

# The Justinian

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## The Justinian

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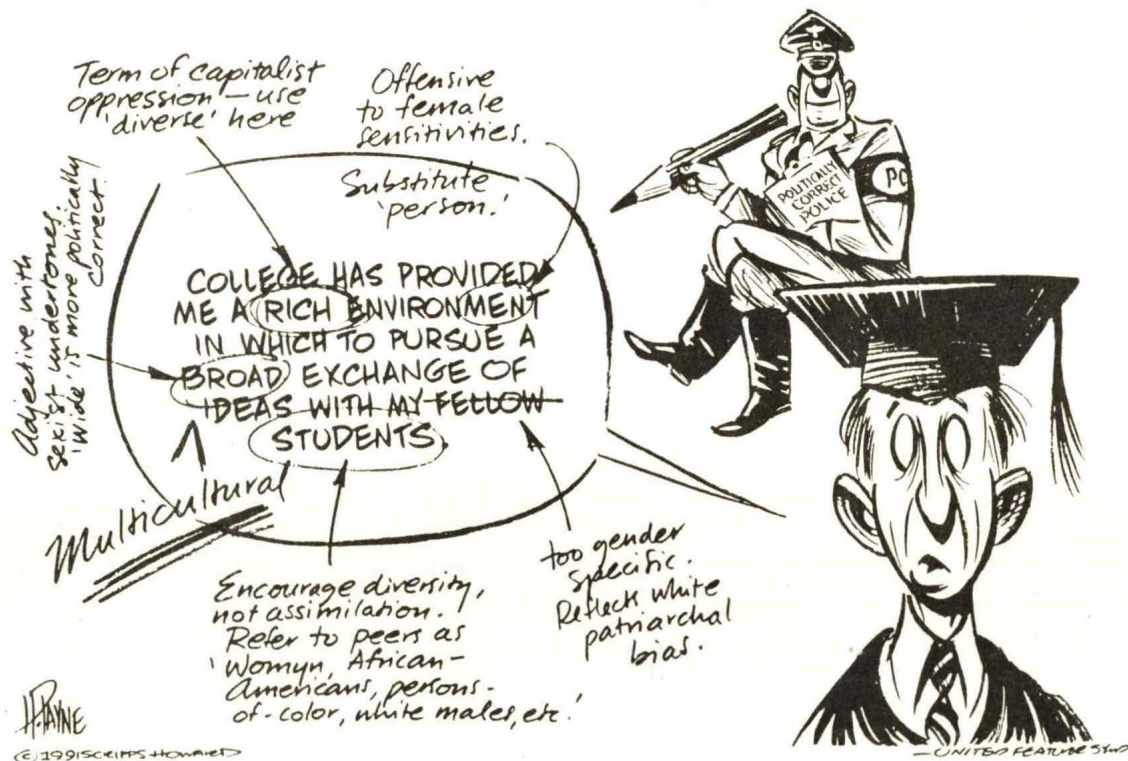
**THE**

# JUSTINIAN

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

## WE'LL SPARER YOU THE DETAILS

### A Summary Report on the Results of the Sparer Questionnaire on Hate Speech



### Also In This Issue:

Reporting on Rape  
Second Circus Review  
The King of Court Street

3L? No Problem.  
Eyewitness Reliability  
The Long Goodbyes

## Congratulations to the Class of 1991!!!



# Years Ago...



# Justinian

**"If the only tool you have is a hammer you tend to see every problem as a nail."**

*—Abraham Lincoln*

Vol. XLIH

Friday, April 29, 1983

No. 10

## EDITORIALS

### GREETINGS FROM THE NEW COLLECTIVE

The 1982/83 *Justinian* took on a character and format different from that of the year before. We applaud the former collective for their dedication in making the *Justinian* a readable, informative, albeit controversial, newspaper which well-served the needs of the BLS community. Our goal is to use the foundation laid by this year's collective and build upon it in the coming school year.

The *Justinian* is an open forum. Its contributing staff will be composed of the entire student body. However, we can effectively present the news of the student community only with your support and written contributions. Therefore, it is essential for the student organizations and the student body at large to submit articles and letters, not only expressing your collective opinions on issues but informing the greater community as to where and when meetings/lectures will be held.

We serve a community of law students, and the paper must, of necessity, be largely devoted to news and opinions of legal import. However, to confine ourselves to strictly legal issues would be to wrongly assume that our readers are one-dimensional.

The *Justinian* will always be receptive to the needs and opinions of its readers. This we promise! In return, we require the participation of the students, faculty, and administration. Without that, the *Justinian* would deteriorate into an empty forum devoid of any significance.

Best of luck on finals! Success to those facing the bar! Enjoy your summer!

## A LONG GOODBYE

The last editorial of the year is usually the occasion for some instant nostalgia. You know the sort of thing. Loving glances over three unforgettable years. Last strolls down memory lane. Vows never to forget. Cute references to the editor's personal friends, identified by initials. Those who like this sort of writing should see *Justinian*, Vol. XLI, No. 3, editorial courtesy of L.P.

Not this year, not in this *Justinian*.

The class of 1983 has very little to be nostalgic about.

The situation which we were thrust into our first year was lamentable, and it has not improved much since. Our first two years saw the near total disintegration of an independent, active community of students. In 1980, for example, Law Review failed to publish a single issue. In the same year a long suffering Moot Court Society was provoked into a bitter and "futile" strike. Last year, the *Justinian* managed to publish just three issues, spent its entire appropriation, and left us with an \$1100 debt. The SBA was noted neither for vigorous advocacy of student interests nor for the wise stewardship of student funds. We can now begin to see the fruits of a long, slow revival of student activity, achieved after much struggle. But the events which led to this debacle deserve the careful scrutiny of the incoming administration.

Part of the cause was undoubtedly the ever-worsening job situation, which forced many students to shun efforts to build a community in favor of the endless and wearying search for jobs. But the job situation is not entirely the product of an ever-worsening economy, an administration determined to cut back on legal services, and the growing proletarianization of the legal profession. The ever-declining number of BLS placements, particularly in such traditional preserves as the Brooklyn District Attorney's office also reflects the failure of BLS. That failure is partially due to the alienation of the "administration," (that is to say, the faculty), from the student body, from the alumni and from BLS itself. People who perceive themselves as resting on the bottom rung of the ladder of academic prestige are unlikely to feel kindly to those who share their position. An all too prevalent attitude was encapsulated by former Dean Glasser at the outset of his administration. Comparing BLS to Harvard and other top ten schools, he noted that the "top" students at BLS were just as good as those at Harvard. If this is Brooklyn's claim to fame, it is not surprising that the administration's usual attitude is one of callous indifference to any school activity with the exception of Law Review, and to any student with the exception of those who have achieved academic success.

Given the administration's attitude towards the students, it is not surprising that those who graduate are not eager to contribute further to the school. Most of us would just as soon see the back of this place. The current mood among the class of 1983 is composed of equal amounts of resignation, relief, and despair.

While this mood is understandable it is also to be regretted. The example of N.Y.U. shows that an improving school can benefit all those connected with it, even graduates who attended at a time prior to improvement. It is up to us, after we graduate to maintain the pressure and encourage further development at BLS. Let's make this a long goodbye.

Moreover, there are signs of new life. The recent proposals for changes in the curriculum represent a step in the right direction. The *Justinian* is pleased to note that the proposal includes the reinstitution of Constitutional Law in the first year and a de-emphasis of black-letter law, both changes called for in *Justinian* editorials and in open hearings which we originally suggested. It is to be expected that the proposal is a reasonable compromise between the changes proposed and the current curriculum. For that reason, it deserves full consideration and prompt action.

In closing, we are pleased to announce the installation of a new Editorial Collective. If you think we were a pack of yellow journalists, wait until you see them.



