. "I worked with (this) Placement office from the recruiting side of the fence. I chose to come here because I knew the staff was excellent." Now a member of that staff, Singer noted Placement "functions very well as a unit," and expects the department's growth to remain steady as BLS continues to grow.

Reluctant to talk about herself, Singer prefers discussing her efforts toward helping students find jobs. Her role as career counselor is one she tackles with enthusiasm; the desire to complete the cycle of her own experience has brought her to BLS to combine her marketing and personnel training with an inside knowledge of what the law firms want.

Getting back to our original question: is the Career Placement Office geared only towards helping those in the top 10% and on Law Review? I really don't think so. Credit must be given to the Placement Office staff for the continual growth and progress engineered by Grace Glasser and Jane Ezersky, and, more recently, Anne Singer. The office offers a myriad of services, and the efforts of staffers to attract more opportunities cannot be faulted. The advice to my fellow non-ten-percenters: visit the Placement Office often, use their resources, and start to explore any and all outside options that may arise. The jobs are definitely out there for BLS graduates. But we have to make an effort to find them.

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# Alumnus Running for Congress

William Kelly (BLS '77) is the Democratic candidate for the 5th Congressional District in Nassau County, in a contest said to be crucial by both the Republicans and Democrats.

The incumbent (Raymond McGrath) who was carried into office on the Reagan landslide of 1980, has been described as weak in leadership and in substance by the Kelly campaign. The district has been hard hit by this summer's pollution-related closings of Atlantic Beach & Long Beach, two popular recreational areas. Kelly charges that McGrath has not protected his district. McGrath was rated 42% out of a possible 100% by the League of Conservation Voters, an environmental group.

Bill Kelly has mobilized a strong contingent of students and alumni of BLS to assist him in his quest for victory. Kelly has two brothers who also graduated from BLS, alumni Charles ('77) and Larry ('80). The strong affiliation with BLS makes the school and alumni a natural base of support.

Scores of alumni & students have rallied to support Bill Kelly in the congressional campaign. Recently many attended two fund raising events sponsored by his BLS friends. Several thousands of dollars were raised, according to alumnus James Hatter ('75), a leader of the BLS contingent for Kelly. The Student Bar Association president of 1977, Howard Peltz, said "BLS support is very important to the Kelly campaign." The Alumni Chairman James Hat-



William Kelly (BLS '77) and supporter Senator Daniel P. Moynihan.

ter, along with Thomas Donovan ('77) & John McFaul ('75) have vowed to marshal students and alumni for Kelly. Another BLS alumnus, Charles Deluca who recently became a named partner in the prestigious Stamford law firm of Ryan, Ryan, Johnson, Clear & Deluca, stated "All alumni should work for Kelly's election. He represents quality."

A second year student, Annalise Le-

pore, has been appointed BLS student campaign leader. She plans to recruit student volunteers to assist Kelly. "This is a partnership with students, alumni and faculty to elect one of our own." She also states "The incumbent, Raymond McGrath, is anti-education with a 36% rating from the National Educational Association. As a student and parent this is unacceptable."

## BLS Alumnus Chief of Brooklyn D.A. Criminal Court Bureau

Brooklyn District Attorney Elizabeth Holtzman appointed Barry L. Aaron as Chief of the Criminal Court Bureau, the largest Bureau in the D.A.'s office. Over 70 assistant district attorneys are assigned to the Bureau, which in 1987 prosecuted over 65,000 misdemeanor cases.

"During Barry's tenure as Chief of the Transit and Auto Crimes Bureau, new and tougher programs against drunk drivers were put into effect," D.A. Holtzman said. "Barry oversaw one of our most important community service programs — the clean-up of subway stations by low-level transit offenders. The people of

Brooklyn will be well-served by his appointment," she added.

Aaron served for the past two years as Chief of the Transit and Auto Crimes Bureau, which was developed to centralize the District Attorney's handling of felony transit crimes, auto theft, and drunk driving cases. He had previously served 2½ years as Head of the Transit Crimes Unit, and was a Supervisor in the Narcotics Bureau for 2½ years.

Aaron has been with the King's County District Attorney's Office since his graduation from BLS, where he was an editor of the Law Review. He received a B.A.



in Social Studies cum laude in 1971 from the State University of New York at Stony Brook.

Aaron, 38, lives in Brooklyn Heights with his wife and two children.



# TORONTO CATCHER ERNIE WHITT SPEAKS TO LAWYERS AT ABA CONVENTION

By Samuel Abrahams '56

The recent Annual Meeting of the American Bar Association in Toronto, Canada consisted of more than 2,000 scheduled events ranging far and wide over subjects of global and national import. The Family Law Section, chaired by a former New Yorker, Harvey L. Golden of Columbia, South Carolina, sponsored programs dealing with AIDS, law in each of the fifty states and Canada, trials and skills of Family Law practitioners, contributions of mental health experts, and evidentiary, discovery and tax problems in daily practice. Despite such a heavy offering of intellectual material, the Family Law Section also decided to sponsor a down-to-earth and lively presentation by a stellar participant in the world of sports; Ernie Whitt Catcher of the Toronto Blue Jays. Whitt, currently writing an autobiography, addressed the Family Law Section assemblage at the Hilton International Hotel breakfast and sketched a stimulating and candid portrait of the trials of a professional baseball player. Whitt spoke about his family, the current status of the Toronto Blue Jay's conflicts, the contemporary structure and development of the minor league system; the interaction of diverse personalities and club officials on and off the playing field; and ideas and suggestions for making baseball a more creative and dynamic athletic enterprise.

