

# The Justinian

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## The Justinian

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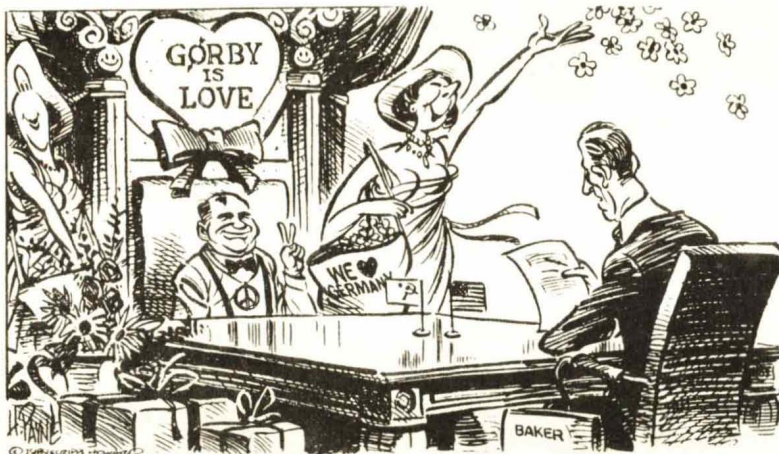
# Congratulations to the Class of '89!

Summer, 1989 Vol. LIX, No. 1

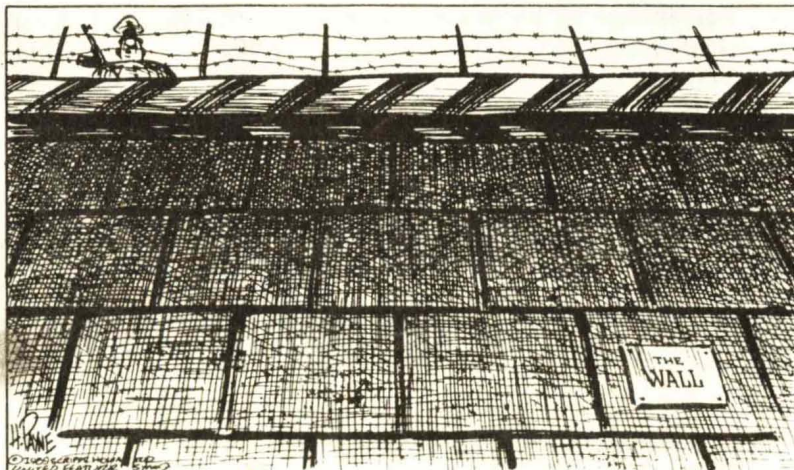
## *THE* JUSTINIAN

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

### Life and Law in the Soviet Union



"FIRST OFF, WE'D LIKE TO DISCUSS CUTS IN YOUR OVERWHELMING SUPERIORITY IN PUBLIC RELATIONS..."



"WE, THE WARSAW PACT NATIONS, HEREBY COMMIT OURSELVES TO THE VIENNA ACCORDS ON HUMAN RIGHTS — SO WHY DOESN'T ANYONE BELIEVE US?"

Soviet Joint Ventures  
Soviet Judicial System  
The Ghost of Stalin

#### Spotlight on:

Brooklyn Journal of  
International Law

Brooklyn  
Law Review

Moot Court Honor  
Society

*Have a  
Great  
Summer!*



# Justinian

Volume XXXIV - No. 9

TUESDAY, APRIL 9, 1974

See latest  
**PLACEMENT  
NEWS**  
on Page 15!

## Statistics On Placement Office Discouraging

By Bob Heinemann

A comprehensive survey on the success of 1973 BLS graduates in obtaining employment was released by the Placement Office. The numbers are not good. One glaring fact is that of the 304 reported job offers only 86 were obtained through the efforts of the Placement Office. Mr. Haverstick, the Director since March of 1973, called this statistic "shocking," a "major concern," and "certainly not representative of what the Placement Office can do."

In addition, only 58 out of the 209 graduates who are known to be employed — less than 28% of a number which represents 51.6% of the 1973 class — received more than one job offer. The rest had no choice at all. The number of students receiving multiple employment offers "has weight in determining the prestige of the school." But Mr. Haverstick feels that this statistic is not an accurate reflection of the quality of BLS because some students, including Law Review members who generally get several job offers, did not report them. He feels confident that there will definitely be "an increase in multiple job offers this year despite a smaller job market."

### Evening Students

There was also an alarming discrepancy between the ability of day division and evening division students to obtain employment. While 57% of day students



Hank Haverstick

were successful, only 36.2% of evening students found jobs. Mr. Haverstick feels that since most evening students work while they attend BLS, "many remained employed but within that capacity." He also blamed the "negative image developed toward evening division students which occurs unfortunately." Employers seem to feel that

night school education is inferior because of part-time professors, and the amount of study time that is lost due to being employed during the day. This impression is erroneous and "not true of BLS." Mr. Haverstick is preparing a brochure on the background of the faculty and students that will clear up any misconception about the quality of the evening students education.

Another statistic showed that male students had a somewhat easier time obtaining a job than did female graduates. This is expected to even out due to more enlightened attitudes and "a higher percentage of jobs for women in 1974."

Government agencies (24.2%) and private law firms were the major employers of BLS graduates (29.8%). By far the larger number of private firms hiring were small firms with an office staff of 14 attorneys or less. BLS students had much less success with medium, and large sized law

### JOBS AND THE BLS CLASS OF 1973

Percentage of known employed	51.6%
Graduated	405
Employed	209
Unemployed	55
Unknown	141
Reported Employment Offers	304
From the Placement Office	86
From Outside Office	218
Day Division Student Employed	57.0% (171 out of 300)
Evening Div. Students Employed	36.2% ( 38 out of 105)
Male Students Employed	52.6% (193 out of 367)
Female Students Employed	42.1% (16 out of 38)

### Salary Statistics on all Reported Offers:

Median	\$12,500
Mean	\$12,352

# The Justinian

A Forum for the Brooklyn Law School Community

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*Ching Wah Chin*

Managing Editor  
*Stanley Lee*

Articles Editors  
*Ruth Bernstein, Bruce Kaufman,  
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250 Joralemon Street \* Room 305  
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## Editor's Corner

### Where Are We Going?

In the early years of the Cold War, the policy of "containment" was suggested as a counter to the communist threat posed by Stalinist Russia and Maoist China. Using a combination of military force and political persuasion, the west would "contain" communism until the communist systems crumbled by themselves. There was no timetable, no belief in quick success, only an unending fear of nuclear armageddon. But we have survived to see signs of the revitalization in Russia and China that many of our parents never thought they would see.

We live in a time where Soviet intellectuals have found their voice. We hear of Soviet nationalities marching against the authority of Moscow. We see armed troops turned back and police lines collapse under the weight of students in Beijing. We watch as the Soviets and Communist Chinese turn towards a market economy, rekindling the same fires which, if they burn out of control, will result in the same social traumas that helped overturn their previous regimes. We live in interesting times. But what does this have to do with law students in Brooklyn?

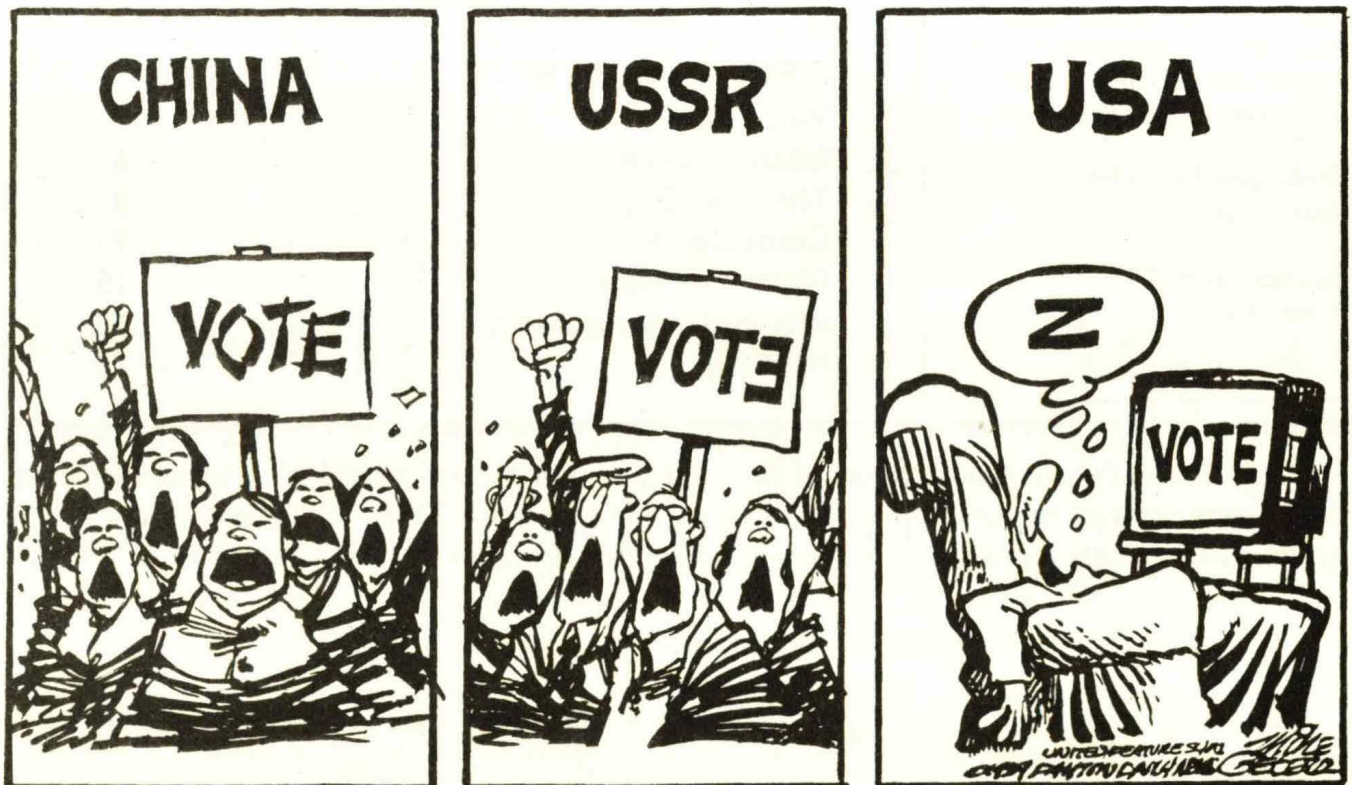
We exist on a semester to semester basis, worrying about our classes and our jobs. We take up social issues as we please and we complain when we are irritated. We protest, free from the threat of death squads and paramilitary thugs. We tend to

confuse our causes with causes whose supporters face murder and torture the way we face media coverage and advertisements. And we forget what we could do with our abilities.

Instead, we remember that BLS is not Harvard or Columbia. We remember that BLS is not known as a national law school. We remember our noisy library and sweltering cafeteria. We place limits on ourselves and blame our environment for our boundaries. We forget that we can change society, case by case, or by sweeping legislation, if we wanted to. We forget that we can work quietly, in an ethical manner, being a credit to the legal profession, if we wanted to. We forget that we can succeed at a non-legal career, if law is not our calling, if we wanted to. Most of all, we forget that whatever problems we have, they do not compare with having tanks in our streets and secret police at our doors. We should remember that if people around the world can make a difference against murderous odds, then we can at least attempt to make the world better, a piece at a time.

Where that attempt begins is up to us. We can join the many active groups at BLS. We can better support the SBA and other BLS institutions when they call for reasonable and responsible changes. We can learn more about alternative career paths. We can attend BLS events which provide broader knowledge than that usually found in casebooks and classes. We can just get involved.

Moreover, we can continue that involvement as we leave BLS, carrying with us the legal training that was given. We can remember that we have more legal skills and talents than the average person, and that we can use those abilities to benefit society. We can remember that the limits placed on BLS graduates have been broken by BLS alumni, again and again. And we can remember that wherever we come from, it is far more important to us, and to the world, where we are going.



# The Final Chapter

by Ching Wah Chin

They say that the first year is the hardest year and in many ways they were right. I took over the *Justinian* in the middle of my first year and was thrown into a balancing act of serving my classes, serving my legal career, and serving my school. Perhaps attempting to mix my grades with a sense of obligation is the wrong way to go through law school. On the other hand, it would be a most distressing thought that a law school did not value responsibility to one's community. I am glad that I had the opportunity to bear some of that responsibility. And I would still accept an offer to become editor of the *Justinian* just as readily, even after seeing what work was involved.

However, there remains much to be accomplished. The *Justinian* could be more than the irregular publication that it is. Students must become more involved in reporting their activities in order to let their fellow students know more of BLS opportunities.

Controversial issues should be discussed with more balance and depth, to foster rational discourse instead of pronouncements about various pet agendas. The *Justinian* could also be a link between the alumni and the present student body. In fact, the *Justinian* started in the 1930s as an alumni publication. More alumni article contributions to the *Justinian* would be a way of developing a BLS network, a network so necessary for a school's growth. The list goes on and on. There are so many possibilities. Many have already taken beginning steps. But the limits on the time available to students for running the *Justinian* are very severe. There are no academic credits and no stipends for *Justinian* staffers. While this situation might be necessary to maintain the *Justinian's* independence, all those who work or have worked for the *Justinian* should be recognized for the job that they've done.

In addition, that job is a difficult one. Journalists by the nature of their profession tend to take sides, consciously or unconsciously. Perspective is easily skewed from a lack of viewpoints. Emotional pontification is usually a more satisfying method of writing than calm analysis. Furthermore, lawyers are trained to advocate their sides as persuasively as possible. The combination lawyer-journalist can all too easily project an impression that their view is the only correct view. Often the only way to keep the *Justinian* free of such bias is to open its pages to as many writers as possible. On the other hand, our editors have a duty to manage the *Justinian* with a level of integrity and sensitivity. Balancing censorship and responsible editing is no easy task. It is also difficult for the editors to write on topics which

other members of the BLS community are better able to write on. It comes down to the same primary issue again and again, not only in our year but in all the years past. The *Justinian* is starved for writers. It takes an enormous effort to collect sufficient material for just one issue of the *Justinian*.

Student leaders who wish to publicize their organizations should write more on the issues and activities of their organizations. Members of the BLS community can offer more complete material or more concrete leads for articles to be published. Writers can contribute in computer-readable form so that precious labor can be saved from transcribing. We understand that our readers are burdened with classes and other work. *Justinian* staffers share the same burdens. But the *Justinian* cannot be run by one person or even a group of persons. It needs help from all of BLS.

*Perhaps attempting to mix my grades with a sense of obligation is the wrong way to go through law school.*

In retiring from the *Justinian*, I want to thank all those who have given that help to the *Justinian*. I give special thanks to Dean David Trager, former SBA treasurer Tim Tripp, and outgoing SBA president Jean Mandic for their assistance in modernizing the *Justinian's* production system and

making our new magazine format possible. I thank the previous editors for the help they gave me when I began here: Robert Roth for teaching me that a legal career can exist with journalism; Gail Rothman for reminding me of my conscience more than once; Freddy Jacobs for keeping a sense of humanity; Rosemary Townley for a caution about overexertion. The graduating members of *Justinian* also need recognition: Bruce Kaufman for his professional air; Jeff Schagren for his good-natured determination. Veteran members: Stanley Lee needs mention for his questionable humor and all-night layout sessions; Ruth Bernstein for both her editing and writing; Helen Lee for her layouts and proofing. Tara Christie, Michael Harding, Colleen Piccone, Amy Rhodes, Mary Schwartz, Barry Stelboum deserve grateful thanks for their regular articles. There have also been first-years, like James Sherman, who have well-earned their place on the masthead. And of course, Dawn Kelly kept the advertising revenues flowing and Dare Law kept recalcitrant vendors in line. I'd like to thank all of the faculty, administration, and students who contributed to the *Justinian*, be it through articles, letters, cooperation, or inspiration. Special mention must be given to groups such as L.A.W. and the Democrats for their regular contributions. And I thank all those groups which generously granted me the necessary flexibility to perform my *Justinian* duties.

A publication is always the product of a team. I've had the privilege of managing a *Justinian* team which is comprised of some great BLS players. All that was accomplished should be credited to their work and dedication. I strongly urge all our readers to continue supporting them.

## 1990-1991 Judicial Fellows Program

The Judicial Fellows Commission is inviting applications for the 1990-91 Judicial Fellows Program. The Program, established in 1972, is patterned after the White House and Congressional Fellowships. The Judicial Fellows Program seeks to attract and select outstanding individuals from a variety of disciplinary backgrounds who have an interest in the administration of justice and who show promise of making a contribution to the judiciary.

Two or three Fellows will be chosen to spend a year, beginning in September 1990, in Washington, D.C. at the Supreme Court of the United States, the Federal Judicial Center or the Administrative Office of the United States Courts. Candidates should be familiar with the judicial system, have at least one postgraduate degree and two or more years of successful professional experience. Fellowship stipends are based on salaries for comparable government work and on Fellows' salary histories but will not exceed the GS 15, step 3 level, presently \$60,968.

Information about the Judicial Fellows Program and on application procedures is available upon request from Vanessa Yarnall, Associate Director, Judicial Fellows Program, Supreme Court of the United States, Room 5, Washington, D.C. 20543. (202) 479-3374. Application material should be submitted by November 15, 1989.

## Fulbright Grants and Graduate Scholarship Opportunities for Study Abroad

Areas available to study in include: Africa; American Republics; Austria and West Germany; East Asia and the Pacific; Eastern Europe; Italy; Near and Middle East; Scandinavia; and Cyprus, Greece, Portugal, Spain, and Turkey.

Grants and scholarships are generally available only to U.S. citizens who will hold a bachelor's degree or the equivalent by the beginning date of the grant, but who not hold the Ph.D. at the time of application.

Grants and scholarships generally provide round-trip international travel, tuition, maintenance for one academic year, and health and accident insurance.

Specific eligibility requirements, information on benefits, etc., are contained in the brochure, "Fulbright and other grants for graduate study abroad, 1990-1991," which may be obtained from BLS Fulbright Program Adviser, Professor Maryellen Fullerton, (for enrolled students) or from the Institute of International Education office (listed below) for students not enrolled in a college or university at the time of application.

The U.S. Student Programs Division of the the Institute of International Education offers these Fulbright grants and scholarships. Grants are funded by the Office of Academic Programs, United States Information Agency.

**Fulbright Program Adviser: Professor Maryellen Fullerton**

**BLS Campus deadline date: October 15, 1989**

U.S. Student Program Division  
Institute of International Education  
809 United Nations Plaza  
New York, New York 10017  
(212) 984-5330

## CORRESPONDENCE

### Support Dean Trager and BLS Policy

Dear Dean Trager:

I wish to express my support for your position on Brooklyn Law School's policy of allowing the United States Army to recruit on campus. I feel this letter is necessary after reading the irresponsible attacks on you, the Board of Trustees, and the United States Army in the April, 1989 edition of *The Justinian*.

I find all discrimination repugnant and I am by no means a "homophobe." The military's policy of not allowing homosexuals in uniformed service is not improper, and the federal courts have acknowledged its propriety (*Dronenburg v. Zech*, 741 F.2d 1388 (D.C. Cir. 1984)). I applaud the school's decision to respect and abide by the rule of law.

In my opinion, the position I am espousing is supported by the majority of my colleagues. This is evinced by the low percentage of students that signed the petition to bar the military from recruiting on campus. Furthermore, I have yet to speak with one of my friends or acquaintances who supports the minority position. Many students realize the wealth of opportunities the Judge Advocate General's Corps has to offer a graduating lawyer. To deny students equal access to these opportunities would be much more damaging than merely displeasing a small, albeit vociferous, group of students.

It was reported that the Student Bar Association voted to back the student protesters. The S.B.A. is expressing an opinion of its own and their position is not representative of the student body. No election, poll, survey or other opinion gathering device was employed. According to a letter in *The Justinian*, at the April 24 "town meeting," the decision to support the protest was announced before any discussion was entertained. I

believe the S.B.A. deserves to be reprimanded for breaching its representative duty and that its position should be disregarded for the above reason.

Once again I wish to thank you and the Board of Trustees for protecting the rights of all of the students. Please feel free to share the contents of this letter with the Trustees and *The Justinian*.

Very truly yours,  
Robert P. Firriolo

### Support SBA Town Meeting

To the editor:

The April issue of this forum published an anonymous letter that took issue with the "town meeting" held April 24th. The issue of the meeting, according to the letter, was military recruitment on campus. Apparently, there is a standing rule which does not allow on-campus recruitment by organizations whose formal recruitment activities involve discrimination. No one disputes the military is composed of such organizations. Instead, the military has, it seems, asked the Board of Trustees for an exemption to this rule. According to the letter, the meeting began with a representative of the SBA stating that the SBA would support a position denying the military access to the BLS campus, and would formally present such a view to the Board of Trustees.

The letter-writer makes two points in his anonymous missive. The first is presented in the rhetorical question, "Why the SBA already decided the position of the students they represent before this 'town meeting'." I was not at the meeting myself, but as a matter of simple logic, I would think this puts the cart before the horse. Let's reverse gears on the question (supposing a manual transmission car), and ask instead, "Why the SBA would

hold a 'town meeting' after determining which position would represent the students they in turn represent." When asked in this way, several quite plausible answers make themselves manifest.

Elected representatives often take their positions "on the road." They do this to make sure their constituents understand exactly what was at issue, and what considerations led to their decisions. They also look to see how they and the stand they took are perceived. It is not unknown for a representative to change a position already taken based upon its unpopularity. These are, one should think, commonplaces for a government and a peoples such as ours. But then, upon reflection, it is not surprising that an author who chooses anonymity would fail to understand representative democracy as well as the roles of free speech and a free press. (That is, it is both his or her legal right and moral failing to insist on anonymity, as I took the editor's note after the published letter to be correctly noting.)

The second point of the letter involves an error of logical thought even more egregious than the first, should that be possible. The author states that the issue at the meeting was framed to be a justification, on the one side, and a repudiation, on the other, of discrimination, and that such a presentment of the issue is erroneous. Though he or she only says so in a roundabout way, the point being made is that so framed, the issue commits the informal logical fallacy known as the "complex question" (the "have you stopped beating your wife" fallacy). "Of course the military discriminates, and therefore, ergo, we should deny them access" goes the letter. "I, however, am not asking that question. I want to know 'Do the students of this school want the US military to have access to students just as any other firm or employer does?'" But this manifestly cannot be the question at issue, because while our letter-writer would, and in his letter does, answer this question in the affirmative, so would those he is opposing!

Those opposed to the exemption, that is, those in favor of continuing the present disallowing of military recruitment, would certainly say, yes the military should have precisely the same access as any other organization. That access is this: If they formally discriminate they are not allowed to recruit, and if they do not, they are allowed. This is exactly the access the SBA wants to give the military and only someone capable of near-complete logical confusion could have for even a moment thought otherwise. If that someone wants to further the debate then he or she will have to stop hiding behind the skirts of the Fourth Estate.

Dare Law

## Crack Down Harder on Graffiti

To the editor:

An article in the last issue of *The Justinian* on recruitment of minority students mentioned that the walls of the men's bathrooms at Brooklyn Law School are covered with racist, anti-semitic and sexist graffiti. The point of the article seemed to be that this would give minority applicants a bad impression of the school.

We thought the story of the graffiti was important and that it deserved more attention than it was likely to get buried in the middle of a minority recruitment article. We also wish that *The Justinian* had reported precisely what was written, rather than using descriptive euphemisms which invariably make hard facts easier to tolerate.

Prejudice, intolerance (and writing on the wall) are particularly disturbing in an academic institution in which reason and intelligence are expected to prevail. We hope that in the future people will not simply ignore the sort of graffiti described but will report it to the Dean. It can be cleaned off so that not just visitors but none of us will be offended. Then we can begin to confront attitudes and acts that demean us and our school.

Professor Eve Cary  
Professor Beryl Jones

## A Woman in a Male-dominated World

To the editor:

Maybe everyone is tired of reading about women struggling for recognition and respect in the workplace, but a recent incident compels me to share my experiences, frustrations and revelations.

I am a second year student. I was employed in the private sector for a few years after college, before entering law school. When I graduated from college with an English major, I came to New York City, full of hope and optimism, and in search of a job. I had never before experienced any gender discrimination, that I was aware of, and I might not even have ever spent more than a minute thinking about "those poor women" who were treated unfairly.