# The Justinian

A Forum for the Brooklyn Law School Community

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## Most Valuable Player

Lawrence Schuckman

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## Editors' Corner

### Time to Say Goodbye: A Farewell Editorial

by Irene Chang

It is a tradition for the editors of *The Justinian* to write a farewell editorial for the final issue of the academic year. Since I am a graduating managing editor, I find special significance in writing this editorial because this role has been one of the most rewarding endeavors of my law school career.

As managing editor, my responsibilities included generating topics and soliciting articles along with the editors-in-chief, and editing articles submitted for publication. These responsibilities left me little time to author articles, but such allocation of human resources attempted to utilize the strengths of each member of "*The Justinian Team*." And what a team it was. [See Joe, I have been affected by all the sports talk and from "listening to WFAN.]

This year, *The Justinian* Editorial Board attempted to address a broad spectrum of issues and to publish a variety of perspectives which were discussed and encountered in the Brooklyn Law School community. We hope that we have achieved these objectives in continuing the purpose of a student-run law school newspaper as a forum for this academic community. We couldn't have done it without our dedicated staff. We also couldn't have done it without the submissions from interested students, professors and organizations. Thank you all for taking the time to inform those of us who didn't have the time to inform ourselves and for expressing the views which were sometimes difficult to express.

Three years of law school may never be remembered as a pleasant experience, but Brooklyn Law School provided me with many opportunities to enrich my personal and professional life. Student organizations were the main source of these opportunities, among them are the Asian American Law Students Association, Second Circus Revue and the Student Bar Association. At times, seizing these opportunities led me down a path of increasing degrees of stress and decreasing amounts of spare time, but that was the cost of finding a balance between happiness and total insanity. While the costs were sometimes high,

the rewards were always great. Along the way, I learned valuable lessons and gained significant friendships. One of the lessons followed a first-year panic attack regarding "wasting" two hours discussing affirmative action, and that lesson is that our law school education does not end in the classroom. Over the last three years, the office of *The Justinian*, itself, has been a place where legal and philosophical debate was plentiful, particularly on the days on which Supreme Court decisions were printed. Extracurricular activities are an important supplement to a law student's professional development. A little time goes a long way.

*The Justinian* Editorial Board spent a great deal of time putting out our six issues. But we couldn't have done it alone. So, because no farewell editorial would be complete without them, I would like to express my thanks to the following people for making law school a better place to be and for helping me get through the tough times. *Joe and Dan*: I couldn't have asked to work with two better editors-in-chief. This year's issues of *The Justinian* were well worth the hard work and long hours. Thanks for committing the time and effort. And thanks for all the support and the confidence you had in me, I needed it. It wasn't always easy being the only woman in the room, but you guys always took care of me. Together, we accomplished great things and overcame the skepticism which sometimes permeated the student body. Each of you brought new life to *The Justinian* and you leave behind a new standard which will be difficult to surpass. You guys were the best.

*Nancy*: Since our first-year in law school, when we joined *The Justinian*, we've laughed together, cried together, studied together and travelled together. Thanks for everything. I couldn't have made it without you. Love ya.

*Clare*: I know you would have rather been at the opera, but thanks for being here when we need it the most.

*Inge*: Thanks for all the timely articles and coming through in the clutch. I just wish we hadn't had to share you with the *Journal of International Law*.

*Karen*: Your efforts were greatly appreciated, thanks. The staff - *Laura, P.J., DeWayne, Rob, Deborah, Lori, Hayley, Mickey, Gary, Marcus, Geanine, and Eric*: You all did great work and each of your contributions would have been sorely missed. As the people who were subject to my editorial discretion, I hope you were happy with the final product, I only wish I had had the time to work with each of you individually. Thanks for contributing.

And to two special staffers who were also my dear friends, *DeWayne and Rob*, thanks for lending me your ears and for all the quiet support. It meant a lot.

*DeWayne*: Thanks for caring; about AALSA, AABANY, criminal justice, ethics, Happy Days, the indigent, racism



and Mickey Mouse. All that caring will make you a great lawyer and a compassionate leader. I guess I didn't recognize all this while I was ignoring you during first-year torts class. Maybe it would have been different if you came on time?

**Rob:** Thanks for enduring our vigorous debates over the interpretation of the Constitution. They reminded me of the importance of free speech in the academic community. How else are Democrats going to educate you Republicans?

**Lawrence:** Thanks for sharing the good times along with the bad. [Wasn't this much better than another year at the helm of SBA?]

And couple of contributors - *Mark, Paul K. and Paul M.*: Where were you guys all year? Thanks for submitting pieces during the final weeks of the semester, I guess you guys had nothing better to do than get an appendix taken out and to play Scopas. Mark: it was great to make a good friend in third-year. I miss you. Paul K.: It was great working with you on Second Circus, I wouldn't have given it up for anything, not even outlining. Paul M.: Thanks for teaching me how to play Scopas even though I'm an Asian-American woman and in Italy women aren't allowed to play Scopas.

I would also like to thank the "3rd floor Professors," *Professors Brown, Comerford, Hellerstein, Herman, Jones, Madow, Pitler, and Ziegler*. Thank you for all your support and for beginning a new faculty-student policy at

Brooklyn Law School, the "open-floor policy." I'm glad that I had the opportunity to take classes with almost all of you, they really were my favorite classes in law school. But Professor Pitler, I do have one complaint about that Evidence Workshop. It was so comprehensive that I can't watch any of the dozen law shows on television without yelling out all the objections the lawyers miss. And Professor Hellerstein, when is the Supreme Court going to decide my case?

My sincere appreciation and admiration also go to *Professor Linda Feldman*, who helped me through the devastation of a failing grade on a project during my first-year. Thank you for your unfailing support and guidance. You've gone beyond the call of duty for your students and for mine, Street Law was a privilege I owe to you. Thanks.

Last but not least, *Dean Trager*, I would like to thank you for all your support over the last three years. Aren't you going to need a clerk soon? And *Mary Lee*, thanks for taking all my phone calls, I know I've spoken to you more than I have to the Dean.

Finally, I'd like to thank a few of my friends for making me laugh and for putting up with me throughout all our study groups - Allen, Jimmy, Lisa, Mark, Rick and Steve. While I won't miss study grouping for a minute, I will miss the chats, the jokes and the gossip we shared.

To all my friends, the staff and all our readers: Good luck on finals and best wishes for the future!

## A, B, C...ya later!!!

by Dan Tam

Well, it's that time of the year, and this is my final issue of the Justinian as Co-Editor-in-Chief. It's been fun, and I have to say that working for the Justinian has been a great experience. I'm only sorry that more of you out there don't realize this. Before I leave, I am extending one last request that all of you out there consider becoming a member of *The Justinian* staff next year. We need people in all areas, including reporting, writing, editing, photography, layout, and advertising. I know that you will find your work here a rewarding experience. Since my co-editor and I will not be returning next year (except in a training capacity), we are looking for experienced people in the editing areas. In any event, here are some of my thoughts on this latest school year, from A to Z.

**Appellate Advocacy.** I'd rather not talk about it.

**AALSA:** Well, DeWayne and Don, I think the NAPALSA conference in Boston can only be described in

one way: So, uh...

**Atlantic City.** Maybe it's not such a good idea to go so close to finals. But hey, I've got a new craps partner.

**Beatles' CDs:** Did I pay too much for them at the auction?

**Books.** The price of a casebook is really getting out of hand. If it wasn't for friends giving me their books, I'd be out of a lot of money each semester. There should be some sort of book exchange so that students can get these casebooks at heavily reduced prices.

**Computers.** It seems that there is a need for more computers at this school for the students' use. The school should loosen up its purse strings and put a few more computers down in the library. Not too many. Just a few more.

