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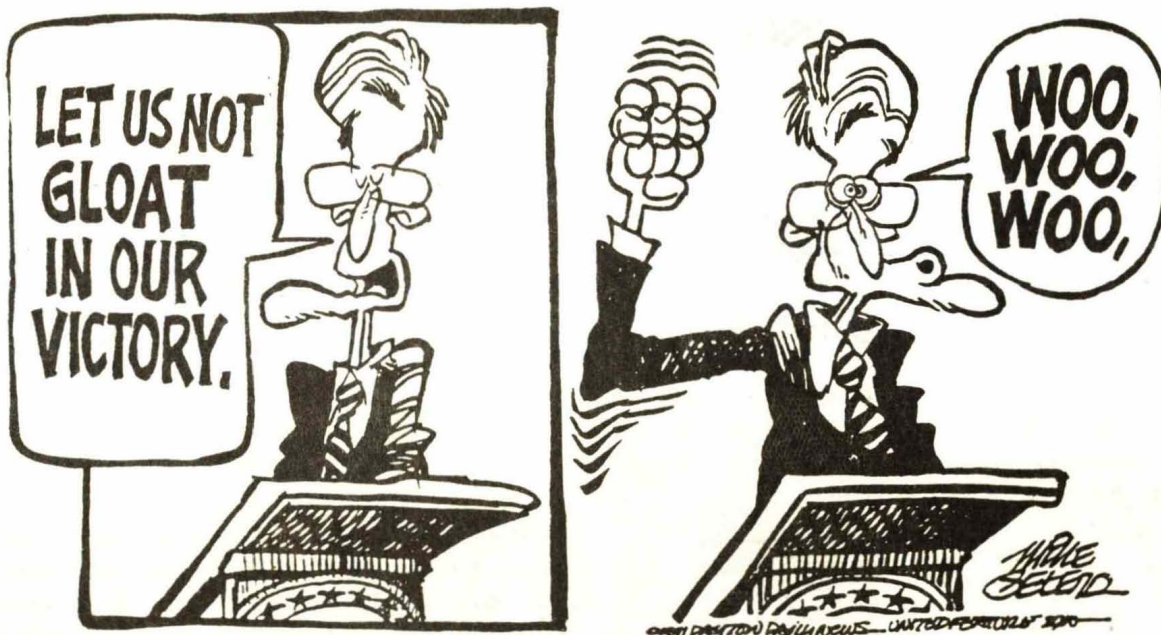
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March 1991 Vol LX, No. 5

THE JUSTINIAN

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

SBA DRAFTS CONSTITUTION; REFERENDUM SET FOR APRIL 22-23



ALSO IN THIS ISSUE:

Perspectives On The Persian Gulf War

Intellectual Property Law In The EEC

BLSPI Auction a Huge Success!!!

The Court Street King Returns

Plus... The Crossword Puzzle

Years Ago...

THE JUSTINIAN BROOKLYN LAW SCHOOL



VOL. XXIX, No. 4

MAY 21, 1969

BROOKLYN, NEW YORK

Let The Thing Be Pressed

Often throughout the past year complaints have been lodged against *The Justinian* citing its infrequency of publication and its sometimes lackluster contents. Yet, those who are most vociferous in their assaults, are the least willing to extend themselves to provide the necessary remedy. The editors and staff members have each made their own degree of sacrifice to produce this newspaper. Their efforts alone are nevertheless insufficient. A constant stream of topical material should flow across the Editor's desk, yet, little more than a sporadic contribution is to be seen.

A newspaper is a living creature serving often as a forum, a conscience or as a down-trodden spirit of a community. The essence of its being is communication. The life of an intellectual community without the benefit of a constant discourse is but a sham.

Goethe wrote:

"Giving advice is a very peculiar affair; and when one has looked round the world for a time and seen how the most cleverly designed enterprises fail, and how the most absurd often turn out well, one becomes chary of giving any one advice. There is, at bottom, a certain restraint in him who asks for counsel, and an overweening feeling of superiority in him who gives it. One should only advise about matters in which one is prepared to cooperate."

As the final edition of *The Justinian* emanates from Richardson Hall, the hope is expressed for a new commitment by the BLS community to the betterment of the Law School in its new home. A heart has but a limited ability to function when once removed from the body. So, too, a newspaper without a concerned community is but fodder for the fires of waste.

Abraham Lincoln wrote to General Grant in April of 1865, saying that: "Gen. Sheridan says 'If the thing is pressed I think that Lee will surrender.' Let the thing be pressed."

We believe that BLS and all the inhabitants therein have reason to foresee a success for BLS "unexpected in common hours" (Thoreau).

Let the thing be pressed and the allusive dream of Richardson, Carswell and Prince will become a bold reality.

The Justinian

A Forum for the Brooklyn Law School Community

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March 1991

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EDITORS' CORNER

Professional Responsibility???

This past exam period, a professor who teaches Legal Profession/Professional Responsibility administered a final examination comprised of 100 multiple choice questions - 50 taken verbatim from the class textbook chapters and 50 taken verbatim from a bar review company's Multistate Professional Responsibility Exam practice materials. Apparently, subsequent to the exam, some students complained to the administration about the inclusion of the bar review materials on this exam. After a two-month debate, students were recently informed that they would receive a grade of "P" instead of the numerical grade they were expecting. As this was not a Pass/Fail course, many students were unhappy with the outcome.

Unfortunately, this scenario has become all too familiar in recent semesters, where certain professors use materials on their exams that are not available to all the students in the class. As a result, the administration repeatedly has been forced to construct viable compromises that often leave a bitter taste in many students' mouths.

In fact, such compromises often inflict a sense of betrayal upon these students since their hard work and diligent preparation are rendered meaningless in the face of other students' greater access - whether through connections, luck, or honest efforts - to these less available materials. In effect, the "level playing field" students hear about so often from their professors disappears, and the majority of students are left to deal with the anxiety and frustration associated with their disappointment in the system. Unfortunately, the students shoulder the responsibility for their professors' ill-fated decisions and are forced to live with the administration's "least harmful solution" such that, inevitably, some students are penalized for something entirely beyond their control.

Upon reflection, the administration, once again, has examined this problem and has produced what appears to be the fairest solution under the circumstances (since the most viable alternative is to throw out the exam results and have students go through the painful process of

restudying and taking a substitute exam). Admittedly, this compromise carries this caveat - you can't make everybody happy in these situations. Thus, the administration should not bear the brunt of student frustration when this situation arises.

Rather, the professors who engage in this practice - and they need not be named here, for they know who they are - are the root of the problem. Apparently, there is no policy in place where a professor is forced to consistently make up new exams. Instead, the administration strongly encourages professors not to repeat exam questions or to use ones taken directly from outside materials. However, some professors have chosen to ignore this advice in reliance on their professional discretion to the detriment of the students.

Clearly, one would think that professional discretion imposes a responsibility on each professor to be creative and to approach the role of an educator with pride by presenting fair, but challenging, exams to his or her students. Instead, what has occurred with alarmingly increasing frequency, is a contest to see which students can obtain materials that just might pop up on that professor's exam.

Maybe the administration should consider implementing a more stringent policy regarding the use of available outside materials - especially professor's old exam questions - and monitor - or reprimand - such offenders more consistently. Furthermore, and more importantly, those professors who continue to engage in this practice - whether motivated by the thought of giving students a break with an easy exam or just out of sheer laziness or a lack of ingenuity - should examine their collective consciences and decide whether they have acted with the professional responsibility students are entitled to expect in a reputable learning institution.

**ARTICLES FOR THE LAST
ISSUE OF *THE JUSTINIAN*
ARE DUE ON APRIL 19.
PLEASE ADHERE TO THIS
DEADLINE. THANK YOU.**

LETTERS TO THE EDITOR

Just For The Phone of It!

Dear *Justinian*:

My letter published in the last edition of *The Justinian* brought to the school's attention that some students have been seriously overcharged by the third-party providers retained by the school to provide phone services on non-A.T.& T. lines. The school makes a commission on the service, but, as of yet, has given no response to the situation. We hope they are continuing to look into the matter.

I have been able to settle my bill with the companies. I called New York Telephone upon getting my bill, and they forwarded my dispute to the third-party carrier. I then called the carriers and was issued an immediate discount of approximately 60%. I received the discount notification by mail in my next bill, which I paid in full, excluding the disputed charges. I then continued to dispute those overcharges, since they were significantly above \$.30 /minute, the rate prominently displayed on the phones. I sent a second letter, with pictures of our phones' advertisement and a discourse on the fine print in contracts (analogizing the printed matter on the phones with such fine print), to the carriers by New York Telephone. I then received a bill notifying me that, without payment, service would be disrupted. Upon contacting the carriers by phone for a second time, they agreed to give me a credit in excess of \$90.00, which resulted in a credit balance in my favor of \$40.00.

My experience has taught me this lesson: this is a waiting game. Protest at every level, use documentation and

the carrier's available dispute mechanism. Had they not responded positively to my request, I would have made a protested payment and continued to dispute, and I would have called the Better Business Bureau and regulatory agencies.

I just would liked to thank *The Justinian* members for their assistance and encouragement in alleviating this plague in our student life.

Yours Truly,
Linda Maher

Lonely Israel

On Thursday February 28, 1991 (14 Adar 5751) Jewish people around the world celebrated the festive holiday of Purim. Purim celebrates the fall of Haman, the great enemy of the Jews. It just so happens that on this same day, the Iraqi dictator, Saddam Hussein, stubbornly agreed to withdraw from Kuwait after he and his armed forces suffered a humiliating defeat. This modern day "Haman" was also foiled of his master plans of dominating the Middle East and destroying the Jewish people. This day marked a tremendous victory for the coalition forces and for the Jewish people. The celebration of Purim, one of the most joyous holidays in the Jewish year, had a truly modern meaning. However, now that the war is over, I am afraid that the President and the Secretary of State will forget recent history.

The destruction of Saddam Hussein plays only a part in solving the complex problems in the Middle East. (So far we are probably all in agreement.) But now, because Presi-

dent Bush has one of the highest approval ratings of any president in the United States history, he thinks that he can play peace broker in the most volatile place in the world. This means increased pressure on Israel to give up land for so-called peace with the Arabs.

I think we should review some recent history before anyone advocates and supports such a simplified solution. On August 2, when Iraq stormed into Kuwait and began to pillage that sovereign country, many Palestinians in the West Bank joyously danced in the streets waving banners in support of Saddam Hussein. And Yassar Arafat, the leader of the Palestinian Liberation Organization, rushed to embrace him. Meanwhile, thousands of Kuwaitis were being robbed, kidnapped, tortured, raped, and murdered. In fact, some Palestinians living in Kuwait collaborated with the Iraqi's brutal destruction of that country.

Then when the coalition forces began its campaign to destroy Saddam's military capacity, Saddam, instead of using all of his weapons to defend the attack, sent scud missiles into a purely civilian population in Tel Aviv. His intentions were clear: kill as many Jews as possible, drag Israel into the war, and break up the coalition destroying him. Luckily, he failed. He failed thanks both precision bombing by the coalition forces and Israel's restraint in the face of uncertain danger. But while the scuds were fired at Israel, many Palestinians danced on their roofs cheering Saddam on.

Those who have always sympathized with the Palestinians will probably tell you that Palestinian support for Saddam was an expression of

frustration from years of oppression and a brutal occupation. They will probably tell you that for the Palestinians, any powerful leader bent on the destruction of the Jewish homeland would be fine. It just happened to be Saddam. Please don't excuse them! Had Yassar Arafat and the Palestinians seized the moment by distancing themselves from Saddam Hussein and condemning the atrocities of that aggression, they would have gained global support. Instead, Arafat and the Palestinians did the exact opposite and showed their true colors.

And now, after Yassar Arafat and the Palestinians showed the world who they really are, is Israel supposed to hand them one-third of their territory? I think it is time for another history lesson. The Israelis conquered that territory in 1967 after winning a miraculous victory against all of their neighboring Arab countries. To this day, with the exception of Egypt, those Arab countries do not recognize Israel's right to exist. It is nearly impossible for Americans who have never experienced the threat of their country's destruction, to fully comprehend the Jewish psyche in Israel. Let me try to illustrate the situation for the average American. Try to imagine living in New Jersey, when the people in New York, Pennsylvania, Delaware and Ohio want to destroy you and your state. Try to imagine that these states are governed by the most brutal dictatorships and the worst human rights violators in the world (according to Amnesty International). Then try to imagine that there are one million people who live in the state, who not only want the land they live on, but much more if they could have it. Now tell me that the best solution is to give them one-third of your land which lies at the border of your capital. And remember, if that is your decision, you must realize that many of those people want

your capital and the rest of your state, too.

Those Americans who have always advocated giving up land for peace are the same people who wanted to appease Saddam Hussein. President Bush, please don't make the same mistake as the leaders in Congress made when they voted to thwart your tremendous policy in the Persian Gulf. Mr. President, if you were an Israeli citizen, where do you think you would stand?

The Persian Gulf War was just a war, but I am not sure it was complete. As long as Americans and the world advocate appeasing tyrants we face future conflicts of this kind. Let us learn a couple of lessons from this crisis: 1) Do not support tyrannical dictatorships as the United States did with Iraq during its war with Iran. 2) Do not appease them once they become a military threat. If we follow the first lesson, we won't need to follow the second lesson.

Although there were arguments that made the alliance with the Syrians a necessary or at least a tolerable one, it was a mistake. The only difference between Hafaz Assad and Saddam Hussein is that Assad is a bit shrewder. Hafaz Assad sent a token force to the Gulf, and at the same time, he solidified his brutal control in Lebanon. He was rewarded with large sums of money by the Saudis and the rest of the coalition for a little more than the acquiescence of the Gulf policy against Saddam. Assad is developing his own chemical and biological capabilities and already has scud missiles that are more accurate than the missiles Hussein used against Israel and Saudi Arabia. And make no mistakes about it, Assad's ultimate target will also be Tel Aviv, and you can expect the Palestinians to cheer for him, too. What the liberals in the world have to realize is that they are not the only people fighting for peace

and freedom in the world.

Be strong Israel!