My first surprise was going to employment agencies and being asked how fast I could type. Thinking that they must have misunderstood me, I said, "No, you don't understand, I am a college graduate, my typing skills have nothing to do with any job that I would be interested in." I was finally persuaded, after trying five other employment agencies that this was reality. Nobody wanted to hire a

female, recent college graduate to do anything but secretarial work, or the glorified secretary, the "administrative assistant". None of my male friends ever had to take a typing test. All of my female friends, except for those with degrees in specific fields such as accounting or computer science had similar experiences to mine.

I accepted a position with a large publishing company and I typed for six months. When I could no longer bear that job, I began the search again. I was very fortunate, after a short search, I found a decent job in a personnel department of a company. I learned to interview job applicants and administer benefit programs. The trade off for not typing was an environment where all the managers were men who liked to have young single women around. Once I started working, I discovered that part of the job was to be invited into meetings where I was asked to order coffee or lunch for them. Or even worse, they invited me into the conference room just to watch me react to a dirty joke. They took me out to lunch and asked me all sorts of personal questions. At the time I wondered how does one consistently say no to one's boss' invitation for lunch, so I went. While all of this was going on I was frustrated but I accepted it. I just thought that everyone had to pay their dues, and I was paying mine. There were no women in executive/managerial positions for me to speak to. And I feared

## Reject Racism

To the editor:

Three days before his election David Duke, Grand Wizard of the KKK and Nazi Party member, suddenly became a Republican and denied his ties to racist groups. It was mere coincidence that the local telephone number for the KKK is also Mr. Duke's. In recent years, southern whites have been leaving their traditional allegiance to the Democratic Party. David Duke wished to capitalize on this shift and hid his racism behind a thin veil of Republicanism. In response the statue of Abe Lincoln arose from its somber seat to do battle. In an unprecedented series of

media appearances by national party leaders concerning a local election, President Bush and former president Reagan both strongly endorsed Duke's Republican opponent, Treen. Exploiting the xenophobic response of local whites to outside intrusion into their affairs Duke managed to win by a slim margin. Immediately after the election Lee Atwater, Republican National Chairman, announced that David Duke would be censured. While we are appalled that Mr. Duke now sits on the Louisiana legislature; Republicans are proud of their party's prompt and uncompromising rejection of his racist ideology.

Yours Truly,  
Allen Klus

that if I went to a man who was a superior to these managers, I would just be humiliated because I didn't have any physical proof of wrongdoing, only intuitions of inappropriate behavior. How sad that one has to wait until something really harmful occurs.

I am not generalizing about all men on the basis of my experiences with these few men. I have certainly met many wonderful, sensitive men to whom this type of sexism is as degrading and frustrating as it is to me.

I left that job for a terrific job in which sexism and discrimination were not an issue. I worked for a man who demanded "nothing" of me except a job well done. Doing a good job was never the hard part, the hard part was getting someone to recognize that I was a qualified, intelligent individual, not a doll or a puppet.

The problem in cases like this, as is the problem in my most recent experience

with this type of sexism, is that often men are in powerful positions, where women fear for their job or good grades. In these cases, the burden is unfairly placed on the woman to find a balance between asserting her right to be respected and not placing a grade or a job in jeopardy. All of us have the right to make our statement clear, that we are intelligent and thoughtful people, and will only seek recognition and reward on that basis.

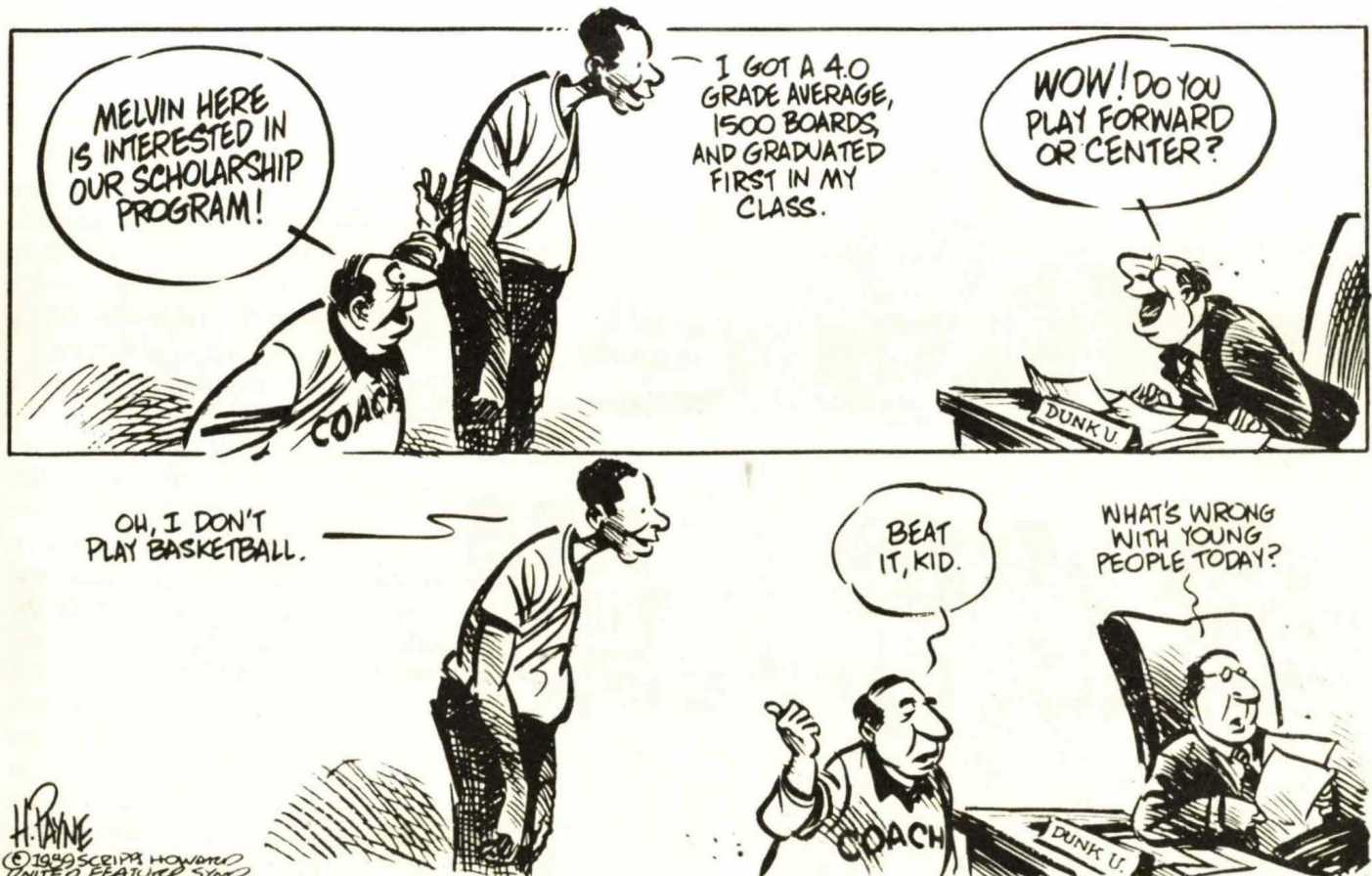
Recently, I was offered help in obtaining a job by a man who is in one of these powerful positions. He knew little of my intelligence and nothing of my background or credentials. The offer for help was made over a lunch which he pressured me into going and was brought up in an inappropriate manner. Why did he want to help me? Without sounding too cynical, I feel that I was being sold as an object, not as a person with qualifications. He showed little interest in knowing my qualifications, and could

only refer me to his "friend" on a completely superficial basis. I am not naive enough to think that people don't or shouldn't use networking to help obtain job opportunities. But, I believe there is a difference between a referral based on knowledge of a person's skills and talents and a referral based on physical appearance. Where sexual innuendos are communicated and nothing of one's talents are known, the help is unwelcome.

This behavior is intolerable, and must be brought to the attention of someone, even when there are personal risks in such exposure. As women, we cannot let this perpetuate by being passive and accepting of this demeaning behavior.

The only thing that has changed in my experiences with sexism, is my level of consciousness, awareness and my diminishing tolerance of this type of practice. Somehow it feels like a revelation.

Anonymous



# Grade Point Anarchy Continues...

To the editor:

An open letter to BLS First-Years:

Don't despair first year law students. That poor grade in Torts or abysmal grade in Civil Procedure is not an indication of your potential to be an outstanding attorney or your ability to "think like a lawyer." Unless you slept through all your classes or began studying for the final the night before the exam., that poor grade is probably a product of the school's arbitrary and capricious grading system.

As an upperclassman you will witness:

A. Classmates who never study, never attend lectures, don't know any of the material until cramming it all in the night before the exam and receive a 90+ on the exam; and

B. Classmates who work conscientiously, attend all the lectures, know the material very well and start studying for the final days in advance. Such students may even believe they have received a grade in the 90s and are shocked and dismayed to discover a low grade. Hopefully you will be one of the lucky few who never experience the school's seeming random allotment of grades. You will be a hard worker who receives the grades that are justly deserved and sometimes even outrageous. Freshman, the saddest element of this story is that short of going to your professor to beg for extra points, there is nothing, I repeat nothing, you can currently do to rectify the situation.

If nobody has yet steered you straight, the legal profession is a highly political and competitive field. Our grades and class rank are determined to the one hundredth of a point. Imagine last semester you carried a 16 credit load. You work hard and get a 90 in all your classes except Contracts. Suppose hypothetically, the professor has not read your paper (which in fact was excellent) and arbitrarily awards you a 78. This five credit undeserved 78 gives you a G.P.A of 86.02. Although this four point difference doesn't seem like a great deal, in reality it is the difference between being in the top 5% of the class and the top 50% of the class. It is the difference between getting through the placement Office filter and landing a good job after graduation or struggling to find a job after graduation. It is both a blessing and a curse that after the first year our grades are not easily affected by randomly distributed grades.

In all fairness, the vast majority of our professors are honorable, hardworking men and women who truly enjoy teaching, read each paper carefully and give their students a fair grade, sometimes even better than the student deserves. However, there are professors on staff who either out of sheer arrogance, spit or complacency could care less about the welfare of their students and grade the way they want period. Isn't it about time that professors who do not teach or who randomly distribute grades because they will not take the time to look at the test papers receive notification to become responsible instructors or leave.

A freshman may well ask, can't one approach the administration or the SBA about a recalcitrant professor. The answer is NO. Recently, the administration decided that two adjunct professors had awarded grades that did not fit into the school curve and forced them to lower their grades. People who saw their posted grades in the 90s ended up with 80s. Interestingly enough, when the reverse occurred a few years ago in a first year Constitutional Law class, most of the grades in the 60s remained 60s. If a school curve is going to be enforced, it must be enforced evenly and not selectively. All professors must abide by the curve, not just those who give grades

NEWS ITEM: SUPPORTERS WANT TO ADD RONALD REAGAN TO MT. RUSHMORE,



SAYINGS OF CHAIRMAN GORBACHEV

that are too high.

To placate the student body, the administration allows the SBA token representation on certain committees. If a professor refuses to listen to a student's valid argument and the administration refuses to act, as they have refused in the past, there exists no effective arbitral body to settle a dispute over grades. The professor has been quite effectively shielded by the administration and we students are forced to swallow the low grades.

There is a simple solution to the problem of arbitrary and capricious grading. Have the professors submit the test booklets and tally sheet for additions or subtractions to the Registrar's Office. Hire another assistant registrar, similar to an independent auditor, to tally the final scores for every class. In addition, all test booklets should remain on file for the duration of a student's enrollment at the school and it is the student's responsibility to check their booklets. Any professor who consistently submits their booklets without comments, or marks of any kind, should be reported to the administration and sanctioned.

I can appreciate a professor's

reluctance to give their students access to their test booklets, perhaps out of fear that the student will learn that their test was never graded and that the student will learn that their test was never graded and that they were awarded an arbitrary grade. I can even appreciate the argument that allowing students to see their test booklets will increase the burden on those professors who consistently ask the same questions every year. I can appreciate such arguments but such lazy professors, especially those who do not grade papers, should not be teaching at BLS. Both arguments can be easily overcome by giving students access only to their own booklets and denying the students the ability to copy their answers. I challenge the administration to open a forum where student concerns about the school's grading policies can be constructively discussed and to show why such ideas as I have enumerated are unpalatable.

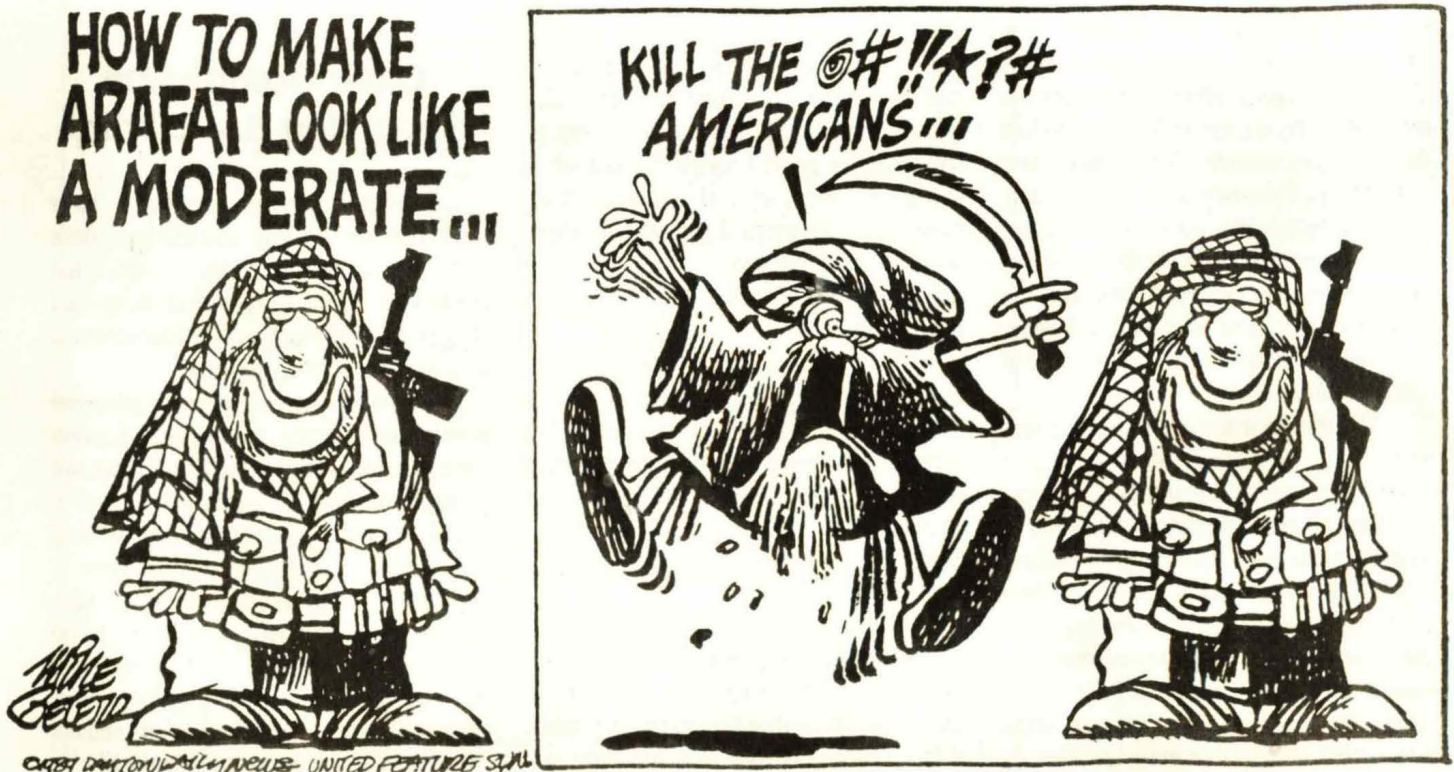
Freshmen, it is too late for us 3rd year students who are simply waiting to graduate and are fairly complacent about our experience at BLS. It is not too late for you ask hard questions and force the administration to respond with even harder answers. So Freshmen, don't

despair. Although the system is arbitrary, in the end your undeserved low grades will probably be balanced by your undeserved high grades. Why did I write this letter? It is important that grades, which are really the only gauge of law school performance, are distributed fairly and equitably and most important, that a grade is received that makes one feel good about the sweat and hard work that goes into every semester.

Sincerely,

A complacent 3rd year student

*Editor's Note: As we have received comments concerning our publication of anonymous submissions, we would like to clarify our policy. The Justinian strongly disapproves of anonymous submissions. However, a major exception exists where the editorial board is aware of the identity of the author but realizes the inordinate danger that the author may face, as a result of that author's viewpoint. In that case, the Justinian will shield that author, if the submission is deemed by the editorial board to further discussion in a responsible, reasonable manner.*



# PHOTOCOPY MACHINES: SBA Update

by Tara Christie

According to a Student Bar Association survey last September and complaints received recently concerning the quality and performance of the copiers in the library, a meeting was held on Tuesday, March 14, to address the problem.

Present at this meeting were Sara Robbins and Linda Holmes, from the library; Tara Christie from the SBA and; Michael Weiss from MDM Copying Services. MDM Copying Services owns and operate all eight machines in the library pursuant to a contract. The school receives a commission of the money MDM collects from the machines. According to the contract, all machines must be in the library to permit supervision.

The library and Mr. Weiss felt that there are no real problems with the performance of the copiers. The machines are serviced every day, including weekends, by an MDM repairman. The library staff are also qualified to handle many service problems. MDM, in the past 3 months, has replaced all but 3 machines with a new SHARP 8500 Model, released in 1988. This copier is capable of handling 20,000 copies a month more than the older model. It makes faster copies, needs less service and generally, is of a better quality. According to MDM, the new machines were installed simply in order to provide better service and not because of problems with the older models. The remaining 3 older machines are scheduled to be replaced in the near future.

The real problem with the copiers seems to be due to a lack of communication. Students must inform a member of the library staff when a machine runs out of paper, misfeeds, or is not working. The library staff is willing to immediately add more paper or service the machine but they must know the machine is not working first. For a student who is copying in the basement or on the second floor when this happens, there is a phone near the machines which can be

used to call the front desk so that the student won't be inconvenienced. Also, the library does not feel there is a problem in terms of insufficient staffing during the week to service the copiers when problems occur. Shortages on weekends

**The real problem with the copiers seems due to a lack of communication.**

though, are unavoidable.

Students are reminded to put the cover down when they copy. This prevents an internal buildup of toner that results in breakdowns and poor copy quality. Students must also endeavor to keep the copy area free of books and waste paper as it will take longer to service the machines if the repairmen have to waste time cleaning the area before they can even get near the copier. There is also the understandable problem of keeping machines in good working order when there is a non-committal user body. If the copiers are not treated properly by those who use them, breakdowns are inevitable regardless of the stamina and quality of the copier.

As far as the price of copying goes, it is non-negotiable. According to the library and MDM, the students are getting the best possible price through the purchase of copy cards. In order to save money and prevent waste, students are reminded to check all button and print sizes before they start copying.

MDM has agreed to put coin return buttons on all the machines within 3 weeks and will see about repairing copiers on the second floor that have coin problems. Also if money is lost in a machine, you must inform a librarian in order to obtain

a refund. Such refunds are made, generally immediately, unless a regular librarian is not on duty. In that case, the refund is made the next working day.

Problems with the copier on the first floor nearest to the entrance to the library is not internal to the machine. The library does not have sufficient electrical voltage for that machine which sometimes results in rejection of copy cards. That problem can not be rectified until the library is expanded into a new wing. This is also why more machines can not be put on the main floor even though that is the heaviest usage area.

The SBA will keep tabs on any future problems with the copy machines. Students are instructed to speak to the library staff if there is a problem with a copier and, if no satisfaction is obtained, leave a note detailing what happened and what machine was involved, etcetera and put it in the suggestion box in the basement. The Student Affairs Committee will investigate all complaints.

## Other Complaints Regarding the Library

In regard to complaints that we have received concerning insufficient desk lighting and noise made by the individual desk lamps, the library has contacted Roger Brennan, the head of maintenance, to take care of the problem.

In regard to complaints received concerning library hours during exam time, the library has stated that it can not expand its hours. First, they have a problem finding students who are willing to work after midnight. Also, there is apparently a large theft problem at night. According to Sara Robbins, over \$5,000 in coin and machinery have been stolen in the past two years. These thefts have occurred mainly during off hours and the library wants to keep access to the library restricted during these hours.

## Student Affairs Committee Update

Recently, the Student Affairs Committee of SBA fielded several issues concerning **food service** at B.L.S. For a long time, students have requested an extension of cafeteria hours, citing the fact that they must walk several blocks to get a cup of coffee or something to eat during breaks in between evening classes. The head of cafeteria services has pointed out that students attending classes or studying in the library at night do not usually purchase more than one or two small items each (i.e. an apple or a muffin and a coffee). To prepare food and employ cafeteria attendants on a second shift, it is claimed, would therefore not be cost productive for the cafeteria. A microwave oven installed in the common area of the cafeteria, as suggested, was rejected by June Seddo, head of Student Services, as it would not solve the problem of having to bring in food from outside. The suggestion of installing coffee vending machines was also rejected because the machines had been damaged in the past. A request for seltzer to be included in the vending machines is still being followed up.

Alternatively, June Seddo has offered to attempt to have the **food prices posted** in the cafeteria. For day students, this may offset some of the expense and inconvenience of having to get food outside the school. At night, however, students will still be faced with the unavailability of the day menu. Also, the Student Affairs Committee is working on putting a few coffee urns in the cafeteria at night. An honor system whereby each user would be responsible for putting 50 cents in a till, would be employed to pay for supplies. Students would also be responsible for changing the filters and refilling the machines. More news to follow on cafeteria suggestions.

The **bookstore** has been labeled as having inconvenient hours at the beginning of the semester. Attempts are underway to have the bookstore open earlier and longer, especially on the weekends before the start of the semesters.

After meeting with **library** personnel, S.A.C. has been able to schedule a meeting with the company that owns and repairs the photocopy machines in the library. Check this issue of the Justinian for the article detailing the meeting.

The Publications Committee has finished work on guidelines for the use of the **bulletin boards** throughout the school. Implementation of the guidelines will involve all clubs and interest groups in the school. The guidelines are designed to effect efficient and fair use of the bulletin boards, insure cleaner hallways, and to promote an overall neater appearance of the school. Ratification of the guidelines is scheduled, after which, club officers will be notified.

The unavailability of funds, insurance, and a viable plan to cover all of the B.L.S. community has stalled the plan of hiring a **security/escort service** for students travelling to and from school at night. However, a second plan to bolster the safety of students will be implemented in the very near future. A sign-up sheet placed in the lobby will now facilitate students' efforts in finding other students or groups who are travelling in their direction.

A final note about the **phones**: we have made some progress, but the phone service is far from perfect. We still need your help. Anytime you lose money in a phone, are disconnected, etc., please note 1) which phone/location of phone; 2) time; 3) amount lost; 4) your name and phone number, on a slip of paper, and turn it in to the S.B.A. office or the suggestion box outside the cafeteria. All correspondence is confidential.

We need your input! Air your views via the suggestion box. Thank you.

## SBA Update

by Jean Mandic

### SBA Toy Drive

SBA would like to thank all the BLS students and faculty who made our toy drive so successful. Over 100 toys were collected and distributed by the Salvation Army to needy children in the Greater New York area.

### SBA Party

It has come to SBA's attention that several students and faculty members were offended by our scheduling a party on Ash Wednesday. This scheduling error was the result of mere inadvertence and was in no way intentional. SBA, in planning its events, tries to take into account all religious holidays. We apologize if we offended anyone.

### "Commuter Company"

SBA wants to ensure that BLS students get home safely at night. As a result, the Student Affairs Committee of SBA is planning to set up sign up sheets in the lobby whereby students can sign up for the time they are leaving and the destination to which they are going and meet up with students who are leaving at the same time to the same place. If you have any questions or need additional information, stop by the SBA office.

### Election Results

Congratulations to the Executive Board of 1989-90! After a run-off election, the President will be Lawrence Schuckman, the Vice-President will be Irene Chang, the Treasurer will be David Scharf, the Secretary will be Lauren Siskind, and Denise Iocco is the new ABA-Law Student Division Representative.

## ON THE MOVE: Student Organizations to Relocate to One Boerum Place

by Ruth Bernstein

The rumor is true — some student organizations presently located on the third floor of the school's main building, 250 Joralemon Street, will be relocated to the first floor of One Boerum Place. According to Dean for Student Affairs Joan Wexler, Law Review, International Law Journal and Moot Court will all be moving, sometime this summer. The Student Bar Association and The Justinian will remain on the third floor.