**The Cafeteria.** Much better than last year. But Justin, where's the cream cheese guy? Michael Harding: dreams do come true.

**Duke.** Hats off to Coach K. He finally won it.

**Exam schedule.** Well, you really have to blame the whole academic calendar for this. Third-years get no time off before bar review begins. But they definitely need it. Second-years and first-years start their jobs later than



students at other schools. That puts BLS students at a disadvantage, because some employers may want their summer employees to start in mid-May. Let's get that calendar changed.

The Flintstones. If Fred went to law school, would he make Moot Court? Hmmm.

Graduation. The scariest word in the English language.

Headaches. I always get them when it's time to layout the paper.

Irene "Action" Chang. Where would *The Justinian* be without you. Thanks for everything you've done this year. Have you started outlining yet? Stan called at 4:30...he just got up. It's been fun. Don't forget about us when you're at S&S next year.

*The Justinian*. It's often been work, but I have to admit that our computer system takes the pain out of traditional layout methods. It still takes a lot of time, often requiring all-nighters. But, now we have much more control over our layouts, and can change it around mid-production, without losing hours of valuable time. By the way, those of you who want to see *The Justinian* come out more often... JOIN UP!!!

The Knicks. Look Patrick, I like you, but they can't afford you. Stop asking for so much money. Take some lessons from Magic so we can get some quality players and bring a championship home to New York. Mark...SEE YA! And Paramount, STOP RAISING TICKET PRICES!!!!

Legal Aid. I love it. I think each student should put in some time at a public interest organization during their three years in law school. This is even more important if that student doesn't plan on going to a public interest organization after graduation. By the way, those preaching public interest work to other students should keep their mouths shut unless they plan on doing it themselves. Donating money is NOT enough.

The Marathon. I swear. I'm going to finish.

Michigan. Just because I love it. I could go for Angelo's right now.

Mom and Dad. You never thought I was listening, but I was. Thanks for always supporting me.

Nancy. Although you spent more time at that "other" office, you still came through for us. Not to mention the fact that you've been a good friend to me. I'll miss the back rubs.

Norm. He's my roommate. He has to get into this farewell piece. Anyway, I thought we'd kill each other this year, but we didn't. I think the next apartment we find can't have a balcony for Pat Brackley to...well, you know. By the way, when are we getting that pool table? It's been a great year.

Outlining. Something I've never done.

Placement. AT BLS, there's no such thing.

Pishy. Put the cane down.

Professor Smith. Your clinic set me on the right career path. But now I don't know if I'm going to go to the prosecution side or the defense side. I really enjoyed the class, and I know I'll be seeking a lot of advice from you come September.

Quentin. Because you've been an all-around good guy this year.

Roadtrips. I suggest taking as many as possible while in law school. It keeps you sane.

Rod. I can't say enough about you. But, I also can't say everything, because that would get me in trouble. The last two years have been great, and I'm going to miss you. It just won't be the same. We've been through so much together that it's hard to believe you won't be here in September. But I know you'll be frequenting the new pad Norm and I will be relocating to in Manhattan.

The SBA. What a job they've done this year. Very impressive. Fallfest and Springfest were both successful, but what was the deal with that band at Springfest? Anyway, I was astonished at the job done by the SBA on numerous projects. Specifically, the Calendar Committee and the Blood Drive Committee should take a bow. Nice job, people. By the way, I hope to see more people giving blood next year (except Rod - they keep messing up!). It's not that time consuming, and who knows if you'll need blood someday? Thanks for that super budget allocation you gave us this year. It was extremely helpful to know we had the money available if we needed it.

Our Staff. You couldn't ask for a better group of people. But you could ask that they be first- and second-years. Hey Joe, can we redshirt some of these guys? My only hope is that those of you who are first-years and second-years will come out and join our staff. How many times must I ask? Anyway, Clare, Karen, and Inge, you three were always helpful and never complained. There's nothing more that an editor-in-chief would want. Laura (calendar), Pat (Court Street King), Marcus (crosswords), Mickey (everything), "Signorina" Lori (everything), Geanine and Deborah (poems), Hayley (animal rights), and Eric Wollman have given *The Justinian* readers much pleasure over the course of the year. Special staff members (who go beyond the call of duty): DeWayne Chin - boxing smarts AND fashion sense...how do you do it? Who knows? We might be working together next fall. Have you learned to play Scopa yet? Rob Dashow - we gave you hell, but you took it and you were still nice to us. Why? You're a good man, and I wish you the best. But stop getting haircuts like Rusty Sabich. Oh yeah, tell Marjorie that it's OK for her to use the phone. She doesn't have to keep asking for permission. Lawrence Schuckman



- you gave us hell, but you still got your Inter Alia columns in. Thanks. Did you ever get that guy's green card at the library?

**Second Circus:** They wouldn't let me write the review this year (but it still has to pass through my hands). By the way, Justin, who was the other guy in the Batman skit last year? And who the hell was it that counted the seven times I put Lauren Drooker's name in last year's review? (My mini-review of this year's production: It was great, except that I really wanted to see Karnak).

**Time.** I have none.

**Unemployment.** I'm not too confident about the future with the employment figures of our recent graduates. And I'm talking about FULL-TIME law-related jobs!!!! With many of this year's graduating class still searching for jobs, I think it is incumbent upon the school to reassess its placement strategies, and to strive harder to help its students and recent graduates to secure employment in this shrinking job market.

**Vitale.** I know Michigan has great recruits this year, but if you pick us in the top 10, I'll find you, and I'll kill you.

**The Walkway.** One of the nice things about working for *The Justinian* is that you get to fish through old issues and see what BLS was like in the past. Well, I found one issue from 1982, in which there was an artist's rendition of a proposed covered walkway that would go across Boerum between the two BLS buildings. Where is it today?

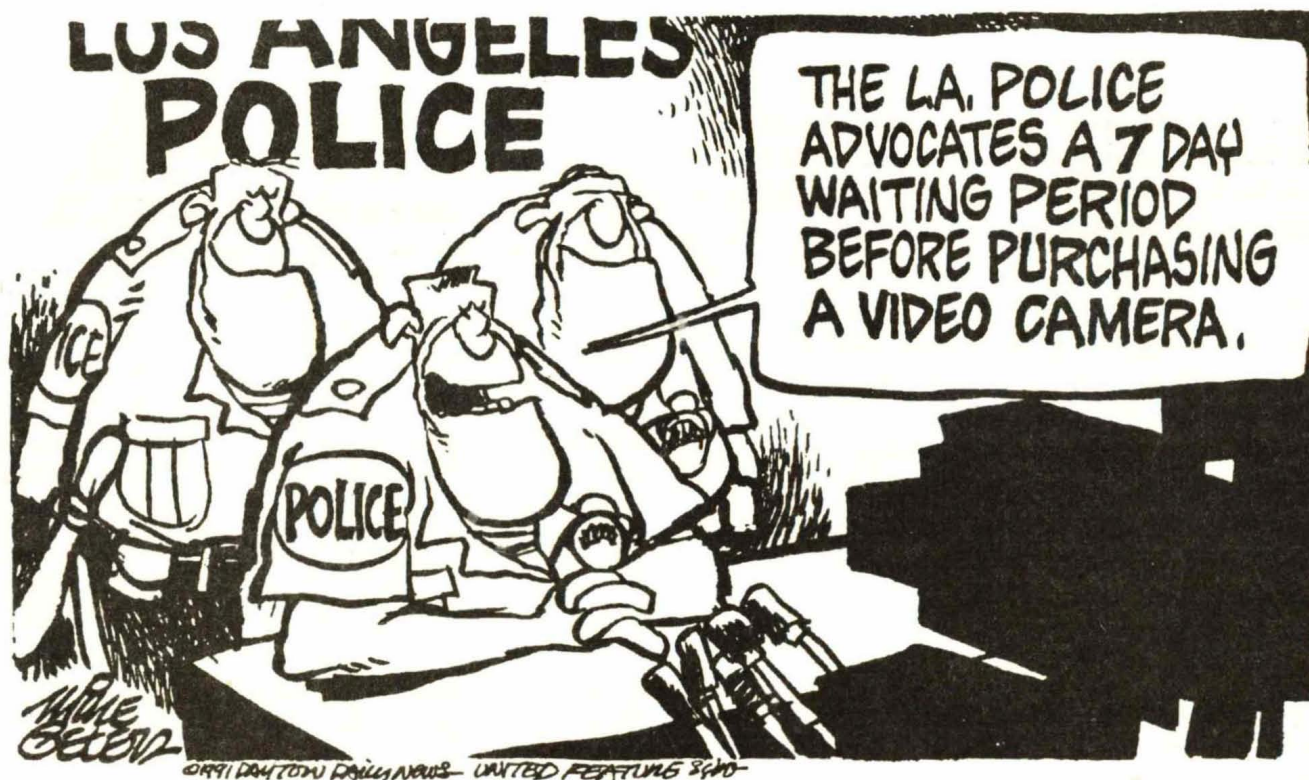
**X.** I couldn't think of anything for this letter, so I'll