Mitchell Garbow '92

The Library: If Only Joe Cardieri Was Here...

by Eric Wollman

For many students, the law library is more than a facility that subscribes to the collective works of Shepard's. Like the legendary "Fortress of Solitude," where the Man of Steel did his greatest research and introspection, the law library is a laboratory for thought, enhanced by peace, quiet, and tranquility. Unfortunately, Brooklyn Law School's library falls well short of this utopia in several ways, and, hopefully, this brief survey will encourage the administration to take affirmative steps to improve it.

CREAKY STEPS, THUNDERING HERDS

Noise in the library has been a chronic complaint of library patrons in the past. Happily, through the fine efforts of the library staff and the cooperation of the students, for the most part, talking and socializing appears to be at an ebb.

Unfortunately, the physical plant of the library does not lend itself to improvement through measures of self control. Although the library floors are carpeted to muffle footsteps, the staircase connecting the library levels are not. In addition, the steel plates that reinforce the steps are ever-so-slightly loose, and when students enthusiastically rush down the stairs, it sounds like a stampede of Texas long-horns during a cattle drive. As a result, students using study carrels

anywhere within at least 50 feet of the stairs are continuously disrupted from important matters - for example, particularly troubling Con Law cases. While total silence is an illusory hope for a public facility of this nature, the noise created from the stairs is an easily-addressable issue. Accordingly, the administration should arrange to have steps in the library carpeted - an investment that might be financed, for example, by a one-time library user fee of one dollar.

NO REST FOR THE BLEARY-EYED

Anyone who travels America's super-highways quickly learns that the various states' departments of transportation have a clever way of alerting the happy, though bloated, motorist and passenger that bathroom facilities are near. What car load of people doesn't heave a collective sigh

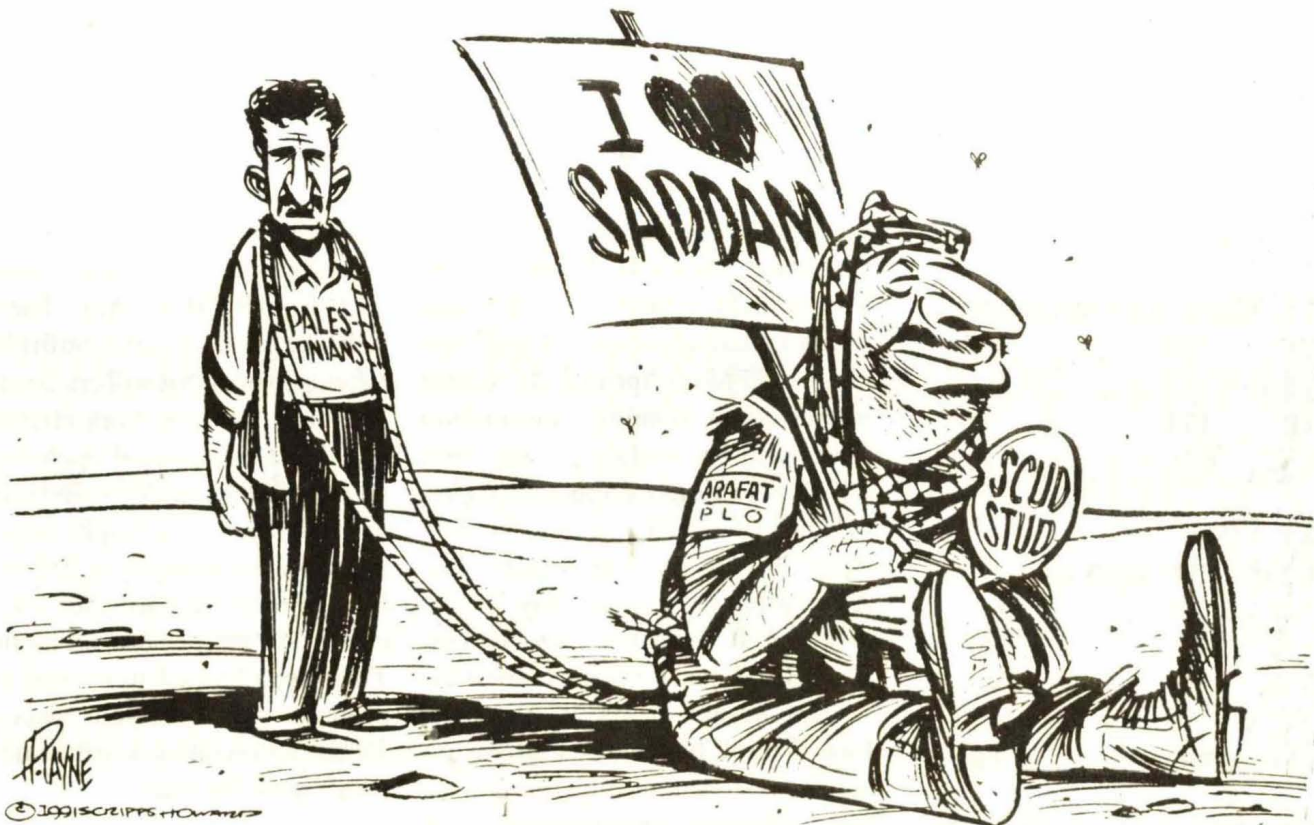
of relief when they see "Rest Stop Ahead"? Somehow, when this school's library was constructed, this concept escaped its designers. This multi-leveled library provides for only one restroom facility, located on the second floor. New students and visitors are mildly surprised to learn that in order to use the "loo" (as our British cousins call it), one has to travel to the second floor, or, better yet, leave the library *en toto* and head for the "head" in the basement (not to be confused, or connected with, the library's basement). If, and when, Brooklyn Law School expands its library acreage, let's hope that the administration address this problem. Regrettably, nothing can be done to rectify the current inconvenient state of affairs.

IF YOU CAN'T STAND THE HEAT....

Because the windows in the

library cannot be opened, it is essential that the air-conditioning machinery be made sufficiently flexible to recirculate fresh air into the library more frequently as the weather turns warmer. As patriotic Americans, we shouldn't want to use excess fuel to heat our buildings and, as environmentally concerned citizens we should encourage less dependence on fossil fuel heating. Lowering the temperature by just a few degrees can save money (which, in turn, may be used to carpet the noisy staircases!). Also, the temperature and air quality in the basement study rooms should be adjusted, for these rooms are so poorly ventilated that many students refuse to use them. Some students even claim to suffer from headaches after studying in these rooms for a very short time.

Hopefully, some, if not all, of these issues will be addressed in the near future.



"ALBATROSS? WHAT ALBATROSS?!"

SBA UPDATE

by
LARRY GREENBERG

As the school year draws to a close, I beg your indulgence to consider matters of great consequence to all of us at Brooklyn Law School:

CALENDAR REFERENDUM

RESULTS: As you are probably well aware, on March 4-7 the Calendar Committee conducted a school-wide referendum to ascertain student desires with respect to the Academic Calendar at Brooklyn Law School. Almost 71% (997 out of 1408) of the student body participated. I would like to thank Calendar Committee Co-Chairs Laura Amos and Marni Schlissel for organizing and running the referendum in such a professional manner.

What follows are the results of the referendum, broken down by year and status so you can get a sense of the concerns of each class:

STUDENT BODY - ALL CLASSES:

	FAVOR	AGAINST
	765	232
FULL-TIME DAY STUDENTS:		
1 YR	260	25
2 YR	253	46
3 YR	173	29
TOTAL:	686	100

PART-TIME

EVENING STUDENTS:

1 YR	22	7
2 YR	15	30
3 YR	18	40
4 YR	9	11
TOTAL:	64	88

PART-TIME DAY STUDENTS:

1 YR	0	27
2 YR	0	7

3 YR	1	5
4 YR	1	0
TOTAL:	2	39

PART-TIME

COMBINED PROGRAMS:

1 YR	5	4
2 YR	4	0
3 YR	4	1
4 YR	0	0
TOTALS:	13	5

I have delivered the results of the referendum to Dean Trager, Dean Wexler, and Calendar Committee Faculty Member Assistant Dean Margaret Berger. The SBA is currently contemplating an appropriate course of action at this time. As Steve Kreinik, a third-year student said, "The ball is in their court."

SBA ELECTIONS: It's that time of year again. The Student Bar Association will be holding annual elections for the Executive Board (President, Day V.P., Evening V.P., Treasurer, Secretary) on April 22 and 23. Nominations open on April 8 and close at 5 PM on April 15. If you are interested in running, nomination forms will be available in the SBA Office. Elections for upperclass SBA delegates will be held a week later on April 29 and 30. The Student Bar Association is a great way to get involved at Brooklyn Law School. The SBA allocates the funds for ALL student organizations at Brooklyn Law School, has representatives on numerous student/faculty committees, throws the most excellent parties, and engages in various charitable activities such as the Food Drive and Blood Drive. So come on and run so I can

get out of here.

In addition, on April 22 and 23 the newly-proposed SBA Constitution will be voted on by the entire student body. The proposed constitution appears elsewhere in this issue of *The Justinian*. Please take the time to read it (a great deal of effort went into its drafting).

SECOND CIRCUS REVUE:

Hooray for Hollywood! The SBA is proud to announce that the annual show of shows will be on April 18 and 19. For those of you who are clueless, Second Circus Revue is a musical comedy review entirely written and performed by your fellow classmates. Tickets will be on sale starting April 10 in the cafeteria. So come and see why year-after-year a good time is had by all.

BROOKLYN LAW SCHOOL

SEMI-FORMAL: The SBA is proud to announce the First Annual Brooklyn Law School Semi-Formal. The date is set for Saturday, April 20, 1991 from 9 PM to 1 AM. The event will take place on the beautiful *Dewitt Clinton*, a boat that will cruise around Manhattan in New York Harbor. In addition to 4 hours of open bar, we have hired 2 disc jockeys who promise to 'rock the boat' all night long. The cruise leaves promptly at 10 PM from South Street Seaport, Pier 16. The cost is \$36 per person - all inclusive. There are a limited number of spaces available so reserve your space now. Tickets are on sale now in the cafeteria. Don't miss the boat!

BLOOD DRIVE: This year the Brooklyn Law School Blood Drive will be bigger and better than ever. It

is scheduled for May 2. Due to recent world events the need for blood is greater than ever. This year each student organization will be responsible for appointing a Blood Drive Captain and encouraging all of their members to participate. All organizations should make sure their Captain attends the organizational

meeting April 9 at 5 PM in Room 501. Please make it a point to mark your calendars and give blood, the greatest gift of all.

SPRINGFEST '91: The Brooklyn Law School Annual Springfest will be held on Friday, May 3. The event

always proves to be a major fiesta. It will be difficult to top the success of Fallfest but SBA Day Vice President Michael "Pep" Pepperman promises, "I'm gonna leave this school with a bang!" The band will be *POPTHING*, a crucial jamming crew. The event will be held in the plaza in front of school. See you there!

The Justinian Wants You!!!

All students interested in working for *The Justinian* should come up to Room 307 and see Joe Accetta or Dan Tam. There will also be a meeting in mid-April. Watch for signs to see when and where it will be held. We are looking for editors, writers, photographers, and all-around good people for next year.

Let's all be there!!!

The Club Scene

Italian American Law Students Association

by Joe Accetta

"In your own profession, do not accept any negative stereotype, for it will affect you and your children," urged Robert G. Spata, an executive committee member of the New York State Commission for Social Justice ("CSJ"), at the Italian American Law Students Association annual Christmas event, held on December 18 in the Student Lounge. "It is our goal to gain support from the community at large," added Spata, "to eliminate the image of the 'three B's': burns, bigots and buffoons."

Created in 1980, the CSJ is the anti-defamation arm of the New York State Grand Lodge, Order of Sons of Italy. According to executive committee member Robert Pavone, who also addressed the audience, the CSJ is the only Italian-American group designed specifically to combat defamation of Italian-Americans. Pavone also identified the commission's primary goals as "promoting a positive image of Americans of Italian descent and fighting bias, bigotry and defamation aimed at Italian-Americans, as well as other groups."

Both Pavone and Spata, principals in the New York City school system, boasted of the commission's achievements in monitoring the media and advancing educational goals. Some of the commission's successes include: re-establishing in Italian the American College Board Examination Achievement test, used by many students to become exempt from the foreign language requirement in college, and establishing Media Evaluation Decision Intelligent Action ("MEDIA"), which monitors both print and broadcast/cable media and attacks material that contains discriminatory remarks directed at Italian Americans. Pavone remarked that the CSJ has received apologies or rebuttals from the *New York Times*, WNET-Channel 13, *Crain's New York Business* and Turner Broadcast System concerning defamatory stories printed or aired in the past. Pavone also boasted of the CSJ's influence in pressuring actor/comedian Billy Crystal to apologize on national television for a remark Crystal made during the 1990 Academy Awards ceremony. [Crystal had remarked that the purchase of MGM Studios by an Italian-led group would promote as its new logo the

famous MGM lion "taking the Fifth instead of roaring."]

Both Pavone and Spata expressed the commission's continued displeasure with the "Godfather" image that pervades the Italian-American culture. When asked about the commission's view on the upcoming John Gotti trial in the Eastern District, Pavone hastily declared that the commission was "totally unsympathetic" with Gotti and denounced the alleged mob leader's "macho, folk-hero" status as "a perpetuation of the gangster image we have tried so hard to eliminate." In addressing the battle to eliminate the "Godfather" image, Spata boasted of the commission's victory over the "Godfather Pizza" chain in the mid-1970's. The commission lobbied to have the chain discontinue "defamatory depictions of Italian-Americans in its stores and television commercials," said Spata. He added that the chain eventually agreed to contribute \$50,000 for an educational scholarship for Italian-American students over a five-year period.

According to Spata, the most troubling aspect of the Italian-American image in the aftermath of the Howard Beach and Bensonhurst incidents is the "low self-esteem of Italian-American youths in the city school system." Spata said that studies indicated that nearly 24% of all New York City school dropouts are of Italian-American descent, mainly "due to the lack of self-image being perpetuated by the media and unfortunate acts of other Italian-Americans."

"Hopefully, in the field of law," Pavone summed up, "you will be able to combat such problems by presenting Italian-American youth with excellent role models they can emulate."

City Council Candidates Forum

by Dorothy A. Brown

The Student Bar Association and the Democratic Club co-sponsored a forum for the recent City Council special election. The forum, held on February 19 and moderated by SBA delegate and Democratic Club president Michael Pocchia, presented the City Council candidates running for the 29th Councilmanic seat, vacated by Abe Gerges upon his appointment as a New York State Supreme Court judge.