"We had been renting the space to Chase [Manhattan Bank]. We decided not to continue renting it to Chase because we needed the space back. We need faculty offices, and we're going to have more seminar rooms over there. The time was right, the lease was up, and we needed

space, and it's going to be great. We're going to have a lot more space."

Wexler says the space on the third floor currently occupied by the student organizations will be converted into office space for professors, including two new professors who will be visiting Brooklyn next year. Professors need to be in the main building, Wexler points out, so they can have better access to their colleagues, and to the faculty library.

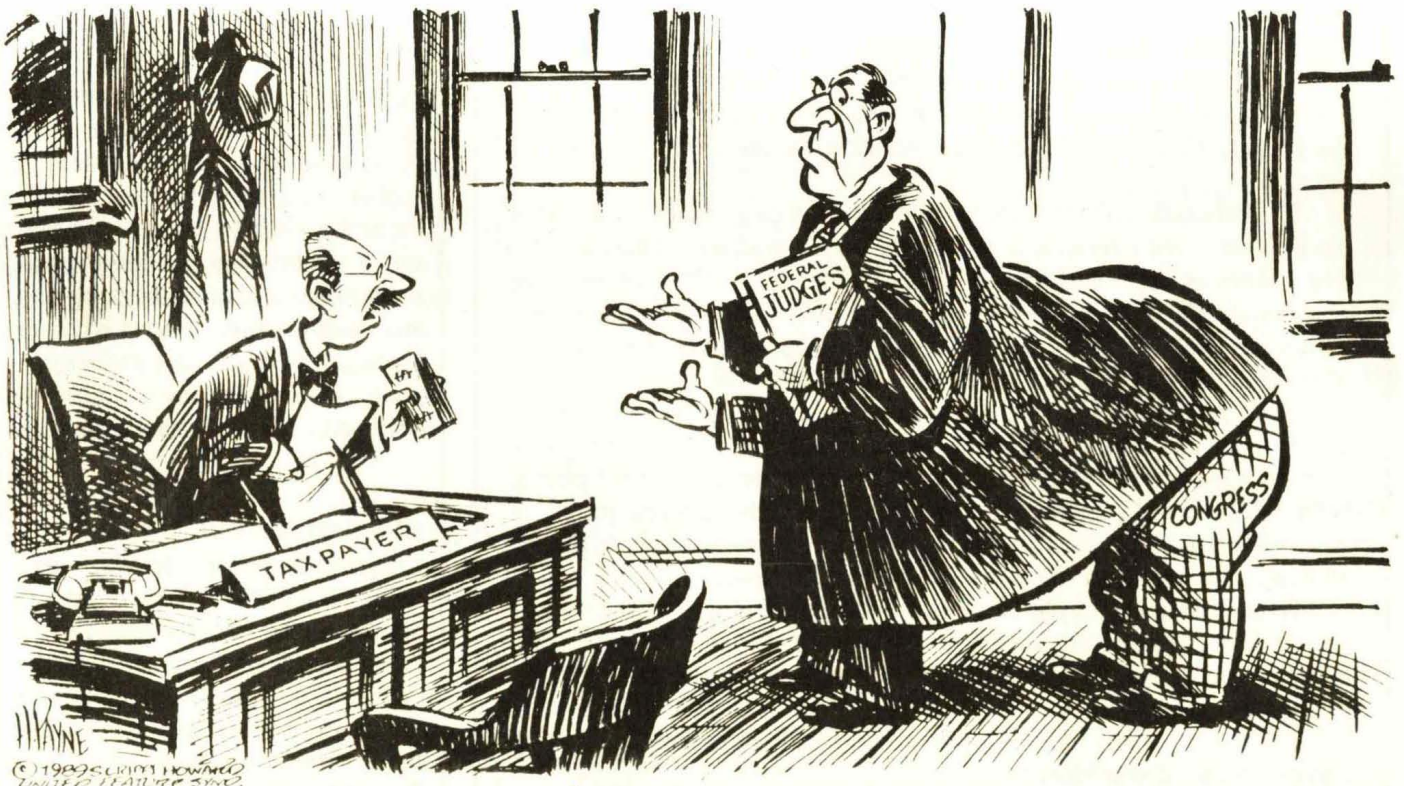
There will be a full-time guard in the Boerum Place building to protect students who work late into the night. And Wexler said the students will be consulted on how to organize the office space.

"All the student organizations will be located in the same place, and they will be in much nicer surroundings than we have been able to provide for them, thus far, says Wexler. "It really will be much better space."

Wexler cautioned both students and faculty about the increased pedestrian traffic that will occur as more students need to cross Boerum Place to work in the offices. "I hope everyone learns to cross at the corner. We all must learn to be careful."

## The Young Republicans Club

The Young Republican club conducted elections and second-year Vanessa Newman was elected president and Allen Klus was elected vice-president. A new treasurer, Scott Jaffe, and secretary T.A.D. DiBiase were also elected. The increase in members was due to increased interest in the New York City mayoral campaign. The club plans to invite both declared candidate Ronald S. Lauder as well as expected candidate Rudolph W. Guilani to speak. Last fall, the club hosted Robert McMillan, the Republican candidate for U.S. Senate. The club also plans to aid the winner of the Republican Mayoral primary. All Republicans or other interested parties are invited to attend the meetings.



"...AND FOR DISTINGUISHED AND HONORABLE PUBLIC SERVICE, I DO  
HEREBY GRANT THIS PAY RAISE TO — HEY, WAIT A MINUTE!"

# Placement News

## CLASS OF 1988 EMPLOYMENT REPORT

### RESULTS OF NALP SURVEY

percent of 1988 class responding	89%
percent of respondents currently in job market who are employed	96%

total number of graduates	376
total number of respondents	333
total number of respondents employed	305
total number of respondents unemployed and not seeking employment	14
total number of respondents unemployed and seeking employment	14

### AREA OF PRACTICE

self-employed	<1%
very small firm (2-10)	21%
small firm (11-25)	6%
medium (26-50)	7%
large firm (51-100)	10%
very large firm (over 100)	17%
business	3%
public interest	6%
government	18%
judicial clerkship	4%
non-legal	8%

## OFFICE FOR AMBITIOUS ATTORNEY

WITH GENERAL PRACTICE EXPERIENCE

SEEKING TO OPEN OWN OFFICE

Newly renovated suite, Conference room & Library facilities,  
Secretarial space available, Friendly atmosphere,  
Overflow possibilities

**Immediate Availability Mid-Nassau Area**

Call Larry Weiss, BLS '73  
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## Students urged to take part in Writing Competition

The *Brooklyn Law Review* and *Journal of International Law* First-Year Writing Competition will be held this June from Sunday, June 11 through Monday, June 19.

Many of you already know that membership on a law review or journal can add an important dimension to your academic experience. However, membership on a scholarly publication means more than simply an attractive credential to prospective employers.

Membership on the *Brooklyn Law Review* or *Journal of International Law* means the opportunity to contribute to legal scholarship by the publication of an article in one of several issues published annually. The article may concern, for example, a critical examination of a new development in the law, or a recent Second Circuit opinion. Whatever the topic, it is the process of writing your own article and assisting in the production of other articles that comprises the law review or journal experience. It is a task that requires a significant personal commitment in terms of time and desire to improve your writing and analytical skills.

We hope that you who take part in the competition will find the competition a challenging and rewarding experience.

Marian Lupo  
1988-89 Editor-in-Chief  
*Brooklyn Law Review*

# MAYORAL CANDIDATE DINKINS RETURNS TO BLS

by James Sherman

David Dinkins, BLS '56, Manhattan Borough President and New York City mayoral candidate, returned to BLS and delivered a speech to a gathering of students, faculty, and community members. The February 23, 1989 event was hosted by the BLS Black Law Students Association in their celebration of African-American history month. The following is excerpted from Mr. Dinkins's speech and the questions that follow were posed to Mr. Dinkins during an exclusive interview with the editors of the *Justinian*.

## BLACK HISTORY

"...The struggle for justice continues. Just last month, the highest court in this land ruled against set-asides in Richmond, Virginia. It would appear that the Supreme Court in its decision has set aside this nation's commitment to equal opportunity. We should be rejoicing in the fact that Richmond, a city that Thurgood Marshall described as the "capital of the confederacy," that they admitted discrimination and said they should do something about it. They recognized things were bad there and set a quota of thirty percent. They thought they needed at least that to address that discrimination, and yet the majority view of the Court trails behind the views of those citizens of Virginia. As Justice Marshall pointed out, the Supreme Court has sent a signal that it regards racial discrimination as largely a phenomenon of the past and that government bodies need no longer preoccupy themselves with rectifying racial injustice. As a member of the government of the City of New York, I respectfully disagree with the Supreme Court. Racial discrimination is alive and well, and our vigilance must not be lowered. We are disappointed by the Supreme Court decision but we must not be discouraged. We lost a battle but the war is far from over. If there is one lesson history has taught us, it is that we must persevere. We have survived before and we will survive this latest set-back.



David Dinkins, mayoral candidate.

As I often say, folks who can survive slavery can survive anything. In the words of Justice Harry Blackmun, "History is irrefutable." I believe history is on our side and justice in the end will prevail...

## CAMPAIGN ISSUES

Q: In terms of your own political agenda, what's at the top of your list?

A: Drugs and crime, education and health care, AIDS and infant mortality, housing and homelessness, those things are at the top. That, and race relations.

Q: Speaking of race relations, how are you going to prevent this election from polarizing this city along racial lines?

A: By example and by how I behave. No matter what other people do, I refuse to yield the moral high-ground. I'm going to walk the high road no matter what they do. I think the people, the general electorate and the media will help me in that regard. We have a circumstance right now: In an interview with the Wall Street Journal some time ago I was asked if I thought I could get the votes Jesse Jackson got. I said "Yes" because I think I can. Why not, it's logical, it sort of figures that people would turn out. The

mayor attacked me. He said I was starting a racially divisive campaign. Jay Goldin said that my benign comment should not have resulted in the mayor's comment. Today's press, the mayor is saying that I should not bring Jesse Jackson in, I should not bring Andy Young in...

Q: Do you intend to bring these people in?

A: Now wait, I'll answer that in a minute. The point I want to make is that he's... the press has been calling me asking me what I think about that. I think we ought to play by one set of rules. Follow, in a mere response to a question from the Wall Street Journal evoked that from him, now he's raising all this, incidentally, in Washington. In answer to your question of whether or not I'll bring in Andy and Jesse, Andy and I were classmates at Howard University. We're friends. We've campaigned for each other over the years. He campaigned for me when he was at the United Nations. I ran Jesse's campaign in 1984 and 1988. He is my friend; he is perhaps the best general we've got in the war against drugs. He goes to the schools and talks to young people and I think that's useful and helpful. He's also trying to expand the voter registration rolls; I think that's useful and helpful. And if he's here, he sure in blazes is not going to be in support of any of my opponents. He supports me. But I anticipate that there will be people in varying ethnic backgrounds, religions, sexes, men, women, gays, lesbians, who will be coming to New York in support of my candidacy because I believe in the things in which they believe. This is the greatest urban center in the world. This is not going to be a campaign which captures only the attention of New Yorkers. Other people will be interested.

Q: Last question, who do you see as your most formidable opponent right now? Do you see the mayor in the primary or perhaps Giuliani in the general election?

A: Well, I have this theory that it's not wise to start figuring out who's going to pitch the first game of the World Series until you've won the pennant.

# Public Interest Placement

by Nancy Bodurtha

The BLS Placement Office was a sponsor of the 1989 Public Interest and Public Service Legal Career Symposium held at the New York University School of Law on February 23rd and 24th. Twenty Tri-State law schools participated in this annual event which attracted over 120 employers. The two day program included information tables, individual interviews, and panel discussions.

Employers participating in the Symposium included non-profit groups such as the Sierra Club Legal Defense Fund, the ACLU, The Legal Aid Society, several legal services programs, District Attorney's Offices, as well as city, state, and federal government agencies. Most organizations had information tables set up to allow students to speak individually or in small groups with the representative attorneys. In addition to learning about various public interest and public service employers and career possibilities, students found the information table format useful for networking.

"Network" was a word heard frequently throughout the Symposium, particularly at the panel discussions held each day. Panelists urged students to build their own public interest networks through summer jobs, internships, and

volunteer work. Many panelists, such as Karen Staller who is a staff attorney at Covenant House, indicated that their current position was as a result of an internship during law school. Ms. Staller worked for a legal service program after graduation, but when an attorney position became available at Covenant House she was remembered as a hard working summer intern and was offered the job.

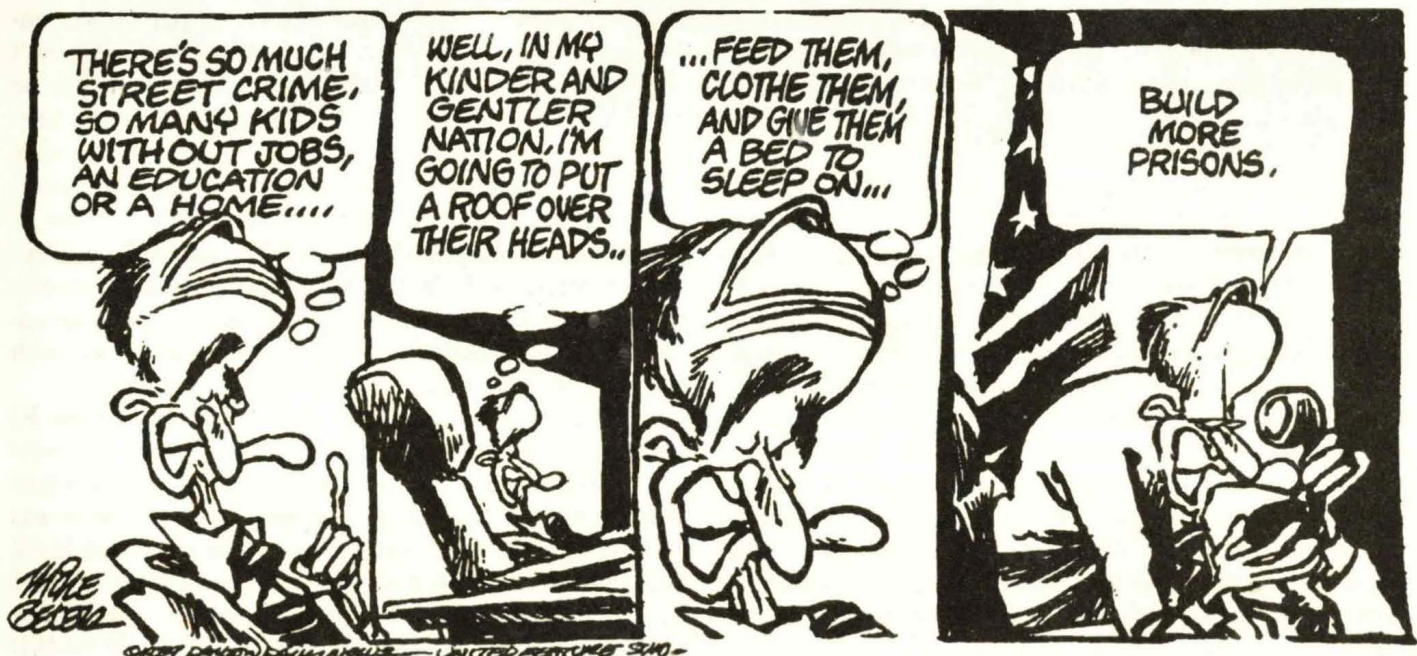
The panel topics were diverse and included Prosecutorial and Criminal Defense Work, Public Interest Law Firm Practice, and Alternative Careers for Lawyers in Public Interest. Despite the variety of careers and organizations the panelists represented, they often echoed each other's advice to students. They stressed the need for students to be flexible and creative when pursuing public interest positions. Amy Tobol, the acting president of the National Lawyers Guild New York City Chapter, lived with her parents for a time after graduation so that she could afford to follow the public interest path she wanted so strongly to pursue. Susan Jennik, now the Executive Director for Union Democracy, created her first position by submitting a proposal to the organization and then obtaining a foundation grant to pay her salary. Grants such as LSCRRRC, work-study, and part-

time paying jobs were suggested as means to supplement low or non-paid summer positions.

All of the speakers outlined their career paths to their current positions, and some reminded students that judicial clerkships and post-graduate fellowships are other options for those choosing public interest or public service work. As employers, the panelists agreed that when reviewing resumes for permanent positions, they seek candidates with a demonstrated commitment to public interest concerns. All were empathetic to students' economic worries, but felt that they earned a "living wage" supplemented by a high level of job satisfaction and fulfillment which is well worth any sacrifices they have made.

More than 50 Brooklyn Law School students attended the symposium to speak with employers, interview for summer and permanent positions, and learn more about public interest and public service legal careers. If you were not among them, or were and want to learn more, remember that the Placement Office maintains many resources concerning public interest and public service organizations, as well as current job listings for summer and permanent positions.

*Nancy Bodurtha is the Public Interest Coordinator at the BLS Career Placement Office.*



# REAL LIFE 101: How to hate grading and still live with it

by Michael Harding

Is it "GradePoint Anarchy" or is it just life? The April 1989 issue of The Justinian ran an article that gave the low down on the anonymous grading system and the use of copycat exams, among other things. No student in BLS can argue the validity of this article, as we all know it to be true. The end result of this article left students feeling one of three ways. There are those students who just can't believe that law school isn't on the level. They are the ones seen walking around our luxurious nine story campus muttering, "I can't believe law professors give repeat exams." Or, "I can't believe that anonymous grading isn't fool proof." Then there are those students who fear retaliation (in exam form) from all of those professors named in the article. They are the ones roaming the halls saying, "Who the F is Bruce Kaufman and why did he write that article right before exams?" Finally, there are students like me who say, "Who cares! Life isn't fair and why should law school be any different?"

I came to law school to learn the law and then to use this knowledge to pursue a career as an attorney. What some might perceive to be inequities in the grading and examination policies of BLS are recognized by me to be realistic means in which to achieve my goal. Life is not a bowl of cherries and wherever you go, whatever you do in life you will come across some pits. Now let's apply this to BLS.

So, anonymous grading may be a farce. Is anonymous grading really necessary? Miraculously, we all survived four years of undergraduate study on a non-anonymous grading system. How scary that was; professors actually knew who the students were when they graded exams and papers. In any case, anonymous grading can not be an absolute. Ever hear of an upper class writing requirement or a class in which your grade is based on a brief? Do you think that in these classes, the professors block out of their minds whose paper it is their grading? Unlikely, maybe even impossible. The school's anonymous grading policy temporarily keeps the student's identity secret from the instructor. The professor does learn the identity of each student before adjusting the final grade, but presumably almost all give the student the grade associated with the work done. The bottom line is that if a professor is out to get you, he's gonna get you. Fortunately, I don't think that happens often. But if it does, it's unfortunate, but that's life. You pick yourself up and move on. I did.

During my first semester, I thought my Legal Process professor had it in for me. I walked out of his final exam feeling good. My grade was the lowest in the class. It was more than ten points off of the average of my other classes which, contrary to popular belief, doesn't mean a thing. (An Am Jur in Contracts doesn't mean an Am Jur in Corporations.) I voiced my displeasure to my professor. My grade stood. My recourse: He'll never see me in one of his classes again. That's it! Move on with your life.

So, some exam questions are repeated? I don't think there are too many students willing to pin their final exam grade on the hopes that their final will be the same as a prior one. If a professor draws repeat questions from a bank of 50 questions from five old exams, a student doesn't know which questions

will be on the exam. If a student chooses to study via old exams, they will have to go through all the questions. Even if the whole exam turned out to be a repeat, any reasonably prudent student would have prepared in case it wasn't. End result: Students walk away with some knowledge of the law in that course. As for fairness in obtaining old exams from upperclass students, this comes under the topic of networking and is open to all students.

In closing, let me leave you with this hypothetical. You're an associate in a large law firm. Your direct supervisor is a well respected partner with an excellent reputation. It becomes apparent to you that your supervisor favors one of your co-workers and you sense that he isn't particularly fond of you, despite the fact that your assignments have been more involved and your work product far more superior. Based upon your supervisor's review of

## B's

by Geanine Towers-Dioso

At the diner with my date  
And I know, by looking at him  
That I want more than he does,  
So I order a side of fries.  
We talk about the surface of things:  
Like the genuine formica slate-finish tables,  
And how my car runs, even after I shut it off.  
Naturally, with me  
The talk works itself around to school —  
So I try...  
"I hate B's. B's sort of have a way of  
saying (don't you think?) Well, you're  
good, but you're not good enough! I  
only like A's. I sort of imagine them  
as a line of pyramids, all in a row.  
and I imagine myself standing in the top triangle..."  
My date is blowing the wrong  
Way through a straw.  
Creating an eruption in his Coke glass.  
"I never should've worn this heavy sweater,"  
He complains.  
"It's so damn hot in here."

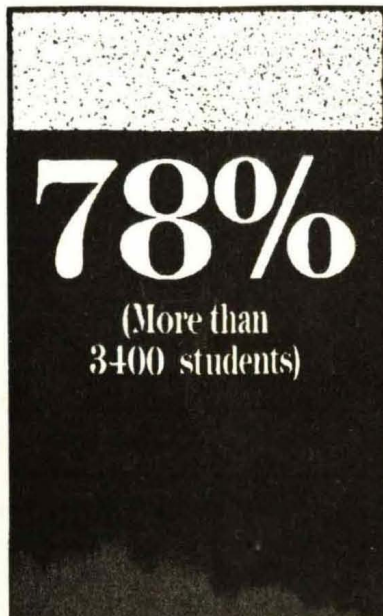
your performances, you receive a \$5,000 raise while your co-worker receives a \$15,000 raise and a guarantee that she's on a partnership tract. Subsequently, you find out that your co-worker has been out networking at after hours affairs with partners from your firm, as well as various other firms.

What do you do? A) Ask for an anonymous job review. B) Go to your supervisor's superior and tell him that your supervisor is mistaken because you had higher grades in contracts than your co-worker. C) Cry foul because your co-worker was networking when you weren't. D) Cry that it isn't fair in the hopes that tears will increase your raise by \$10,000. E) Live with it or move on because life isn't always fair just like they taught you at BLS! WELCOME TO THE REAL WORLD!!!

# 1988 New York Bar Exam Results

The following percentages are based on all persons who took the Summer 1988 New York Bar Examination for the first time.

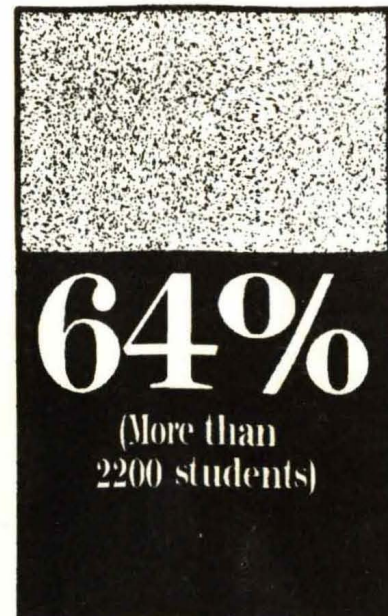
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1989 BAR/BRI

# Soviet Joint Ventures: *Perestroika*, Pepsi, & Western Law Firms

by Colleen Piccone

**S**oviet joint ventures. The phrase itself causes a sudden rise in blood pressure, as well as a flickering of dollar signs in the glazed pupils of any red-blooded American entrepreneur. The recent changes in Soviet business law have drawn a flood of American and European businessmen into the Soviet Union in waves of organized "trade tours" that sweep through the major Soviet cities. These businessmen meet with members of the various ministries, visit new privately owned cooperatives, talk with the managers and at night frequent the hard currency bars in their insulated hotels for westerners. Slowly sipping their imported alcohol, they dream of breaking into this colossal untapped market and becoming the next Armand Hammer, complete with priceless icon collection, Faberge Eggs, private jets, and sable furs.

The first significant legal change in Soviet joint venture law took place in 1986 when over 100 ministries, committees and enterprises were given the power to deal directly with Western companies. The key unlocking the floodgates was the Soviet adoption of the new joint venture law in January of 1987 and its subsequent amendments. For the first time since Lenin's New Economic Policy in the 1920's, the Soviets are courting western businesses, encouraging them to operate jointly with Soviet enterprises in the USSR.

Traditionally, the Soviet Union has denounced capitalist business practices, citing exploitation of the worker and selfish disregard for society as a whole. These denunciations were often illustrated with images of wretched Industrial Revolution conditions and the reign of the wealthy cigar smoking stout man in a



Soviet consumers rushing to buy "free market" brassieres. Soviet state stores have extremely limited size selections.

pinstrip suit over the weak, hard-working poor. However, the Soviet's highly centralized economic system that has been in force since the revolution has proved unsound in terms of providing incentives and opportunities for individuals to maximize production of quality goods. With very few exceptions, Soviet wares are domestically synonymous with shoddy products that are often in deficit. Imported goods including clothes, computers, cosmetics, music, and books are sought after ferociously in black market dealings which are reputed to account for well over half of the economy of the USSR.