take this moment to mention some of the Justinian friends without whom life could not be possible: Jimmy Goo (A.C. after exams?); Don Leo (Scorpion bowls on Bayard Street for us this summer, Don); The Scopa Boys (there are too many of you to name - sorry), and those of you who never hung out as much as they should have; and, of course, Stevie Kreinik (look, I know Brent and Ann Marie broke up because she fell in love with Justin, right?).

**Y?** Because we like you.

**Joey Zasa.** If there is an award for perseverance, it goes to you, Mr. Accetta. I don't know how we got it done this year, but we did. I know you had to shoulder most of the editing burden, and I apologize for that. We came up short on our goal of seven issues, this year, but it was only because the computer broke down and those idiots from CompuSystems took so long to fix it. Still, I believe that we accomplished much of what we had hoped for when this year began. If Stan wants the job, tell him that it is possible to put out more than two issues per semester. I know we'll both be back next year, but not at *The Justinian*. And since I'm moving to Manhattan and you'll be working in Queens, we probably won't see each other that much next year. So, I have to tell you that it's been great working with you. Good thing we're not in Sicily.

And so I say goodbye to you all, but only from my position as co-editor-in-chief. Off I go to Legal Aid this summer, but I am looking forward to a third and final year at BLS (this time, though, unencumbered by school activities). Be good.





# There Ought to be a Law...

by  
Joe Accetta

It's late Sunday afternoon here at College Point Sports Complex, and, unfortunately, my softball team has just lost both ends of an Opening Day doubleheader. No matter, though, because Opening Day is always a pleasure, despite a poor result on the field. I can't believe that this is my tenth season in the College Point Sunday League - I was allowed in when I was 16 (two years earlier than normally allowed), when I made a pinch-hitting appearance, doubled in a run, and never looked back. It's great to see everybody come down to spend the day and get reacquainted for yet another season. Heck, I can remember when a lot of these guys used to coach me in Little League, and now, I welcome some of the teenagers I coached just five years ago. Yes sir, there's nothing like Opening Day to get one to reminisce.

A few days ago, a friend here at Brooklyn Law School asked me why I've used this column to talk about baseball so often, and sitting in the stands after Opening Day, alone with my thoughts as I watched the sun set out beyond the towers of the Whitestone Bridge, I thought I'd like to share the answer to that question with you. I think it would be the most appropriate way to express my final thoughts as an editor-in-chief of this publication and to close out this column's two-year run.

In my life, baseball has always been a great equalizer: it has contributed some quintessential qualities to my character - intensity, competitiveness, a sense of teamwork, and humility, among others - while providing me with a mode of expression for my persona. In short, I've always felt that baseball is a microcosm of life in general.

Indeed, it isn't every sport that allows one to fail seven out of every 10 times at the plate (comprising a .300 batting average) and still be considered a great player. Additionally, baseball is the only major sport where time is not an integral element of the game result. When taken together, I've always felt that baseball has a way of teaching us that it's all right to make mistakes every now and then, because there is always time to redeem yourself. Unfortunately, this lesson is often lost on many of us - including myself - as we muddle through this grinding experience we call law school.

Moreover, a successful ballplayer instinctively thinks at least two or three pitches ahead of the current pitch. For instance, a fielder must know ahead of time to where he is going to make his throw if the ball is hit to him, since the

location of the throw will vary, depending on where baserunners are currently situated and how many outs there are in the inning. Just the same, the most interesting interchange that occurs on any ballfield is the give-and-take between the pitcher and the batter, as each tries to outguess the other in order to gain an advantage. As law students and future attorneys, we have all learned the value of assessing hypothetical situations, and the ability to ascertain the most logical response by mere reflex is the hallmark of a successful attorney. Similarly, any successful ballplayer will vouch for the fact that endless hypothetical situations pour through his mind while out on the ballfield, and, usually, intuitive reflex reactions separate great players from mediocre ones.

Finally, the most romantic and redeeming quality about baseball is that life begins again each spring, where every team starts off at "0-0" in the won-lost column and everyone can dream of being a contender in the autumn. Similarly, there's no more invigorating feeling than to be out on the ballfield chasing grounders or shagging popflays on fresh grass and dirt or even to be in the stands exchanging opinions or explaining to somebody unfamiliar with the game all the various nuances that make baseball such an interesting, stimulating game beyond what you see on the field. In short, I owe a great deal of my thoughts and emotions to my life-long affinity for this great game, and by sharing such thoughts and emotions with you over the last two years, I hope that I've provided you with a pleasurable diversion. Certainly, the pleasure has been mine.

In order to start thanking people for the success I feel we have achieved here at *The Justinian* this year, I'd like to begin with some of the "heroes" in my lifetime. Tom Seaver and Keith Hernandez are probably the two best players in the 30 seasons of the New York Mets'. In the 20 years I've been going to Shea Stadium - just minutes from my home - these two players have embodied professionalism and leadership on the field. (I don't believe in assessing what a ballplayer does in his personal life - that's his business.) Most importantly, both of these players exhibited one particular quality that has had a significant impact on my character: they elevate the level of performance of their teammates by challenging them to extract the most from their talents and be the best possible players they can be. They both expected nothing more



and accepted nothing less from their peers (much like myself), and it is no small coincidence that both players were the heart and soul of the Mets' only two World Champion teams (Seaver in 1969, Hernandez in 1986). I feel as though I've tried to instill that spirit here at *The Justinian* this year, and though at times I must have seemed like a slave-driver, I now confess to my peers that I was merely trying to challenge you to help do great things with your various talents. Thank you, Tom and Keith, for helping to give me a sense of that passion to extend oneself to help others "overachieve."

Years ago, I can remember my brother bringing home *Born to Run* and playing it constantly when I was still in grade school. Well, I can't count the number of times that the words and music of Bruce Springsteen have helped me through a tough day. Through the years, Bruce, the message I've retained from your music is simple, but powerful: Don't be afraid to think about achieving great things, even though you often get sidetracked by pitfalls and broken dreams, and don't be afraid of enjoying yourself once in awhile. Hard work and a passion for life so often go unnoticed and unrewarded, especially in law school, and its often difficult to keep your perspective. Bruce, I think you've helped me keep mine, since I know where I came from and I believe that I know where I'm going. Indeed, "It ain't no sin to be glad your alive" (*Badlands* - from *Darkness On The Edge Of Town*).