Five of the nine candidates, Ken Fisher (the eventual winner of the election), Ted Glick, Lonni Leavitt-Cacchione, Joan Millman and Irene Van Slyke, accepted the invitation to address Brooklyn Law School students concerning the local issues that affect this district, which is comprised primarily of Brooklyn Heights, Cobble Hill and the Boerum Hill/Downtown Brooklyn area, and includes parts of Greenpoint, Williamsburg, Fort Greene, Park Slope, and Ridgewood/Bushwick.

Millman, first to address the assembly, emphasized her commitment to being a full-time Councilperson, her longstanding involvement in area politics and her strong community ties. When questioned about her position on the proposed Brooklyn Navy Yard garbage incinerator, Millman stated that she opposed it and favored a recycling policy and "strengthening the laws" to both increase efficient garbage management and reduce unnecessary product packaging. Furthermore, Millman indicated that Fisher, in fact, represented the developers of the proposed project while claiming to be opposed to it.

Fisher, a prominent Montague Street attorney, responded by discussing the diversity of this particular district's constituency and speaking at length on the Navy Yard project, acknowledging both his past and present positions. Fisher also commented on the "tough decisions that have to be made," stating that "despite efforts to recycle," he didn't "think that we have an alternative to the burn method."

Meanwhile, Glick emphasized his "grass-roots, multi-racial" support, while stating that he opposed both the Brooklyn Navy Yard project and the Metrotech development, currently being constructed in the Downtown Brooklyn area. Glick assailed the tax abatement packages and preferences bestowed upon developers and corporations, including Chase Manhattan Bank, in order to "lure them to Brooklyn."

Van Slyke, the final speaker at this forum, stressed the significance of this City Council election, the first held under the revised city charter. She described her candidacy as one based on the "advocacy of good government" rather than "business as usual." She endorsed the reinstatement of 24-hour police patrols in housing projects and a return to the era of the "beat cop," while emphasizing the necessity of creating community-based alternatives to drugs and crime.

After the candidates expressed their appreciation for the opportunity to address the students, Pocchia commented, "I believe the forum went very well. Hopefully, this will be the beginning of an increased and continuing involvement of the SBA and Brooklyn Law School students with community affairs."

Animal Rights Column

by Hayley Greenberg

"The biggest thrill is not to kill, but to let live."

J.O. Corwood

Our group would like to congratulate Nancy Davis on having been elected President. We would also like to remind everyone that **WE NEED YOUR HELP** if the animals are to be helped. We need more members. We need more people to show up at our events. It is better to help a little than not help at all. Drop us a note in our file box marked **ANIMAL RIGHTS GROUP** in the SBA office or call (718) 224-2531.

"HOW CAN I HELP?"

Often people say "I would like to do something but I'm only one person. What can I do?" This article contains suggestions for you to implement in order to live a cruelty free life.

PROTESTS

When you learn of protests in your area, **GO!!** Bring friends and home made posters. Call A.R.M. for further information and a schedule of planned protests.

FOOD

Try to become a vegetarian. If you don't succeed try again. It might be difficult but it's well worth the effort. You'll be preventing animal torture and helping yourself live longer by greatly reducing the risk of developing cancer, having heart attacks or other fatal ailments. Buy vegetarian cookbooks and eat at vegetarian restaurants to get an idea of the wide variety of foods available. Call any animal rights group for further information on this topic.

CLOTHES

When you see someone with a fur, **TELL THEM WHAT YOU THINK**. Try to remember that their selfish vanity is the direct cause of starvation, drowning, anal electrocution, and continual torture. Give him or her a brochure on how an animal's corpse was turned into a coat for them. If you still have furs in your closet donate them to a group for use in protest marches and funeral processions. For brochures call A.R.M. or P.E.T.A.

also. Avoid rodeos, race tracks, zoos (yes, zoos), circuses, traveling animal shows, and other animal participation events. Instead go to parks, museums, wildlife preserves, protests, animal rights events, festivals, and other events where no animals are in captivity. Remember, don't bring your pet to these events and never leave your pet in a car.

MONEY & TIME

Give as much money as you can to organizations. Your time is also greatly needed. Contact an organization you like and they will tell you what to do.

PETS

Do not let your dogs and cat breed. Have either male or female pets but not both. Never buy purebreds and never buy animals from pet stores. Most pet stores buy from mills which mistreat the animals. In addition, thousands of animals are killed every day because no one wants them! If you want a pet, go to a shelter to get one and save its life. Stay away from exotic pets many of which die after a short period of time in captivity before anyone decides to adopt or purchase one.

PARTICIPATE

Attend local animal rights meetings in order to stay informed of current events. The group A.R.M holds a meeting on the second Tuesday of every month at 7:00pm in Manhattan.

Attend our meetings and events here at Brooklyn Law School. We need and welcome new members. Look on the school bulletin boards for notices of our events. We want your input and ideas. Messages may be left at the SBA office or at (718) 224-2531.

PHONE #'S

A.R.M. (212) 966-8490
P.E.T.A. (301) 770-4444
F.A.R.M. (301) 530-1737
B.L.S. A.R.G. (718) 224-2531

Amnesty International

by Richard Yates

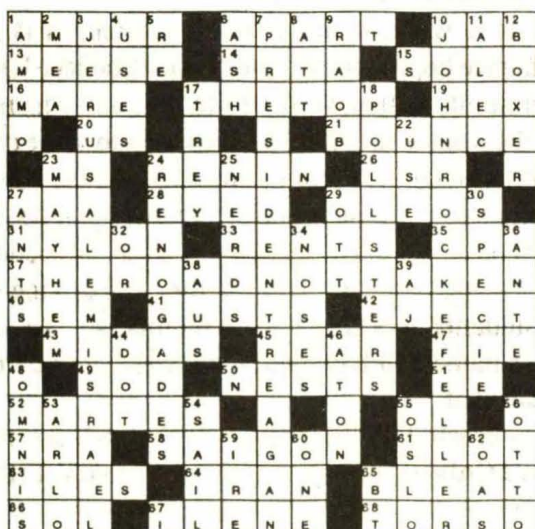
Recently, Amnesty International collected over 100 petition signatures from the Brooklyn Law School community on behalf of Esber Yagmurdereli, an attorney in Turkey who was tried and convicted of "trying to change the constitutional order by force." Yagmurdereli was not permitted to assert an adequate defense at trial, and much of the relevant testimony weighed in reaching the verdict was obtained through confessions extracted under torture.

Amnesty circulated these petitions in order to urge the fair retrial of Yagmurdereli, excluding the tainted confessions, and these petitions have been forwarded to the Turkish Ambassador in Washington D.C.

Amnesty International encourages students and faculty to write diplomatically-worded letters expressing concern over the troubling circumstances surrounding Yagmurdereli's trial and conviction to:

Hon. Nuzhet Kandemir, Ambassador
Embassy of the Republic of Turkey
1714 Massachusetts Ave. N.W.
Washington D.C. 20036

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BLSPI Auction a Huge Success

by Paul Zimmerman

On Wednesday, March 27, Brooklyn Law Students for the Public Interest held their Auction-A-GO-GO, and it really went. BLSPI raised over \$5000 that will enable Brooklyn Law Students to work at public interest summer jobs.

BLSPI transformed a Wednesday night in the Student lounge into a pre-Spring Break extravaganza of eating, drinking, and other forms of conspicuous consumption. The combination of hot music (courtesy of deejay Mike Williams), free beer, and the spirited showmanship of professional auctioneer Stuart Medow attracted a crowd of 400 and induced even the most budget-conscious students to blow chunks of their school loans for quality merchandise and a good cause.

One of the highlights of the evening was a vicious bidding war between best friends Jennifer Naiburg and Ilona Marsh for a night of splendor at the Plaza Hotel. Jennifer had to pay a tidy sum to secure this lavish prize for herself and a guest. Meanwhile, a tarot card reading by the divine Miss Anne, the Cobble Hill Clairvoyant, went for \$65, the winner of which deserves some good news for that small fortune paid.

Also commanding top dollar were dinners with Professors Johnson and Leitner. The successful bidder's interest in a gourmet dinner at chez Johnson became vested for an impressive \$85, while the chance to be a joint tortellini-feaster with Uncle Jerry at a first class eatery of his choice went for \$80.

But some gastronomic loyalties proved to lie even closer to home, as bidders fought tooth and nail over ten cafeteria lunches donated by Woerner's. Professional auctioneer Stuart Medow, literally jumped into the fray when it came to the two final contenders, Jae Won and Dafna Yoran. With his microphone strapped on like Dylan's harmonica, Medow had two hands free to extract a frenzied bout of offers which peaked at \$80. "Don't think twice, it's all right..."

Professors Stempel, Ziegler, Fleisher, and Kuklin, generously donated their time and talents as guest auctioneers. Professor Fleisher's impromptu stand-up routine brought some comic relief to the bidding wars: perhaps the response he received will inspire him to revive his moonlight job in the nightclubs in Manhattan. Be sure to ask him about his preferred mode of travel to and from these gigs.

Professors Bentele, Berger, Finkelman, Waller, Pinto, Murumba, and Deans Trager and Wexler all graciously donated many valuable items. Big ticket items included:

Professor Pitler's donation of the complete Beatles' CD catalogue, which brought in \$245, and a weekend in Montauk, courtesy of Professor Herman, went for \$430.

Over four hundred students, faculty, friends, and local residents turned out to shop, drink, dance, and unwind -- all the while helping to further establish BLSPI as a key source of social activity, as well as socially conscious employment opportunity, for the Brooklyn Law School community.

BLSPI would like to extend its sincerest thanks to everyone attending and participating in the Auction-a-GO-GO for raising a sum that exceeded all expectations. Keep an eye out for the upcoming pledge drive (which has already attracted over \$1000), and for information on BLSPI's summer stipends.

Library Update

by Linda Holmes

The library has just installed an online catalog. This means that all of the information which is currently available in the card catalog will now be computerized and accessible through computer terminals located throughout the library.

A number of other libraries have installed this system, which is produced by a company called Innovative Interfaces, Inc. Most of the other libraries give their system a name. For example, Georgetown University named its system GULLiver; American University named its system LEAGLE, in honor of that university's mascot, the eagle; and New York University, whose system some Brooklyn Law School students are familiar with, named its computer JULIUS, in honor of their distinguished former law librarian, Julius Marke.

The current working name of our system is BLS ONLINE, but we hope that someone in the Brooklyn Law School community will think of a more distinctive name. Therefore, the library is sponsoring a contest to name our new system. The deadline for entries is April 19, 1991, and all entries should be submitted to Dorothy Li, Associate Librarian for Technical Services. The final selection will be made by a panel of judges comprised of faculty members, students and library staff members. We are looking for a name that has some sort of zing, pizzazz or catchy nature to it.

The winner will be announced May 1, 1991, and the prize will be a Cross pen and pencil set, engraved with the winning entry.

For further information, contact Dorothy Li or Professor Sara Robbins.

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Moot Court Update

by Nancy London

Congratulations to all of the following Moot Court teams who have competed and excelled in their respective competitions!

In Brooklyn's first entry in the Tax Competition sponsored by the Florida Tax Bar in Clearwater, Florida, the team of **Lisa Mastrodomenico**, **Joseph Mirabella** and **Joseph Williams** achieved tremendous success. The team advanced to the semifinals, where they argued before two members of the U.S. Tax Court, and brought home the top prize for Respondents' Brief.

Once again, Brooklyn Law School was a success in the National Trial Advocacy Competition, as both teams added to Brooklyn Law School's growing reputation of producing good trial lawyers. The team of **Donald Leo**, **Christine Mendola** and **Robert Segall** finished as quarter-finalists and the team of **Noel Bonilla**, **James Castro-Blanco** and **Linda Osmand** made the regional semi-final round.

Washington, D.C. was host to the Jessup International Moot Court Competition. **Annabel Hubbard**, **Georges Nahitchkevansky**, **Marci Silverman** and **Robert Williams** successfully represented Brooklyn Law School by earning Third Best Brief and Third Place in the overall competition. In addition, **Marci Silverman** was awarded Fourth Best Oralist.

Also, the Environmental team of **Rob Golden**, **Lisa Beth Vanefsky** and **Karen Bennett** also proved to be a successful advocates, finishing as quarter-finalists in Pace University Law School's Competition. **Karen Bennett** was also awarded Best Oralist for the quarter-finals and **Rob Golden** was awarded Best Oralist for the preliminary rounds.

The team of **Stacey Charkey**, **Beth Chetkof**, and **Lisa Haberman** successfully represented Brooklyn Law School in the Spong Constitutional Law Competition held in Williamsburg, Virginia, while our Entertainment Law team of **Craig Cohen**, **Naftali Dembitzer** and **Jacqui Lesser** served Brooklyn Law School well at Cardozo Law School's recent competition.

The Civil Rights Law team of **Adam Becker** and **David Mandelbaum** also put in a valiant effort at the Minnesota Civil Rights Competition. At our own Prince Evidence Competition, the team of **Ed Ross**, **Judy Selby** and **Kathleen Warner** finished as quarter-finalists.

The Administrative Law Team of **Huma Kamgar**, **Dawn Orlacchio** and **Fred Arriaga** finished strong by

taking third place in their competition sponsored at the University of Ohio at Dayton School of Law.

Finally, at the Nassau Trial Competition, an appellate competition in trial matters, **John Lonuzzi**, **Gae Polisner**, and **Valerie Weinstock** won the entire competition as well as taking second prize for Best Brief.

Still to come is the Products Liability Competition, which will be held in Cincinnati, Ohio.

INTRAMURAL TRIAL ADVOCACY COMPETITION HELD

The Moot Court Honor Society is also proud to announce the largest participant turnout in the annual Intramural Trial Advocacy Competition in years! Congratulations to the winners of this year's Trial Advocacy Competition.

The teams for the 1991-92 school year are:

Team A: **Stacey Frascogna**, **Mellisa Lukeman** and **Samuel Rudman**;

Team B: **Suzanne Treibitz**, **Steve Landis** and **Tina Giampino**;

Alternates: **Adam Firestone** and **Karen Grottalio**.

Special congratulations go to **Stacy Frascogna**, who was awarded Best Advocate of the competition.

Placement Update

by Karen Comstock

The Challenges and Satisfactions of a Legal Services Practice, the next Specialty Series panel discussion and dinner, will be held on Thursday, April 11, from 6 p.m. - 8 p.m., at One Boerum Place, in the 4th Floor Reception Room. Sign up in the Office by Monday, April 8.