Until recently, Western businesses working in the Soviet Union met incredible obstacles at every step. All transactions were approved and considered only in Moscow through the central state ministries. Soviet bureaucrats

had unilateral control and little interest in negotiating most aspects of the business. Treading through the bureaucracy to get permission slips for every minute activity approved was suffocating. Working amidst Soviet restrictions on housing and travel, as well as the omnipresent Stalin-imposed fear of contact with foreigners, was frustrating if not impossible.

Restrictions are still numerous. Good service, in the Western sense, is still a much sought after commodity. However, travelling conditions for foreigners within the country have improved greatly. Now, a Westerner can directly approach an operation in many areas of the country. The operation may have the chance to obtain its own hard currency reserve and enter into contract with the Western firm with considerably reduced curtailment from Moscow. Until recently, the hard currency reserves were

sacredly guarded, only to be spent on critically needed imports such as wheat, technology involved with national security, and Moscow's personal indulgences which rarely coincided with general consumer interests. Gorbachev is the first Soviet leader to recognize that multifaceted communication is vital to Soviet society. His *Glasnost* policy is helping to allow relaxed dialogue between Soviets and foreigners.

Gorbachev's economic reforms are aimed at stabilizing the Soviet economy by phasing out artificial prices of many goods. The supply and demand curve does not coincide with Soviet pricing because of state subsidies and poor planning and production. Such inefficiency has resulted in anomalous effects, such as a subway ride costing 5

the right to take out their profits after paying Soviet taxes. The foreign partners also have the right to repatriate their share of the assets in the venture should it be liquidated. Only minimal taxes are placed on supplies imported to the joint enterprise. In a much needed step, the law provides for recognition of foreign patents and intellectual property, reducing the concerns of Western companies who fear that their designs would be appropriated without their consent.

As a result of the opportunities offered by the changes in Soviet law, approximately 150 joint ventures have been negotiated. Less than ten percent of these have involved American companies. While most of these are small ventures, the number is still considerable considering the rigidity of the Soviet

## Reformers find it difficult to counter the negative inertia of prior Soviet policy.

kopecks (there are 100 kopecks in a ruble and the average monthly salary is 200 Rubles), and a car costing 9,000 rubles, for which the current wait is at least several years. Gorbachev also wants to introduce profit and loss accountability for all industrial enterprises. He is actively exploring new management techniques and less centralized planning. Until this point, Moscow dictated the actions of every industrial enterprise and the managers would annually meet the quota at any cost without regard to quality. Huge banners still hang in every city and town vigorously encouraging all workers to fulfill the quotas handed down from Moscow. Reformers find it difficult to counter the negative inertia of prior Soviet policy. After 70 years of such state billboards, the continued omnipresence of them ironically undermines the changing of Soviet psychology necessary to promote further economic reform.

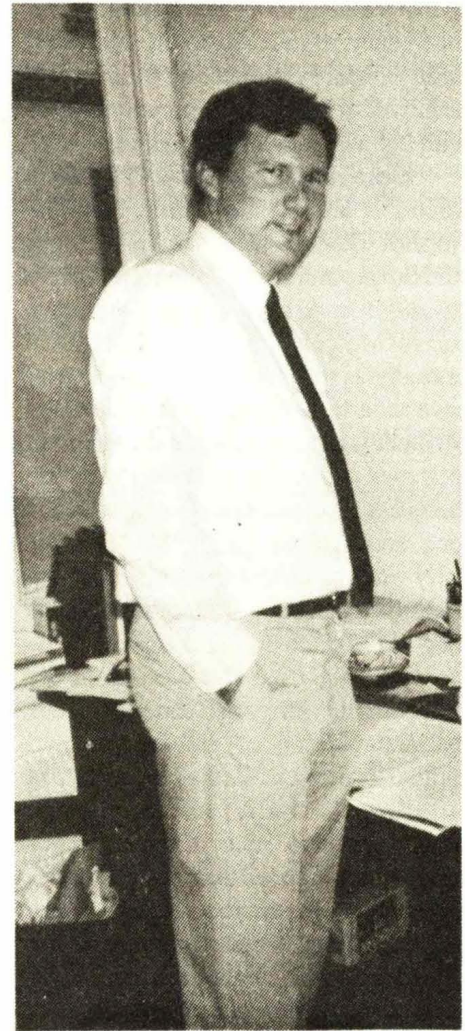
The recent joint venture law promises that a Western-Soviet joint business will be less restricted in deciding its own economic activities and will not be subject to the State planning production quotas and controls. The foreign partners have

system and the high market entry costs. The leading country is West Germany with approximately thirty ventures. West German Chancellor Helmut Kohl has made highly publicized trips to Moscow to promote trade and joint ventures. In October 1988, Mr. Kohl announced the signing of a 1.5 billion dollars in contracts between the Germans and the Soviets.

While there has been much publicity and inquiry into the new laws, Americans have been uncharacteristically slow in entering the new market. There exists a pressing need to present American investors with comprehensive proposals covering the possibilities that should currently be explored and acted upon, the feasibility of any joint ventures and the legal implications and protection presently guaranteed. Consequently, there is an increasing role for lawyers familiar with both American and Soviet law and proficient in the Russian language.

### First American Law Firm in USSR

In February of 1987, Coudert Brothers, the oldest international law firm in the United States, opened the first



Richard N. Dean of Coudert Brothers' Moscow office.

American law office in the Soviet Union. The move was not entirely surprising considering the firm's rich background in international legal experience. Coudert was founded in 1854 in New York by three sons of French emigrants. By 1879, they had opened their first foreign office in Paris. Their tradition of expansion continued and presently they have offices dealing in international and domestic commercial law all over the globe. Major offices include those in France, England, Belgium, Japan, Hong Kong, Singapore, Australia, China, and Brazil.

Richard N. Dean was chosen to be Coudert's representative in Moscow. The thirty-three year old lawyer studied Russian as an undergraduate at Vanderbilt and then decided to work at Coudert in 1980, after having received both his MA in Russian studies and his JD at the University of Virginia. He has been working in East-West trade for eight years,

five of them in New York City and two at the Sydney office in Australia. Impressed with Coudert's pioneering orientation, he moved to Moscow in February of 1988 with his wife and three children.

Dean's office, located at 15 Petrovka Street, is around the corner from the Bolshoi Theatre and a short walk from Red Square and the Kremlin. During the day, this narrow street in one of the oldest parts of Moscow is crowded with Soviets, as many as half from out of town, who have come to the capital to shop for things frequently not available in the stores in their own small cities and villages. While many old *babushkas* below lug parcels of long sought after goods, Mr. Dean is daily working on that same street to help solve the consumer dilemmas that have long plagued the Soviet people.

Escaping from the crowds on the streets into the offices of Coudert Brothers, the juxtaposition of communism and capitalism is immediately apparent. The building is built in the ornate prerevolutionary style of 19th century Moscow. Its high ceilings, huge windows and intricate plaster moldings present a glaring contrast to the tedious monotony of the cheap concrete buildings that dominate the new regions of Soviet cities.



Soviet children cannot buy ice cream at Moscow's Baskin Robbins. The Soviet's need for hard currency denies their own citizens access to consumer goods.



"Pepsi-Cola" is one of the few familiar western labels in the Soviet Union.

Coudert's office is located in the offices of IPATCO (Industrial Projects and Advanced Technology Consortium), an American company which is one of the very few western companies that has conducted business with the Soviets for over 25 years. Mr. Wally Zimmerman, head of IPATCO, sponsored Coudert's move to Moscow and arranged for Soviet approvals from the USSR State Committee of Science and Technology and the USSR Council of Ministers. Mr. Zimmerman also arranged for some of the publicity and attraction of clients.

Mr. Dean works in his office in a striped Oxford shirt and silk tie, practically a uniform in Western professional circles, yet a clear sign to Muscovites that he is a foreigner. His Russian secretary, fluent in English, works comfortably at an IBM PC that is connected to a laser printer. A Telex machine and Facsimile facilities are also visible. All of these Japanese and American toys, so commonplace in the West, are practically unheard of even in the most privileged Soviet professional establishments.

When asked what changes he has noticed since the *perestroika* campaign had begun, Mr Dean recalls an anecdote that was told to him by a Soviet acquaintance. A capitalist poodle is walking past a guard dog chained to a

pole. The poodle asks how *perestroika* is progressing and the guard dog answers, "My food dish is placed a little farther away from the dog house, my leash is a little bit tighter, but I can bark all I want."

The economic problems in the Soviet Union are well known. While Mr. Dean applauds the achievements of *glasnost*, he believes that things will have to get worse temporarily before they get better. He feels that the opportunities for Soviets to start their own cooperative businesses, one of Gorbachev's few steps towards decentralization of commerce, offer alot of hope. Innovative people now have the chance to reap a reward from their efforts. These rewards provide the much needed incentive of self-interest which, since 1917, has not found a competent replacement. However, Dean says, "The problem is that they are being taxed to death, as high as 80-90% of their profits go straight back to the government." The Soviets are taking steps to diminish the taxes.

Joint ventures presently make up about 75% of Coudert Brothers work in Moscow. Countertrade, licensing and other aspects of trade comprise the remaining 25%. Over 75% of their clientele are new. Among Coudert's clients with interests in Soviet business are Mannesman, a West German

Company; Fiat and Montedison, both from Italy; and ARCO, McDermott International and Hammer's Occidental Petroleum from the United States. McDermott International is planning to build petrochemical plants which will be financed by the Japanese in two Siberian cities. Companies interested in manufacturing medical supplies, computers and in food processing have also approached Coudert. Coudert is also trying to attract clients from Europe, the Middle East and Asia.

In terms of being a foreign professional living in the capital of the Soviet Union, Mr. Dean describes daily life there as ranging from "the heights of euphoria to the depths of depression, no middle ground." While he was well informed about the Soviet Union and was well briefed in its positive and negative aspects, he said that he never expected that it would be so difficult to live and work there. Permanent housing for foreigners is a very big problem. The waiting list is several years long, but still shorter than that for Soviets who want to move to Moscow. The Soviets approved a sublet for the first time when Mr. Dean arranged to rent an apartment reserved for another American Company. He says



Will young communists be seduced by McDonald's? Many Soviets worry that recent changes will threaten the basis of Soviet society.

he spends an inordinate time doing little things such as food shopping for his family. His wife works as an office administrator and his older children attend an Anglo-American school that teaches Russian to small classes whose pupils are from over thirty countries.

To Mr. Dean's surprise, his office is able to produce documents and contracts

is capable of producing and the difference in the standards of living, they will create a strong unavoidable force for change at home.

The major concern of American businesses, according to Mr. Dean, is how they will secure their profits from their deals. He says his enthusiasm waxes and wanes concerning how far recent

## Conflicts in ideology result in an inability on both sides to agree on a joint venture's purpose.

with the little equipment that they do have. He notes, nonetheless, that his office does not work with the same efficiency as an equivalent office in the West. He says that which may take him an hour to do in the United States, on average take him a full day at work in Moscow. In the West, a great amount of work is done on the telephone. That is not the tradition in Russia, especially when suspicion may be aroused if an American is calling. He describes his average day as being consumed with preparing contracts, memos of advice, documentation and negotiation. He reviews work of other law firms and responds with recommended changes or additions in long letters.

Keeping current on the frequent changes and developments in Soviet law is also more difficult. Without the equivalent computerized database resources such as Lexis and Westlaw, research in Soviet law requires a much greater input of time. He receives newspaper and journal updates from ECOTASS, a Soviet legal journal and a local cooperative that collects and sends articles to him on a regular basis but without commentary. Dean also learns a lot from conversations with colleagues and across the table negotiations.

A large part of the optimism Mr. Dean does express concerns Gorbachev's social and economic changes. Soviet citizens are now traveling abroad much more than they were allowed to in the past. A large percent of airline passengers in and out of the USSR is Soviet. Once those Soviets see firsthand what the West

economic reforms can go. Because it takes so long to generate the first dollar, mostly large companies with spare capital to invest have been aggressive. Counter trade with the Soviets offering timber, oil, minerals and other natural resources has been the traditional mode the Soviet have used to pay for imports. "Turn-key" projects where the Soviets gain a ready-to-operate plant and licensing arrangements, such as the Pepsi-Stolichnaya arrangement, have also been traditional forms of commerce between the East and West. The nonconvertibility of the ruble is the main stumbling block.

Currently the exchange rate is about .6 rubles to the dollar. The artificiality of this rate is illustrated by comparison with the black market rate in which the dollar easily commands 5-10 rubles depending on the savvy of the dealer. Gorbachev has expressed hopes of making the ruble partially convertible by the early 1990's, but Western economists seriously doubt that schedule, considering the present economic system of the USSR.

The ruble's nonconvertibility also presents another problem of "hard currency discrimination." In many cities, there are special stores for foreigners where they can buy, only for hard currency, goods not available in other Soviet stores. These hard currency stores are usually near hotels and are well guarded from Soviet browsers. They are considerably cleaner, the service is of infinitely better quality than in Soviet stores, and the shelves are always fully stocked with souvenirs, alcohol, and food imports from Scandinavia. Most Soviets

# Soviet Opinion Poll on Reforms

## 1. How do you think perestroika is getting along?

Perestroika is developing without problems	2%
Perestroika is experiencing some difficulties	15%
Perestroika is experiencing major difficulties	56%
Perestroika, in substance, has been braked	20%

## 2. To what extent are you satisfied with the present level of glasnost?

Completely satisfied	20%
Partly satisfied	29%
Dissatisfied, not enough glasnost	33%
Dissatisfied, glasnost has gone too far	10%

## 3. How do you think your life might change in the future?

Get better	25%
Not change	17%
Become more difficult	32%

## 4. Some people are of the opinion that the more perestroika is developed, the more the opposition to perestroika grows.

Do you agree?

Don't agree	18%
Difficult to say	19%
Agree	63%

## 5. In your view, to what extent is public opinion now being taken into account when state regulations and laws are being prepared in this country?

Always	4%
Often	20%
Seldom	46%
Never	11%

## 6. Some contend that the differences between capitalism and socialism are so deep that there will always be a relationship of competition between the systems.

Do you agree with that view?

Don't agree	29%
Difficult to say	22%
Agree	49%

From Time

have never been in one. Baskin-Robbins opened a shop in the Rossiya Hotel in Red Square, from which they sell their regular numerous flavors in the largest city in the Soviet Union where vanilla ice cream is common, chocolate is a real treat, and pralines and cream has never even been dreamed of yet. Russian children see tourists and black marketeers through the glass doors of the parlor eating their sundaes, yet can't get past the sign on the door that says "Only Hard Currency Accepted." It's illegal except under very special circumstances for a Soviet citizen to possess hard currency. Western companies anxious to get their profits out must reassess their goals of doing business in the Soviet Union and make the decision as to whether they will participate in the "hard currency apartheid."

In terms of technology transfer, export from the United States to the Soviet Union has always been a sensitive issue. The U.S. government has the authority to impose trade restrictions for foreign policy or national security reasons. Much of modern computer technology available to the general public is frequently by-products of costly research and development in the military industrial complex. Many Americans do not want to see technological wares being shipped to Communist countries, freeing them from the exorbitant costs of military research and development. International agreements have been formed under organizations like CoCom, restricting sale of NATO alliance technology to Communist countries. For instance, Toshiba's sale of technology to the Soviets made it harder for the United States to track Soviet subs. The incident resulted in the resignation of the heads of the Toshiba company. This sale violated CoCom law, not U.S. Law.

The list of restricted exports is frequently updated when there is felt to be no further need to protect that technology from Soviet use. For instance, the IBM personal computer was taken off of the list in February of 1988. A personal computer is a much sought after good in the USSR, commanding prices in the range of 40,000 rubles (4,000-8,000 U.S. dollars), without a hard drive or a printer. This machine is available in the U.S. for under \$800.

Soviet accounting rules have also been a point of disagreement. Western companies are adamant about applying Western accounting rules but the Soviets have resisted. Mr. Dean explains that profit has different definitions in different countries. The result is joint accounting seminars where the Westerners will actually begin their presentations with statements like, "This is what profit means..." Upon agreement with the enterprise, Western style accounting can now be submitted to the Ministry of Finance and if it is approved, those rules can be used. For the first time, Soviet managers have to pay attention to a profit/loss sheet.

Richard Dean says that the joint venture laws are comprehensive pieces of legislation and that the Soviets have been responsive to the concerns of Western firms. As a parent of young children he is very glad the Soviets are making these steps towards bettering relations and hopes that the depolarization will continue. On other levels, from a public relations point of view, he feels

that there may be unrealistic optimism. While publicity creates the impression that "it's OK" to do business with the Soviets, the negative side of that impression is that people think that it's easy to do business there, an impression which "is completely untrue."

Although it is no longer necessary to go through the Ministry of Foreign Trade to deal with a Soviet organization, the broad reorganization has not been without negative consequences. While Gorbachev is slowly chipping away at the bureaucracy, the result is a chaotic confusion full of uncertainties as to what channels have to be gone through to accomplish a task. Consequently, conducting market research is practically impossible. In effect, business takes just as long as it did before the changes.

The ingrained ideology has proven hard to overcome. Many Soviets complain about the expensive prices at the new private cooperative restaurants, stores and services. They are not accustomed to shopping for the best prices since costs do not vary from state store to state store.

Although Soviets may be able to obtain better quality goods, a wider selection or good service in a cooperative, most strongly resent the people who run the coops and the fact that those people are making money. Having been told for 70 years that rich is bad and that if the collective works together, all will benefit, many Soviets are frightened by the idea of opening the market. The uncertainty of a market economy is disturbing to the existing psychology of cradle to grave security. The prediction of considerable economic benefits does little to defray their fears. This is not surprising since they worked for over seventy years, and Lenin's promise of a socialist worker's paradise is still no closer to being realized.

### Conflict of Interests

With the deals that are now in negotiations, Gorky Street, the "5th Avenue" of Moscow, in ten years could be colored with American fast food restaurants. In fact, building for a McDonald's restaurant has already begun. Cultural problems arise as a result. Many



"UM... THIS MAY TAKE LONGER THAN WE THOUGHT..."

## Joint Ventures: Exporting the Soviet Dream

by Nancy London and James Castro-Blanco

The expansion of trade and investment into new markets is a common theme of U.S. corporations. The search for new arenas for investment continues to grow. On January 13, 1987 the Soviet Union's Council of Ministers and the Presidium of The Supreme Soviet authorized joint business ventures between Soviet enterprises and foreign partners. These joint ventures would be centers for both production and administration within the Soviet Union. The legislation opens an untapped market to U.S. corporations. The prospect of a vast Soviet market eager for American consumer goods whets the appetites of CEO's across the U.S.

The joint venture legislation appears to afford U.S. corporations a lucrative opportunity to experiment with new products and expand the market for existing high profile products. In addition, the legislation affords U.S. corporations the opportunity to revitalize sales of products that are no longer in as much demand in the U.S. These appearances of opportunity can be highly misleading. When looked at closely

this joint venture program has several drawbacks.

Although the Soviet market will now be open to joint ventures, all domestic Soviet production and sales must be matched by export sales in order for foreign corporations to remove profits from the Soviet Union. The restrictions imposed by requiring matching exports to expatriate profits imposes a variety of burdens on foreign corporations. Foreign corporation's long term planning must now include not only production and marketing products within the Soviet Union, but also marketing the exported goods outside the Soviet Union. This would require the corporations to utilize their existing markets or to develop new markets to accommodate the volume of export needed to make such a venture profitable. Such replanning may affect manufacturing within the U.S. because of possible changes in administration and manpower required to implement those plans.

Additionally, foreign investors only recently have been allowed to hold a majority of shares or top management positions in the joint

venture. All transactions usually have to pass through a Soviet Foreign Trade Organisation which handles business relations between foreign and domestic interests. Moreover, all business decisions, with the exception of labor practices concerning foreign employees, will be governed by Soviet law. Disputes that arise over trade agreements are handled by the Foreign Trade Arbitration Commission which strictly enforces Soviet law. Ignorance of Soviet law will not be an acceptable excuse. U.S. corporations should be fully cognizant of the Soviet legal structure before entering into a joint venture.

Finally, the Council of Ministers has the power to liquidate the joint venture if it is not meeting the objectives for which it was established. The market is now open, but the limitations on corporations which venture into it are very burdensome. The requirements of comporting with Soviet law and the strategic planning, manpower and capital necessary to effectively utilize this opportunity are factors to be considered. It is a prudent corporation that will look twice at the Soviet brass ring before getting on this carousel.

*Albert Ciccarelli*

F U L L S E R V I C E S A L O N S

43 CLARK STREET BROOKLYN HEIGHTS, 718 596 8505

189 HENRY STREET BROOKLYN HEIGHTS, 718 624 4740

17 EASTERN PARKWAY PROSPECT PARK, 718 230 0500

Soviet officials, as well as West Europeans are worried that opening the doors to commerce might result in an inevitable imposition of cheap American pop culture. Although the immense popularity of fast food would be guaranteed in a country used to standing on lines, the issue arises of whether or not McDonald's and similar phenomenon would enhance the Soviet's image of their future. While the trend of "Americanizing" everything from food to clothes is pervasive in most Western countries, many Europeans feel that it deteriorates their resident cultures and produces an unwanted effect.

This is an illustration of the primary obstacle preventing Western firms presently from initiating business in the USSR. The problem stems from the fundamental opposing political and socioeconomic bases of the communist and capitalist systems. Well known conflicts in ideology result in an inability on both sides to agree on a joint venture's purpose. Westerners are inevitably seeking access to a huge virgin market saturated with deficits of even the most basic consumer items and to an enormous population of cheap, but comparatively well-educated labor. Soviets want to gain access to Western technology which is 10-15 years ahead of anything available in the Eastern Bloc, to increase their exports, to obtain hard foreign currency, and to train their labor force in successful technical and managerial skills. The Soviets are attempting to husk the positive aspects of a dynamic Western society from the decadence and absence of conscience they often associate with it and use these benefits to strengthen their own Soviet society.

#### Second Firm Opens Russian Office

While many American law firms, including New York's White & Case, are conducting joint venture business from the States, only Arnold and Porter, Washington's largest law firm, has seized the opportunity this spring, to be the second to open offices in Moscow. Their business consulting affiliate, APCO Associates, closed an agreement with INFEKS, a Soviet consulting cooperative associated with the USSR Ministry of Foreign Economic Relations, resulting in a joint venture of their own. INFEKS is

made up of Soviet economists as well as specialists in domestic and international law. While APCO advertises that it will provide political and business expertise, Arnold and Porter furnishes the legal guidance necessary for every step of the process, including market potential studies, identification of opportunities, legal feasibility studies, letters of intent, writing of contracts, dispute resolution and termination. Services in Moscow that are also available through APCO including travel arrangements, access to Fax and other forms of communication not readily available in Moscow,

translation, finding personnel and office space.

Joining the ranks of APCO are some well known people in the field of Soviet studies. Arthur Hartman, U.S. Ambassador to France from 1977 to 1981 and Ambassador to the Soviet Union from 1981-1987, has signed on as Senior Consultant to APCO. Randy Bregman, formerly Director of the Center for the Study of Soviet Economic Law and Policy, has also joined the ranks of APCO. Such personalities are assured to lend prestige and experience to the organization. APCO hopes to assist

## Soviet *Perestroika*: Key is Decentralization

Nikolai P. Shmelyov, head of the economics department at the Institute for the USA and Canada in Moscow comments on *perestroika*:

We need growth in the high-tech sectors of our economy, like computers. But in the rest of the economy we produce a real surplus of trash of every kind. ... [O]ur investments should not be centered on those huge projects of the past... I am interested in a ... stable serious importation of capital—without surprises. ... I believe in going step by step towards real convertibility [of the ruble]. ... But there are certain prerequisites before we get to convertibility. First we need real wholesale prices instead of rationing. And we need to change our domestically distorted price structure. ... [In] the future, we can let the currency markets determine the value of the ruble. ... But I am also very cautious. In our present situation the market is highly monopolized. ... It is much more monopolized than the markets in the United States—very much more. ... [A]ny real reform of prices first requires decentralizing our economy, reorganization of our enterprises and the creation of new companies to demonopolize price. ... But let me add, I am talking only about wholesale prices. We should not touch retail prices, at least for the first half of the 1990s. Retail prices should continue to be subsidized. This must be done because of the possibility of social tensions—unbearable social tensions—if those prices were suddenly to rise. ... There is still a lot of vested interest in the status quo. ... Resistance to the *perestroika* reforms no longer comes from the top levels of our bureaucratic pyramids. ... It is concentrated on the bottom level. ... New jobs will have to be found for these people and ... they will have to accept ... the changes that are coming. ... [O]ur leadership was too hesitant. ... We need to give common people something for their efforts. ... The intellectuals now have glasnost - they have freedom to write and think and speak... But the common people need something tangible. Simply raising salaries will not do it because there is nothing to buy. ... [I]t will take years to produce enough new goods to satisfy that demand, we need to do something today, which is to import consumer goods. ... The next two to four years are the most dangerous for us. If we survive them and don't collapse, then we will begin to move faster and with greater assurance. The future for us will be a mixed economy.