Whitt, who was a player representative until 1986, maintained that the most effective baseball manager is a person who is skilled in dealing with the whole spectrum of human behavior. The manager must be a master psychologist to integrate a mass of individuals into a functioning and well-coordinated unit.

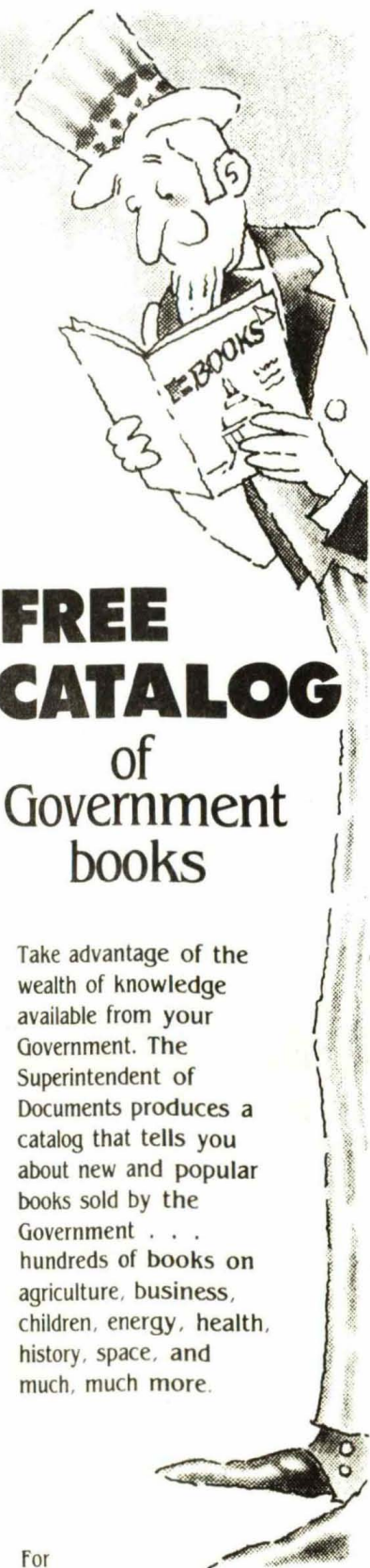
Whitt began playing baseball at the age of seven, attended college for two years and spent seven years in the minor leagues. Whitt described in stark and dramatic terms the hardships, burdens and physical discomforts in minor league cities with their outmoded means of transportation, second and third rate hotel facilities, meager compensation and distasteful diet. Whitt was drafted by the Boston Red Sox but could not displace Boston's then per-

ennial catcher Carlton Fiske. Whitt was relegated to the minors for some time before being drafted by the Toronto Blue Jays in 1976. Whitt's wife encouraged him not to retire after a series of setbacks in 1976 and 1977. He finally gained, however, a niche in the regular lineup of the Toronto baseball team.

Whitt advises young players and other sportsmen to banish any lingering field stresses, anxieties and worries from their conscious thoughts before leaving the confines of the ball park; it is emotionally debilitating, harmful and dangerous to allow personal setbacks and crises to be transferred to the intimacy of the household from the arena of battle. Whitt stated most emphatically that some very talented players never reached the pinnacle of success because of the accident of fate, timing and geography; Whitt admitted to the audience that he never felt secure in his position as the regular Toronto catcher. He predicted that women would not enter the major leagues in the near future but he did not rule out the possibility of their eventual acceptance in baseball. Whitt holds that superstars like Frank Robinson are temperamentally unsuited for and geared to the overwhelming demands, difficulties and dilemmas of the managerial role. Whitt is convinced that the Toronto ball club despite its decline in 1988 still possesses the most talented group of players in the major leagues.

Whitt declared in no uncertain terms that Wayne Boggs and George Brett are by far the most gifted as well as dangerous batters in baseball with virtually no weaknesses in their batting stance while Ricky Henderson and Kirby Puckett are the most well rounded and accomplished athletes in the game today. He feels the designated hitter (DH) arrangement should be extended to the National League to make baseball more exciting, interesting and aggressive. Whitt did not reject the idea of a managerial post when he retires from active playing. He physically exercises throughout the off-season in order to maintain the maximum degree of mental agility, physical fitness and good body endurance for the grueling impact of daily competition.

This breakfast meeting attended by a cross-section of the Family Law Section stirred deep feelings and satisfaction that a player of Whitt's caliber is possessed of profound intellectual insight and capacity to analyze and dissect the underlying currents and trends of America's popular pastime. Whitt's insights proved that different professions and varied lifestyles have much to learn from each other.



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# Welcome to New BLS Students

by Jeff Schagren

The message at Orientation for the Class of 1991 was simple—relax. Incoming first years began the evening with their student advisors, asking questions of the second and third year students about the trials and tribulations of the law school experience. After that, the neophyte legal scholars were taken to be introduced to the faculty at a convocation the federal courthouse. Professor Jeff Stempel's sense of humor and professor Jerry Leitner's quick, original wit soon had the new class laughing, and ready to hit the books.

Finally, at the evening's wine and cheese reception, students and faculty really let their hair down. When asked about Orientation, Robert J. Dalton, a first year from Chicago, summed it all up, "I was just amazed to hear that Law Review is not a concern right now. I thought it should be. Instead, I noted that the Time Out Sports Bar on Wednesday nights is the place to be."