Featured alumni speakers include:

Julie Murphy, '89

Union County Legal Services

Scott Sommer, '87

Brooklyn Legal Services Corporation "B"

Karen Greenberg, '77

District Council 37 Municipal Employees
Legal Services Plan

Also, all students are encouraged to make an appointment with the Office of Placement and Career Services for an individual resume writing and career counseling session.

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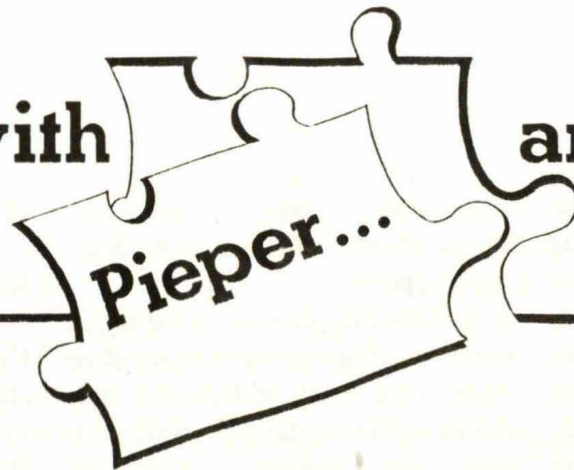
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Reflections On The Persian Gulf War

by Mark Koestler

[**Editors' Note:** This article was written at the beginning of March, before the War in the Persian Gulf ended.]

As of this writing, 33 days and 35 Scud missiles into the War in the Persian Gulf, Israel has continued to restrain itself from any sort of retaliation. In doing so, Israel has helped preserve the tenuous alliance. The alliance is tenuous because the United States is on the same side as a Soviet-equipped Syria which supports and harbors terrorists and could have been responsible for the bombing of Pan Am Flight 103. It seems this alliance was forged on the basis of the age old adage that "an enemy of my enemy is my friend." However, this adage was not powerful enough to allow Israel to enter the war as an offensive force on the same side as Syria, Saudi Arabia and Kuwait.

Although Israel has restrained itself through 35 missiles, hundreds of casualties and large scale property damage, it should not show such restraint if the war ends, either through force or diplomacy, and both Saddam Hussein and the Iraqi war machine survive intact. The Israelis cannot afford for the two to survive the war specifically because they are dealing with Saddam Hussein. It was Hussein who threatened to "destroy Tel Aviv with bombs" in August 1980. Recently, Hussein declared "I swear to God we will let our fire eat half of Israel if it tries to wage anything against Iraq." This is not an empty threat since Hussein has used every type of weapon in his possession, including chemical weapons which he used to kill more than 5,000 Kurdish civilians in his own country.

If Hussein survives, there is every reason to believe that he will rebuild and use military force, especially in attacking Israel. As a result, Israel should not be expected to exercise further restraint if it appears that Hussein will survive. While the mere possibility that Hussein will rebuild and use violence against Israel in the future is not enough to justify a post-war Israeli attack on Iraq, this possibility taken with the fact that Iraq attacked Israel without any provocation or violence on the part of the Israelis and the fact that the attacks have been against civilian targets are enough to justify an Israeli strike.

The Israelis should not be expected to sit idly by while Hussein rearms himself and once again plots against "the Zionist entity." The Israelis should be commended for not retaliating against the Iraqi Scud attacks. These missile attacks against Israel are blatant terrorist acts. Nevertheless, while the Iraqis condemn the United States for the deaths of civilians due to collateral damage from allied strategic bombing, they have no scruples when it comes to launching high explosive missiles aimed at densely populated areas such as Tel Aviv. These acts evidence Iraqi hypocrisy.

Further hypocrisy in the region exists amongst the Palestinians of the West Bank, Gaza, and Jordan. This hypocrisy lies in the Palestinian support of the Iraqi invasion, occupation and annexation of Kuwait. It is hard to comprehend how this support comes from a group which has complained about occupation, and protested violently against occupation for 23 years. The Palestinian stance is

hypocritical because they seek to end Israeli occupation in the West Bank and Gaza Strip while supporting the Iraqi offensive occupation of Kuwait. Living in an occupied region, one would think that the Palestinians would sympathize with and support the Kuwaitis. However, the Palestinians are publicly supporting the Iraqis apparently because they have something in common, a hatred of both Israel and the United States.¹ The Palestinians should support the Kuwaitis, for public relations purposes, because it is questionable how much public support they will receive after having backed Saddam Hussein, a ruthless anti-American and anti-West dictator.

One must be careful when mentioning the Iraqi occupation of Kuwait and the Palestinians in the same sentence because there is no logical link between the two occupations. The two occupations have extremely different histories. The occupation of Kuwait resulted from an offensive invasion by the Iraqis while the Israeli occupation of the West Bank and the Gaza Strip originated from a defensive pre-emptive Israeli strike against encroaching Arab armies.

The history of the occupation of Kuwait is straightforward; the Iraqis massed their troops on the border of Kuwait and on August 2, 1990 launched an unprovoked and unreasonable invasion following Saddam Hussein's threats and demands that Kuwait forgive all loans. Hussein had a desire to control the valuable Kuwaiti oil fields and was angry that the OPEC nations, specifically Saudi Arabia and Kuwait, continued to allow a high level of oil production,

¹ It should be noted that, prior to August 1990, Kuwait shared the anti-Israeli sentiment.

thereby making oil cheaper.

The events that led to the Israeli occupation of the West Bank and the Gaza Strip are quite different from the Iraqi occupation of Kuwait. On May 14, 1967 Egypt began mobilizing its forces. On that day, the Egyptians demanded the withdrawal of the United Nations forces which were acting as a buffer in the Sinai Peninsula and the Gaza Strip. On May 19, 1967 the United Nations forces withdrew and Cairo radio announced "This is our chance Arabs, to deal Israel a mortal blow of annihilation, to blot out its entire presence in our holy land." On May 22, 1967 Egypt declared the Strait of Tiran (located at the base of the Sinai Peninsula) closed to all Israeli shipping and Cairo radio announced that "the Arab people is [sic] firmly resolved to wipe Israel off the map." On May 25, 1967 the Syrian, Iraqi, Jordanian and Saudi Arabian forces massed on the Israeli borders. On May 30, 1967 Cairo radio announced that "with the closing of the Gulf of Akaba, Israel is faced with two alternatives either of which will destroy it; it will either be strangled to death by the Arab military and economic boycott, or it will perish by the fire of the Arab forces encompassing it from the South from the North and from the East." By June 4, 1967 Israel was outnumbered three-to-one by the Arab forces on its borders, and the Egyptians continued the blockade. It was the totality of these factors which led Israel to launch a pre-emptive attack on Egyptian airfields. (This history was obtained from Martin Gilbert, *The Arab-Israeli Conflict, Its History in Maps*, Weidenfeld and Nicolson, London, 1984). The Six Day War ensued and Israel pushed the numerically superior Arab armies back toward their own nations.

As a result of defending itself, the Israelis captured the Sinai Peninsula

(which includes the Gaza Strip), the West Bank and the Golan Heights. The Kuwait situation would have been analogous to the Israeli actions in 1967 if Iraq was the far smaller of the two countries and its troops were outnumbered by 3 to 1, with the massing of Kuwaiti troops on the border and in order to avoid invasion and utter destruction, Iraq launched a pre-emptive strike pushing the Kuwaitis back from the border and then occupied Iraq. It would have been even more analogous if, in addition to the Kuwaiti forces, the Saudis and Iranians had also accumulated troops on their border with Iraq. But neither of these "David and Goliath" hypotheticals took place. Instead, a vastly outnumbered Kuwait was overrun by Iraq in a matter of hours.

The Israelis displayed commendable restraint which has resulted in the preservation of the allied coalition. The United States should recognize that the Israelis are its best and most stable allies in the region, if not the world. The United States should also reassess its relationship with King Hussein of Jordan which has been somewhat of a disappointment in this conflict. King Hussein's actions, or lack thereof, appear understandable since the Palestinians, who are pro-Iraqi and anti-American, make up a majority of the population in Jordan. However, King Hussein is probably afraid that showing support for the allies will destroy the fragile power that he presently holds as a minority (Hasheminite) leader ruling over the majority (Palestinians).

The Israelis should also be commended on their foresight with respect to Saddam Hussein and Iraq, namely their bombing of the Iraqi nuclear power plant in Osirak in 1981. Cynics will say that hindsight is 20/20, but data compiled by Israeli intelligence combined with statements and threats made publicly by Saddam

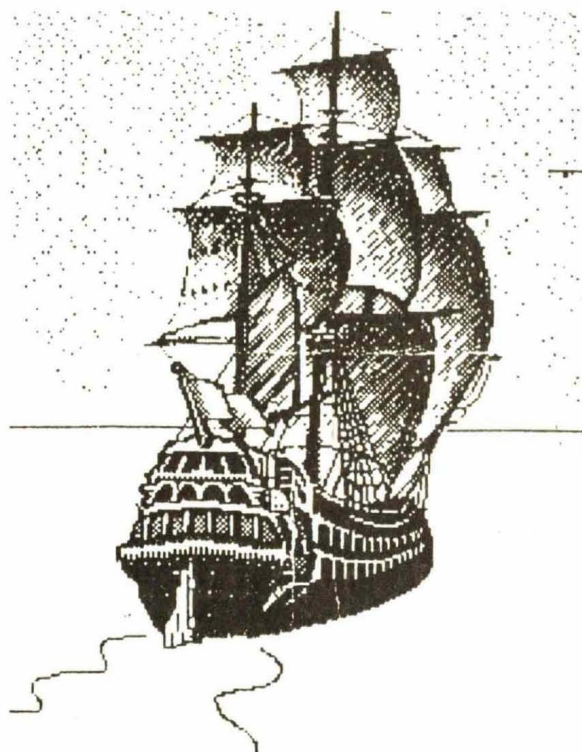
Hussein supports Israel's conclusion that if Hussein had been able to get nuclear capability, he would have used it (either directly or as part of a blackmail scheme) against the Israelis and possibly others. Israel must have evaluated its decision to strike Iraq by weighing world opinion against survival and eliminating Iraq's chances of achieving nuclear capability. Israel chose the latter and this choice was condemned by a number of United States Congressmen and Senators, by the press and by the United Nations. An editorial that appeared in the *New York Times* on June 9, 1981 stated that "Israel's sneak attack on a French-built nuclear reactor near Baghdad was an act of inexcusable and short-sighted aggression." However, this "act of inexcusable and short-sighted aggression" may very well have saved thousands of U.S. and allied soldiers lives. On November 13, 1981, the General Assembly voted 109 to 2 (the two were the United States and Israel), with 34 abstentions, to condemn Israel for the raid on the nuclear reactor.

Contrary to the *New York Times* claim that the Israeli raid was short-sighted, the Israeli destruction of the nuclear reactor looked far into the future and realized what kind of man Saddam Hussein really is. The Israelis should be applauded and commended for their prudent actions of June 1981. While it may be unclear how the region would stand today if Iraq had been capable of producing a nuclear weapon and developing a method of delivery. One thing that is certain is that the gas masks and protective suits that are worn by the allied soldiers would be of no protection against a nuclear weapon. Although war and any loss of life is tragic, the Israelis may be thanked for the fact that Saddam Hussein did not have a nuclear weapon in his possession during this war.

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A Survey of Intellectual Property Law In The EEC

by Lori S. Gentile

This article is intended as a brief description of the European Economic Community (EEC), a brief introduction to the three types of intellectual property rights (trademark, patent and copyright), and a brief overview of the EEC's effect on intellectual property law.

The European Economic Community

On January 1, 1958, the EEC was established under the Treaty of Rome. The treaty was initially signed by Belgium, France, West Germany, Italy, Luxembourg and the Netherlands. In subsequent years, the United Kingdom, Ireland, Denmark, Greece, Spain and Portugal have also joined.

The primary goal of the EEC is to improve the lifestyle and work environment of the citizens of its member countries. Article 1 outlines this goal as "the achievement of a harmonious development of the economy within the whole community, a continuous and balanced economic expansion, increased economic stability, a more rapid improvement on living standards and closer relations between the member-countries." Article 3 describes the means to be used to achieve those goals, including the elimination of customs between member states and the establishment of a common customs tariff towards non-member countries. As part of this scheme, the EEC has always maintained an intent to eliminate restrictions on free trade or barriers of competition between its members.

In 1986, the Single European Act (SEA) was enacted to carry out the original intention of the Treaty of Rome. Moreover, the SEA made operation of the original treaty more feasible. For example, under the

Treaty of Rome, unanimity was necessary for passing legislative directives, while under the SEA, majority rules in most cases. Also, votes are weighted so that the larger states of the EEC cannot band together to block legislation. The SEA also affects the concept of "harmonization". Under the Treaty of Rome, harmonization implied that the laws of the member nations would eventually be required to conform with the EEC standards, while under the SEA, harmonization is only required with respect to laws relating to consumer protection and those necessary to the functioning of the common market (SEA refers to this market as the internal market). The SEA also calls for the elimination of trade barriers among its member nations by December 31, 1992. The SEA, however, does not create a uniform code of EEC law.

The EEC, as it exists under the Treaty and the SEA, raises two issues relating to intellectual property. First, if the EEC is intended to promote competition, such a policy runs counter to the monopoly rights and restrictions on competition granted under intellectual property law. Second, if each member state already has laws governing intellectual property, how can the EEC effect the goal of harmonization?

With regard to the first issue, the EEC has explicitly acknowledged the protection of industrial and intellectual rights. The second issue, that of harmonization, is addressed below.

I. Trademarks

Trademarks are symbols which are indicative of the *source* of the product, good or service. For example, both the words "Coke Classic" and the swirl on the can are trademarks of

the Coca-Cola Company. Trademarks are very important in business because they are symbols of a company's good-will. Any passing off by an infringer will not only hurt the owner's business but also will deceive the public.

The EEC's treatment of trademarks is two-fold. First, the agreement allows a member to follow its own national trademark laws regarding registration, revocation, and invalidity. However, the laws relating to obtaining and keeping a trademark, as well as the rights and protection given a trademark owner, will eventually become harmonized among the members. Assuming that harmonization includes unifying infringement law, this approach is rational since unifying infringement law will provide notice to businesses as to what constitutes infringement.