From the *New York Times*

Western companies with penetrating the Soviet market in the areas of food processing, pollution control, energy, telecommunications, tourism, paper products, cosmetics and medical supplies. Like Coudert Brothers, they are not limiting themselves to the United States and Europe; they have already set up joint ventures with Japanese and Israeli businesses.

American corporations have become more sophisticated in dealing with the Soviets. Five American multinationals, RJR Nabisco, Eastman Kodak, Archer Daniels Midland, Johnson & Johnson, and Chevron have formed the American Trade Consortium. Some other major American corporations looking to penetrate the Soviet market are banding together along industry lines. For instance, Pfizer, Abbott Laboratories, Hewlett Packard, HCA International, Medserv International, among others have

formed a consortium to create ventures with Soviet health care organizations and the Soviet Health Ministry.

### Only Time Will Tell

There is little doubt that the post war economic success of Japan and West Germany have prompted the Soviets into realizing that true power in the 21st century will lie not only in the military buildup that has drained the resources of the super powers but in the economic leverage of productivity and efficiency that Japan is currently enjoying. Soviet inexperience in complex commercial negotiations has put them at a temporary disadvantage. The limitations and restraints of a centralized economic system have shown their negative impact on the Soviet society. Gorbachev has begun with legal reforms and freer elections. He has tolerated more of a voice from the Baltic states and the

southern republics. He has begun a rehaul of the foreigner's image of the Soviet Union. The first two business schools in the USSR have opened. Soviets are no longer barred from entering the US Commercial Information Center in Moscow. The Soviets have even been training in baseball and tennis for the Olympics. There is no question that what Gorbachev is doing to modernize the Soviet society will ultimately be politically destabilizing. In a society that has been known for sudden sharp departures from the norm, just how far his economic reforms will go, to what extent the state monopoly on foreign trade still exists and if Western companies will find a mutually acceptable business arrangement, only time can tell. Former Ambassador Hartman stated, "There will be a lot of heartache along the way if you think quick profits are to be made."



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## A More Thorough Answer to a Question Often Asked of Me, " **HOW WAS RUSSIA ?** "

by Colleen Piccone

**F**rom June of last year to the beginning of this semester, I worked in the Soviet Union as a guide at an official American exhibit, "Information USA." The exhibit was a result of the cultural exchange agreement signed by Gorbachev and Reagan in Geneva in 1985. Sponsored by the United States Information Agency, the exhibit traveled to nine Soviet cities including Moscow, Kiev, Rostov, Tbilisi, Tashkent, and Irkutsk over a two year period. Three groups of twenty-four Russian speaking guides were chosen to work in three cities per group. I was chosen for the last leg of the tour which went to Magnitogorsk, Leningrad and Minsk. Before embarking on this nine month adventure, we trained for six weeks in Washington. Our mornings were filled with discussions of current events in Russian to strengthen our vocabulary, and afternoons spent at George Washington University working on computers and studying the developments in the computer field and how computers and technology have changed American daily life in recent years, which was the theme of the exhibit.

Our group was very diverse, ranging in age from 22 to 40, from all over the United States. We had several computer consultants, specialists in Soviet history and economy, a journalist, a radio broadcaster, a schoolteacher, a former military pilot, an employee of a Pacific fishing fleet, a masseuse and one law student. Most of the guides chosen had studied previously in either Moscow or Leningrad. Two guides were emigres who left Leningrad and Kishiniev when they were seven and fourteen respectively. This was their first time back. Our days in DC were spent wondering what to expect and enjoying Chinese and Mexican food, air conditioning, malls, frozen drinks, and current Time magazines, all things we knew we soon wouldn't see for a long while.



I worked in the Soviet Union as a guide at the "Information USA" exhibit, showing how computers and technology have changed American daily life.

We flew to Moscow in June and adjusted to the time difference during our two day briefing at the U.S. Embassy in Moscow. The infamous Soviet bugging of U.S. buildings was taken into consideration when the locations of the briefings were chosen. Security personnel informed us of the responsibilities of carrying a diplomatic passport in the Soviet Union and also informed us of some past incidents to be aware of. Embassy personnel were full of colorful descriptions of how the embassy compound is under surveillance from surrounding buildings. Tall spires rise from an abandoned old church across the street from the compound. Referred to as "Our Lady of Telepathy" and "Church of the Immaculate Reception," the old church supposedly had KGB agents sitting up in its spires, watching all the goings on

within the red brick walls guarding the American compound. While it was interesting and amusing to have entered Tom Clancy-ville, we were anxious to get to work in our first city.

None of our Soviet area studies nor our training in DC could have prepared us for our arrival in Magnitogorsk. Frequently referred to as Magnitka, the city is situated in the Ural mountains and is the site of the largest steel plant in the world. The plant produces 2% of the entire world's steel, more than that of the whole of Great Britain. Most families living there have some connection to the plant. Sixty-two thousand of the 450,000 residents are employed at the plant. The plant was built with the help of American engineers and workers in the 1930's. Since the 1930s, the city had been closed to foreigners - until our arrival.

Information USA was the summer event in the Ural mountains. Daily visitors averaged 14,000, and special trains were scheduled from a neighboring large city as the daily "Exhibit Express." The exhibit was open every day except Tuesdays in every city and the enormous crowds came regardless of the weather, ranging from the sooty heat of Magnitka to the cold Russian snows of Minsk. People waited as long as four hours to get in. The guides became local celebrities. We were on television, in the newspapers and always recognized on the streets. While the notoriety was new and fun at first, I think many of us gained an uncanny sympathy for Sean Penn, as well as a lifelong appreciation of privacy.

The exhibit was divided into several areas; technology in the home, in medicine, in education, in the workplace, and in entertainment. Thirteen stands were dispersed throughout the exhibit where guides demonstrated compact disc players, IBM personal computer clones, Macintoshes, computer data bases, word processors, educational programs, Xerox machines, a computer that printed out in Braille, a Plymouth Voyager van and many other items. There was also a library of technical books and atlases; a video hall; and a computer center, where students could use the computers themselves. Working in hourly shifts, each guide would arrive at a stand, describe and demonstrate the equipment and then pass the microphone around and take questions from the audience.



The "Store Stand" was a popular exhibit, displaying computerized cash registers, commonplace in the U.S., virtually unknown in the Soviet Union.

questions in about every subject area I could imagine, from God and people from Mars to "Is it true that an American citizen can buy a tank?" Considering the filtering of communications to the Soviet Union since the revolution, I was amazed at the amount that they did know about the West and how persistent they were in obtaining what scraps of information they could get access to. On the other hand, occasionally I was shocked at how twisted

Magnitka. The working class community that makes up Magnitka considers Moscow the shopping capital of the USSR which, considering the conditions outside of Moscow, is altogether too true. For those of us who had complained about life as students in Moscow, we were introduced to the shocking reality of life in the Soviet Union outside of the tourist centers and showcases. As difficult as it was for Russians there to imagine what an American supermarket is like, I think it is even harder for an American used to aisles of 60 different cereals to imagine what food conditions are in the other superpower.

Whatever the shortfalls of the Magnitka economy, however, the people there were very generous. The hospitality in Magnitka is incomparable. Every day after work we were besieged with invitations to dinner. Not a day went by when we didn't receive bouquets of flowers and small gifts. We went swimming and rowing in the Ural River, which marks the border between Asia and Europe. We went on a fascinating tour of the steel plant and watched the entire process from the iron ore arriving at the plant, to the molten steel being

## *"Is it true that an American citizen can buy a tank?"*

But actually, only a small percentage of the visitors to the exhibit came to discuss floppy discs. Not only had most of the visitors never seen this computer technology before, but they had never before spoken with a person from the West. They were very interested in life in the West. The discussions were lively and stimulating. Many of the questions concerned prices of goods and wages but that was not all that was asked. Over the period of eight months, I received

some rumors were. "Playing telephone" across a country one sixth of the earth's land mass does not often result in accurate information.

By far the most interesting stand to work at in Magnitka was the "Store Stand," where we had an electronic cash register and a product code scanner and a model of part of a supermarket. In contrast, the abacus is still the norm in most Soviet stores and meat, butter, sugar and cheese is sold by ration coupons in

poured, to the rolling mills. I went to a criminal trial with a lawyer friend who described to me the procedures involved. We were stuffed with local cuisine and fresh jams, preserves, and juices, not to mention the compulsory vodka, Armenian cognac, Moldavian champagnes and homemade wines. Dinnertime conversations became a continuation of discussions at the exhibit. We had excursions to the exquisite surrounding mountains and lakes. It was a sleepless, action packed, summer that is indelibly etched into our memories.

Now knowing better what to expect, we moved on to Leningrad in early September after a short vacation. The big city, richly cultural, sophisticated atmosphere was a drastic departure from blue collar Magnitka. Although the crowds were as large, the visitors to the exhibit were more knowledgeable in technology and expected displays of the newest items available. I even had requests to see supercomputers and I had to quickly explain U.S. export security concerns. The discussions continued on a different level in Leningrad because Leningrad is the most popular tourist city in the Soviet Union and they have considerable access to Western culture, in comparison to the rest of the Soviet

## The big city, richly cultural, sophisticated atmosphere of Leningrad was a drastic departure from blue collar Magnitka.

Union. The invitations to dinner continued to pour in and although our energy by now was markedly depleted, we continued at a nonstop pace. There is little to do at night even in the most cosmopolitan of Soviet cities, but long walks around the Neva river and the breathtaking palaces and historical sights were relaxing after noisy days in the exhibition hall.

For me, Leningrad was the most interesting city for guide requests. As an American guide, to whom the public is readily accessible, occasionally we were given letters or packages to get to America. While many of these were to relatives, some were quite odd. I received several

letters to pass on to President Reagan, Wayne Newton, Twisted Sister and Dolly Parton. One doctor handed me a folder of papers he wanted published in the U.S. Later I opened it and found a research paper on diseases of the tongue with about eighty photographic illustrations. Another man waited an hour to see me privately and handed me papers to take to be published. According to him, the contents documented his father's research and he claimed to have evidence that his father discovered the double helix structure of DNA prior to Watson and Crick. Another twelve-year-old boy gave a guide a portfolio of Marilyn Monroe photographs which upon closer inspection turned out to be pictures of the boy dressed up as our own Norma Jean! The sweetest request was from an old man who had fought alongside an American soldier in World War II against the Germans when they were eighteen. The old man wanted me to help him get in touch with his American war buddy, whom he hasn't seen for nearly fifty years. All of these requests were passed on to our director.

Visiting the Soviet Union in the different capacities of student, tourist and American employee has presented me with very different experiences. A visitor's status is very important in official



Each guide would demonstrate the exhibit and then pass a microphone to take questions from the audience.



Discussions with Soviet citizens were lively as American and Soviet values were constantly challenged.

Soviet eyes and I found that the way I viewed things often varied according to my status. I often remembered my first visit to Leningrad as a student three years ago and my awe at the beauty of the city. Yet, after seeing the poverty of Magnitogorsk and the unnecessary, intolerable, problems that are the results of Lenin's, Stalin's and Brezhnev's obscure visions of how to run a country, I had trouble understanding the Soviet pride in the beauty of a city that is purely Russian, not Soviet at all, in its beauty. The elderly displayed beaming pride in a system that defeated fascism at a cost of twenty million lives during World War II, yet didn't acknowledge that the same system brought to power a man who killed matching millions of his own people. The victims of Stalin's purges are just beginning to be acknowledged. In a country of monuments and memorials, these lost citizens of the Soviet system do not have even one small piece of stone dedicated to their memory. While I met

## Minsk is home to one of the most conservative Soviet populations in the Soviet Union.

many friends who acknowledge the anomalies in the Soviet system, the blind pride of the older people left me frustrated and tired. Unfortunately, it was not wise to appear at our next city, Minsk, while we were tired and frustrated.

Minsk is the capital of White Russia (Belorussia) with a population of 1.5 million. During WWII, it was under German occupation for three years and by the time the Soviet troops recaptured the city, it had been destroyed and most of the citizens had been killed. It was rebuilt in Soviet prefab concrete style and was grey, stark and cold in deep winter. It is

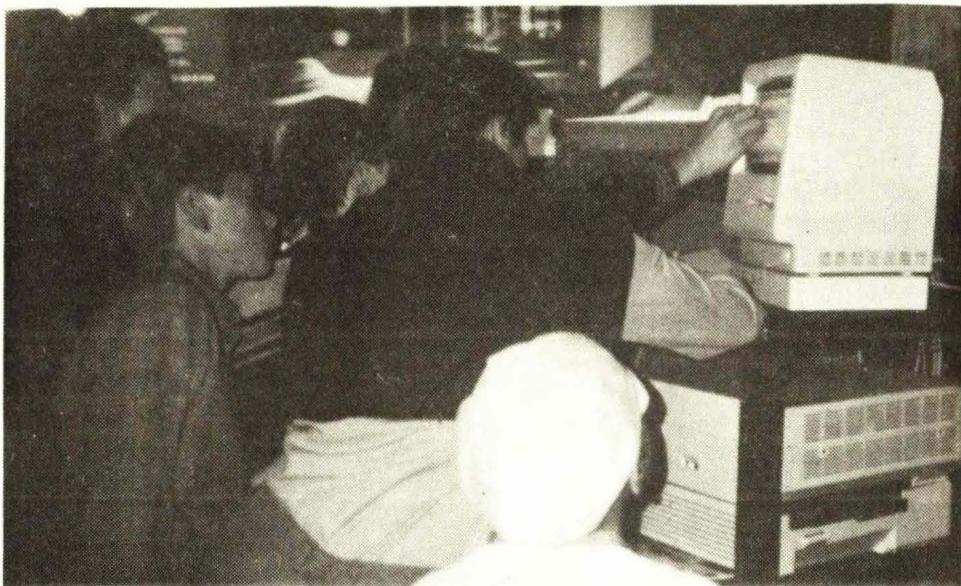
home to one of the most conservative Soviet populations in the Soviet Union. The exhibit became the focal point of controversy in the city. While we were there, one of the mass graves of Stalin's purges was unearthed outside of the city. The public outcry was quashed and it was a taboo subject at the exhibit.

It was rumored that local factories gave time off to workers who went to the exhibit and asked the American propagandists ("probably CIA agents") provocative questions. Dinosaur Bolsheviks grilled me on the American version of history. Newspapers printed

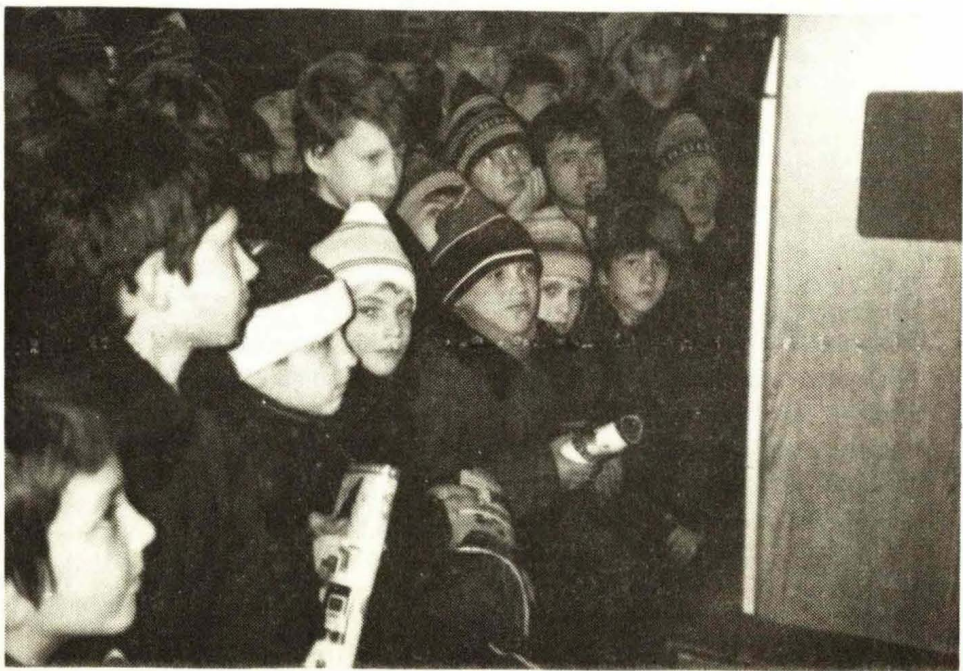
extremely negative reviews of the exhibit. Several guides answered one article in a letter. Very selected portions of it were printed. I rarely went out at night; as compared with before at the previous cities although many private apartments were still open to us. I iceskated at night on the river running through town, past Lee Harvey Oswald's old apartment building, where he lived before going back to Texas to change history by assassinating President Kennedy. I often thought about the changes the bleak Minsk winter can have on one's psyche. The Christmas season passed slowly, with visions of eggnog, holiday sales and oranges remaining vague but ever present memories.

After a thousand long goodbyes that left no time for summaries or conclusions, we packed up and headed home. Driving home from Kennedy airport, I listened to American music and felt an indescribable feeling as I headed home over the Verrazano bridge and I saw the Statue of Liberty and the energy of the New York skyline to my right and the great Atlantic Ocean to my left.

I was immediately immersed in Federal Income Taxation and the BLS subculture and had little time to reflect on those days back in the Soviet Union. Generally, I have forgotten many of the unpleasant occurrences. Instead, I remember most of all the little kids who came to the exhibit every day. I remember how their eyes looked the first time they drew with a computer mouse or received a Xerox photocopy. I remember the hours they watched MTV music videos and were mesmerized by Michael Jackson's *Thriller*. I remember the universal hilarity of Elmer Fudd and Bugs Bunny as I watched the children laugh at cartoons that weren't even translated. I remember how quickly they learned and how they were soon telling me, "No, Colleen, there is only one Megabyte memory on that hard disk," as I went through my stand presentation. I am convinced that the hopes for the Soviet Union lie in those children who are being taught by Gorbachev and others, against incredible odds, that their young imaginations do not have to have any boundaries dictated by an old and crumbling system.



Soviet children exploring a Macintosh computer exhibit.



Soviet children absorbed in video displays. Cartoons and music videos were favorites.



Soviet children enjoying Pepsi soda. What other western tastes will they develop?

# De-icing the Archipelago: Change and Reality in the Soviet Court System since Gorbachev

by James Sherman

Oyez, Oyez, Oyez, the all new People's court is in session. No, not the television show, but the Soviet judiciary's recent attempts to restructure the administration of justice consistent with the aims and limitations of *glasnost* (openness) and *perestroika* (reconstruction) is itself on trial. The

Soviet citizenry and the world are applying strict scrutiny and holding comrade Gorbachev (who, by the way, is the first lawyer to lead the Soviet Union since Lenin) to the intent, if not the letter, of the new reforms. The following sketch of the current state of Soviet jurisprudence and proposed changes is based on recent reporting in the *American Lawyer* and from John Quigley's article "Soviet Courts Undergoing Major Reforms."

Key elements of the restructuring of the Soviet judiciary include augmented court powers and independence from the bureaucracy and the Communist Party, an increase in the quantity and quality of the Soviet bar, greater openness in the daily operation of the courts, and more leniency in the doling out of criminal sentences.

A large part of the current debate over the direction of Soviet justice centers on article 58 of the Soviet Constitution of 1977. That article gave citizens the right to challenge the legality of a bureaucrat's decision affecting their interests. Unfortunately the article was toothless; it failed to codify those circumstances which would give rise to judicial review of bureaucratic decisions as of right. But in June of 1987 a law to give article 58 "teeth" was adopted under the title "Law on the Procedure for Appealing to Court the Unlawful Actions of Officials that Infringe the Rights of Citizens." The subsequent law, though still falling short of specifically codified offenses, does grant a general right to sue an individual official. The government for whom the official works remains immune from suit. Despite the limited remedial extent of the statute, the new law is still a marked expansion over any prior citizens' rights and permits actions for official acts of infringement or interference with a citizen's real or personal property interests.

Like the U.S., a constant source of litigation flows from administrative law. The Soviet Union has experienced a cancerous-like growth of ministerial regulations. Unfortunately for the average Muscovite and others, these regulations are usually unpublished or available only on a very limited basis. To seriously compound these problems, many of these ministerial regulations are in direct conflict with statutes adopted by the Supreme Soviet. To redress this conflict,

## Elements of Soviet Legal Process

<b>Judicial selection:</b>	Judges, all nominated by the Communist Party, are elected by governing councils instead of by popular vote.
<b>Juries:</b>	None. Soviet courts are generally tribunals, with a judge and two "people's assessors." In practice, the judge is in complete control.
<b>Judicial review:</b>	Courts cannot decide constitutionality of laws.
<b>Stare decisis:</b>	None.
<b>Trial transcripts:</b>	None. There are some handwritten trial notes.
<b>Pre-trial detention:</b>	Needs no judicial approval and can last months.
<b>Right to counsel:</b>	Defendants are entitled to representation. Political cases can be handled only by government approved lawyers.
<b>Capital punishment:</b>	Applicable for crimes ranging from murder to theft.
<b>Disputes between State Organizations:</b>	Handled by specialized tribunals, not by courts.
<b>Tort cases:</b>	Strict liability applies for all ultra-hazardous activity, including driving automobiles.

From *American Lawyer*

the Chief Judge of the Supreme Court of the USSR, Judge Vladamir Terebilov, has proposed that the judiciary be empowered to annul ministerial regulations that contradict applicable statutes. Terebilov noted that "As of now, a court does not have the right to annul or even suspend the operation of such an instruction [ministerial regulation violating a statute] although it sees its illegality."

### Criminal Law or "The Enemy is Us"

Pre-trial detention in criminal law cases in the USSR is a bit more arduous for the typical Russian than his American counterpart. At present, a Russian detained by the Procuracy, the Soviet equivalent of the Attorney General's office, has no right to appear in court for the review of the legality of the detention. While the court has the power to release those charged with crimes, it seldomly does. This is not the only totalitarian feature of Soviet criminal law; observers have noted that unlawful arrest and institution of criminal charges are also rampant abuses under the current system. These problems are rooted in a judiciary heavily dominated by both the party and the bureaucracy which have been comfortable bedfellows all too long. The Communist Party Daily, *Pravda*, recently reported on a case where a reporter was charged with hooliganism after he exposed shortcomings in the work of law enforcement agencies. The Procuracy only uncovered the fraudulent charges after a lengthy internal investigation. Soviet followers on the scene are so inured to party domination of the criminal apparatus that they regularly quip that in some judges' chambers there is a "direct intercom line to the district leadership for 'urgent consultation,'" reported journalist Arkady Vaksberg in the December issue of *Literaturnaya Gazetta*.

The prevalent feeling is that the Soviet criminal justice system will continually be abused so long as the prosecution controls the pre-trial process and the investigation. Yet despite a proposed change over to an adversarial process of discovery and early access to defense counsel, Judge Terebilov opposes the right of an accused to an early hearing on the basis that it would be an added

## Independence of Lawyers Tied to Success of Reforms

The Association of Soviet Lawyers has long been criticized as being little more than an arm of the KGB. No wonder then, that Vasilii Vlasihin, head of legal studies at the Institute of USA and Canada surprised listeners at the American Bar Association midyear meeting when he announced that an independent national bar association would be formed in the Soviet Union. Vlasihin charged that "Pressure from party or government bureaucrats, the disdainful attitude of the law-enforcement establishment, negative reactions of judiciary made the bar look like Cinderella in the family of legal institutions with her wicked stepmother-the Ministry of Justice. ... Time is ripe for her to become the princess. Work on a new statute is in progress. If the new statute fails to embrace proposals that have been made to make the bar a genuinely self-governing association, then our present attempts to implement universal human values - human dignity, liberty, political pluralism, freedom of religion, justice and the rule of law - will be bogged."