I've grown rather fond of *The Court Street King* this year. King has taught me that you have to be yourself and you have to know your limits. In effect, King has shown me that if you keep the proper perspective about yourself and where you belong, there's no telling what you might accomplish - canned clams and all. Often, I'm not entirely sure that this is where I belong, but King has reinforced my belief that you'll always belong where your heart lies - in having the ability to reach out and make a difference. Thanks, P.J. Brackley, for creating the King, for being a faithful contributor and for being a good friend.

I want to thank the "Third-Year" contingent that has kept this office vibrant and alive this year with the introduction of SCOPA (an Italian card game) and Spades into the Brooklyn Law School vocabulary (I hope I don't leave anybody out): Paul "DeNiro" Mastropietro, Andrew "The Professor" Finkelstein, Frankie "Bones" Napolitano, Jimmy "The Greek" Goo, Donald "The Lion" Leo, Ray "Ray" Grasing, John "Top Gun" Ponterio, Mike "Mickey" Bowman, Fabio "Fabulous" Valentini, Rick "Back Door" McGuirk, Paul Kaufman and Randy Amster (forever linked by *Bob Lives*). Your company and humor lifted my spirits on many a long day here at the office, and I'll never be able to thank you guys enough for your

encouragement, advice and companionship. Good luck on the Bar Exam, and keep in touch.

I'd like to thank Section 1 of the Class of 1992 for providing me with an interesting cross-section of friends to share the inevitable law school war stories. Many of you have dropped by to say hello during the year, and I've missed those of you that haven't. I hope you all are proud of the work I've done here. P.S> Thanks for the golf clubs, Adam.

I'd like to thank the Third-Floor professors - especially Professors Comerford, Pitler, Hellerstein and Ziegler - for their constant encouragement and friendly banter during the year. Thanks especially to Professor Madow for his sage advice on editorial matters. These professors are living proof that the term "open-door" policy is not a myth here at Brooklyn Law School.

To our faithful "Poet Lawreates" Geanine Towers-Dioso and Deborah Fried-Rubin: thank you for providing us with your pensive sentiments. Your words were a welcome addition to our publication. Also, thanks to Hayley Greenberg, Mickey Heller and Eric Wollman for their monthly contributions and to Marcus Spevak for bringing us a monthly crossword puzzle. Your efforts were certainly appreciated by the editors and readers alike.

Thanks to SBA President Larry Greenberg, who (with some friendly prodding from the editors) punctually turned in an informative and entertaining SBA Update for ALMOST every issue. Also, a thank you to Lori Gentile and Inge Hanson for turning out exceptional substantive pieces over the course of the last two years. Your work was always a pleasure to read and edit.

Thanks to Clare Wee and Karen Wong for their editing and typing efforts during the course of the year. Also, thanks to Nancy London for similar efforts and for taking time out of her busy schedule to present her Moot Court Updates.

Rob Dashow, you're one of the brightest guys I've ever met. Thanks for all of your help. You're a lousy rotisserie player, but a good friend. Remember what Tug McGraw said in 1973, "You Gotta Believe."

Thanks, DeWayne Chin, for always maintaining your cool. Your many bits of advice on those long drives home to Bayside will not be forgotten. *Raging Bull*, *The Pope of Greenwich Village* and *Rocky* will always remind me of the laughter we shared in this office. Thanks, buddy.

Lawrence Schuckman, I sum up my sentiment for you with this statement: Good players make good plays most of the time, but great players come through when the game's on the line. By that standard, Lawrence, you are a great player, and a great friend. Thanks for everything.



Dan Tam, I had my doubts that we were going to be able to reach our goals this year, but we did it. We had some great times here, especially doing that restaurant review. (Don't think I forgot about those pinkie cup quotes.) The time we spent here was not in vain, and I think we turned into a pretty damn good team. Thanks for coming through in the clutch and for teaching me how to relax under deadline pressure. Somehow, we always found a way to get it done.

Irene Chang, I think I've learned the most about what being a professional is from you during our time together. Not only are you the epitome of success here at Brooklyn Law School, but there is no one here who has earned my admiration and respect more than you have. I've talked a great deal about challenging others to overachieve, and you, more than anyone I have ever worked with, set such an example for me to emulate. Your advice was always honest and forthright, and your talent and work ethic are surpassed by no one. Your departure will leave a tremendous gap here at *The Justinian* - and at Brooklyn Law School - next year. I reiterate here that our efforts have not been in vain. Thank you for always reinforcing that belief when I had my doubts. Your influence will surely allow me to be a better professional, wherever that may be.

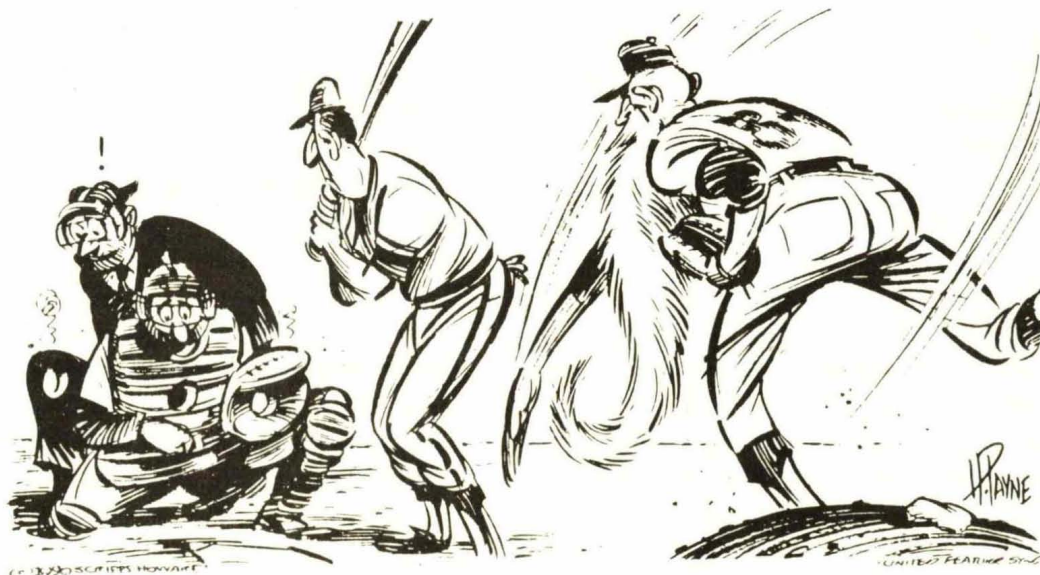
Thank you, Mom and Dad, for all the hot meals, for putting up with the late evenings and for your constant support and love. You've always taught me to do what my heart tells me, and that you'll always be there to back me up. Never was this more evident in my life than this past year. I hope I've made you proud of me.

Finally, I must thank you, the students, who have supported our effort all year long. Your encouragement and kind words reinforced our belief that we serve an important function here at Brooklyn Law School - to provide you with a forum for expressing your views on the issues you must grapple with here and in your lives. I only hope that we haven't let any of you down this year and that I've earned your respect.

I will tell you that *The Justinian* needs members, staff and a new editorial board for the 1991-92 school year. I sincerely hope that some of you will step forward next year and choose to be active in your school. There is a rewarding sense of fulfillment that we have derived from our roles here, and I urge those of you with an interest to step forward. I would hate to see the paper cease publication next year, but that is what will occur if help does not arrive. The future of this publication is now in *your* hands.

As the sun sets over the field, I remain the solitary figure in the stands - perhaps mirroring some of the lonely times I've spent in law school or in Room 307 - *The Justinian* office. I've spent many moments on or around ballfields in my life, probably because a ballfield has always felt like home - a place where I could concentrate on my innermost thoughts. Now, you all know why the majority of these columns have dealt with baseball.