First years try to figure out what they are eating at the wine and cheese reception following orientation.

A first year learns quickly the correct state of mind for attending classes.

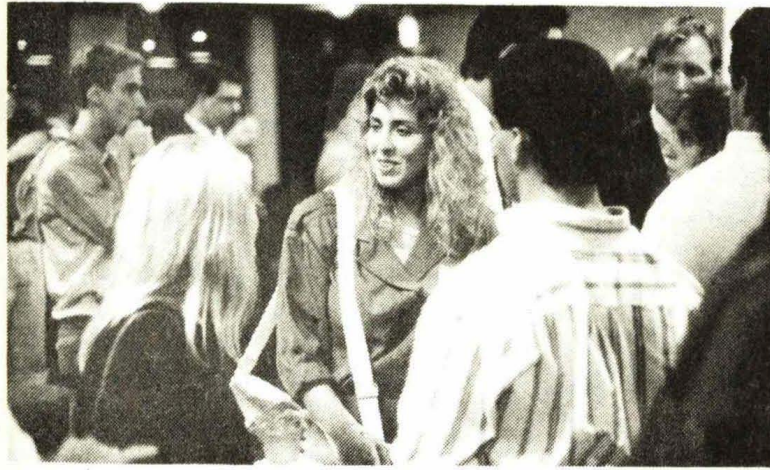


Third year Andy Puccini explains library research techniques, "If anyone gets to the Shepherds first, lay 'em out with a right hook.."



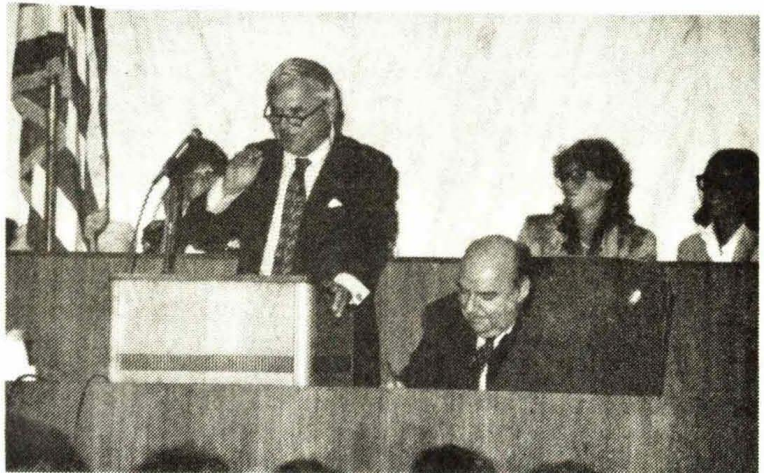
Professor Twerski disapproves of students overindulging in reliable liquid products.



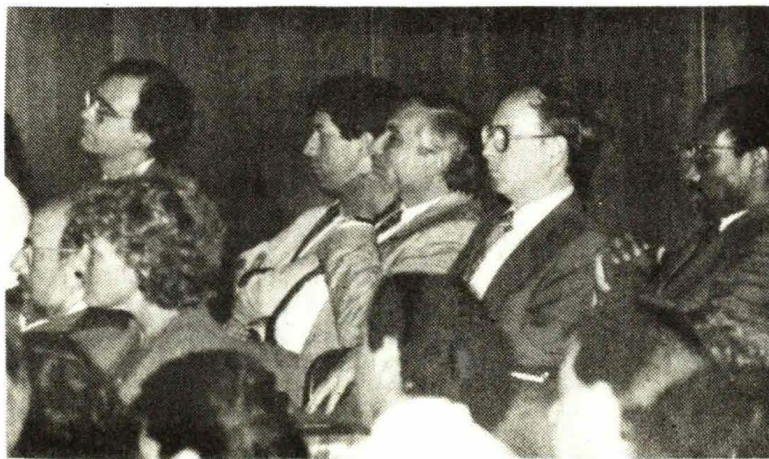


BLS students discuss  
the latest fashions for  
torts and contracts.

Professor Leitner again  
blames the traffic on the  
highway for writing his  
speech illegibly.



BLS faculty concerned  
over the new first year  
crop of students.



Trager says , "Hi!"



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## Moot Court Honor Society

by Jack Lance Heinberg

The Moot Court Honor Society is an integral part of the law school community here at Brooklyn. More importantly, however, the Society plays a crucial role in maintaining our school's national stature among other law schools across the nation. Looking through the eyes of a first year student leads one to ask the logical question: What is the Moot Court Honor Society and how can I get involved?

First, the Moot Court Honor Society is a student-run honors program with a membership of approximately seventy upper-class students. Policies and programs are developed and implemented by an Executive Board consisting of third year students who work in conjunction with the school's administration through a faculty advisor. This year's Executive Board is as follows: Chairman—Jack L. Heinberg, Vice-Chairman intramural affairs—Howard Hershenhorn, Vice-Chairman intramural affairs—Amy Goganian, Vice-Chairman Prince competition—Jennifer F. Nelson, Secretary/Treasurer—Russell Pollack and the Faculty coordinator is Professor Ursula Bentele. The Honor society's primary objective is to provide an opportunity for students to further develop their written and oral advocacy skills. This objective is achieved through a variety of programs the Moot Court Honor Society sponsors.