Second, as an alternative to separate registration, the EEC is also considering a community trademark system in which one application is filed to a central trademark bureau (called the Community Trademark Office [CTO]) and which would grant the owner protection throughout the entire community. Anyone filing under the community trademark laws would not be entitled to the national protection of the individual member state, but must follow the EEC trademark laws. Having the option to choose between the community trademark or the individual trademark is beneficial because it allows a local business to save the expense of obtaining a community trademark, if the business is only concerned with protection within a few nations.

II. Patents

Commonly, patents are awards

for inventions in the following subject matter: processes, machines or apparatuses, articles of manufacture or compositions of matter. Under the patent laws, a patent owner is entitled to exclude any other from *making, using or selling an invention*, and not an affirmative right.

An inventor, in order to reap the maximum monetary benefits, often will not only seek protection in the United States but will also seek world-wide protection from infringers. Filing multiple applications can be troublesome and complex. Under the European Patent Convention (EPC), the inventor can file one application listing the countries it seeks patent protection from.

The EEC is in the process of ratifying a similar system for its members. Under the Community Patent Convention (CPC), the EEC provides its members with a central bureau, as in the case of the community trademark system. The member inventor would apply to the CPC for a community patent which is enforceable in all of the EEC member countries and is subject to community law.

The need for having a choice between community-wide patent protection and single nation protection is less convincing in this case. This is because of the unpredictability that a particular invention may become desirable in another country. Therefore, it is to every inventor's advantage to have multi-national protection. Also, since biotechnology is not protected under either system the EEC is in the process of harmonizing its' member nation's laws to deal with this growing technology. Attorney Robert Neuner, a member of the law firm Brumbaugh, Graves, Donohue & Raymond has noted that biotechnology protection will have the effect of increasing research and development among world-wide research institutions. [Neuner, N.Y.L.J., Apr.

5, 1990, at 3]

III. Copyright

Copyright is protection for the expression of an artist's ideas but not the ideas themselves. Thus, the familiar "c" enclosed in a circle is notice that the artist has registered the copyright which came into existence *at the time the work was created in a tangible form* (i.e., the dotting of the last "i").

A copyright gives the author several rights including, the right to reproduce the copyrighted work and the right to create derivative works. (e.g., the right to produce the movie if you own the copyright of the book). Copyright is given to a variety of subject matter e.g. books, movies, photographs, but is not given to purely functional expressions.

Many international treaties exist which include all the EEC members (e.g., the Berne Convention). The EEC has recently issued a *Green Paper on Copyright and the Challenges of Technology- Copyright Issues Requiring Immediate Action*. Of utmost concern to the internal market structure of the EEC are the issues of commercial piracy, home copying of sound recordings and films, and protection of computer programs and

computerized databases. Various solutions to the piracy issue were presented in the *Green Paper* which include, stricter licensing requirements, technological blocking and criminal penalties.

Thus, the EEC is making a valid effort at structuring an intellectual property system which attempts to simultaneously unify and preserve its members' laws. As Neuner noted, "a country's intellectual property rights are a barometer of that country's level of innovation and a reflection of its economic strength. . .the impetus for this effort [harmonization] is that the differences in intellectual property laws among the member states of the EEC have a direct and negative impact on trade within Europe and on the ability of enterprises to treat the Common Market as a single environment for their economic activity." Furthermore, it seems that not only do the EEC members stand to gain if the new system is successful, but the United States and other non-EEC countries stand to gain as well.

[Editor's Note: References: J. Buhart and D. Burton, *Legal Aspects of the Single European Market*, pp. 88-97 (1989).]

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There Ought To Be A Law...

by Joe Accetta

Without a doubt, the neighborhood barber shop is one of my favorite fountains of banter and opinion. On any given day, Main Barber Shop on College Point Boulevard is magically transformed into a courtroom, and the old-timers (I call them old timers affectionately, of course) who gather there occasionally become jurors who deliberate over any number of the issues that affect our times.

On one cold, January morning, the opening case on the barber shop docket was the curious case of *Baseball Hall of Fame Board of Trustees v. Peter Edward Rose*. Rose, arguably one of the best players in the game's history, was recently released from federal prison after serving six months for a tax fraud conviction. Rose has become an

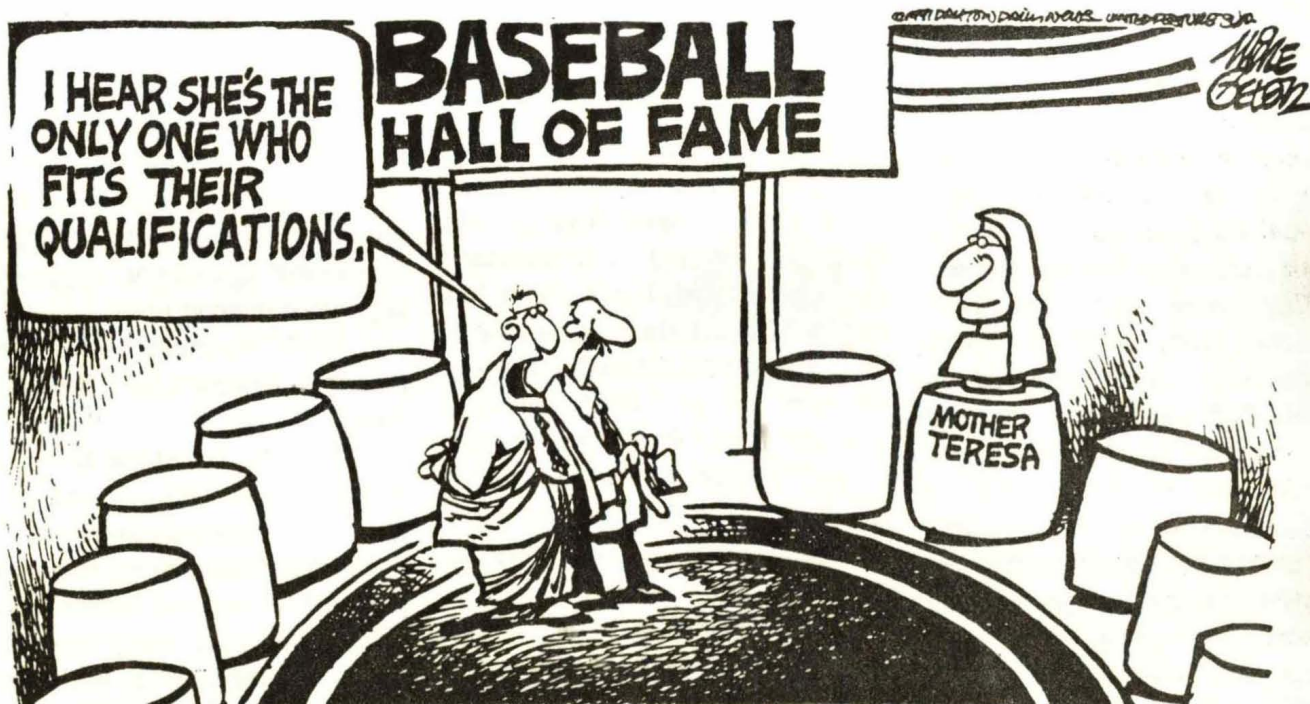
outcast, having been banned for life from baseball by the late commissioner A. Bartlett Giamatti in 1989 for allegedly gambling on games involving his own team - the Cincinnati Reds - while he was their manager in the mid-1980's.

"They should keep the bum out," opined Rosario, a grizzled, robust bear-of-a-man. "He was a punk when he played, and he's been a punk throughout 'dis whole mess." Yes, Rose certainly was an aggressive player in his day. His nickname, "Charlie Hustle," reflected his fervor for playing the game with a rough-and-tumble style: he would refuse to rub his body or show any pain when hit by a pitched ball, he would run to first base after receiving a "walk," or base on balls, and he would run the bases with reckless abandon, often

barreling into fielders in order to gain access to an open base.

Similarly, Rose maintained this arrogant, brash, almost mean-spirited profile during baseball's investigation into his alleged gambling on Reds' games. He refused to admit guilt, though strangely, he accepted a lifetime ban from baseball without appealing and appears too proud, or smug, to admit to any significant gambling problem.

"You can't take away what this guy did on the field," interjected another oldtimer "Johnny the Hat," who is nicknamed for the moldy, crusty Yankee hat he proudly sports. According to the Hat, "The guy has the most hits and has too many records." The Hat is correct, for Pete Rose has more hits than any ballplayer who has ever played the game, and he



also holds numerous other batting records.

The crux of this morning's deliberations centered around Rose's exclusion from the Baseball Writers Association of America Hall of Fame ballot next season. The Hall's Board of Trustees, comprised mainly of veteran former owners, players and executives, recently voted to bar from entry in to the Hall of Fame "any player who is on baseball's permanently ineligible list." Although never explicitly mentioning Rose's name, many baseball writers feel that this is merely a veiled attempt to specifically keep Rose (who becomes eligible for Hall membership in 1992) out of the Hall because of his failure to admit gambling on baseball.

Indeed, baseball's perspective on gambling has always been punctuated by an intense desire to prevent even the most minute appearance of undermining the game's integrity. In fact, Brooklyn Dodger manager Leo Durocher was suspended for the entire 1947 season for merely casually associating with suspected underworld figures, and the great "Shoeless Joe" Jackson, arguably the best pure hitter of his time, was banned for life for allegedly taking part in the "Black Sox" scandal - the alleged fixing of the 1919 World Series. Jackson, depicted in such recent motion pictures as *Field of Dreams* and *Eight Men Out*, has been excluded from Hall of Fame membership. Also, Denny McLain who, in 1968, was the last pitcher to win 30 games in one season, was suspended for his involvement in bookmaking operations. McLain's vice ruined a potentially great career and eventually led to a racketeering conviction and prison time. Even Philadelphia Phillies centerfielder (and former Met) Lenny Dykstra was recently put on one-year probation

for losing over \$75,000 during illegal poker games (a heck of a price to pay for being a lousy poker player!).

"Sure, they put a druggie in, but they won't put Pete in. They put a cheater in, but they won't let Pete in. How do you explain that?" implored the Hat. He had a point, I thought to myself. The "druggie," pitcher Ferguson Jenkins, was once convicted of transporting cocaine across the



Where have you gone, Joe DiMaggio?



Canadian border. But Jenkins paid his debt to society and sat on the fence for a few years while the writers passed him up on their ballots until this year, when Jenkins was finally (and deservedly) elected. The "cheater," pitcher Gaylord Perry, who has admitted (in fact, flaunted) his use of illegal substances when throwing the outlawed "spitball." Perry, a member of the 300-win club, which has almost insured election to the Hall in the past, also sat on the fence for a few years before finally gaining entry this year.

While listening to the banter continue, I pondered the apparent societal paradox baseball has seemingly perpetuated: drugs,

drinking and cheating have always taken a back seat to gambling on baseball's most wanted list, while society has encouraged, if not outright promoted, legalized gambling in such places as Nevada and Atlantic City. I'm not quite sure if this makes sense, but the jurors are reconvening now.

"What it comes down to is that these guys (the trustees) just want to punish Pete for not admitting to betting on baseball," chirped Rosario. Sensing that I was intently listening to their discussion, Rosario turned to me and asked, "Well, what do you think, young fella?"

I paused and thought for a minute before answering, as though I were on the witness stand. Understandably, I thought, the trustees goal of protecting the integrity of the game is admirable. But some of baseball's greatest players were certainly not choirboys in those early days, when media attention was much less intense. Even baseball, as an organization, was once guilty of undermining the "integrity of the game" - if not society - by refusing to allow black players to enter the major leagues until 1947. Moreover, I thought, baseball owners collectively have been found guilty of colluding not to sign star free agent baseball players in the mid 1980's in order to keep salaries down - a direct violation of baseball's collective bargaining agreement, supposedly negotiated in good faith.

"Well," I started, "I think there's a double standard here. Why don't they..."

"Double standard nothing!" yelled Rosario. "He ____ed up, he knows it - everybody knows it."

I smiled and shut my mouth, as I prepared to enter the barber's chair. What I didn't get to say was this: it seems that the trustees find it quite easy to play the dual role of judge and jury against a man whose on-the-field

accomplishments most certainly qualify him for Hall of Fame membership. Let's allow the baseball writers of America do their traditional job: to decide on new Hall of Fame members without any interference from the Hall's trustees.

And even if the writers choose not to elect Rose to the Hall, the trustees can never take away his records, some of which should remain in tact for a generation or two. Also, the trustees should examine their collective conscience, since while they conspire to keep Rose out of the Hall,

numerous Rose memorabilia, including bats, uniforms and films, commemorating Rose's on-the-field achievements, are on display at the Hall. This paradox smacks of hypocrisy.