In closing, I tell you that I've enjoyed writing this column immensely, and I've enjoyed sharing a little bit about myself with each of you over the past two years. This is just to say that this is not goodbye (for I'll be here at Brooklyn Law School one more year), but only farewell until we meet once again.



JUNE, 2020 — JOHN F. KENNEDY, JR. IS PRESIDENT. RUSSIA IS THE WORLD'S LEADING EXPORTER OF GRAIN. PAN AM ANNOUNCES NON-STOP SERVICE TO MARS. AND NOLAN RYAN, 73, PITCHES HIS SEVENTH NO-HITTER.



# LETTERS TO THE EDITOR

Dear Editors:

Anyone who has taken Legal Profession is familiar with the many landmines an attorney may encounter in practice. What Professor Holzer failed to warn me about in his Legal Profession class are the landmines one may encounter in law school.

Last semester, Professor Holzer's class received "collateral damage" from one such landmine he and the administration stumbled upon. Although Professor Holzer never indicated what format the final exam would consist of, he taught in a manner in which most students would expect some essays. Hence, I was surprised when the exam turned out to consist of 100 multiple choice questions.

However, the format was not the real problem with the exam. The problem was content. Fifty of the questions were taken directly from the textbook, which, presumably, every student has access to, while the other fifty questions were taken directly from the then-current Pieper Review Course materials. If you were fortunate enough to have taken the Pieper course when studying for your Multistate Professional Responsibility Exam, you had the advantage of being familiar with all of the questions that appeared on Professor Holzer's exam. Unfortunately, not everyone had access to the Pieper materials, including myself. I was both shocked and [ticked] off when I found out that a Legal Ethics professor would have the audacity to pull such a stunt.

Being the diligent student that I am, I decided to see Dean Wexler and find out what was going to be done about it. Enter phase two of Brooklyn

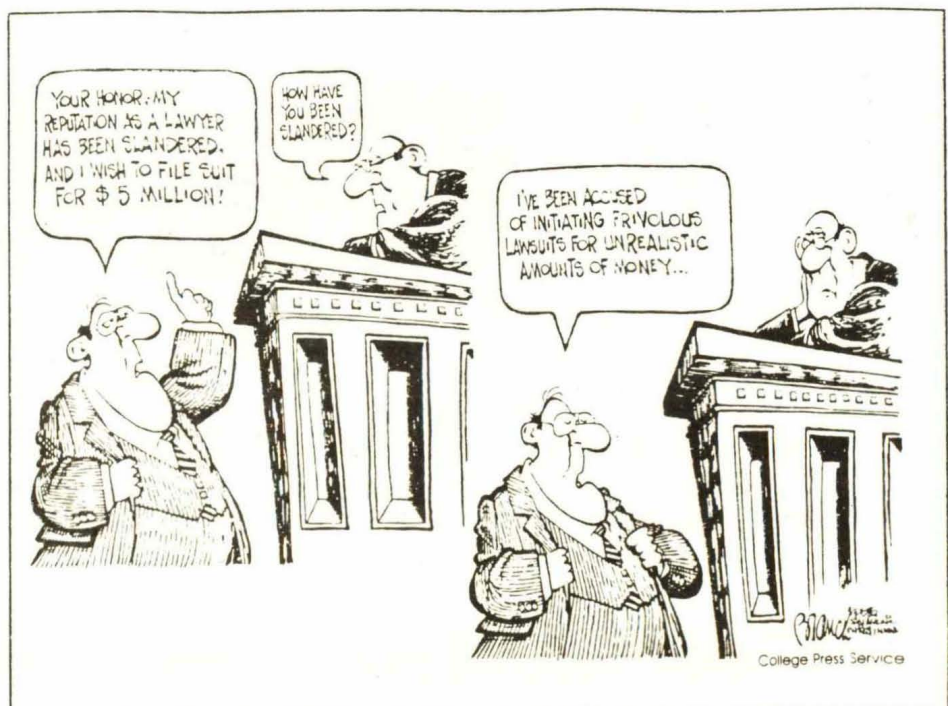
Law School's Legal Ethics debacle.... On my first visit to Dean Wexler's office, I was told that she was "in a meeting" or "having lunch," but either way, she couldn't see me. So, I proceeded to write a letter to the Dean, with my name and telephone number enclosed, so that the Dean could respond to my concerns at her convenience. Well, I received *nada* from Dean Wexler, and after about a week, I went back to her office and was told that she was in a meeting. On a third visit to the Dean's office, again, I was told, she was in meeting. I decided to wait, and after about five minutes, an assistant to the Dean met with me. I explained why I was there and was told that the administration was "on top of the problem" and would be contacting me soon with an explanation. Well, I never received that explanation, and about two weeks after my last visit to the Dean's office, I received my final transcript in the mail. Instead of a number grade, I had

received a "P." At no time did I ever receive an explanation or an apology from Dean Wexler or anyone in the administration. Because a professor plagiarized his exam, my classmates and I got stuck with a "P" instead of a grade which might have factored positively into our averages. We were ripped off and received no explanation from the administration. I smell a coverup.

Why weren't we graded only on the first fifty questions - the questions that came from the textbook? That seems to me to be more just than simply giving students a "P."

Needless to say, this experience has left a sour taste in my mouth that I will not soon forget. The bottom line: be forewarned, oh haggard law students. Not only must we be careful not to step on land mines, we must dodge land mines stepped on by others - those we pay to provide us with an education!

Harold Baker '92





# The Club Scene

## BLSPI: Bridging The Gap

by Jane Landry

During the week of April 22-26, Brooklyn Law School students, faculty, and administration demonstrated their serious commitment to providing legal services to the underrepresented of our society by pledging over \$20,000 to public interest law fellowships. Brooklyn Law Students for the Public Interest (BLSPI) hopes that stipends can be made available to Brooklyn Law School students not only for summer internships but for part-time work during the year.

As the pledge drive got underway, the fashion conscious began to sport beefy tee-shirts bearing the pledge drive's "Bridging the Gap" logo. This theme emphasizes the serious crisis in legal assistance to the underrepresented that currently exists nationwide and which is especially grave here in New York state.

Recent studies commissioned by the New York State Bar Association and Chief Justice Sol Wachtler through the Committee to Improve the Availability of Legal Services show that 86% of the legal needs of low-income

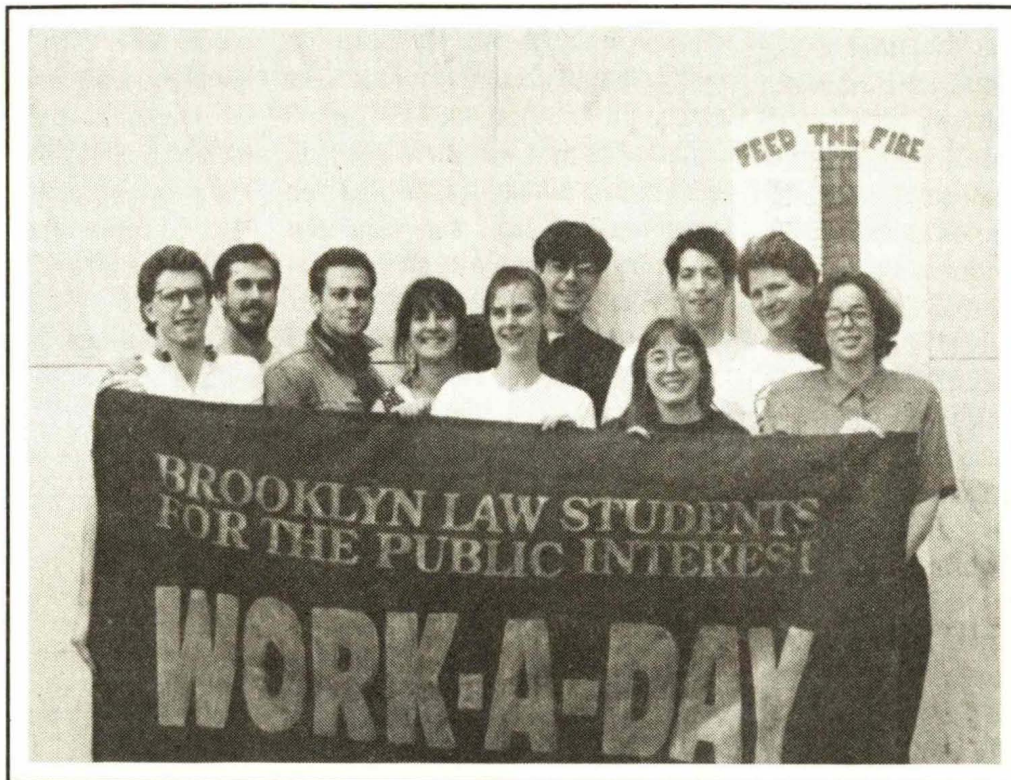
New Yorkers are unmet. Legal Services offices are severely underfunded and overworked. Typically, nine out of 10 cases must be turned away because there simply are not enough attorneys to handle the caseloads.