Students have basically two opportunities to qualify for membership. First, all first year students have a chance in their second semester when, in conjunction with their legal writing class, they compete in the First Year Moot Court competition. All first year students are required to write an appellate brief and participate in an oral argument as part of their legal writing class. Members of the Society, alumni and faculty members act as judges during the oral arguments. Then, based on your brief score, (your grade from your Professor) and your oral score, (the average of the scores given from the judges), approximately one-third of the first year class advances to the subsequent rounds. From this point on, the Moot Court Honor Society takes over the competition and conducts several more rounds until a group of winning finalists is distilled from those who advanced. These finalists are then extended an invitation join the Honor Society. Those that advance to the final round but who do not win that round may also be extended an

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invitation to join the society, depending on the Society's needs and the performance of the student during the entire competition. Anywhere from twenty to forty first year law students will be invited to join the Honor Society. All students who accept membership onto the Society will be required to enroll in the Appellate Advocacy course. Members have many responsibilities, including administrative duties (office hours), coordinating activities, assisting Executive Board Members, and participating in the various programs that society sponsors. Those that are unable to join the Society after their first year, but who are nonetheless very interested in participating in Moot Court, are eligible to interview for a position on the Society after successfully completing the course in appellate advocacy during their second year. Based on the society's needs at that time, interviews may be scheduled and some offers may be made to those students who possess the best qualifications. It should be pointed out that entrance onto the Society in this manner is very difficult and very few openings (if any) become available. The only other way to become a member is through participation in the trial advocacy competition.

Moot Court's main artery consists of its intermural program. This basically consists of fielding, for the most part, three person teams that compete against other law schools in appellate advocacy competition's across the country. Once selected for a team, the students submit a detailed brief on the problem presented by the competition and then spend a number of days engaging in oral arguments against other teams before a panel of judges. These oral arguments, of course, take place after the team has endlessly practiced over and over again. It is therefore easy to discern how one could say that Moot Court provides a law student with an invaluable experience that will truly enhance the prospect of a successful legal career. Indeed, Moot Court clearly exposes law students to real world situations by allowing them to work closely with others on their team, just as if they were working in a larger law firm. Additionally, the intermural program enables law students to substantially improve their research, writing and oral advocacy skills in specialized areas of law. Prospective employers are well aware of the skills developed by Moot Court members. Those who compete on an intermural team earn one academic credit and can satisfy their upperclass writing requirement if they so choose. To be eligible to compete

on a team, the student must be enrolled in the substantive course that coincides with the nature of the competition. This year, Brooklyn Law School will be competing in the following competitions: The National Competition, Benton Privacy and Information Law, Jessup International Law, Jerome Prince Evidence Competition, Tax Law, Product Liability Law, Administrative Law, Craven Constitutional Law, Patent Law, F. Lee Bailey Attorney/Client Privilege, ABA Trial Competition and the ABA Client Counseling Competition.

The Moot Court Honor Society also sponsors its own Trial Advocacy Competition in the spring. The competition basically involves a mock trial, either criminal or civil, and is open to all upperclass students who are interested. From this competition students are chosen for two teams of three persons, to compete in an ABA sponsored Trial Competition against various schools around the Nation. In order to be eligible to compete on this intermural team, each student must have successfully completed the courses of Trial Advocacy

and Evidence before the spring semester of the following year. Information in regard to when the competition will be held and all other details will be provided later in the semester.

Finally, the Moot Court Honor Society hosts an intermural competition, The Jerome Prince Evidence Competition, named in honor of Dean Emeritus Jerome Prince. In only its fourth year of existence, the competition has achieved a reputation of being among the best national competitions in all respects. The Moot Court Honor Society prides itself in the quality of the problem involving current issues in areas of the law of evidence, as well as the prestige bench it seems to always attract. The competition is set for the weekend of April 1 and we encourage all students to come and observe for themselves a truly enlightening experience.

In sum, the Moot Court Honor Society, unlike any other program Law School has to offer, allows those law students who are willing to put in a lot of time, energy and dedication, to acquire the necessary tools to succeed as an attorney, while having a thoroughly enjoyable time in the process.

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# The First Year In Review

by Michael Harding

For me and approximately four hundred classmates, the coming of fall brought with it the official status of being second-year law students. The first year of law school was a year that won't be soon — if ever — forgotten. It was a year of triumph. It was a year of agony. It was a year that brought new friendships and ended other relationships. It was a year that no one can really understand without having lived through it himself. Each one of my classmates has his own story of what last year meant to him. I can't speak for them, but I am sure that each of our stories bears similarities.

No matter what I had heard or what I had read, nothing could have prepared me for my first year of law school. Within the first two weeks, I knew I wasn't in Kansas any more, and not even the great Wizard of Oz could help me now. I had entered a world where the study of law was serious business, and to think otherwise would lead to disaster. For one year, my fate and my mind would be in the hands of eight professors.

It would be an understatement to say that I had butterflies in my stomach for the first month. I found myself engulfed in what I call my childlike anxieties, one of which was my fear of being called on in class. Throughout the year, my classroom demeanor was the same. Whenever the professor looked up, I looked down. If I heard him call out a name beginning with the same letter as mine, my heart sped up. If it was my name, my heart stopped, the class became silent, my mind went blank, and a spotlight was shining on me. This behavior was pretty ironic when you consider the fact that for five years before entering BLS I was a New York City Police Officer doing undercover work. People had aimed guns at me, come at me with knives, and assaulted me, but nothing had prepared me to handle Professor Stempel's machine-gun barrage of questions. There were days when I wanted to pull my bullet-proof vest out of the closet and wear it to class. But it would have been to no avail.