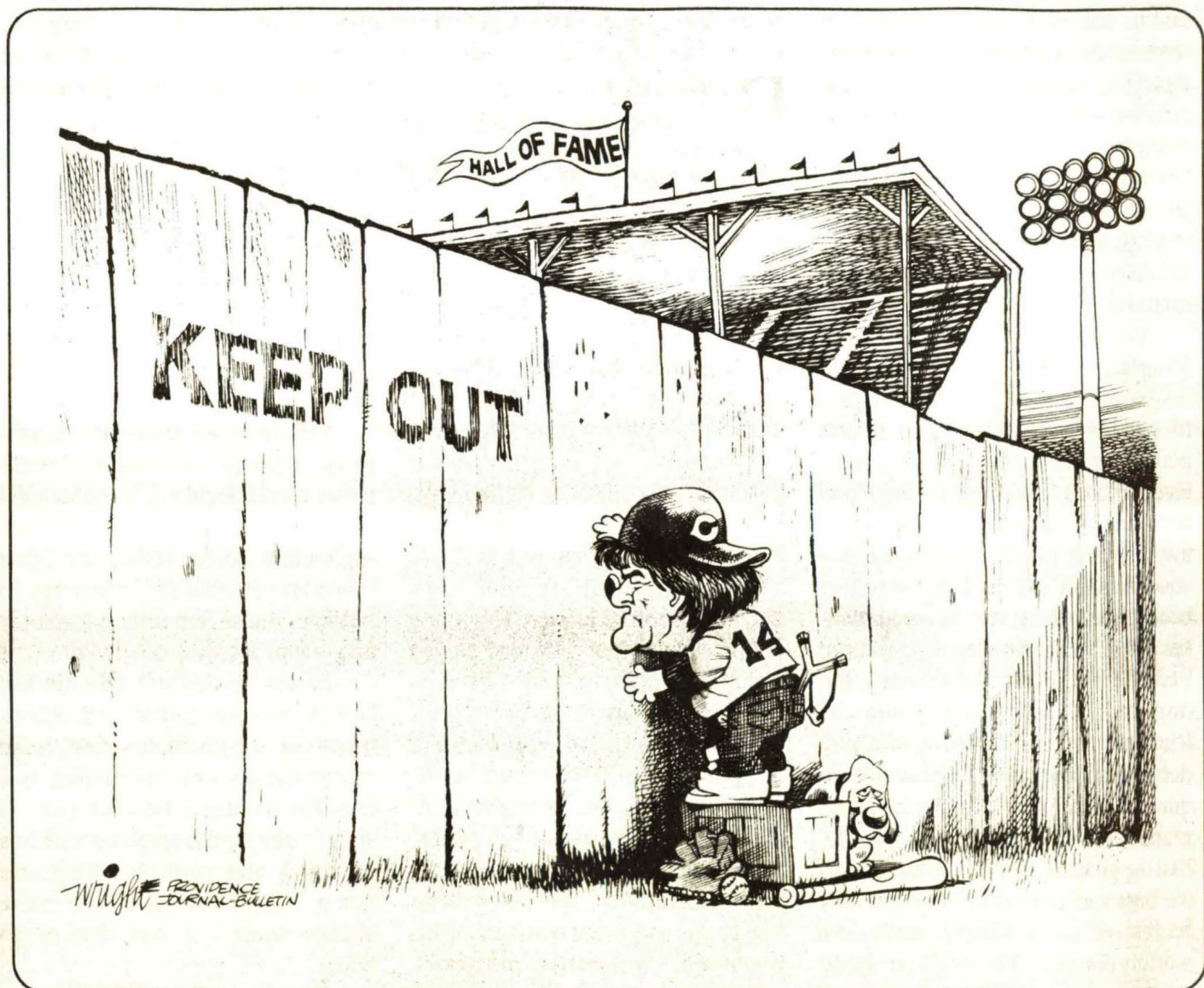
On this day at the Main Barber Shop, the jury could return no verdict. But Rosario did summarize the collective sentiment of the deliberations by saying, "It comes down to the way the guy carries himself. That's what's gonna keep him out. Period."

Case remanded for further

deliberations. Court costs: \$7.00, plus tip (not bad at all!).

So, while Pete Rose begins to put his life back together, his quest for baseball immortality left dangling in the wind, the trustees of the Hall can look for storybook heroes to put before the baseball fans instead of recognizing a man for what he's accomplished on the field.

Unfortunately, it seems that the only appropriate question in this time of searching for the true Hall of Fame candidate seems to be, "Where have you gone, Joe DiMaggio?"



THE COURT STREET KING

by
P.J. Brackley

"Old lawyers don't die, they just lose their appeal."

- The Court Street King -

King hated retirement. He sat in a rickety wicker chair contemplating his newly acquired universe - this tropical dot in the Caribbean Sea. Memory tasted better, he thought, as an island child ambled down the beach with a handful of trinkets. King missed Brooklyn. The great mass of the dispossessed ambled around with handfuls of trinkets there too, but instead of the sort of pretty coral pins and necklaces these island folk produced, the city kid would stand with a flowered blanket on the sidewalk covered with a few telephones and Walkmen. King loved the irony of having represented the guy who hijacked the truck. The ones that slipped through and polluted the corners of Downtown Brooklyn with imitation imitations.

The utter and perfect detail of King's memories of such minor matters was a sure sign the King had to get his hardening arteries and pendulous gut back to Court Street. Even though he, poor King, had struggled his whole life to sock it all away so that his toes could one day squeeze sand on such a sumptuous beach. Recalling the flowered blanket, there were flowered blankets in Paradise too, covering tinselled, tan bodies. King fancied himself Rumpole at this moment, and dug deep for an appropriate Shakespeare quote which would make him feel grander than he was. Alas, how he, like the great Rumpole could convert the bore and triviality of fat and lazy retirement to a kingly, noble and worldly pursuit. The best he could do

after the fourth martini was some old catch from King Lear (aptly phrased King, as he leered to himself of his cleverness), that one about the grace and potency of kingly deeds. But look what happened to Lear in retirement, conscience whispered thunderously in King's ear. That old bore lost it all in one foolishly generous gesture. Although King was not childless, his offspring ran away from his dictatorial kingdom and became masters of another science. All for the better, King mused; history repeats itself. Why put those talented foundlings through jury trial after jury trial, verdict after verdict, canned clam after canned clam?

The tradewind rose from the direction of The Bermuda Triangle. Bedeviled by the breeze, his flip-flop sandals skimmed across the tiled beachfront. Although these emotional loomings of nostalgia had not yet reached the fever pitch required to translate thought into motion, the irreducible reality of it all could not be ignored a sunset longer. Where were the bailiffs? Where were the judges?

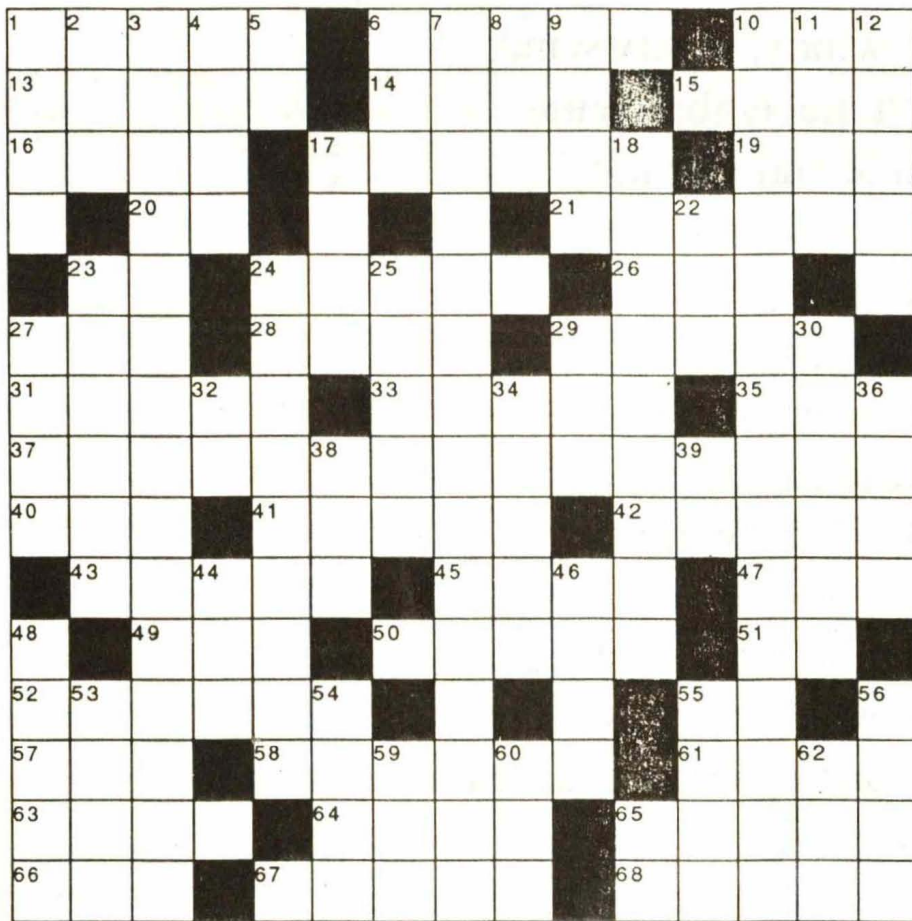
One particularly energetic day at the outset into death he called retirement, he went to the island Courthouse. There they sat in short sleeve shirts and impeccably pressed pants, dispensing mother justice. This young fellow stole a car, that one preyed mercilessly upon a tourist by converting American credit cards to gold. He could have quietly dismembered that witness, King thought to himself - at that moment, the champion arm-chair quarterback, as he threw perfect touchdown after perfect touchdown in the last row of the spectator gallery. Maybe this was what was draining his inspiration - the perfect metaphor -

King was now a spectator instead of the fulcrum - the beautiful attraction. It was his frame; his fingers that used to idle with the jury box bar. Now, this lawyer was doing this, that lawyer was doing that, and the daily *New York Times* brought him another picture of the Downtown Brooklyn Supreme Court with microphone pushed into the faces of lawyers who paid homage to him and him alone. Now they took it in, now they spoke of reasonable doubt and misplaced suspicion. Irony of ironies though, he didn't miss the archetypal client - the dead-beating, lie-telling, freedom-starving, truth-evading criminal. There were the gems, the honest-pulps of men who King saved. The misdeemeanor of it all. The truth. It wasn't on this island - it wasn't in a postcard to his old secretary. It was the other lawyers sitting around here really claiming to like retirement and really claiming to claim to like it that would send him hurdling through the sky to the BQE back to his street of courts.

There they sat, those soft, dough-faced corporate "veterans" who really never tried a legal case with a legal issue, but they sat in the Caribbean night-clubs bored, telling the other bored lawyers that they are happy to be there. But he remembers that sorry and crappy lot who boasted of Moot Courts and articles and publications. If they ever listened to their titles - mootness - they bled mootness, those manicured lawyers with no spirit. But they lay on those beaches like oil slicks filthying the splendor with lies of money and verdicts. King was going crazy hanging around these shallow fools - it was time to go home....

CROSSWORD PUZZLE

BY MARCUS A. SPEVAK



ACROSS

1. Law award for highest grade, abbr.
6. Separate
10. Tool of 12 DOWN
13. Former U.S. Attorney General
14. Young Spanish woman, abbr.
15. Type of musical performance or flight
16. A fully mature female horse
17. To be on _____ of the world
19. A bewitched spell
20. We
21. Brand-name fabric softener
23. Gloria Steinem's mag.
24. Enzyme found in
- ischemic kidneys
26. Not a winner, abbr.
27. Motor club, abbr.
28. Stared down
29. Margarine (made plural)
31. Stockings' fabric
33. Leases
35. Accountant's degree initials
37. Robert Frost poem
40. Student's half year, abbr.
41. Sudden blasts of wind
42. To throw a player out of a game
43. King who turned to gold whatever he touched
45. Back end
47. Expression of mild

- disgust or surprise
49. A section cut from the surface of grassland
50. Birds' homes
51. Proportional shoe width size
52. Tuesday, in Madrid
55. Left eye, abbr. (for prescriptions) or short for "old"
57. Guns advocate gp.
58. City in South Vietnam
61. Type of Las Vegas machine
63. French for "islands"
64. Country formerly at war with Iraq
65. Cry of a sheep
66. Latin for "sum"
67. Girl's name or song

"Come On _____"

68. Chest

DOWN

1. Short for ammunition
2. _____ culpa
3. Biblical capital city + its country
4. Employs for a purpose
5. In _____
6. Cigarette residue
7. Former title of the "Teflon" RWR
8. Practicing lawyer, abbr.
9. A monotonous animal? (spelled backwards)
10. Donator of United Nations site
11. A boy's name
12. Muhammed Ali, e.g.
17. A die having three pips
18. Those who compute Gallup info
22. Put to _____
23. Willful disfigurement or riotous excitement
24. Deserters of faith in a Nevada city?
25. "Revenge of the _____"
27. Small picnic bugs
29. Mel _____ of baseball
30. Coined money
32. "To be _____ not to be"
34. Organs for smelling
36. Poker state
38. Kurt Waldheim's country, abbr.
39. _____ Foyt of car racing
44. _____ matrix
46. Egyptian solar deity or _____ of bricks
48. Dodge cars
53. Fabric part of a ship
55. Norway's capital
56. A Preminger
59. Anger
60. Unity
62. American States' organiz.
65. A small ship, abbr.

POET LAWREATES

Christina Rossetti Falls Asleep

I am windy, windy wind.
Catch me, embrace me,
breathe and kiss me.

Aquarium blue
dark in the moon
sifts through me,
shifting blinds
softly into the night.

Will my fingers taste at all
your sweet, sweet skin,
squeezing curve to curve like spoons?
Or will I sleep
this windy locked-up time alone?
Hurry up.
Hurry Up.

I think I hear your music on the stair,
your creek and pause
floating up up up.
My eyes are drifting
deeply
down.

Hurry up.
Hurry up.

- Deborah Fried-Rubin -

INTER ALIA

by Lawrence Schuckman

FINAL GRADES - I know that there are some final grades we would just as soon never see, but there is no excuse for making us wait so long for professors to post their final grades. This year's longest wait belongs to Professor Farrell's New York Civil Practice class, who had to wait two months to learn their grades! The administration's deadline for professors to submit their grades was January 31, and the registrar needs only a few days to post grades after receiving them.

Yet, the administration hardly enforces this policy and many grades were not posted this semester until well into February and early March! While personal reasons or problem with adjusting the final grades to the school's grading curve should be forgiven, most of these late grades are due to sheer laziness. If we, as students, are expected to meet our deadlines, professors should be held to the same standard. I urge the faculty to honor the administration's deadlines for submitting final grades and ask the Student Bar Association to post the names of those professor's who haven't posted their grades. This method has proven successful at other law schools and hopefully should improve matters here.

EXAM MATERIALS - More on exams: Unfortunately, cheating remains a viable issue. While I don't have a single solution, I do have some suggestions. First of all, exams should be treated as either open book exams with no written limitations, or as completely closed-book, with the professor having the responsibility to provide any additional materials in the test packets. To illustrate the problem, let's use a final exam where the professor limits students to using

their Uniform Commercial Code text. Some students will bring only their text book, some will write notes in the back of their text and in the margins, and some will tape their entire outlines directly into their books! This is wrong because all students should be playing on a level playing field. Unfortunately, students are forced to either bend the rules to keep up with their enterprising classmates or follow the rules and penalize themselves for their honesty. Moreover, this situation is exploited by students who, due to exam scheduling conflicts, take their exam with students who are taking different exams in the same classroom, where each student is subject to different rules on what materials they are allowed to bring into the exam. The proctors cannot stop the students from writing in their blue books 10 minutes after the time has elapsed, let alone recognize whether a student is allowed to use their *Emanuel* outline, and we should not expect them to be able to do so. The administration could take a large step in abating such dangers and the sense of unfairness that accompanies them by simplifying and clarifying the rules concerning materials brought in, as suggested.