Public interest organizations struggling to "bridge the gap" desperately need dedicated law students to help them deliver quality legal assistance. However, they often cannot afford to pay for legal interns. Moreover, financial pressures prevent students interested in public interest legal work from volunteering their time. Sti-

pends, like the Brooklyn Law School faculty-sponsored Sparer fellowships, meet students' basic financial needs for the summer enabling them to take jobs in the public interest. However, student interest in public interest law has far outpaced the limited number of Sparer fel-

lowships available. (This year approximately 70 students applied for 15 Sparer fellowships.) BLSPI was proud to make applications available this month for the first student-funded Fellow to do legal research and writing, meet with clients and represent them in administrative hearings at the Legal Aid Society's Brooklyn Office for the Aging this summer.

BLSPI, founded in the fall of 1990, has been bringing the message of the critical need for quality legal assistance





# Christian Legal Society

by M.Z. Heller

the message of the critical need for quality legal assistance for the poor to the law school community and has increased the opportunities for Brooklyn Law School students to do public interest work:

- On December 4, 1990, BLSPI sponsored a faculty forum "How To Get Started In Public Interest Law" where six faculty members shared their experiences in the public interest field and offered advice on how to get started in public interest law. A raffle was held simultaneously, raising \$1400.

- On March 27, 1991, BLSPI held their first social event and fundraiser "Auction-A-Go-Go". Music, free beer and lots of great buys were had by all in attendance. Over \$5,000 was raised.

- The group's latest effort, the Work-A-Day pledge drive, is also the most important in terms of soliciting the direct involvement and support of students, faculty and administration towards bridging the gap in legal services to the underrepresented. It has received over \$20,000 in pledges.

The success of the group is due to the dedication and hard work of all its members whose enthusiasm stems from their sincere commitment to public interest law. But the group would not have been able to thrive without the phenomenal support and encouragement of a community of law students, professors and an administration that is steadfastly devoted to improving legal representation to the poor.

[Editors' Note: Please note that the BLSPI Auction article in the last issue of *The Justinian* was not written by Paul Zimmerman, but by Nathan Courtney, Robert Doyle and Todd Krichmar.]

The Brooklyn Law School Chapter of the Christian Legal Society held their final event of the year, a panel discussion entitled "Christianity in the Criminal Justice System," on May 1. The guest panelists were Lynore Rerick, an attorney with the Legal Aid Society Juvenile Rights Division, Sgt. Stephen Duncanson, from the Organized Crime Control Bureau-Narcotics Division, and Officer Colin Wilson, a Community Patrol Officer with the 81st Precinct. Each panelist shared some background on themselves, on their careers, and on how they have integrated their faith into performing their jobs. Panelist John Sidney, Executive Administrator for N.Y. Christian Life Centre, discussed his experience in prison ministry. Central to each panelists' talk was the mention of "hope". Each panelist spoke of the lack of, or need for, hope by those already caught up in "the system" and they encouraged members to realize that their careers are individual areas of ministry, demanding the highest standards of excellence in whatever area of service one chooses.

After the panel discussion, an excellent buffet supper was served by Barbara Price and the staff of Christian Family Caterers. Many commented that they were treated to "the best barbequed chicken" they had ever tasted.

Next year's Executive Officers were introduced prior to the panel discussion, and Brooklyn Law School can look forward to more "good works" from the Christian Legal Society next year, led by William Smyth, President, Jae Won, Vice President, and Jon Kalb, Secretary/Treasurer.





# BLS Elderlaw Clinic - Save Our Seniors!!!

by Lisa Vann

**Did you know** that Brooklyn Law School runs an in-house clinic for the elderly which is located in Manhattan?

**Did you know** that in this clinic, Brooklyn Law School students participate in an experience that is one of the few of its kind in the entire United States?

**Did you know** that, aside from funding provided by our school, this clinic receives substantial monies from the Department For The Aging (DFTA), and that this funding allows both students and faculty to provide critical legal services to the elderly?

**Did you know** that, because of city-wide budget cuts, DFTA has already cut its funding to the BLS program by 10% (\$20,927) this year and that beginning this July, DFTA intends to further cut funding for this clinic by a devastating 49% (\$102,542)?

**Did you know** that these proposed 49% cuts will force substantial reductions in the legal representation for the elderly in Manhattan as well as at the other five programs which provide free legal representation to the elderly throughout New York City?

**BLS Legal Services Corp. - Senior Citizen Law Office** (The Elderlaw Clinic) is a fully-functioning legal services office that has provided **FREE** legal services to elderly residents of Manhattan since 1977. Unlike any other legal services programs in New York City, the Elderlaw Clinic is sponsored by a law school, **OUR LAW SCHOOL!!!**

At the Elderlaw Clinic, students assist in representing elderly clients by working alongside a staff of five attorneys, three of whom are Brooklyn Law School graduates. We represent seniors in many important critical civil matters, and our elderly clients usually are either about to face eviction or need assistance in obtaining their entitlements.

The unique aspect of this clinic is that **STUDENTS** conduct client interviews, negotiate settlements, and, under appropriate supervision, argue motions and cases at all levels of the court system. At the Elderlaw Clinic, the student is, for all practical purposes, acting as an attorney.

But BLS Legal Services Corp. - Senior Citizen Law Office is much more than just a name to put on your resume. As a student-attorney, you work directly in the public interest arena, and all of your clients are senior citizens. Thus, as students, you have the opportunity to maintain hands-on client contact with clients who usually live on a fixed income, set well below the poverty level.

We feel that the Elderlaw Clinic provides a place of last resort for the elderly citizens of our community, insuring that their legal rights are adequately protected.

## **SO WHAT EXACTLY IS THE PROBLEM???**

In her decision to enforce the proposed budget cuts, Ms. Prema Mathai-Davis, the Commissioner of DFTA, has stated that her first priority was to try to "keep intact meals, home care, transportation and other critical services that have a major impact on the lives of many of the City's elderly." Apparently, given the proposed cuts, she does not feel that legal assistance is a "critical service" that merits the protection other critical services will enjoy.

Despite the strong support that the Elderlaw Clinic receives from Brooklyn Law School, if these cuts are realized, they will severely curtail the clinic's faculty/staff, caseload and student involvement. Unfortunately, for Brooklyn Law School students, these proposed budget cuts threaten to diminish the quality of one of the best clinical experiences available!!