My most interesting class was Torts. Torts was taught by Professor Leitner, who turned out to be more interesting than the subject matter itself. He left his mark on

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could I never forget Professor Falk, who taught me how to write again and again and again. Then there was Professor Jones, who taught me that "finders, keepers" may be the rule, but it's not necessarily the law. As for my other two professors, you know the saying. "If you don't have anything good to say . . ." However, consistent with the school's open-door policy, I found all my professors accessible and receptive.

Final exams were grueling both semesters. After each exam, lines formed at the rest rooms where — rumor had it — some students lost their lunch. When grades were posted, some of us were relieved. Others were outraged, and the *Justinian* was flooded with anonymous complaints and allegations against certain professors. Sour grapes? Maybe. But one must remember that the majority of students in this school have been in the top 20 percent of their class since first grade. Here, at least half of us will be in the bottom 50 percent. That's not so easy to swallow. It was also apparent at the start of the second semester that some students had opted for other careers.

The work load and legal research made a lot of us first-year students miserable. If misery loves company, it's no wonder so many good friendships developed. Unfortunately, the pressures of final exams severed some of these friendships. And perhaps more unfortunately the pressure of law school terminated some personal relationships. However, any love lost was replaced by a new love: The Law.

my brain and to this day I am convinced that no one knows or could have taught me better than he did. Even now when I go to my Torts hornbook, I envision the title as *Prosser Leitner on Torts*. What I'll always remember most about Professor Leitner is his green turtleneck and his silver-fish belt buckle. I was impressed by Professor Madow's intelligence, and there can be no doubt that if I were on trial, I would want him heading up my defense. Amazing is the only way to describe Professor Fink's ability to take some of the most boring Constitutional Law materials and make them sound as exciting as game six of the 1986 World Series. And how

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# An Escape from Law School Madness

by Lisa Muggeo

Need a break from the stress, pressure, and mounting anxiety of law school? Looking for a diversion from the endless task of studying, studying, and more studying? Well, there is an alternative: become a member of the Legal Association of Women. (L.A.W.)

The women's organization at BLS offers students a feminist perspective on the law school experience. L.A.W. provides students with a forum in which to examine the role of women in the law. The organization also functions as a support group for its members throughout law school. In L.A.W., people who have been there will show you the way. And you will have the opportunity to work closely with the BLS Women's Alumni Network and faculty members who support L.A.W.

Whether you choose to be an active or a passive member of L.A.W., there are a wealth of activities to take advantage of. For example, several opportunities arise each year to attend conferences relating to women and the law. Last year, members attended the Myra Bradwell Conference on gender bias at Columbia Law School and a conference on Domestic Violence at N.Y.U. law school. One member was able to attend the National Conference on Women and the Law, in Austin, Texas.

Other exciting activities have been provided in the past. During the 1987-1988 semester there were several forums at BLS on sexual harassment, prostitution, breast-cancer prevention, and interviewing skills.

In the past, Women's History Month has been celebrated each March with a film series. In the coming year, L.A.W. hopes to add new activities to the Women's History Month agenda. Innovative, creative ideas are welcomed for this and other L.A.W.-sponsored events.

The organization hopes that students will get involved in L.A.W. in whatever capacity they feel comfortable. Any kind of support is appreciated: attending

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## A WOMAN'S PERSPECTIVE

### Bess Mess Best Left Behind

by Andrea Montague



By now most people are tired of the media's relentless coverage of the criminal trials of the rich and famous. Most recently, as the nightly television news has been leading off with the Bess Meyerson-Hortense Gabel case I have thought a lot about how this case is being reported. Criminally charged with hiring state supreme court judge Gabel's daughter (Sukreeht Gabel) in exchange for a reduction in Meyerson's lover, Andy Capasso's, alimony payments, the three are co-defendants in a case which has captivated the attention of the media. What I found so striking about this case were the three women coming across my television screen. Although the media regularly packages people into stereotypes for a quicker broadcast, sometimes the message is so outrageous it takes a while to absorb it. Three women had become a witch, a victim and a hysteric.

Almost nothing can compare to the way the press and the public love to watch the ugly decline of formerly rich or powerful

figures. Intrigued by the events that bring down these people from their positions of power, we watch with fascination as they are plunked down into reality with the rest of us. This case has demonstrated even more, the animosity that dominates the coverage when the successful are women.

The Bess Myerson the press has given us has been a stereotype of a jealous and vindictive woman playing dirty to get what she wants for her man. Portrayed as craftily wheeling and dealing a cut in Nancy Capasso's alimony payments, in exchange for a job, Meyerson along with two other women have emerged, Judge Gabel and her daughter Sukreeht. At times there was even a fourth, Nancy Capasso. Tracked by the press outside her home she was interviewed several times during the trial. There seems to be just one person missing during this whole story, Andy Capasso. Almost nothing has been said about Mr. Capasso in this case. After all, if he was the one paying the alimony, supposedly he was the one profiting by this ruse of Myerson's, yet barely a word about or from him. As the trial unfolded, Capasso's silent presence at the trial (while serving time on a prior conviction) seemed to serve as a metaphor for the media's silence or usual speculation on where Mr. Capasso was in this scandal.