Soviet lawyer Andrei M. Makarov said, "What we want is for the advocate to be able to concentrate during the trial on his client's fate, not his own."

In February 1989, some 2,000 Soviet lawyers voted in Moscow to form a bar association. There are presently 26,000 attorneys in the Soviet Union, the same number as there were in the Russia in 1913, and thirteen times fewer lawyers per capita than the present United States. Minister of Justice Boris Kravtsov has publicly supported the independent bar and has said that his ministry would delegate some functions to that bar.

The last attempt by Russian lawyers to form a bar association failed in 1905 when Czar Nicholas II arrested several of their leaders.

From the *ABA Journal* and *Student Lawyer*

burden on the courts. Terebilov counters the proposed reform by arguing that at the early stages of criminal proceedings the judge simply knows too little, prior to completion of an investigation, to establish whether there is a basis for releasing the accused. A release would be tantamount to a decision on the innocence of the suspect further complicating the judge's conduct at trial.

### Attention Brooklyn Law Students

The current Soviet bar has about 25,000 members engaged in general practice, or about 1 for every 13,000 Soviet citizens. While this number does not include the 80,000 "jurisconsults" (those lawyers on salary at ministries, production enterprises, and other institutions), it does reflect another systemic problem of Soviet justice; there's simply not enough lawyers to guarantee

the average man accused on Nevelsky Prospect some kind of legal counsel. In addition to the shortfall in numbers, there is also a qualitative shortfall. At the present time it is still possible to get a correspondence school law degree. Taken together, these shortcomings have sapped the Soviet judiciary of any meaningful independence from the overarching influence of the Communist Party and the various state bureaucracies. It has long been a complaint that Soviet judges are "weak," unable to stand up to the political pressures on their non-tenured status. So, after three grueling years pounding the mean pavement of Joralemon Street, go East young men and women. The land of opportunity is the land of the worker. Unite, you have nothing to lose but the chains of corporate associateship.

# Gorbachev And The Ghost Of Stalin

by David De Gregorio

Marx once wrote that we suffer not only from the living, but from the dead. How true this is in the Soviet Union, that nation whose obsession is history, one can hardly imagine. "I have seen the past," remarked one of Mikhail Gorbachev's most determined opponents recently, "and it works." We all know the past he was referring to: it is the period in Soviet history spanning the years 1924 to 1953, dominated almost exclusively by the figure of one man. He was the terror of the Allies at Yalta, although this did not stop *Time* magazine from naming him "Man of the Year" (after all, *Time* once bestowed the same honor on Hitler), and he was god and savior to as many people as he was a tyrant and a megalomaniac. He is the man the world knows by the name he took as a young revolutionary to outwit the tsarist police: Stalin, the "man of steel."

The Soviets carry this Stalinist past around with them like a gigantic chain. They cannot unlearn it, any more than they can learn to forget it, although they have often shied away in the hope that it will go away. It never has. No matter how hard the Soviet people try, or how far or fast they run, the chains of the past run with them.

Three some odd years ago, Mikhail Gorbachev took the first concrete steps to bury this past with the launching of what he called the Soviet Union's "second revolution." In essence, it was a program of radical economic restructuring (*perestroika*) served up with a healthy dose of intellectual stimulants in the form of "openness" (*glasnost*). Gorbachev had initially thought that all the Soviet Union needed to get going was a certain liberalization of thought and greater production and work discipline. But he soon realized that things were worse than anyone had realized. The Soviet economy was simply beyond reform. The only alternative was to clear the field for new economic and social forms of organization.

But as Gorbachev became more radical, and more inclined to push harder

and faster, he provoked the malignant spirits of the past. This is because, as so few have realized, the essence of Gorbachev's program is the final liquidation of Stalinism in the USSR. The following remarks should make this clear.

*Perestroika* is essentially an admission that a Stalinist economy does

## The ghost of Stalin continues to haunt the living.

not work and can only work if constant resort is made to falsehoods (although the East Germans continue to amaze). *Glasnost*, on the other hand, sanctions criticism of the Communist Party and insures its inability to ignore the blunders and misadventures of the past. The first targets a material renewal, the latter a spiritual and intellectual one. Together, they signal the demise of the Stalinist curse on the Soviet Union.

However, it should come as no surprise that just when Gorbachev has initiated this process, the dead should rise to threaten the achievements of the living. For the litany of enemies Gorbachev faces in the bureaucracy, the party, and the KGB are really only one. The most formidable threat to Gorbachev is not a man, or a group of men, or even anything remotely tangible. It is an apparition, or if you will, a ghost - the ghost of Stalin.

If many of you think that this is an exaggeration, think again. The history of the USSR is, for most of its seventy years, the history of Stalinism. This notwithstanding the fact that Stalin was one of the most genuinely banal personalities of modern times, although it was, in Hannah Arendt's phrase, a banality of evil. Suffering from neither scruple nor intellect, he managed, as few

rulers ever have, to stamp the fundamental character of his personality on a nation. Manipulating a propaganda machine unknown in Lenin's day, and for nearly thirty years at that, he fostered the cult of himself. He became larger than life - "Stalin the Genius" was one of many phrases - and much like the Emperor of Japan, fancied himself a sort of god on earth. And we all know that although the gods may become tarnished, they never die.

There is no denying that the Soviet Union as we know it is Stalin's creation. If Lenin and Trotsky were its nursemaids, Stalin reared it to adulthood, and what a horrific childhood it was. It did not necessarily have to happen that way, or for that matter, happen at all. At the moment of Lenin's death, a variety of developmental possibilities remained open. Agriculture could have still developed along collective, cooperative or even private lines, and the national economy as whole along socialist, state-capitalist or even a free-enterprise pattern. None would have compromised the nature of the structure then in place (Arendt). Stalin, of course, had other plans.

Stalin's collectivization of agriculture and his forced industrialization was brutal, and the cost in human suffering almost unimaginable. In his quest for "total" domination, he transformed Lenin's one-party dictatorship into a totalitarian monstrosity, the envy of Nazi Germany. Stalin destroyed intra-party democracy, eliminated factions and dissenters, stripped the original Soviets (councils) of all influence and power, and made worker and peasant control of industry and agriculture impossible. And unlike Lenin, who made it a habit of publicly confessing his errors (cf. the New Economic Policy), Stalin placed himself above all criticism, and indeed, above the law. He accustomed the Soviet Union to terror, in the process raising paranoia and suspicion to the level of laudable political virtues. Moreover, he ensured that the system, or at least certain elements, would live on long after its human inspiration was long dead. The silence that fell over the Soviet Union



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during his reign was only occasionally disturbed by the cries of the innocent.

It was in many ways the misfortune of Khrushchev and the other post-Stalin reformers to underestimate the significance of all this. Their proximity in time to the horrors naturally compromised their ability to fully comprehend them. They were not sufficiently radical enough in their denunciations of Stalin. They never really progressed beyond simple ad hominem assertions about how Stalin was mad or vain or what have you. Stalinism, as an *institutional construct*, emerged unscathed. The only real attempts at de-Stalinization consisted of purging his surviving cronies, removing Stalin's body from the Lenin mausoleum, and making the existing system less violent, excessive, and paranoid.

The ensuing "thaw" political scientists are so fond of did not melt enough of the old for anything new to emerge. After Khrushchev's fall from power in 1963, the nation silently slipped into the grip of a coalescing neo-Stalinism (a less violent variant of the original), which brought the Soviet people the famous "period of stagnation" and the hoax of prosperity. Stalin was even partially rehabilitated during those years. The error of those successors was simply in believing that exposing the perversity and insanity of Stalin would suffice to forever lay him to rest. All they managed instead was to bury the corpse a second time. The ghost continued to haunt the living.

We have seen how in the thirty-five years after the death of Stalin the lies of his totalitarianism persisted in the deeds of Soviet leaders. The denunciation of the "cult of personality" and the dismantling of the gigantic police empire with its slave labor camps in the late 1950s only removed the most outward signs. The totalitarian temptation was always present. The brutal suppression of the Hungarian uprising in 1956 and Czechoslovakia twelve years later, the modified personality cult of Brezhnev, and the invasion of Afghanistan, all spoke a perfectly intelligible Stalinist dialect.

Gorbachev, on the other hand, did not come to political maturity under Stalin. And although he owes his position to a

Stalinist method of promotion (that is, the purge), he does not seem willing to repay the debt by acquiescing (as indeed Brezhnev did) in the maintenance of the status quo. He has instead tackled the system head on as no man ever did, or frankly, in the past ever could. No individual or organization has proved immune. From the party to the army to the KGB to the manager in the local factory, the broom of *perestroika* is making a clean sweep, while *glasnost* has already gone far in liberating the conscience of the nation.

Alongside the heaps of modern evils one usually finds an even more pernicious assortment of inherited ones. The crippling legacy of the Stalin years stands prominently in the latter category. Many of the most nagging technical and organizational problems facing Gorbachev today are the results of Stalin-inspired policies allowed to worsen with the passage of time. Soviet factories, many of them built in the 1930s show the strains of the heavy industrial bias that produced them. They were built for quantity, not quality. They have yet to reach modern technological levels, and managers have little or no incentive to economize on raw materials, and neither, for that matter, do the workers. Their failure to produce anything worth buying is well known.

Agriculture has fared no better. The bread has seemingly gone out of the breadbasket of Europe. Once again, an almost direct consequence of Stalin's mass collectivizations. It is said that the USSR has almost fourteen million farm

workers, but that only ten million actually work on farms. The rest are a superfluous cadre of meddling bureaucrats who have done little to improve agriculture. Only in the dream-world of totalitarian reality is it not a contradiction that 3 million American farmers export more food than 10 million of their Soviet counterparts.

Unfortunately, Gorbachev has found undoing these misfortunes much more difficult than Stalin and others found in causing them. Preaching initiative and responsibility are just not enough, but are unfortunately all that Gorbachev has to offer. This is clearest measure of the work that has yet to be done. For instance, Gorbachev must cut the budget deficit, encourage the production of more consumer goods, scale down the bureaucracy, push decision-making away from the planners, and perhaps even consider, as some economists have been arguing for years, some sort of price reform.

The essential battles are well underway, and, some would argue, the tremendous amount that has already been done cannot be undone. In any event, Gorbachev has already taught the Soviet people two critically important and valuable lessons. The first is that the poetry of the future is not to be found in the past. The second is that the meaning of socialism is to be found, if at all, in the hearts and minds of the very people for whom it must constitute a democratic and humane alternative. In the words of the *London Economist*, "hope, just for their sake, that Gorbach hangs on." Or rather, that he exorcises the ghost of Stalin.



# Brooklyn Journal of International Law

by Irene Chang

The *Brooklyn Journal of International Law*, currently in its fifteenth year of publication, is one of the oldest of the fifty international law journals around the country. As its name suggests, the *Journal* concentrates on issues of international law. It publishes articles written by international legal scholars and practitioners, as well as student pieces. Topics for student notes and comments are provided by the outgoing and the newly elected editorial boards, with allowances given to individual members who wish to develop their own topics. Recently covered topics include securities, trademarks, patent piracy, and comparative law in drug abuse reduction. Knowledge or experience in international law, while helpful, is not a prerequisite to becoming a member of *Journal*. Joy Weber, the outgoing Managing Editor, noted that domestic law issues were in some way present in every paper published this year.

Weber observes that there are benefits unique to *Journal* membership, including the opportunity to work with scholars in the field of international law and to work on a variety of new issues which one would not ordinarily come across in law school. But regardless of the topic focus, there are inherent benefits universal to being a member of any scholarly journal. Weber feels that there were tremendous improvements in members' editing skills, and that these skills are not obtainable outside of journal work. Catherine Needham, outgoing Executive Comments Editor, suggests that the tasks of researching and writing articles as well as editing others' work, is even more rewarding than the classroom experience. Outgoing Editor-in-Chief, Philip J. Loree, adds that "the most important skills you need for the practice of law are writing and editing, and the *Journal* helps you build those skills."

However, the acquisition of these particular skills and of general research skills does not necessarily come easily. Source checking, office hours (at least four hours a week during the semester) and the nuts and bolts of production are time consuming. Mary Kim DeMonaco,



The most important skills you need for the practice of law are writing and editing.



the new Managing Editor, acknowledged that the time commitment can be enormous. But Paula Kay, the new Editor-in-Chief, commented in a talk to the first year students, that high morale, comradery and teamwork are central to the management philosophy of the *Journal*. All things considered, the finished product demonstrates that the members' dedication, time and effort pays off. Five issues were put out this academic year!

Besides its voluminous publication work, the *Journal* has annually sponsored successful symposia where renowned individuals lecture on a particular topic of international law. In addition, the *Journal* is awaiting Dean Trager's approval of plans to become the host journal for an international conference held in conjunction with the American Society of International Lawyers. Recently, the *Journal* became the official journal for BLS' Center for International Business Study, a center connected with London's Queen Mary Law School. The

Center, headed by Professor Roberta S. Karmel, will hold conferences in New York and London, concentrating on international securities. The *Journal* will then either publish transcripts of the lectures or articles written by the speakers. Weber anticipates that these activities will promote the *Journal's* and BLS' reputation.

What will the *Journal* do for *YOUR* reputation? Initially, getting on is prestigious in and of itself. Later on, the benefits of the actual work will probably be evident in your academic performance. In terms of your career, Weber believes that there is a definite advantage in *Journal* membership among those who are familiar with BLS. Those who are not familiar with the school's procedures and policies may perceive a discrepancy between *Journal* and *Law Review* membership. The resume value is certainly present and the job placement rate of *Journal* members at top firms has been very good. However, this trend may be reflective of a growing enlightenment about BLS and the growing number of firms which recruit on-campus. In addition, the Placement Office and the administration has made it a point to explain the significance of membership on a scholarly journal. This membership is quite an achievement, particularly as there are only two such journals at BLS. Some law schools, for instance New York University and New York Law, have so many journals that employers are often confused about the basis of their journal memberships.

Whether you plan to go into international law or domestic law, whether you want to go to a big firm or into public interest work, whether you want to practice law or not, being on *Journal* is helpful in furthering those goals. The personal, educational and financial advantages are hard to overlook.

# Brooklyn Law Review

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

The *Law Review*'s 1988-89 Editorial Board included Marian E. Lupo as Editor-in-Chief, David DeGregorio as Managing Editor, Sheila Marie Gowan as Executive Articles Editor, Lawrence W. Andrea as Executive Comments Editor, and Frank Colella as Executive Notes Editor. There were 18 Editors in all.

The members of the *Review* take deserved pride in its publication. The *Review* is frequently cited in the Second Circuit, and some issues are particularly renowned. Says Managing Editor David DeGregorio, "I think that the *Brooklyn Law Review* compares quite favorably with other law reviews nationwide. Our reputation has been particularly enhanced

## Students are urged to enter the writing competition.

### The Selection Process

There are several ways to become a member of the *Law Review*. The majority of its members are selected through the writing competition held jointly with the *Brooklyn Journal of International Law* after spring finals. After paying a registration fee, students receive a packet with all the materials they'll need to complete their writing assignment in 8 days. This past year the assignment was a case comment. No outside research is permitted and a point penalty is applied to late entries. Every entry will be read by three different editors who score them on the basis of organization, legal analysis,

best from their respective writing sections. Last year, two students were accepted on the basis of their briefs.

Students are urged to enter the writing competition. A larger staff not only helps ease production of the *Review*, but also creates a larger pool of papers to be selected for publication. There were thirty new members last year and probably about thirty-five new members will be accepted this year.

### What Membership Entails

Joining the *Review* promises lots of hard work. There are two main tasks: writing a paper for publication and working on other authors' papers by source checking, proof reading, and galley reading.

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

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

During the semester, a member's average extra weekly workload from *Law Review* easily surpasses twenty hours. *Review* members are also required to put

## There is simply no substitute for the experience.

over the past several years by the publication of rather important articles by several influential scholars."

The selection of topics, membership, and the Editorial Board is up to the staff itself. The BLS administration supports the *Review* financially. Both Westlaw and Lexis terminals as well as computers and printers are within its offices. Professors through the Faculty Publications Committee advise the *Review* on issues which affect BLS' reputation. These issues include policies such as those related to academic standards and plagiarism.

and writing style. A cut-off score sends the best papers to the next round to be read by three more editors. Sometimes as many as fifteen people may be accepted solely on the basis of the quality of their entry, a process unique to BLS. For the remaining candidates judged comparable in writing ability, grades become the deciding factor.

At the discretion of the Executive Board, up to five first-year students may be pre-selected for *Law Review* on the basis of their first-year moot court briefs. The editors choose from those briefs submitted by the writing professors as the

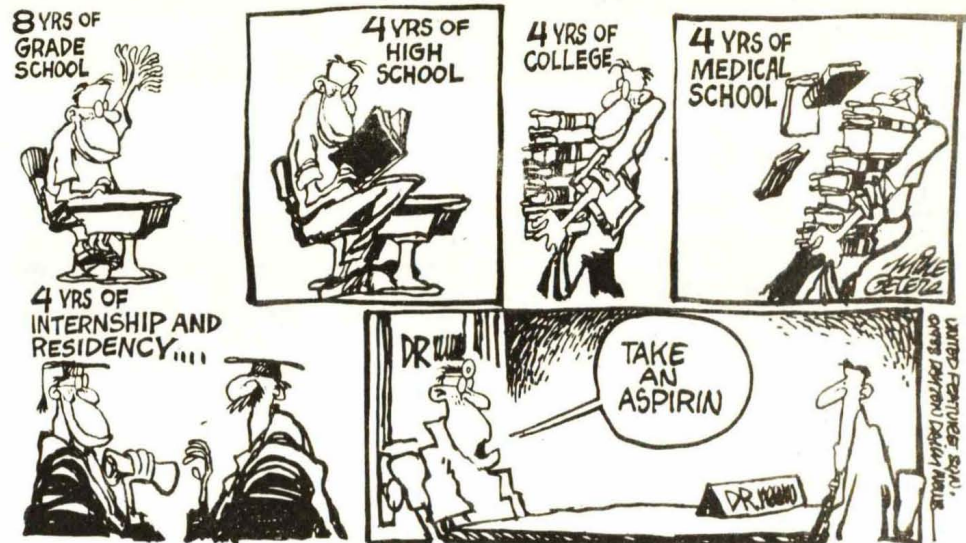
in three hours of office work per week.

### Benefits of Membership

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

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

Beyond the skills honed by being on the *Review*, however, students find that *Review* membership constitutes a unique tour of duty. As David De Gregorio says, "*Law Review* has been a very valuable experience for me. I'm not going to dwell on the fact that I have a published article and that I have a job. I think that those are important, but they are incidental to the experience of law review, which is a learning experience, a maturing experience. I think *Law Review* is important for students to participate in because of the vast amount of autonomy and responsibility that we are given in putting out a publication that not only speaks for itself but speaks for the law school. It's an awesome responsibility and I'm very honored to have had the opportunity to do it. I take with me not only many good memories of the friends I made on *Law Review*, but much solid experience that will serve me in good stead wherever I go in life." And Editor-in-Chief Marian Lupo says, "I told the incoming members this year that successfully completing their *Law Review* requirements would make them better lawyers. Looking back at how they have matured and grown, I am even more convinced that what I told them is true. There is simply no substitute for the experience."



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# Moot Court Honor Society

## Practical experience for "The Real World"

by M.Z.Heller

Four to six weeks of intensive research and writing to complete the brief; followed by ten to fifteen practice rounds with questions and hypotheticals in order to refine your oral argument; topped off by grueling rounds of competition against other law schools from around the country. This is a one sentence encapsulation of the work involved at the Moot Court Honor Society.

The Moot Court Honor Society gives students the opportunity to gain practical and useful experience in oral argument and brief writing through local and national competitions. The competitions cover areas such as tax, evidence, constitutional law, products liability and international law. The two and three person teams have approximately four to six weeks to write a brief on the topic for the specific competition. After the brief is submitted, the competing students go through oral argument practice rounds in order to prepare for the actual competition. At the competitions, the students argue their side of the issue (on brief) against the opposing students from competing schools, as well as the opposing side of

the argument (off brief). The initial rounds judged by practicing attorneys and professors in the specific fields narrow the entering teams down to the final rounds. Once in the final rounds, actual judges usually preside to determine the

When you go to the competition, you learn just how good you are compared to other schools.

winners in the categories of best brief, best oralist and overall winning team.

The primary way to be invited to participate in the Moot Court Honor Society is through the first year legal writing competition. During the second semester, all first year students write an appellate brief and argue before a panel of two or three judges comprised of

faculty, Moot Court members and upper class students. Fifty percent of each student's score is based on their writing professor's grade from their brief and the

## MOOT COURT VICTORIOUS

by Michael Harding

Congratulations are in order for members of the Moot Court Honor Society's Bioethics Team.

On February 25, 1989, team members Robin Zablow, Mercedes Colwin, and Aaron Fruhling did an outstanding job. In addition to winning the first place trophy for the "Best Team Argument," they were awarded a trophy for "Best Petitioner's Brief" and Robin Zablow was honored as the "Best Oralist." Allright Robin! The team began preparations for the competition in late December. As the competition drew near, their efforts intensified. On February 15, the brief was due. One week later, they left for Washington, D.C. and their date with destiny. Among the formidable adversaries encountered in the competition were law school teams from St. John's University, Touro College, Cardozo, New York University, SUNY at Buffalo, and DePaul University. There were four preliminary rounds and a final round in which New York University met Brooklyn Law School. We know who won! Now I don't feel bad about NYU denying me admission.

After their triumph, the parents of Aaron Fruhling treated the team and their guests to a night out in Washington. This only shows that not only is the Bioethics Team first class, but so are some of our parents.



Members of the new Executive Board (second row) and old Board (sitting) with Moot Court faculty advisor, Professor Ursula Bentele (second row, right).

other fifty percent is based on their scores from the oral argument. Approximately one quarter of the students get invited to the second round, and about one quarter of the second round participants go on to the third and final round. From this year's final round, thirty five first-year students were invited to join the '89-90 Moot Court Honor Society.

Upper class students can also be invited onto Moot Court through the Appellate Advocacy class. Students taking the course write a brief which satisfies their upper class writing requirement, and their oral argument is videotaped. The brief and videotape are submitted to the executive board who determine which students will be selected. Finally, all second year students are invited to compete in the school's Trial Advocacy Competition. The winners of the school's competition are invited to represent the school in the national trial advocacy competition the following year.

This year's teams did exceptionally well, reaching final rounds in many of the national competitions. BLS was most notable at the Bioethics Competition held at Georgetown Law Center. Brooklyn's Bioethics Team placed first, and received honors for Best Brief, and team member Robin Zablow received Best Oralist. Other BLS teams also gathered many honors. The BLS National Patent Law

Team won Best Brief and placed second in their competition. The National Products Liability Team placed second in their competition. The Jessup International Law Team won Best Brief, placed second in the Regional competition, and reached the final World

## One of Moot Court's Best Years.

Cup Round on the basis of having the best score of all U.S. teams. Jessup team member Daniel Steinberg won Third Best Oralist at the World Cup and Second Best Oralist at the Regional. Fellow team members Michael McHugh and Amanda Haines won Best Oralist and Second Best Oralist at the Regional, respectively. The Tax Team won Second Best Brief and placed second. The Prince Evidence Team won Second Best Brief and was one of the top six teams. The Administrative Law Team placed fourth. The Client Counseling Team placed second. This year has been one of the Moot Court Honor Society's best.

But Moot Court is more than a chance at winning a trophy and a great resume credit. According to Howard Hershenhorn, this past year's Vice Chair

for Intermural Competitions, "You learn what it's like to work with a number of different people in a competitive type atmosphere and you're all on the same team. You're all representing Brooklyn Law School." Steve Brown, who participated in both the Privacy & Information, and the Constitutional Law competitions said, "The two years you're there [on Moot Court], especially the year you compete, you actually learn how to write the brief, how to persuade people through your writing and then you actually learn through the practice rounds, where you have about ten of them, how to persuade other people on your point of view. When you go to the competition, you learn just how good you are compared to other schools."

With the first year competition for the '89-90 members recently completed the new executive board, Susan Chesler, Chairperson, Steve Brown, Vice Chair for Intermural Affairs, Yolanda Guadagnoli, Vice Chair for Intramural Affairs, Jacqueline Terry, Vice Chair/Coordinator Prince Evidence Competition, and Sanjay Malhotra, Secretary/Treasurer will be working with Faculty Advisor Professor Bentele, planning and coordinating the year ahead. Good luck to all those who will be competing. We know you'll represent us well!



HERB... I THINK THEY'RE SERIOUS ABOUT THIS NEW YORK SMOKING BAN.