FEE TAIL? - The Law School is once again billing graduating students a \$100 fee for their graduation ceremony. This fee comes at a time when most student finances are at an ebb. Also, the effect of such a fee is like a parting shot by the administration to fleece us one last time before we're out the door. Why can't the school reward their students who are graduating by giving ONE freebie during our years here, or at least be kind enough to disguise the cost by spreading it out over our tuition costs?

BAR NEWS - or lack thereof.... Last week, I received a notice from the school informing me when I should submit my fee for this summer's bar

exam. Well, I almost fainted, because it was the first time I can remember the school ever mentioning there was a bar exam! If not for the constant advertising from Pieper and Bar/Bri, students would remain completely uninformed on what we need to know before taking the exam. The school has never mentioned this year's exam topics, what the format will be, how much form matters in one's essays, the benefits or drawbacks from taking more than one state's bar exam at once, etc. Instead, students must depend entirely upon the respective bar review companies, who each have their own agenda, to tell them what they need to know. I suggest that the school should inform students semi-annually of these necessities in passing the bar exams.

HATE SPEECH - The Sparer Fellowship Student Questionnaire. I found the questionnaire that was mailed to all Brooklyn Law School students concerning their feelings on "hate speech" interesting, and will be curious to find out the results. But is the purpose of this questionnaire a prelude to a new, restrictive code of student conduct? These policies not only constitute a gag rule on free speech, but are also impractical and unnecessary. To attain court approval, such policies need only apply to speech directed at an individual. My understanding is that individuals are allowed to broadly insult entire races, genders, etc., but cannot single out an individual to ridicule. Thus, if a student tears down signs that he or she dislikes from the bulletin boards, or commits an act of vandalism, or physically threatens another law student, the Dean may discipline such a student without making the individual a martyr to the first amendment. If individuals aren't permitted to speak freely in a law school, how will they properly learn to question and think like attorneys?

PROPOSED CONSTITUTION OF THE STUDENT BAR ASSOCIATION OF BROOKLYN LAW SCHOOL

Article I: Name

The Student Bar Association (hereinafter "SBA") of Brooklyn Law School has been and shall continue to be an organization of the student body of Brooklyn Law School ("BLS").

Article II: Membership

Each person enrolled at Brooklyn Law School for a regular course of study for the degree of Juris Doctor is a member of the SBA.

Article III: Purpose and Functions

The SBA shall:

- (a) act as a liaison between the student body and the faculty, administration and staff of BLS; and between the student body and the community at large.
- (b) allocate all student activity funds at its disposal;
- (c) endeavor to ascertain student needs and views and to respond to them appropriately;
- (d) attempt to foster and coordinate cooperation between and among student organizations and all segments of the student body;
- (e) encourage and assist in sponsoring educational and social activities;
- (f) foster activities of a charitable and public-spirited nature;
- (g) act as ombudsman for individual students and student groups wanting and or needing assistance;
- (h) appoint student members of student-faculty committees and other such bodies as may be appropriate and necessary;
- (i) administer and compile student course evaluations;
- (j) serve as the voice of the student community;
- (k) make the student body aware of SBA activities and services;
- (l) engage in all other activities appropriate to fulfilling the functions and purposes listed in this Constitution, or that may be deemed appropriate by the SBA or its components, provided that they do not conflict with those functions or purposes.

Article IV: Organization

Section 1: Legislative Authority of the SBA shall be vested in the House of Delegates. Executive Authority shall be vested in the Executive Board of the SBA.

Section 2: The House of Delegates shall consist of the members of the Executive Board, the Law Student Division Representative of the American Bar Association (ABA Representative), the Law Student Division Representative of the New York State Bar Association Representative (NYSBA Representative) and twenty-six Class Representatives.

Section 3: The Class Representatives shall be apportioned as follows:

- (a) six Representatives each from the First, Second and Third year Day Divisions;
- (b) two Representatives each from the First, Second, Third and Fourth year Evening

Divisions.

Section 4: The Executive Board shall consist of the President, the Day Vice-President, the Evening Vice-President, the Treasurer, the Secretary and the First-Year Executive Representative.

Article V: Meetings

Section 1: The SBA shall hold a Regular Meeting of the House of Delegates once each month from September through May, except that the House of Delegates may elect to forego the January meeting. The last Regular Meeting in the Spring Semester of the House of Delegates shall be considered the Annual Meeting.

Section 2: Additional meetings may be set by the House of Delegates at its Regular Meeting, by the President, the Executive Board or by one-third of the members of the House of Delegates filing a written request with the Secretary.

Section 3: Notices of Meetings shall be posted by the Secretary at least three (3) school days prior to the Meeting. Such notices shall be posted in the SBA Office, in the area for posted announcements in the lobby of the main Law School building and in additional locations deemed necessary by the Secretary, the Executive Board or the House of Delegates.

Section 4: The Executive Board shall meet once a month before the Regular Meeting of the House of Delegates. Special Meetings may be set at these meetings or may be called at the request of the President or any three Executive Board members. All members of the Executive Board shall be notified of all meetings. Notice shall be accomplished by posting in a designated location or by actual notice. Members of Executive Board are entitled to three school days notice for Regular Meetings and twenty-four (24) hours notice for Special Meetings.

Section 5: In an emergency, the President may conduct a vote on a specific Executive Board issue by polling each of the members.

Section 6: All Meetings of the House of Delegates shall be open to all members of the SBA, except as provided for in Article V, Section 7.

Section 7: The Executive Board and committees shall be allowed to close any Meeting upon stating an adequate reason and by a two-thirds vote of the House of Delegates. The House of Delegates shall have the authority to define adequate reason and may eliminate this authority entirely. The Executive Board and Committees must fully disclose all activities of such closed Meetings at the next Meeting of the House of Delegates. Committees dealing with student scholarships and student loans must close their Meetings when dealing with confidential information of any student and shall be exempt from the disclosure provision outlined in this Section.

Article VI: The House of Delegates

Section 1: The House of Delegates shall have to power to:

- (a) formulate the policies of the SBA;
- (b) allocate the funds of the SBA, monitor the use of those funds and require an accounting of those funds;
- (c) adopt rules and procedures for the operation of the SBA, including those relating to the Budget and to Elections;
- (d) create and dissolve Committees pursuant to this Constitution;
- (e) approve nominations of student members to student-faculty committees and any other Law School committees of positions of a similar nature;
- (f) approve nominations of the Chair of all SBA Standing Committees;
- (g) delegate its powers to the Executive Board, any officer or other designated individual;
- (h) demand and receive from any Executive Board member or any Committee member a report of that individual's official conduct;
- (i) engage in all other activities appropriate to carrying out these powers and accomplish the goals, functions and purposes enumerated in this Constitution.

Section 2: The House of Delegates shall:

- (a) maintain, through the Secretary, a journal of its proceedings and a compilation of the measures approved by it. Such compilation shall list each approved measure in chronological order and shall contain the present text of each and every measure in force. Copies of the compilation correct to the first day of the Fall Semester shall be distributed by the Secretary to the members of the House of Delegates at the September Regular Meeting;
- (b) be governed by Robert's Rules of Order (Modified) except where such rules conflict with this Constitution or with rules and procedures adopted pursuant to this Constitution.

Section 3: A quorum of the House of Delegates shall be a majority of the non-vacant seats in the House of Delegates. Measures shall be passed by a majority vote of the members present provided there is a quorum.

Article VII: The Executive Board

Section 1: The Executive Board is empowered and required:

- (a) to set the agenda of Regular Meetings of the House of Delegates, subject to the requests of the Delegates;
- (b) to execute the policies of the SBA as formulated by the House of Delegates;
- (c) to disburse the funds of the SBA as allocated by the House of Delegates, except that the Treasurer or Executive Board may temporarily freeze funds with good cause subject to subsequent ratification by the House of Delegates;
- (d) to report on its activities to the House of Delegates at each meeting and to inform the House of Delegates of any actions that require the House of Delegates' approval. The September Report shall include a review of the Executive Board's activities during the Summer Recess;
- (e) to make available a copy of the SBA Constitution to any member of the BLS Community at any time;
- (f) to exercise any powers delegated to it by the House of Delegates;
- (g) to act for the House of Delegates between its Meetings and during Recess Periods, taking all actions necessary and proper to accomplish legitimate SBA business, provided that such actions do not contradict previous decisions or measures of the House of Delegates. Such actions shall be reported to the House of Delegates at its next Meeting and are subject to repeal by that body.

Section 2: The President shall:

- (a) take care that the policies of the SBA as formulated by the House of Delegates are implemented and exercise general supervision of the activities of the SBA;
- (b) preside at meetings of the House of Delegates and the Executive Board, or designate one of the two Vice-Presidents as the alternate Presiding Officer;
- (c) appoint all SBA Committee Chairs, Student Chairs of student-faculty committees, members of student-faculty and other BLS committees or positions of a similar nature, members of special limited membership committees, and any other appointments as prescribed in this Constitution or by resolution of the House of Delegates;
- (d) make temporary emergency appointments with the consent of the Executive Board, subject to approval of the House of Delegates.

Section 3: The Day Vice President shall coordinate the activities of the SBA Day Division, as well as any functions delegated by the President, the Executive Board or the House of Delegates, including chairing committees.

Section 4: The Evening Vice-President shall coordinate the activities of the SBA Evening Division, as well as any functions delegated by the President, the Executive Board or the House of Delegates, including chairing committees.

- Section 5:** **The Secretary shall:**
- (a) maintain all official records of the SBA, except for those maintained by the Treasurer;
 - (b) be responsible for insuring that all meetings are announced with the proper notice;
 - (c) insure that minutes of each Meeting of the House of Delegates and the Executive Board, including records of attendance, are taken, printed, distributed and approved; and
 - (d) maintain copies of the minutes of all SBA Committees, except those pertaining to the SBA Budget. Chairs of such Committees shall be responsible for delivering such information to the Secretary.

- Section 6:** **The Treasurer shall:**
- (a) make recommendations concerning the financial affairs of the SBA, regular and supplementary budget requests and modifications;
 - (b) maintain accurate books of accounts;
 - (c) monitor the day-to-day finances of the SBA;
 - (d) maintain records of all budget requests and their dispositions;
 - (e) chair and maintain the records of any committees relating to the SBA budget or SBA financial affairs; and
 - (f) have the power to temporarily freeze funds with due cause, subject to the approval of the House of Delegates.

Section 7: **The First-Year Executive Delegate shall coordinate the SBA activities of the first year students.**

Section 8: **A Quorum of the Executive Board shall be a majority of the non-vacant seats on the Executive Board. Measures of the Executive Board shall be passed by a majority vote of the members present provided there is a Quorum.**

Article VIII: Bar Association Representatives

- Section 1:** **The ABA Representative shall:**
- (a) represent BLS in the Law Student Division of the American Bar Association;
 - (b) act as liaison between the BLS student body and the ABA and its Law Student Division;
 - (c) coordinate Bar Association activities at BLS;
 - (d) inform the Executive Board, the House of Delegates and the BLS community of the activities of the ABA, its Law Student Division, and the ABA Representative; and
 - (e) serve as a voting member of the House of Delegates.

- Section 2:** **The New York State Bar Association Representative shall:**
- (a) represent BLS in the Law Student Division of the NYSBA;
 - (b) act a liaison between the BLS student body and the NYSBA and its Law Student Division;
 - (c) coordinate Bar Association activities at BLS;
 - (d) inform the Executive Board, the House of Delegates and the BLS community of the activities of the NYSBA, its Law Student Division, and the NYSBA Representative; and
 - (e) serve as a voting member of the House of Delegates.

Article IX: The SBA Budget

Section 1: **The SBA, through its Treasurer, shall provide a budget application to each student organization seeking SBA funding. Each existing or new organization must obtain a budget application from the SBA Office during the first two weeks of the Fall Semester.**

Section 2: **Each organization applying for SBA funding and all activities sponsored by that organization must be open to all BLS students.**

Section 3: **The Budget Committee, with the Treasurer presiding, shall review the application of each organization and submit written recommendations to each organization. The Budget Committee's recommendations shall be posted in the SBA Office and copies shall be available to members of**

the House of Delegates.

- Section 4: Within one week of the posting of the Budget Committee's recommendations, the Executive Board shall schedule a House of Delegates Budget Meeting to determine final budget allocations.
- Section 5: Prior to the Budget Meeting, each Delegate shall be given a copy of the Budget Application and of the Budget Committee's recommendations for each organization.
- Section 6: Each organization shall select a representative, which representative shall not be a member of the House of Delegates, to represent that organization at the Budget Meeting.
- Section 7: Each organization representative shall be allotted three (3) minutes to address the House of Delegates on behalf of his/her organization's Budget Application. The House of Delegates shall be permitted to question the organization's representative for a period not exceeding five (5) minutes. The House of Delegates may extend the question period for one additional five (5) minutes by a two-thirds vote.
- Section 8: The order in which the organizations shall present their Budget Applications shall be randomly selected by the Executive Board and shall be posted by the Secretary at least three (3) school days prior to the Budget Meeting. Such order shall be posted in the SBA Office and in the lobby of the main law school building.
- Section 9: The final budget allocations shall be determined by a majority vote of the House of Delegates, provided a Quorum is present.
- Section 10: After passage of the budget, the House of Delegates shall retain the power to adjust the budget allocations as it deems necessary and proper to promote fairness and the integrity of the SBA financial accounts. Such adjustments shall be by majority vote, provided that a quorum is present.