Instead, we have heard a lot about Meyerson's beauty as a 1940's Miss America, her desire to be in the limelight, and her affiliations with powerful men. She is constantly described with regard to her relationships with men such as Mayor Koch's former "companion" and as the "girlfriend" of successful businessman Andy Capasso. Very little has been heard about her successes and disasters as a city commissioner, her political abilities or lack of or her early beginnings as a spokesperson on controversial social issues. By limiting Meyerson to who she is with, rather than what she is, the level of discussion can be reduced to a very superficial one. Her work is trivialized and despite an interesting career the press insists on showing us a woman is really best understood in relationship to men.

In contrast, her co-defendant Judge Gabel has been shown being helped up the courthouse steps to her trial, a frail and pathetic figure. Meyerson appears even more calculating for preying on such a fragile and elderly woman. What we heard about Judge Gabel made it sound more like a mother just trying to help her daughter than a serious abuse of her professional responsibility. By patronizing Judge Gabel's actions we are disregarding her importance on the bench and her competence as a judge.

Then there was Sukreeht Gabel, with a history of mental illness and shock treatments. We heard about her difficulty in obtaining a job, her use of psychological drugs, and the charges that she would say anything for the attention it would bring her. She quickly became an incredible witness whose willingness to speak on camera only affirmed her in the eyes of the public, as the lunatic she had been described. Whatever the truth is about this woman the public saw a hysteric, a stereotype that is still with us.

There are serious charges against the defendants and if they are proven guilty they should be penalized. Yet the political analysis of this case has consisted largely of a parade of female stereotypes. Cloaked in an atmosphere of feminine cunning, instinct and helplessness, there has been very little even handed recognition that "power corrupts absolutely." Of course women and men are both capable of corruption and criminality however from the recent coverage of this and other high profile cases (Hedda Nussbaum, Robin Givens) women are subject to harsher public criticism for their behaviour. Woman as the manipulator, the victim, and the hysteric have all been trotted out in this ridiculous cast of characters. None of us are so one-dimensional as to fill these roles so completely. The slow entry of women into politics and the judiciary has unfortunately often been accompanied by these hateful stereotypes. Not only is it harmful to women, but it hurts all of us when we revert to stereotypes to depict each other.



events, hanging posters, or organizing forums. Participating in the group will add a valuable component to the whole law-school experience.

Interested students should watch for posters announcing upcoming L.A.W. meetings. The bulletin board for organizations is located on the ground floor adjacent to the telephone booth. Anyone eager to make contact can drop a note in our mailbox, in the S.B.A. office on the third floor, addressed to Andrea Montague or Lisa Muggeo.





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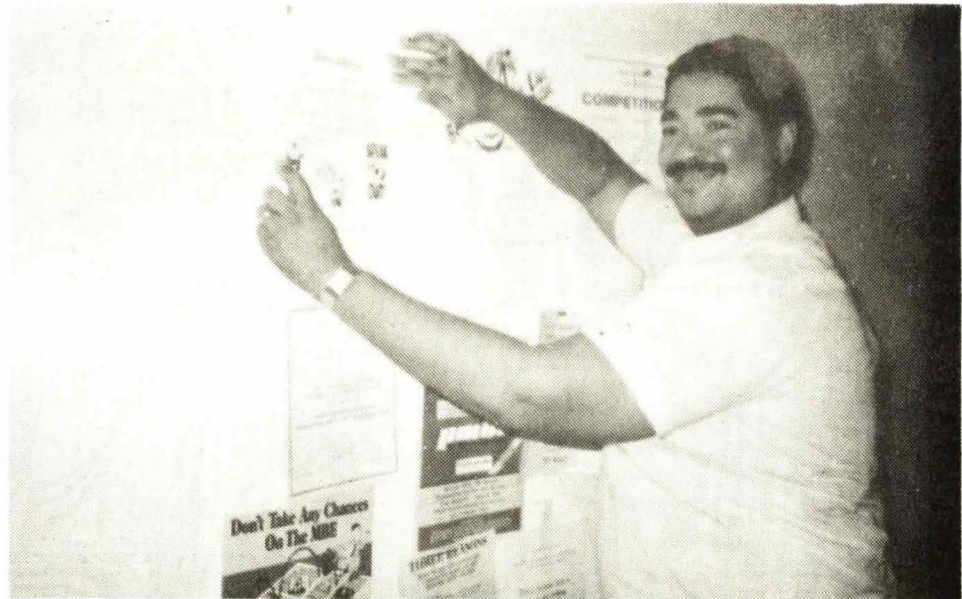
# Shea Gould v. Me: The Conclusion

**Shea Gould: 0  
Me: 1**

by Michael Harding

In the June 1988 issue of the Justinian, I gave a play-by-play account of my lawsuit against the New York Mets in Manhattan Small Claims Court. I had alleged that the Mets, represented by Shea Gould, had breached their contract with me by failing to honor a raffle in which I claimed I had won matching his-and-hers diamond watches.

I am glad to report that the lawsuit filed against Sterling Doubleday, Inc. (the owner of the Mets), and E. Gluck Corporation (the watch manufacturer) has been amicably settled out of court. (Editor's note: The terms of the settlement state that the full details of the agreement between Michael Harding and Sterling Doubleday, Inc., cannot be printed in this newspaper. However, Michael Harding has been seen wearing a diamond wristwatch and a big smile.)