## ANNUAL PRINCE EVIDENCE COMPETITION A SUCCESS

by James Sherman

Brooklyn Law School and the Moot Court Honor Society hosted the fourth annual Jerome Prince Invitational Evidence Competition over the first weekend in April. The Brooklyn Law School team advanced to the quarter-final round. The competition, named after the late, former Dean of Brooklyn Law School Jerome Prince, is an appellate advocacy competition on the subject of evidence. The competition is concerned with issues which are at the forefront of evidentiary law and therefore of great interest to students, lawyers, professors, and judges. Scoring during the competition was weighted with sixty percent based on the oral argument and forty percent attributed to the written brief. This year's competition focused on the following questions: 1) Whether the out of court statements of an unavailable child victim of sexual abuse were properly

admitted by the trial court against the defendant-abuser and 2) whether the trial court abused its discretion by excluding evidence of a third person's prior acts intended to incriminate that person and exculpate the defendant-abuser.

The participating schools in this year's competition were: American University, Washington College of Law; Brigham Young University, J. Reuben Clark Law School; Brooklyn Law School; Cleveland-Marshall College of Law, Cornell University Law School; Emory University School of Law; Florida State University College of Law; John Marshall Law School; New York University Law School; Northern Kentucky University, Chase Law School; St. John's University School of Law; Southwestern University School of Law; Touro College, Jacob D. Fuchsberg Law Center; Union University, Albany Law School; University of

Cincinnati College of Law; University of Florida College of Law; University of North Carolina School of Law; Villanova University School of Law; Wake Forest University School of Law; Washburn University School of Law; and Yeshiva University, Benjamin Cardozo School of Law.

The competition was judged by a varied list of practicing lawyers and judges. Among those who judged this year's competition were several New York City and State Supreme Court judges including the Honorables William Erlbaum, Robert Straus, Sara Schecter of the Family Court, Alan Broomer, Joel Goldberg, Micki Scherer, Edward J. McLaughlin, Nicholas Iacovetta, Michael Grey, John Moore, James Griffin, John Latella, Barbara Newman, William Leibovitz, Efrain Alvarado, Marcy Kahn, Carol Berkman, and JoAnn Ferdinand.

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Graduate, Brooklyn Law School

Name on file in BAR/BRI office

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BAR REVIEW



# The Real War on Drugs

by Anthony Zitrin

With the possible exception of the AIDS epidemic there is no other social issue that has affected the consciousness of the 1980's more than the "drug crisis." Hardly a day passes when one cannot hear or read how drugs are "destroying" our cities, communities, schools, and families. Just this year in Washington, D.C. there have been 146 murders, over 80% involving the drug trade. In New York City, Tactical Narcotics Teams (TNT), formed after the assassination of a New York City police officer, have made so many arrests that the criminal justice system is in danger of coming to a grinding halt.

In response to this crisis there have been many so called government "wars" designed to rid our society of this drug menace. Largely a creation of politicians placating constituents who are fed up with the current state of affairs, these wars come in many forms. Some are international in scope and entail trying to destroy the crops used to make illicit drugs (largely coca plants in Latin America). Some are national in scope, such as new Federal drug laws designed to tighten the penalties for importing drugs into the country and punish those who engage in violence as part of the drug trade. Others are local in scope and include curfews and anti-loitering statutes of dubious constitutionality that attempt to keep certain individuals off the streets so that they will not become involved in the drug trade.

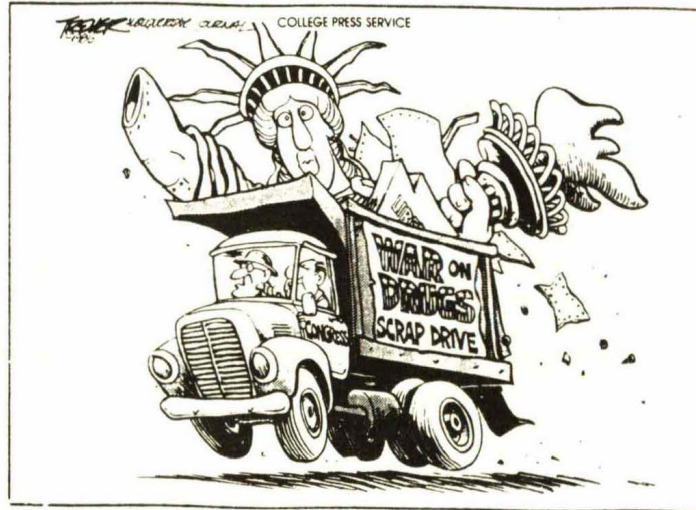
Yet, despite their differences, all of these "wars" share two traits in common: practically all are addressed to the supply side and practically all have been abject failures.

The problems in the war against drugs can be best illustrated by pointing to one of the most potent drugs, crack. A highly addictive form of cocaine that sells in \$5 and \$10 packets, crack has become the drug of choice among the minority populations in the largely segregated inner cities. Crack contributes to crime, family disintegrations and other social woes.

The drug crisis can largely be explained in terms of supply and demand. Supply is high because there are huge profits to be made in any illegal industry. Demand is high because crack is highly addictive. Packets of the drug sell in small doses and many doses are required to satisfy addicts, so competition is fierce. Dealers kill other dealers who encroach

components. First, it entails keeping new users from experimenting in illicit drugs. Second, it involves getting those who are already addicted off the drugs. The first policy has limited value, since people will always experiment in things which are not in their best interest when they see others around them using and enjoying the product. The consumption of

cigarettes in light of the widespread health risks associated with nicotine is a perfect example. Therefore, it is the second component of the demand side equation upon which we must concentrate our energies. We must expend a larger percentage of our resources trying to



on their territory. Dealers kill suppliers and suppliers kill dealers who don't produce or sell enough, or who cheat one another. Addicts either sell or steal to support their habit.

The current "wars", by focusing solely on the supply side, assume that decreasing the supply will make prices go up, hopefully causing demand to decline as people find it more difficult to purchase drugs. The fundamental flaw of this analysis stems from the assumption that the quantity of drugs demanded can always be controlled by increasing the price of drugs. While it may be true, that with all things remaining constant, a reduction in the price of drugs encourages new users to experiment in drugs, it is far from clear that a price increase would cause drug addicts to decrease their consumption. In fact, experience shows that addicts, faced with higher drug bills, will beg, borrow, and steal to obtain their drug fixes.

The only way to solve the drug crisis is to focus on the demand side of the drug equation. This demand side has two

get drug addicts to break their habits. This means a dramatic increase in funding treatment programs and research programs looking for a substitute for certain drugs.

Whatever one may think of today's drug dealers, surely no one can seriously suggest that drug dealers are "forcing" their customers to use and buy their drugs. The supply of drugs exists for one reason — demand. A reduction of drug users will naturally lead to a decrease in dealers. This will in turn result in less competition to make drug sales. Since it is this competition to make sales which is largely responsible for the violence associated with the drug trade, a decrease in competition will result in a reduction in crime.

While this solution might not win the war on drugs in the sense of creating a drug free society, which is probably impossible, it will enable many terrified residents of impoverished areas to reclaim their neighborhoods. Isn't this the real purpose behind the "war" on drugs?

# The Image Index<sup>®</sup> For Men

## Test Your Potential for Getting Ahead.

The following test is based on the probability of making the best first impression on the greatest number of people in business and professional situations. To take the test, simply circle the number opposite the entry that *best* describes you. Then, total up your score according to the directions below, and gauge your Image Index.

### SHIRTS

1. Long-sleeved, all-cotton, white, striped or pastel.
2. Button-down oxford, any color.
3. Short-sleeved, or anything that is wash and wear.

### TIES

1. All silk with a subtle pattern or stripe.
2. Knit ties.
3. Clip-ons.

### SUITS

1. Traditional single-breasted, navy or grey pinstriped, expertly tailored and well-pressed.
2. Designer double-breasted, with bold patterns or weave, molded to body.
3. Prefer sports jacket and slacks.

### SHOES

1. Classic dress shoes that tie, always freshly shined.
2. Usually casual, rarely shined.
3. Don't think about shining shoes.

### SOCKS

1. Mid or over-the-calf, brown, navy or black.
2. Mid or over-the-calf, textured or patterned.
3. Ankle length, dress or casual.

### FACE

1. Always clean-shaven.
2. Have a well-groomed mustache or beard.
3. Not always clean-shaven.

### HAIR

1. Regularly cut in a conservative style.
2. Sometimes need a haircut.
3. Always worn in the latest avant-garde style.

### NAILS

1. Groom at least once a week.
2. Clip and clean nails occasionally.
3. Bite regularly.

### JEWELRY

1. Classic style watch, leather or metal band.
2. Wear a sporty watch.
3. Don't usually wear a watch.

### HANDSHAKE

1. Firm with both men and women.
2. Firm with men and limp with women.
3. Squeeze hard to show superiority.

### EYE CONTACT

1. Make frequent eye contact.
2. Not comfortable looking at someone often.
3. Normally look around the room or at feet.

### POSTURE

1. Usually stand and sit erectly.
2. Don't pay much attention.
3. Tend to slouch.

**How to Score Your Image Index:** Give yourself 6 points for every #1 answer, 3 points for every #2 answer and 0 points for every #3 answer. If your total score is:

**54-72**

Congratulations, you're on your way.

**36-53**

You're on the right track, but have some work to do.

**18-35**

Careful, you may be sabotaging your chances of getting ahead. There's still hope, though.

**0-17**

You've got a real problem. Without immediate action, your chances of making a good first impression are virtually nil.

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# It is Ball00n!

by Ruth Bernstein

Most members of the BLS community who know Professor Jerome Leitner agree that he has a memorable personality. Well, there is a second grader in upstate New York who will never forget him.... but not because he gave her a good grade in torts!

Carolyn Bradley, who lives in Cuddebackville, New York (twelve miles south of Monticello), sent a big red balloon into the air in early September, 1988, part of a major balloon launch that takes place every year on the first day of her school. The balloon travelled 140 miles south, and stayed aloft for almost two weeks, until it landed in the surf at Fire Island, right at the feet of Professor Leitner.

Attached to the balloon was a tag with Carolyn's name on it, and the name and address of her school. Leitner wrote to seven-year-old Carolyn, letting her know that he had found her balloon.

"When I saw the balloon, I felt like I was in a fairy tale," Leitner said. "It was five o'clock in the morning, and I was surf casting. The moment I saw the balloon I knew it was special. And I was right."

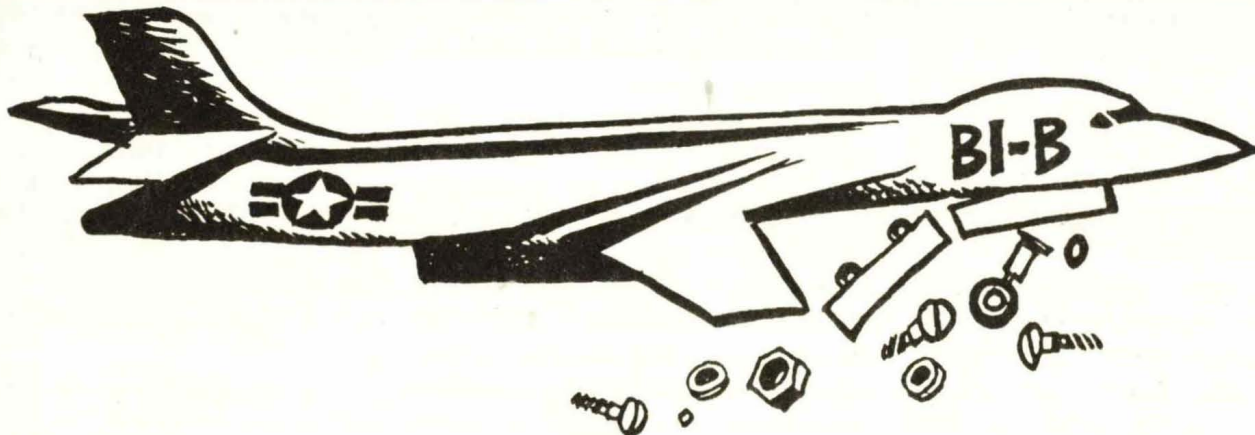
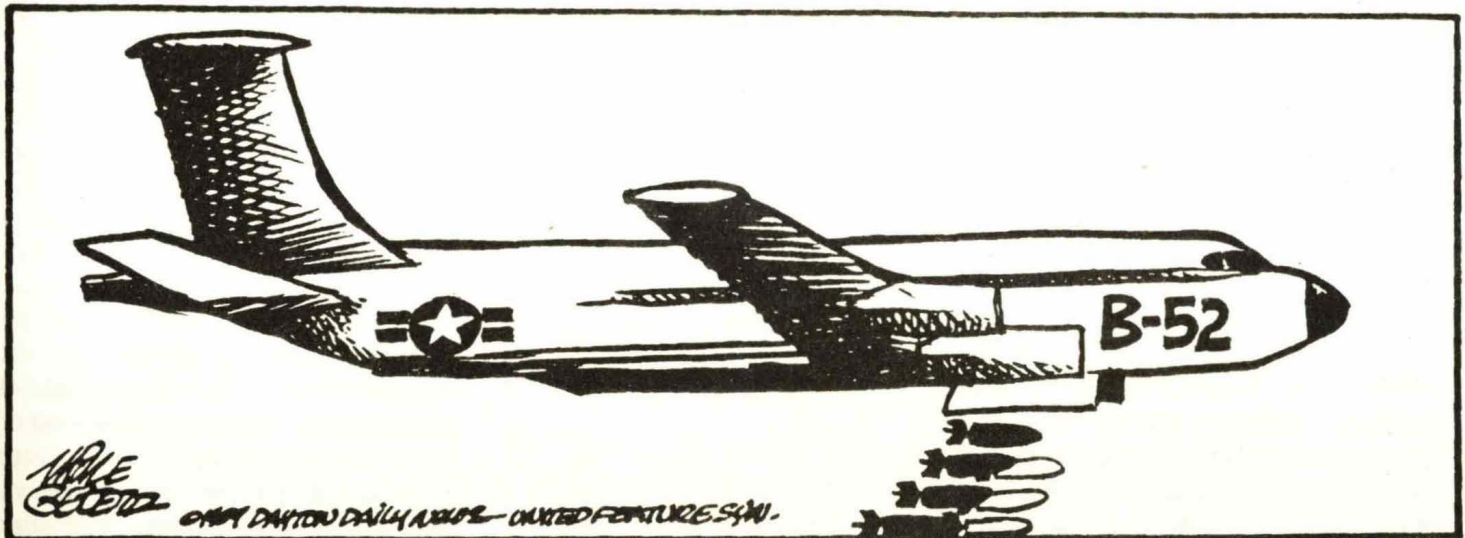
"It happened on a Sunday. On Monday morning I was in my office writing back to Carolyn. There was never a doubt in my mind that I was going to write to her."

The excited second grader wrote back

to Leitner, expressing her joy at making contact with someone so far away. "Only one other student's balloon was found, on a golf course in New Jersey," wrote the seven-year old. "Mine went the farthest," she declared proudly.

The balloon launching has been an annual event at Hamilton Centennial elementary school ever since it opened in 1976. Mary Jane Haley, the school's principal, says that balloons have been found as far away as Providence, Rhode Island, over the years. This year, Haley confirmed, Carolyn's balloon did go the farthest.

As a reward for having the furthest balloon-sighting, Carolyn will receive an ice cream cone. Unfortunately, Carolyn will be the last Hamilton Centennial student to win that prize. The annual ritual of launching the balloons will be discontinued, according to Principal Haley, in the interest of keeping the environment clean. As she points out, "The rubber is non-biodegradable."



## CROSSLAND BATTLE: Sometimes It's the Principle

by Michael Harding

"What a jerk," muttered my adversary as she walked from the front of the Small Claims Court room. It made me wonder who she was referring to. Could it have been her client for refusing to settle this case months ago? Could it have been herself for failing to make any attempt to settle this matter or for failing to convince her client to settle this case? Or could it have been me for bringing this action in the first place. I may never know for sure, but I do know that this matter never should have gone as far as it did. However, I pursued it as a matter of principle. Why my adversary and her client prolonged it, I'll never understand.

Crossland Savings Bank drew funds out of my checking account and told me they had been paid out to honor one of my checks. The fact of the matter is that my check was never cashed and Crossland never paid out any of my funds. For forty-eight days Crossland refused to return my money to my account, despite the fact that I had reclaimed the check from the payee who was falsely told that I had insufficient funds on hand, not once, but twice. To make good on my check, which Crossland claimed was paid, I had to withdraw money from another Crossland account. Crossland had the nerve to charge me for withdrawing money to cover my funds which they had converted. This reminds me of that commercial where the woman is complaining that her bank charges her for everything, they even charge her for charging her. I used to think that was funny until Crossland charged me for their mishandling of my funds. They advertise for customers to come in and get "crosslinked." I came in and got hoodwinked.

This adventure unfolded in January when I was notified by the New York Mets that my check for season tickets had bounced twice. I didn't think this was possible, so I called my bank, Crossland Savings, immediately. Crossland assured

me that my check had in fact been paid on Jan. 10 and that the payee was giving me false information. The Mets reassured me that they were in possession of my bounced check and that I would have to bring a money order or certified check to replace it within one day.

I had to withdraw money from another Crossland Savings account, get a money order, and travel to Shea Stadium. This caused me to miss two classes. It was either do that or lose my seats which



DON'T GAMBLE WITH  
YOUR SAVINGS

I've had for four seasons and would be impossible to replace.

The Mets supplied me with the original check which was stamped "insufficient funds" on Jan. 12 and Jan. 19. I supplied my branch of Crossland Savings with a copy and suggested it was pretty obvious that it was their error and I asked that my account be credited with my funds which they claimed had been paid out. Crossland refused and said they would investigate and resolve this matter within 10 days.

A few days later, I received a letter from the manager of my branch stating that my check had definitely been paid and not to hesitate to contact them in the future. I contacted them with a summons and complaint returnable in Small Claims Court. I charged that they had misappropriated and converted my funds. I attempted via phone and mail to contact Maurice Reeseman, Chairman of Crossland, but no one from his office responded.

Crossland kept my money for 48 days before redepositing my funds into my account. The only call I ever received from Crossland was in March, a few days before our March 7 court date. A member of their legal staff wanted to know why I was suing because my money was returned. At this point all it would have taken to settle this case was an apology and my lost interest (less than \$10.00) and the waiver of the fee I was charged for letting my balance go below the minimum amount in order to replace the check. They weren't willing to settle on those terms.

On March 7, accompanied by Rhonda, my wife, I arrived for my trial. When they called my case I met Ellyn Polishook from the firm of Cullen and Dykman, attorneys for Crossland Savings Bank. Ms. Polishook stated that she would be asking for an adjournment in order to implead a third party, Savings Bank Trust Company. Ms. Polishook stated that Savings Bank Trust was the clearing house and that this whole incident was their fault. I didn't object, but I did think this case was getting blown out of proportion. The additional paper work to implead a third party would cost more than it would take to settle. The judge granted an adjournment till April 18. Once on the street, Ms. Polishook expressed concern about looking for a cab at that hour and in that neighborhood. I offered her a ride home and she accepted. As I drove her, I couldn't help but think that the cost of her cab would come close to settling the case. Ms. Polishook was friendly and talkative, but that would be the last day she would be friendly towards me.

On April 18, I was unable to proceed with the case due to school commitments. Rhonda went in my place to ask for an

## They are big business and little depositors shouldn't get in their way.

adjournment. According to Rhonda, Ms. Polishook met her before the case was called and upon hearing that I would not be present, told Rhonda that a dismissal was in order. Ms. Polishook was joined by an attorney from Patterson, Belkanp, Webb, and Tyler, attorneys for Savings Bank Trust Company, the impleaded third party; and a witness from Crossland Savings Bank.

When called, Rhonda asked the judge for an adjournment over Ms. Polishook's strong objection. The judge asked if an attempt had been made to settle this case. Ms. Polishook told the judge that a substantial offer had been made. When Rhonda disputed this statement the judge asked what the offer was. Ms. Polishook asked the bank's witness who stated she wasn't sure, but "maybe \$10.00?" The judge granted the adjournment. Ms. Polishook told Rhonda that I should have at least had the courtesy to call her and tell her I planned to have the case adjourned. I thought about doing that, but Ms. Polishook didn't call me and tell me that she was going to ask for an adjournment on our March 7 court date. I figured it's time she learn that courtesy is a two way street.

On May 9, we met for our final showdown. Between court dates, I had subpoenaed bank records. When we met in court, Ms Polishook gave me a copy of a motion to suppress my subpoena. She labeled my subpoena duces tecum a "fishing expedition." That brought back memories of Professor Stempel's Civil Procedure class. The judge heard the motion and granted it over my weak objection. Ms. Polishook flashed a smile like she had just won a major Supreme Court victory. We returned to our seats to wait for our case to be called for trial.

We were called by the judge's clerk who stated that we may have to be adjourned. Ms. Polishook expressed her displeasure of coming back a fourth time. The clerk asked me for the facts. Each time I opened my mouth Ms. Polishook

either objected or stated the law. The clerk got tired of telling her to let me state my side and finally told her to sit down and he'll hear our sides separately. Ms. Polishook objected to this, but finally sat down.

The clerk heard my version of the story and asked if I'd be willing to settle if he could work something out. I told him I'd settle for \$10.00 and an apology. Then I stated it cost me \$15.00 for the witness fee on the subpoena. He said he couldn't promise an apology, but he'd do what he could to resolve this case because "these people are making a federal case out of this." I told the clerk I'd settle with anything reasonable because I didn't want to take up any more of the court's time on this issue.

When Ms. Polishook went up to see the clerk, it was apparent she was arguing against the amount he had mentioned. Finally, he called me up and told me that Ms. Polishook drives a hard bargain and he asked if we could settle for \$25.00. I agreed. We signed the stipulation right there.

# MONEY TALKS...



Its really unfortunate that the time and effort of so many people were taken up by this incident. But it was Crossland and/or their attorney's advice to send an attorney for three appearances, a witness for two appearances and to implead a third party that sent an attorney for two appearances. This returns us to my original questions. Who was the jerk?

Crossland: Why did Crossland proceed with this matter without trying to resolve it? Certainly, not for the money. They must have spent a great deal more on legal expenses than the \$10.00 that I would have settled for. After all, they sent a lawyer for three court appearances and a witness for two. They even impleaded a third party, perhaps to split a huge two figure judgment. Maybe Crossland is driving home the message that they are big business and little depositors shouldn't get in their way. Did Crossland defend this suit so vigorously out of principle? I doubt it. The suit wasn't frivolous, they know that I was wronged through no fault of my own. I guess only Mr. Reese man knows for sure.

Polishook: Did she try to settle this matter, but Crossland was against settlement? Did she fail to even consider a settlement? Was she content to let her client pay legal fees instead of trying to resolve this matter? Was this her first big trial? Only she knows for sure, but was this worth three court appearances?

Harding: Why did I proceed? Initially, because it was my only recourse to obtain my money. Why did I continue when my funds were returned? Because I didn't think I should have to lose one penny from this incident that was clearly not my fault. What a sorry state our economic and legal systems would be in if it would allow a bank to take a person's money out of their account at will and use it, loaning it out at 14% interest for two months. And at the same time charging that person a fee because the bank took the money out of the account. The money was irrelevant, it was the principle of the thing.

I plan on withdrawing my funds from Crossland as soon as it is to my financial advantage. The loss of my patronage or my funds will not hurt Crossland, but sometimes we do things out of principle.

# The Image Index<sup>©</sup> For Women

## Test Your Potential for Getting Ahead.

The following test is based on the probability of making the best first impression on the greatest number of people in business and professional situations. To take the test, simply circle the number opposite the entry that *best* describes you. Then, total up your score according to the directions below, and gauge your Image Index.

### BLOUSES

1. Long-sleeved, silk or cotton, solid or small print, with conservative necklines.
2. Oxford cloth shirts with bows.
3. Lace and ruffles, sheer fabrics or plunging necklines.

### SUITS

1. Classic cut, navy, grey or black, made of quality fabric and well-fitted.
2. Coordinating jacket and skirt in complimentary colors.
3. Never wear suits.

### DRESSES

1. One or two-piece, natural fabric, classic styling, long sleeves, in navy, grey or black with a jacket.
2. Same as above, without a jacket.
3. Ruffled, sheer or mini-dresses.

### SHOES

1. Dress shoes, always freshly shined.
2. Casual or dress shoes, rarely shined.
3. Don't think about shining shoes.

### MAKE-UP

1. Lightly applied to enhance features and coloring.
2. Don't always wear make-up.
3. Applied heavier so that everybody notices it.