Article X: Elections

- Section 1: An Executive Election shall be held annually not later than four weeks before the end of the Spring Semester. The members of the Executive Board and the Bar Representatives shall be elected in this election.
- Section 2: A General Election shall be held annually not later than two weeks before the end of the Spring Semester. The Upper Class Delegates shall be elected in this election.
- Section 3: Each member of the SBA shall be eligible to run and to vote for President, for Treasurer, for Secretary and for the Bar Representatives.
- Section 4: Only members of the SBA enrolled in the Day Division shall be eligible to run and to vote for the Day Vice President.
- Section 5: Only members of the SBA enrolled in the Evening Division shall be eligible to run and to vote for the Evening Vice President.
- Section 6: Only members of the SBA enrolled in the appropriate class and division shall be eligible to run and to vote for the Delegate positions allocated to that class and division.
- Section 7: Subject to the provisions of Sections 3 through 6, inclusive, of this Article, all SBA elections shall be on an at-large basis.
- Section 8: No member of the SBA shall be eligible to be a candidate for more than one Executive Board office in the Executive election.
- Section 9: Elections shall be conducted by an Election Committee consisting of a Chair and two other members. The Election Committee shall be appointed by the President after consulting the Executive Board and shall be subject to the approval of the House of Delegates. No member of the Election Committee may be a candidate or work in the campaign of any candidate.
- Section 10: The Election Committee shall:
- (a) set the dates for the Elections and any necessary Run-Off Elections, subject to the approval of the Executive Board;
 - (b) submit proposed Election Rules at least one month prior to the Spring Elections, subject to the approval of the House of Delegates and, once so approved, the Election Rules shall remain in force for both the Spring and Fall Elections processes; and

- (c) insure that such Election Rules do not conflict with the Constitution, the By-Laws or any enactments by the House of Delegates.

Section 11: The Election Committee shall conduct all aspects of the Elections, including, but not limited to:

- (a) appointing polling place monitors;
- (b) publicizing the time and place of Elections;
- (c) holding at least one candidates' forum; and
- (d) counting votes.

Section 12: All Elections shall be conducted by secret ballot. The Election Committee shall count the ballots and announce the results of the Elections. The results of the Elections shall be available for review by any member of the SBA.

Section 13: Election for members of the Executive Board and the Bar Representatives shall be by a plurality of the valid votes cast for each office, except that in the event that the plurality is less than forty percent (40 %) of the valid votes cast for the office or in the event of a tie vote. In such event, a Run-Off Election shall be held between the two (2) candidates with the highest totals. Such Run-Off Election shall be held as soon as possible after the relevant Election, in no event to exceed more than one week following such Election. The candidate with the majority of the votes cast for the office shall be declared elected. If a candidate eligible for the run-off election withdraws, the other eligible candidate shall be declared elected.

Section 14: SBA members shall be entitled to cast as many votes for Class Representative as there are eligible positions for his/her year and division. However, an SBA member may cast only one vote for any particular candidate. The top vote-winners in each year and division shall be declared elected. If there is a tie for the last winning position in a year and division, a Run-Off Election shall be held between those candidates.

Section 15: The Election Committee shall hold Fall Elections for First Year Day and Evening Positions and for any Upper Class or Executive Board vacancies by the third week of first year classes.

Section 16: Each person elected pursuant to any section of this Article shall assume office upon his/her election.

Section 17: After their election, the First Year Representatives shall meet, with the Chair of the Election Committee presiding, and elect one of their number as First Year Executive Representative.

Section 18: The House of Delegates may choose to hold a referendum on any subject. The Election Committee shall conduct all such referenda within the parameters set by the House of Delegates, the Constitution and the By-Laws.

Article XI: Committees and Appointed Positions

Section 1: Each member of the House of Delegates shall serve on at least one committee. Membership on the Executive Board, a Standing Committee, a Student-Faculty Committee or other position designated by the House of Delegates shall fulfill this requirement.

Section 2: If there are no independent student organizations performing such functions, the House of Delegates shall create Standing Committees to operate a student yearbook, a student newspaper and a musical revue. Such committees shall be open to all members of the SBA with no limit on size of membership.

Section 3: The SBA shall maintain the following Standing Committees:

- (a) Budget,
- (b) Constitution and By-Laws,
- (c) Social,
- (d) Student Affairs,
- (e) Elections, and
- (f) Course Evaluation.

Section 3: The Budget Committee shall act as prescribed in Article IX and Article VII, Section 6.

Section 4: The Committee on Constitution and By-Laws shall investigate and report on all proposals concerning proposed Constitutional Amendments as prescribed in Articles XIV and XV and shall be

generally concerned with reviewing SBA procedures and proposing appropriate modifications and improvements of such procedures.

- Section 5: The Student Affairs Committee shall inquire into and suggest ways of improving student life at BLS and assist students in resolving problems involving both academic and non-academic concerns.
- Section 6: The Election Committee shall conduct all elections and referenda as prescribed in Article X.
- Section 7: The Social Committee shall coordinate SBA social activities.
- Section 8: The Course Evaluations Committee shall conduct, administer and compile student evaluations of each course and professor at or near the end of each semester.
- Section 9: The House of Delegates may, as the need arises, create additional Standing Committees which shall perform such functions as the House of Delegates shall determine.
- Section 10: The House of Delegates may create special committees as necessary. The Executive Board may also create such special committees subject to the approval of the House of Delegates at its next Meeting.
- Section 11: Committee measures shall be passed by a majority of the committee members in attendance at a Meeting, provided that adequate notice has been given to each committee member in the same manner required for meetings of the Executive Board as prescribed in Article V, Section 4.
- Section 12: Except as otherwise specified by the Constitution, the House of Delegates may determine the size of each Standing Committee and Special Committee and whether its membership may be open to the entire student body or only to members of the House of Delegates. Except as otherwise provided by this Constitution or by the House of Delegates, Delegates may become members of Committees by signing up.
- Section 13: If a Committee is to be open to non-delegates, its existence and the availability of positions shall be posted in the SBA Office and in the lobby of the main BLS building. Except as otherwise provided by this Constitution or by the House of Delegates, non-delegates may join Committees by signing up.
- Section 14: If a Committee is to be of limited membership, the President shall determine the names of all interested and eligible students and shall choose among those names, subject to the advice of the Executive Board and the approval of the House of Delegates. Where time is of the essence, the approval of the House of Delegates alone shall be sufficient for membership on Special Committees created by the House of Delegates.
- Section 15: The Treasurer shall chair the Budget Committee. The President shall appoint Chairs or Co-Chairs for all other Standing Committees and Special Committees, subject to the advice of the Executive Board and the approval of the House of Delegates. The Chairs shall preside at each meeting and insure that adequate records of the meetings and of Committee actions are maintained. The Chair may designate a Committee Secretary to maintain such records. Such records shall be given to the SBA Secretary. Chairs shall report on all Committee meetings and actions to the President, the Executive Board and the House of Delegates.
- Section 16: A quorum of each Committee shall be set by:
- (a) the House of Delegates, or, in the absence of such action,
 - (b) by the Executive Board, or, in the absence of such action,
 - (c) by each Committee for itself.
- However, there shall be no quorum unless adequate notice has been given to each Committee Member in the same manner required for Meetings of the Executive Board pursuant to Article V, Section 4.

Article XII: Student-Faculty Committees

- Section 1: The President shall appoint all members of Student-Faculty Committees as shall be made available to the SBA to appoint. The President or House of Delegates may choose to open such appointments to non-delegates, in which case their availability shall be publicized in the manner prescribed in Section 13 of Article XI.

- Section 2: The President shall determine the names of all interested and eligible members of the SBA and choose from among those names, subject to the approval of the House of Delegates. If time is of the essence, the President may make emergency appointments with the consent of the Executive Board, subject to the approval of the House of Delegates at its next Meeting.
- Section 3: The President shall designate Student Chairs or Co-Chairs of each Student-Faculty Committee or other BLS committee, pursuant to the provisions of Section 1 of this Article and of Section 2(c) and (d) of Article VII.
- Section 4: The Student Chairs of such committees shall:
- (a) coordinate the activities of all student members of such committees;
 - (b) preside at meetings of these Committees' student members; and
 - (c) report on the activities of these Committees to the President, the Executive Board and the House of Delegates.
- Section 5: The President shall make other such appointments to other bodies and positions as may be given to the SBA to so appoint or as may be created by the House of Delegates. These appointments shall be made in the same manner as those appointments specified in Section 1 of this Article and in Sections 2 (c) and (d) of Article VII.

Article XIII: Removal

- Section 1: Any member of the Executive Board, Class Representative, Committee Chair or Member or other officer elected or appointed pursuant to this Constitution or its By-Laws may be removed from office for malfeasance, misfeasance or nonfeasance in the performance of their official duties by the affirmative vote of two-thirds of the House of Delegates.
- Section 2: Removal proceedings will begin upon the request of any two members of the House of Delegates. Delegates introducing such a motion must submit in writing specific charges stating the cause(s) for such action.
- Section 3: Once removal proceedings have begun, the Secretary shall notify the subject of the proceedings in writing of the charges and the date of the Meeting when the vote will take place. Such vote must be at least two (2) weeks after the subject of the proceedings has been notified.
- Section 4: At the meeting held pursuant to this Article, the Delegates who brought the removal motion shall be given the opportunity to present and prove the charges against the subject of the proceedings. The subject of the proceedings shall have the opportunity to respond to the charges and to show that either they are insufficient to justify removal or they have not been proven by a preponderance of the evidence.
- Section 5: Removal shall be effective upon the affirmative vote of two-thirds of the House of Delegates.

Article XIV: Vacancy

- Section 1: In the event of a vacancy in the office of President, the Executive Board shall meet and choose either the Day Vice-President or the Evening Vice-President to act as President until the next meeting of the House of Delegates. At such meeting, the House of Delegates shall choose either the Day Vice-President or the Evening Vice-President to fill the President's unexpired term.
- Section 2: In the event of a vacancy in any other elected office, such vacancy shall be filled by election if such vacancy occurs before the Fall Elections.
- Section 3: In the event of a vacancy in any other elected office that occurs after the Fall Elections, such vacancy shall be filled pursuant to the subsequent provisions of this Article. The notice of such a vacancy shall be posted for at least one week in the SBA Office and in the lobby of the main BLS building.
- Section 4: To be eligible, an applicant must be enrolled in the appropriate class and division to fill such vacancy. The application procedure shall be determined and publicized by the Election Committee pursuant to Article X.
- Section 5: In the event of a vacancy in the office of the Day Vice-President, the Class Representatives from

the Day Division shall meet, with the Chair of the Election Committee presiding, and choose a new Day Vice-President from among the eligible applicants as defined in Section 4 of this Article.

- Section 6: In the event of a vacancy in the office of the Evening Vice-President, the Class Representatives from the Evening Division shall meet, with the Chair of the Election Committee presiding, and choose a new Evening Vice-President from among the eligible applicants as defined in Section 4 of this Article.
- Section 7: In the event if a vacancy in the office of the Secretary, the Treasurer, the ABA Representative or the NYSBA Representative, the House of Delegates shall choose from among the eligible applicants, subject to the advice of the Executive Board. The President may, with the consent of the Executive Board, appoint an Acting Secretary or Acting Treasurer to serve until such vacancy is filled, but such Acting Officer shall not have a vote in the Executive Board or House of Delegates, unless that Acting Officer already holds a position entitling such Acting Officer to such a vote.
- Section 8: In the event of a vacancy in a Class Representative position, the Class Representatives from the appropriate division shall choose a successor from the appropriate class and division from among the eligible applicants as defined in Section 4 of this Article.
- Section 9: In the event of a vacancy in the office of First Year Executive Representative, the First Year Class Representatives, with the Chair of the Election Committee presiding, shall elect one of their number to fill that position.

Article XV: By-Laws

- Section 1: The House of Delegates may enact standing rules, to be known as By-Laws, provided that they do not conflict with this Constitution.
- Section 2: Any member of the House of Delegates may introduce a proposed By-Law, provided that it is in writing.
- Section 3: At the same Meeting where a proposed By-Law is introduced, it shall be referred to the Committee on Constitution and By-Laws.
- Section 4: The Committee shall issue a report by the next Regular Meeting of the House of Delegates, at which time the proposed By-Law shall be voted upon. The report shall contain the By-Law, the Committee's recommendation, any alternatives proposed by the Committee and the reason(s) for those alternatives. The report shall be made available to the Delegates at least one hour prior to the Meeting where the proposed By-Law is to be voted upon.
- Section 5: The Committee may initiate proposed a By-Law on its own. To initiate a proposed By-Law, the Committee must issue a report with the text of the proposed By-Law and the reasons for its proposal. The report shall be introduced at a Meeting of the House of Delegates. By-Laws introduced pursuant to this Section shall be voted upon at the next Meeting of the House of Delegates following its introduction.
- Section 6: Proposed by-Laws must be passed by a majority vote of the members present provided there is a quorum.
- Section 7: Any Constitutional Amendment that contradicts an existing By-Law shall automatically repeal that By-Law.

Article XVI: Amendment Procedure

- Section 1: A proposal for Amendment of this Constitution may be introduced by any two members of the House of Delegates or by a petition containing the names, signatures and identification numbers of any twenty-five members of the SBA filed with the Secretary. All Proposed Amendments must be submitted in writing.
- Section 2: At the same Meeting of the House of Delegates at which a Proposed Amendment is introduced, it shall be referred to the Committee on Constitution and By-Laws.
- Section 3: The Committee on Constitution and By-Laws shall issue a written Report at the next Regular Meeting of the House of Delegates, unless the House of Delegates or the Executive Board has authorized a later date. In no event shall such Committee Report date be later than the next following Meeting of the House of Delegates.
- Section 4: The Committee Report shall contain:

- (a) the text of the Proposed Amendment,
- (b) the recommendation of the Committee,
- (c) the reason(s) for the recommendation,
- (d) any alternatives proposed by the Committee, and
- (e) the reason(s) for such alternatives.

Section 5: The Committee Report shall be posted in the SBA Office and in the lobby of the main BLS building at least one week prior to any vote on the proposed Amendment or any alternative Amendments by the House of Delegates. Any proposed Amendment passed by a two-thirds (2/3) vote of the House of Delegates shall be considered approved, provided that a quorum is present.

Section 6: An Amendment shall take effect immediately upon passage unless it contains an enactment clause specifying an alternate date. If an Amendment contains an enactment clause, such clause shall determine the effective date. Such enactment clause shall not remain part of the Amendment's text once the Amendment has taken effect.

Article XVII: Ratification

Upon approval by the SBA House of Delegates under the prescribed procedures, this Constitution shall be submitted to a referendum vote of the BLS student body and shall become effective upon approval by a majority of those casting a vote upon this Constitution. The existing SBA Executive Board and House of Delegates shall be bound by all applicable provisions. The Constitution shall take full effect upon the inauguration of a new Executive Board and House of Delegates elected under the provisions of this Constitution.

**A REFERENDUM ON THE
PROPOSED CONSTITUTION
WILL BE HELD ON
APRIL 22-23.**

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