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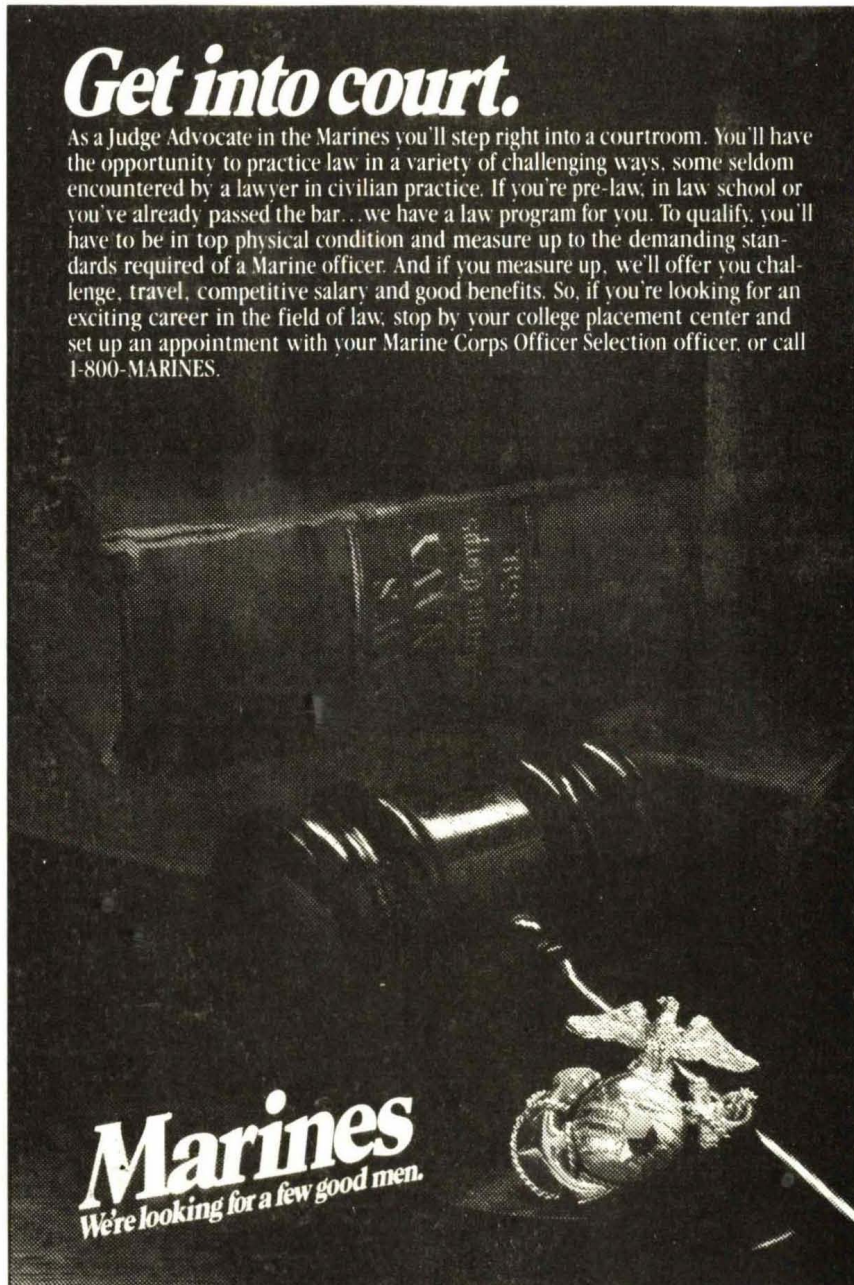


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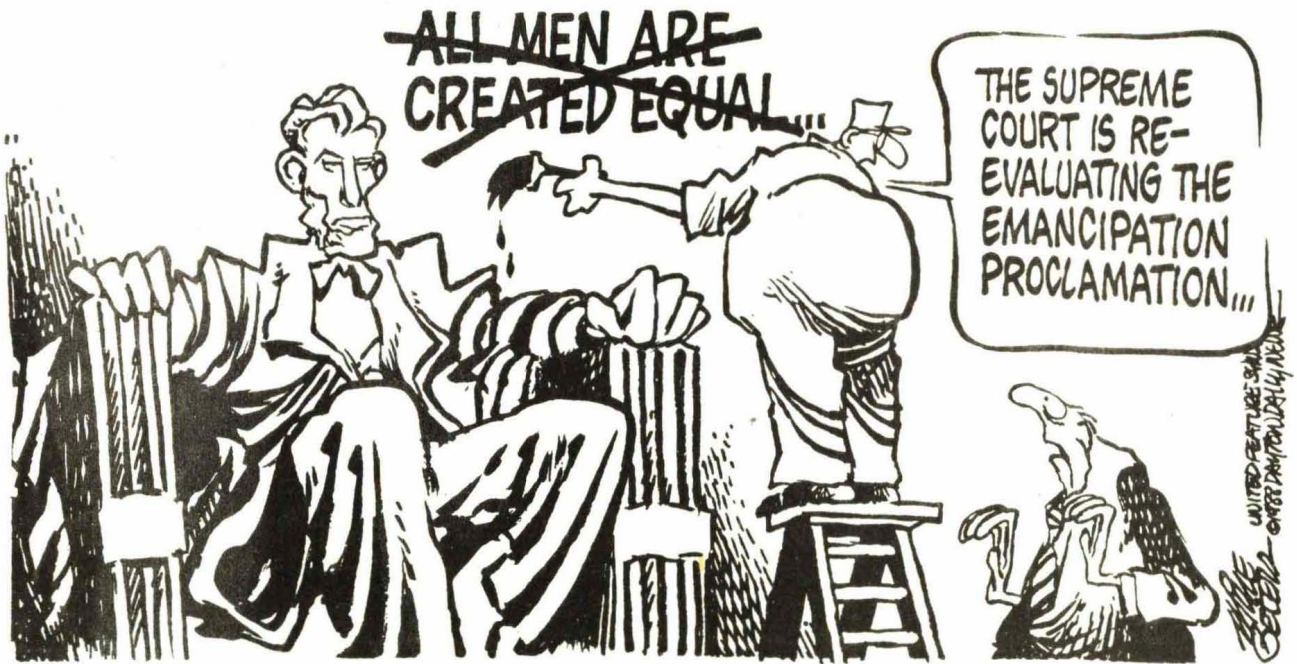
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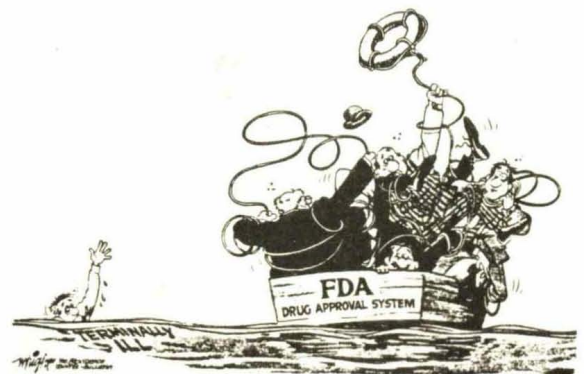
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## ARTS AND ENTERTAINMENT