### HAIR

1. Classic style, well-groomed, shoulder length or shorter.
2. Generally groomed, no particular style.
3. Wear latest style to stand out.

### NAILS

1. Manicure at least weekly.
2. Occasionally file and groom.
3. Wait until nails are chipped before polishing.

### JEWELRY

1. Regularly wear one or two important pieces.
2. Wear small, barely noticeable jewelry.
3. Wear as much as possible.

### PURSES/BRIEFCASES

1. Carry one well-shined classic leather bag for everything.
2. Carry a well-organized briefcase and a purse.
3. Briefcase and/or purse is always overstuffed.

### HANDSHAKE

1. Firm with men and women.
2. Only shake when a hand is offered.
3. Don't shake hands.

### EYE CONTACT

1. Make frequent eye contact.
2. Not comfortable looking at someone often.
3. Normally look around the room or at feet.

### POSTURE

1. Usually stand and sit erectly.
2. Don't pay attention.
3. Tend to slouch.

**How to Score Your Image Index:** Give yourself 6 points for every #1 answer, 3 points for every #2 answer and 0 points for every #3 answer. If your total score is:

- |       |  |
|-------|--|
| 54-72 | Congratulations, you're on your way.   |
| 36-53 | You're on the right track, but have some work to do.   |
| 18-35 | Careful, you may be sabotaging your chances of getting ahead. There's still hope, though.                              |
| 0-17  | You've got a real problem. Without immediate action, your chances of making a good first impression are virtually nil. |

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# My Life with Ducks, Rabbits, & Law Books

by Mary Schwartz

The Brooklyn Law School 1988-89 Bulletin, in its section entitled Academic Information, lists the divisions in which a student may enroll: full-time, part-time day, part-time evening, and part-time combined day/evening. The bulletin goes on to explain that "the part-time day program of study has proven to be compatible with the schedules of students whose family or employment responsibilities make evening class attendance difficult."

But what about those of us at BLS whose family AND employment responsibilities make attendance at just about ANY class difficult? Or, put succinctly, that going to law

school, working part-time, and managing a household is hard work?

During my admissions preparations a couple of years ago, an attorney friend of mine confided that going to law school while being a single mother was the toughest thing she had ever had to do. But I never believed for a moment that she wasn't proud of her accomplishment. And the *Justinian* thought that maybe it would help if more of BLS could understand some of what part-time study is like.

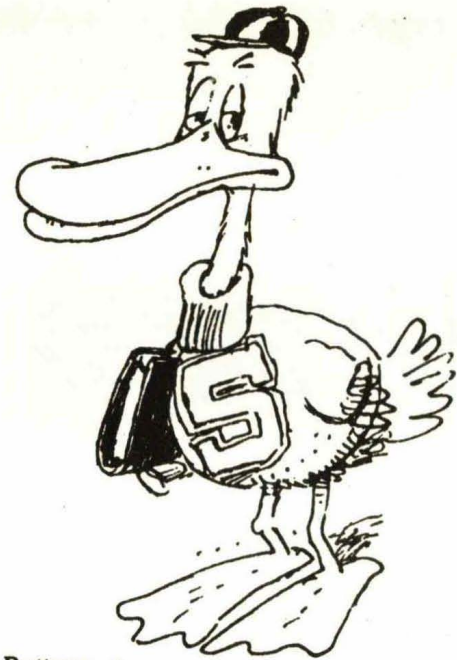
However, how could I describe life in the part-time lane? It occurred to me that I could use the "day-in-the-life-of" approach that we learned about in torts. It further occurred to me that whatever the impact such a film had on a jury impanelled to hear a serious personal injury case, much would be lost in such a presentation in a newspaper. Let's face it, my family's day-to-day routine is, for

the most part, exactly that — routine — so I chose instead a representational slice of life.

Take, for instance, the time my daughter, a fifth grader, asked if she could bring Petey, the duck, and/or Buttons, the bunny, home for the weekend. The science department at her school keeps a variety of animals, not only to study, but also to provide "hands on" experience in caring for an animal because many children do not have pets. Thinking this an excellent opportunity

for developing a sense of responsibility, providing a n i m a l companionship, etcetera, etcetera, I signed the note evidencing my permission for her to bring Buttons home that Friday afternoon.

Now, I grew up in rural Maryland (or is that redundant?) and even had a three-year stint on a farm. I was used to ducks, geese, cows, chickens, field mice and rabbits grazing outside my window. Why then, did I not realize that a cage containing a breathing, drinking, munching animal should first be placed on a waterproof tarpaulin rather than plunk, right on the livingroom carpet? Fortunately, when the need arose I was busying myself near the cage. My son was in the kitchen and my daughter, bless her, was at a friend's house. So much for the companionship theory! When I first heard the rush of water I was puzzled as to what was overflowing at that moment — the washing machine wasn't on, no bath was being drawn. When I realized it was



Buttons, a quick rap on the cage halted the cascade, an old tablecloth was fetched and placed under the cage, and Buttons could proceed in peace. Rabbits have relatively small heads so there is little guesswork as to the size of their brains, but is all the rest a bladder??

Petey, the duck, was brought home on a subsequent weekend. He arrived quacking uncertainly in a lovely, large, well-papered cage. My daughter, the animal lover, assured me Petey was happiest when let loose and allowed to waddle after his human family. Wasn't this charming! Petey really was an affectionate fellow and did indeed follow us about the apartment. It wasn't long, though, before the red carpeting took on an odd-looking greenish cast.

Weren't we decorating for Christmas a little too early?

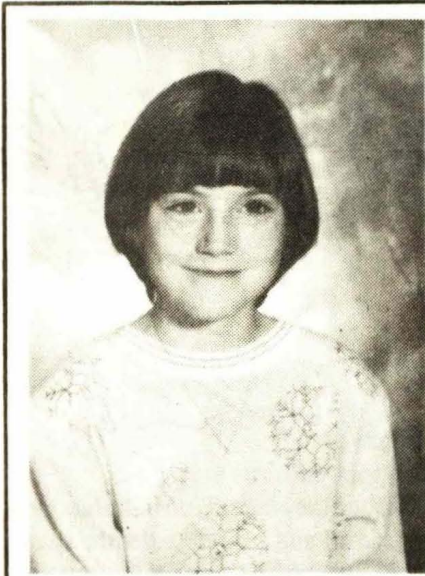
And so Petey, who had never been housebroken, was returned to his cage.

Ah, where would we be without P.S. 255 and its activities? Besides the animals, there is the daily rush of homework — lines in school plays to be memorized, spelling words to be drilled, maps to be mastered. Next come bedtime stories to be read.

I have learned to skimp on the housecleaning and to shortcut grocery



## Parenthood is the anchor in the sea of insanity known as life.



Kelly, age 11

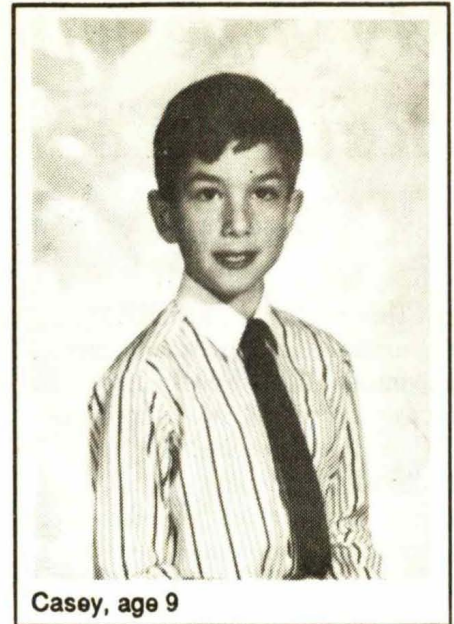
shopping. After all, I've been working full-time for years. But how does one skimp on being a mommy? I've never learned that one.

The doctor told me just before sending me home with my bundle of pink, lo, those 11 years ago, that never

again would I take an action without first considering its effect on another human being.

There was no way I, as a first-time mother, could comprehend the impact of so simple a statement. Dear God, is there no time off for good behavior? Yes, of course, there is. The children go south to their father's for the summer, giving me a chance to recoup my forces. Days are spent working full-time in an effort to get money ahead for the school year when paid hours will be sharply reduced; evenings are spent dancing. The hustle, rhumba, merengue, cha-cha and the lindy are all out there waiting to be enjoyed with the verve and excitement the summer "off" seems to bring. Friendships are pursued and reading for pleasure is resumed. Life becomes more tranquil but I can't wait for their return! They are my life.

Despite all the attendant fatigue, parenthood is the anchor in the sea of insanity known as life. Law school runs a close second as a way of making one



Casey, age 9

face reality and ordering one's priorities, but close, to quote my contracts professor, is good only for horse shoes and hand grenades. Besides, law school ends after a four-year period. If we're fortunate, our kids grow up but they never stop being our children.

And so ends another day in the life of a "part-timer." It's the bewitching hour when all is quiet in the house and the next, and hopefully, final dilemma of the day is "hit the books" or "hit the sack."

G'night, all!

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IT'S A LETTER FROM THE POSTAL SERVICE...THEY'RE RAISING STAMPS TO 4 CENTS BY ORDER OF PRESIDENT EISENHOWER.



## ARTS AND ENTERTAINMENT

### "TAMARA": A UNIQUE BLEND OF FILM AND THEATRE

by Barry Stelbourn

Through the mammoth, baroque doors of the Park Avenue Armory exists another world. Suddenly, I found myself a guest of the perverse poet Grabele d'Annunzio in, "Il Vittoriale," his Northern Italian villa, in the year 1927. Immediately, I was greeted by a champagne-carrying maid and was delighted to indulge. Then, a militarily-garbed man startled me to attention and informed me and the other newly-arrived guests that we had to line up to retrieve our passports and have them stamped. (The passports are the equivalent of a playbill and also contain the rules of the play.)

Once stamped and legal, we were

My version of the "opening scene" took place in the room of the host, d'Annunzio. It was there that I, as the voyeur, overheard and oversaw a conversation between d'Azzunzio and Benito Mussolini, wherein I discovered that d'Annunzio was under house arrest (which explained the menacing presence of Finzi). I also learned that, in response to his situation, d'Annunzio has invited Tamara de Lempicka, a Polish painter to paint d'Annunzio's portrait. But is that the only reason he invited her? Who knows?

Very quickly I learned that the aristocratic members of this "living movie" are relatively stationary on the main level of the villa, while the maids and servants are constantly running up and down the stairs and into every room of the villa. So, being the adventurous type, I decided to follow Emilia, the promiscuous, power and money hungry maid. (It is recommended that you follow one of the cast so that you can get some continuity to the story.) For the next two hours or so I jogged around the villa following Emilia on her exploits from her bedroom, to the kitchen, to the dining room and wherever else she decided to

angle" of your choice. So, ultimately, every individual who attends "Tamara" will leave with his own version and vision of the story.

The executive producer of "Tamara", Moses Znaimer, wanted to create a new medium with "Tamara" and to a large extent he has succeeded with what has been dubbed as "the living movie" and

full of  
political intrigue,  
spite, revenge,  
sexual rendezvous...

"environmental theatre". "Tamara" is an ambitious, totally unique form of entertainment which combines the intensity of live theatre with the multi-dimensional aspects of film, a "thilm" if you will. It has an endless potential for variation and expansion into other genres such as comedy (specifically what comes to mind is some sort of British farce). The best thing about "Tamara" is that you can see it a number of times and view something completely new each time.

The rooms and plot turns of "Tamara" are a melodramatic three ring circus of fun that will keep you laughing and on your toes for the two-plus hours of the performance. "Tamara" is divided into two acts by "intermezzo" where the guests are encouraged to discuss and gossip about what they learned about the ongoing in the palatial villa. It is at this time that a buffet style dinner, catered by Le Cirque, is served in the dining and ball rooms of the villa. Also, after the raucous ending of "Tamara", coffee and tea is served. The one big drawback to "Tamara" is the cost. Tickets range from \$60 for a Wednesday matinee to \$135 for a Saturday evening performance. I'll leave you with two words of advice:

WEAR SNEAKERS!

You get to do your own "editing" and  
create the "camera angle" of your choice.

greeted by more drinks in the massive lobby while piano music filled the room. At 8:00 p.m. sharp, a resounding bell echoed through the majestic lobby and the fun really began. Dante, the amiable valet, and Aldo Finzi, the Fascist, appear on each staircase. While Dante greets you to the villa, Finzi warns you of the ramifications of being caught without your passport or not following a character (one of the rules of "Tamara" is that you must be following a character at all times). Quickly, the 150 or so people were broken into three groups and escorted to different rooms of the villa and in each of the rooms awaited a character.

go. I, and many others, acted as her unseen shadow, and discovered that not all is what appeared to be within the confines of "Il Vittoriale".

"Tamara" is based on real-life characters and the true exploits of the lives at the villa. It is full of political intrigue, spite, revenge, sexual rendezvous and everything else often found in the classic melodrama. What was really interesting to me, however, was not the plot, or should I say plots, but rather the way the plots became revealed to me. In essence what happens is that you, as the invisible viewer, get to do your own "editing" and create the "camera

# "There was a judge, a lawyer, and a plaintiff..."

-- BLS' own Marc Fleisher, professor of legal writing and criminal law

by Ruth Bernstein

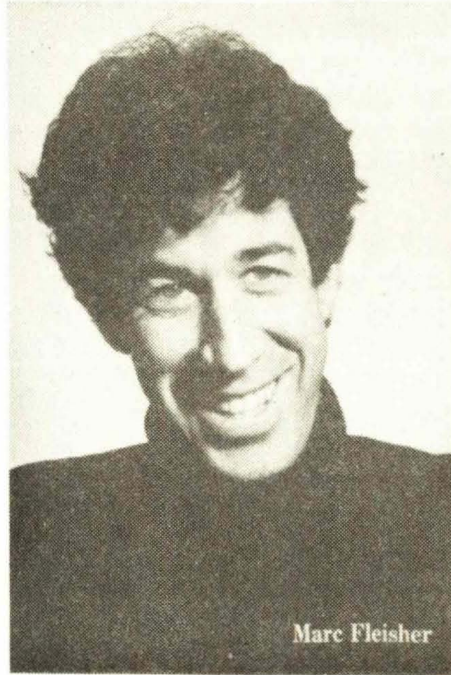
So the judge said to the attorney, "Are you trying to show your contempt for this court?" "No. I'm trying to conceal it." Ba-dum-bum.

What would you expect from an evening billed as a "Lawyer's Comedy Night?" On Wednesday, February 1 and 8, Andre and Stanley Productions put on Lawyers Comedy Night at the China Chalet restaurant on Broadway south of Wall Street. There were no pinstripes to be seen that night, but there were seven once and present attorneys who took the stage and exercised their rights of free speech. The seven proved one thing: that, just as there are good and bad attorneys, there are good and bad attorney-comics.

Lawyer's Comedy Night was written up in the New York Times' "At the Bar" section on Friday, February 10, and in the National Law Journal in the February 13 issue. Among the seven performers whose picture appeared in the National Law Journal was a familiar face: BLS' own Marc Fleisher, professor of legal writing and criminal law at BLS. Fleisher was far and away the best comic who appeared at the China Chalet in February. He has been a regular at the Improvisation, one of New York City's best known comedy clubs, for nearly a year.

"By and large, stand-up comedy is a lot of fun. Like anything else it has its highs and lows. Cracking up a room full of people is a rush. On the other hand, I don't enjoy doing late sets in front of tired, drunk people....I like the creative process the best—writing something, figuring out the best way to say what I want to say, and working on the timing and the proper inflection."

The best way to think up ideas, says Fleisher, is not to sit at a desk, think of something funny and write it down. Most often he will be out walking and some spontaneous thing will strike him as funny. If he thinks it might be good material for a routine he whips out his microcassette recorder and makes a note to himself. "I always carry a recorder with me, and



record thoughts and ideas as soon as they occur to me. I'll forget them if I don't."

Fleisher has been doing stand-up comedy for over a year and a half. It all started with a class he took at the New School for Social Research. He did two 5-minute sets for the class, and was bitten

showcase clubs, he gets paid \$10 for a 15-minute set, plus all the beer and food he can consume. The most he has ever been paid for a set was \$75 for a 30-minute set in a club in Bellingham, Washington. Would Fleisher ever consider giving up teaching and doing comedy full-time?

"It's a frightful prospect to think about supporting yourself on stand-up alone, which is why most comics seek to branch out into writing, acting and other areas. But doing comedy full-time is not an option I've foreclosed. If things clicked and it looked like a realistic prospect I'd be open to the possibility."

"On the other hand, I really like teaching, especially teaching criminal law. I might consider taking a year off at some point to pursue standup. But for the next year and a half, at least, I want to teach here at Brooklyn."

Fleisher says teaching law and doing standup comedy help develop skills that complement each other. "When I'm standing in front of a criminal law class I have to make things understandable for the class....and keeping them entertained certainly helps. Doing comedy makes

## far and away the best comic...

by the bug. Since November 1987, he's been performing once or twice a week in different showcase clubs, mostly around New York City.

"The showcase clubs, like Catch a Rising Star, the Comic Strip and Improvisation, are traditionally where beginners get their start. Most people who do stand-up full time go on the road and do showcase clubs around the country. That's how you get a national reputation. Then you can get a spot in a club like Caroline's on a Saturday night."

The life of a comedian, either in New York or on the road, is a difficult one. While there is money to be made on the road as a headliner, there is little to be made in the showcase clubs of New York. Fleisher says when he does a set at the Improv, one of New York's foremost

me a better teacher of ideas, and teaching helps me hone my comic timing."

The dual careers that Fleisher is pursuing have one more thing in common, he says, and that's the creativity involved. He says he didn't have time to be creative when he started out in law as an associate at Paul Weiss, and then, as an assistant district attorney he still took his job home at night. Now, as a teacher/comic, he feels he has the best of both worlds.

"Teaching, to me, takes the best from the law, the intellectual part, and leaves the horrible, mundane, petty, pedantic aspects of litigation behind. I get to deal with the thoughtful part of law and perform it. Then, in my career as a comic I get to make people laugh. It's not a bad way to make a living."

**When you party,  
remember to...**



**It's as easy as counting  
from 1 to 10.**

**Guests:**

1. Know your limit — stay within it.
2. Know what you're drinking.
3. Designate a non-drinking driver.
4. Don't let a friend drive drunk.
5. Call a cab if you're not sober — or not sure.

**Hosts:**

6. Serve plenty of food.
7. Be responsible for friends' safety.
8. Stop serving alcohol as the party winds down.
9. Help a problem drinker by offering your support.
10. Set a good example.



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**Skin Deep: Shallow Thoughts & Deep Laughs**

by a.k.a. Susan Arnold



**John Ritter stars as Zach, who knows he should change his ways, but spends most of his time changing his women.**

"Skin Deep" is a must-see movie for people who go to movies to laugh, and don't care whether the plot was realistic, thought-provoking, or will bring an end to world hunger. There were a few scenes where the whole audience was laughing for a few minutes straight. I don't know whether I've been going to the wrong theaters or the wrong movies until now, but this was the first movie I went to that *everybody*: a). thought was hysterical; b). laughed at the same time, and c. didn't have to analyze on the way out.

As with any Blake Edwards [written and directed] movie, I would not recommend inviting your parents, colleagues who doubt your ability, or basically anyone you are trying to impress. One of the sight gags was incredibly risqué. Who rates these movies anyway? I wish those people would grade our bar exams!

John Ritter was very funny. All those years on Three's Company serve as training for this role - sort of "Jack Trips through L.A." The press release we received promised that "we will see a more mature John Ritter than we did in

his television comedies." I attribute this to the aging process, and the disparity between what is permissible on television and what is permissible in an R-rated movie. Also, he gets to wear Armani suits (and take them off with incredible frequency) in "Skin Deep." He plays a man trying to win back his wife, but going about it in all the wrong ways. It would be gratuitous to note that he has to deal with an obnoxious step-son, a disapproving mother-in-law, and scores of pretty young things, but I'm big on gratuities.

Joel Brooks was in this movie also, playing the same character he always does. For those of you who are taking Family Law and know that alimony isn't what it used to be, you can see Julianne Phillips (making believe she is working hard at) earning a living. Vincent Gardenia put in a good performance. Of course, nobody's going to be nominated for an Oscar for this movie. But that's the point; it's just funny. There isn't much of a plot, there's no lesson to learn, there aren't any great performances, but the movie is quite enjoyable.

# INTER ALIA

by Michael Harding

**Park Attack.** One of my ex-partners made some of the arrests in the Central Park attack on a young jogger. When I received a call late one night informing me that the arraignment was about to begin, I went down to watch. I guess I went out of curiosity because I don't believe this crime was more heinous than some other crimes committed routinely in this city.

I met with my ex-partner, then I sat among the friends and families of the accused as they were arraigned one by one. I heard the charges. I heard the lawyers. At first, I felt bitter toward the defendants and even towards their families. Then I recognized the socio-economic problems in our communities that breed children to act this way. At first, I felt the defendants weren't entitled to a defense. Then I thought of the values and principles of the United States Constitution that I firmly believe in. Those defendants are entitled to a fair trial in which they are judged individually for their actions and if convicted they should be punished.

Sadly, the jogger will never be the same again. Her attackers will be punished, but I can't help hoping that somewhere along the line, someone will work on the root cause of this and other acts of violence before we have another victim to mourn.

**Big Move.** If you haven't noticed yet, the offices of the Bursar, Registrar, and Financial Aid Director have moved from the first floor to the second floor of One Boerum Place. Although no employee involved in the move is actually complaining, a few didn't look too happy about the move. Personally, I wouldn't be happy in an office without doors and where the walls don't extend to the ceiling. The vacated first floor offices will be the future home of the third floor student organizations (Law Review, Journal of International Law and Moot Court) which are being moved into Boerum Place to make way for additional faculty offices.

**Bar Review.** Margaret "Maggie" Dolin and I are working on a new bar review course. It will be known as the "Harding Method." The entire course will consist of two typed pages or the optional 60 minute cassette tape which will have 58 minutes of your favorite music and two minutes of course material. Look for further details in a future issue.

**Phones.** As you know, the new pay phone system (commonly referred to as phone scam or bogus phone systems) has been the subject of much debate around the halls. Well Smart Phones, Inc. has attempted to alleviate some of the problems by placing the phone number on each phone and giving refund instructions. The problem is that each phone number was attached via a stick-on on the side of the phone and a large number of them have been written over or ripped off. It's unfortunate that some students stoop to this low level of vandalism, but wouldn't it have been a better idea for Smart Phones, Inc. to place the number of the coin phone behind the plastic panel on the phone? Incidentally, I've been waiting three months for my twenty-five cent refund. Let's hope for some improvements over the summer.

**Writing Competition.** Good luck to those students who enter the writing competition. It is well worth the work and effort to be a member of a journal. You may have heard some complaints about last year's competition, but the journal boards are comprised of new members and the competition promises to be interesting and challenging. Go for it!

**Engagement.** Congratulations to Roseann Howard '90" on her engagement to Joseph Bernazani. Romantic Joe smoothed the way leading to his proposal by hiring a Rolls Royce for the evening and taking Roseann to one of the finer restaurants in the city. What a guy! Good luck and best wishes to two of the nicest people around.

Credit Mercedes Colwin with an assist for her match making skills.



**Status Change.** During the summer, David Rifkin '90" will undergo a status change. Dave will transform from single, eligible bachelor to happily married newly wed. Good luck and best wishes for happiness to Gail and Dave!

**Going Ape.** As we wind down toward final exams a lot of us go ape, but imagine the look on students faces when a gorilla dressed in a white tuxedo and carrying a bunch of helium balloons entered Professor Farrell's Evidence II class and sang a song to one of his students. The gorilla was a singing telegram sent to me by my wife, Rhonda, to wish me a happy anniversary and to congratulate me on passing the MPRE's. Thanks to Professor Richard Farrell, a good sport, and to my friends who helped coordinate this event between my wife and Prof. Farrell. And, of course, thanks to my wife and Happy Anniversary!

**Bun in Oven.** Professor Gary Schultze, Landlord-Tenant Clinic, and his wife are the proud parents of a baby girl. The big question is: Will Prof. Schultze share his toys with his child? Or will they buy duplicates? Congratulations, good luck, and best wishes for a healthy and happy child.

**Bye-Bye.** It's time to say good bye to those students who are graduating. It's been fun. We all wish you well. And remember, when you become successful, always hire from your Alma Mater.

To the rest of you, enjoy your summer and we'll meet again in the fall. *Ciao!*

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