By Barry Stelbourn

### Spray and Watch, Hairspray That Is

*Suds: The Rocking '60's Musical Soap Opera* is the title of the new musical "popperetta" that opened on Sunday, September 25 at the Criterion Center on Broadway at 45th Street. It was written and created by Bryan Scott, Melinda Gilb and Steve Gunderson and starring the latter two as well as Susan Mosher and Christine Sevec.

The story, what little there is of one, is set in a laundromat in anywhere U.S.A. in the pre-Vietnam 1960's and focuses on Cindy, a teen-age girl who works in the laundromat. It is her birthday but everything is going wrong for her. Her family is killed and she owes \$10,000 in back taxes, her cat is run over by a car and her pen-pal boyfriend breaks up with her via telegram. In response to her desperation, she decides to kill herself by draping a towel around her head and sticking her head in the washing machine. But just as luck would have it, two guardian angels, Marge and Dee Dee, are sent down (a la *It's a Wonderful life*) to protect her and help her see that life is worth living. O.K., so much for plot.

What happens for the next two hours is non-stop, escapist musical entertainment that will keep you in a constant, uh, lather. *Suds* features more than 50 classic songs from the late fifties and early sixties. From James Brown to the Supremes, from Otis Redding to the Beatles, *Suds* will keep you singing and smiling for a long time after the lights go up at the end of the performance.

I strongly recommend seeing *Suds* if you like to forget about everything else, if you like sixties music and if you're not in the mood to think. Tickets are \$24.00 and \$27.50 (it is a small theatre, so it doesn't really matter where you sit). For ticket information, call Telecharge at (212) 239-6200.

### SEASON OF DISCONTENT

*Eight Men Out*, the new film from writer/director John (The Brother From Another Planet) Sayles, depicts the true story of the 1919 World Series which was thrown by several players of the heavily favored Chicago White Sox. It's the story of a baseball team that couldn't lose unless it wanted to. But eight key members of the team wanted to lose. Each of the players involved was to receive \$10,000 for his part in the fix, but the money wasn't that important, it was the revenge against the greedy team owner (he gave the players flat champagne as their "bonus" for winning the pennant) which prompted the players to throw the series.

It is the story that classic films are made of, but unfortunately this film didn't live up to those expectations. The film looks absolutely beautiful, from the costumes to the sets to the brown tint of the print that gives it an antiquated look, Sayles captures the feeling of the era flawlessly. However, he forgot to include one element that was most certainly present throughout this entire incident-emotion.

Perhaps it was because he tried to put

too much into the film's look, or maybe there was too much focus on the gamblers, but more than both of those reasons, I think the film ultimately failed because we, as viewers, were not allowed to get close to the players. Sayles employed a huge cast of characters to show how many people were affected by the scandal, but in the process, with a few exceptions, none of the characters had any depth. The film would have worked much better had Sayles focused more on the players who were torn by the unthinkable prospect of losing the World Series and the discontent with their owner that inspired them to throw the series.

The two actors that were able to transcend the emotional indifference were John (The Sure Thing) Cusack who portrayed a character who hated to lose and did not participate in the fix but was nevertheless accused in the conspiracy, and David Straithorn who portrayed the aging pitching ace. Other members of the cast included Charlie Sheen, Christopher Lloyd, and D.B. Sweeney.

This film could and should have been much better than it was. The legendary story was the ideal basis for an exciting and moving cinematic experience. Unfortunately, despite the flawless look of the film, *Eight Men Out* was about as interesting as an Orioles/Mariners game in late September after the division titles have been clinched. Nonetheless, if you have nothing to do, or if you're sick of studying, go see this film. There are worse ways to kill two hours.



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