## **SO WHAT CAN YOU DO TO HELP????**

Fortunately, the light at the end of the tunnel has not yet been extinguished. These budget cuts have not yet occurred. Currently, the Elderlaw Clinic is continuing its full operation, but needs *your* support to ensure its continued existence.

We must avoid these budget reductions, scheduled to commence on July 1, in order to maintain all of the vital services that we provide for the elderly. Unless we speak out now for our beloved clinic, we will lose an integral resource to the community and an invaluable source of legal experience offered **FREE**, to Brooklyn Law School students every year.

## **THE ELDERLAW CLINIC IS NOT JUST LEGAL SERVICES !!!**

It is a unique part of our law school. Without your help, we may drastically reduce a primary legal avenue available to the elderly in New York City.

## **PLEASE SHOW YOUR SUPPORT!!!!**

If you would like to support our seniors and save the Elderlaw Clinic as well as all the other legal services for the elderly programs, **PLEASE** take the time to write to one or all of the people listed below:

Hon. David Dinkins



Mayor of the  
City of New York  
City Hall  
New York, NY 10007

Mr. Peter Vallone  
Speaker of the City Council  
22-45 31st Avenue  
Astoria, NY 11105

Ms. Prema Mathai-Davis-Commissioner  
Dept. For The Aging  
2 Lafayette Street  
New York, NY 10007 or

If you would prefer to write directly to your City Councilperson, please do!! Any further inquiries should be directed to **The BLS Elderlaw Clinic** at (212) 233-5753.

## Placement Update

### Fall 1991 On-Campus Interview Program:

There will be a mandatory informational meeting for first-year students on **Thursday, May 30, 1991** from 1:00 p.m. - 2:00 p.m. in the Moot Court Room regarding the Fall 1991 On-Campus Interview Program. Information about participating employers will be explained. Second-year students are also welcome.

### Video Tapes:

Get ready for those job interviews! The Office of Placement and Career Services has several videotapes in

which actual employers from law firms, government agencies, and district attorney's offices interview actual students - observe how it is done. Then, schedule an appointment for your own "mock" interview. We'll videotape you so we can fine tune your interviewing skills.

Remember, all of our "Specialty Series" programs are on videotape. If you missed our latest programs on *Labor Law*, *Legal Services* or *Opening Your Own Practice*, you can come to our office for your own private viewing.





# The Moot Court Honor Society

by Jennifer Layug

The Moot Court Honor Society (the Honor Society) gives students the opportunity to hone their appellate brief writing and oral advocacy skills through competing in competitions throughout the United States. The Honor Society participates in 14 competitions throughout the school year including those in the areas of civil rights, tax, evidence, environmental law, administrative law, constitutional law, entertainment law, and trial advocacy. With the exception of the trial advocacy competition, all of the competitions are appellate competitions. At the competitions, teams consisting of three people are prepared to argue both sides of the issues against other schools. Typically, practicing attorneys, professors, and judges preside over the different rounds in the competition in order to determine the best oralists, the best briefs, and the winning team.

In addition to competing at other schools, the Honor Society also hosts Brooklyn Law School's Jerome Prince Invitational Evidence Competition. The late Dean Prince was esteemed in the area of evidence law and the competition bearing his name has drawn quite a few prominent judges. For instance, this year, Chief Justice Sol Wachtler of the New York Court of Appeals and the Honorable Pamela Ann Rymer of the Court of Appeals for the Ninth Circuit presided over the final round of the Prince Evidence Competition. Last year, United States Supreme Court Justice Antonin Scalia was one of the judges on the panel for the final round of the Prince Evidence Competition.

## The Selection Process

Members of the Moot Court Honor Society are selected from the first year legal writing competition, an appellate advocacy class, and the trial advocacy competition. All first-year law students are required to write an appellate brief and argue before a panel of judges consisting of faculty and Moot Court members. First-year law students are selected based on a combination of their professor's grade on the first draft of their brief and their presentation of an oral argument. Due to the controversies that have surrounded the subjectivity of the selection process in recent years, the method used to determine the score for the oral argument was changed this year. Although the precise details of the change in the scoring system cannot be disclosed at the present time due to the on-going competition, Andrew Levi, the Vice Chairperson for Intramural Affairs, believes that this new weighted oral scoring system is more equitable.

Second-year students and third-year part-time students can also become members of the society through an appellate advocacy class. The class requires students to write an appellate brief (this brief also fulfills the upper-class writing requirement), and to present an oral argument which is videotaped. The Executive Board of the Honor Society reviews the briefs and videotapes and then determines who will be invited to become members.

Second-year students and third-year part-time students can also be invited into the Honor Society through the Trial Advocacy Competition which takes place every spring. The winners of the Trial Advocacy Competition represent Brooklyn Law School in the National Trial Advocacy Competition. This team presents opening arguments, closing argu-

ments, etc., and is the only team which competes at the trial level. Interestingly, individuals who are already members of the Honor Society must also compete in order to be a member of the Trial Advocacy Team. Some students find this aspect of the Honor Society more appealing because it does not require the student to write a brief either before or after obtaining membership.

## Benefits of Membership

Membership on the Honor Society is not only prestigious, it also offers practical experience which can be applied later in life. According to Dominic Morandi, Chairperson of the Moot Court Honor Society, "Moot Court has been the single-most important and beneficial learning experience, more than any substantive course" he has taken at Brooklyn Law School.

## Year in Review

On May 8, Morandi and the other members of the Executive Board turn over the reigns to the New Executive Board of the Moot Court Honor Society, Joseph Williams, Karen Bennett, Lisa Mastrodomenico, Albert Khafif, and Marci Silverman. This year's Honor Society consistently performed well and both boards have plenty to be proud of. The Honor Society finished especially well in the Tax Competition, the Jessup International Moot Court Competition, the Environmental Competition held at Pace University, the Spong Constitutional Law Competition, the Minnesota Civil Rights Competition, the Nassau Trial Competition, and the National Trial Advocacy Competition. By the time this issue is published, the majority of the incoming members of the Honor Society will have been chosen.

Good luck to the new members of the 1991-92 Moot Court Honor Society.



# Brooklyn Journal of International Law

By: Patricia Cheng

The *Brooklyn Journal of International Law* is a renowned journal of international law which features scholarly articles written by outside authors as well as Brooklyn Law School students and faculty members. During the 1990-1991 academic year, the *Journal* published a number of very interesting articles. Among them were an interview with Australian Federal Court Justice J.E.J. Spender, an article on the problem of acid rain in Europe and an article on American defense rights in the Panama Canal region.

Every December, the *Journal* presents a symposium on issues in international law. The 1990 symposium was organized by Dean Joan Koven, with assistance from Professor Karen Brown.

Each year, the December issue of the *Journal* is devoted entirely to the symposium. In recent years, this special symposium issue has taken several months to complete. According to 1990-1991 Managing Editor Heather Cooper, this year's staff is proud of having completed the symposium issue in only four months.

Although the *Journal* is normally published three times a year, it has been publishing behind schedule during the past few years. However, this year's *Journal* staff, under the leadership of Editor-in-Chief Brian L. Ross and Managing Editor Heather Cooper, has worked diligently and succeeded in putting the *Journal* back

on schedule. By the summer of 1991, the *Journal* staff will have completed three full issues plus a majority of the production work for a fourth issue.

Students must be selected for membership on the *Brooklyn Journal of International Law*. The *Journal* employs three methods for selecting new members. First, on the basis of first-year briefs submitted by professors in the Best Brief Competition. Second, according to their first-year grades (with an eye toward their writing ability), and third, on the basis of their submissions in the Joint Writing Competition, to be held in Early June. The *Journal* will accept 24 new members for the 1991-1992 year, with eight members being selected via each method mentioned above.

Being a member of the *Journal* entails a great deal of work, as members are required to take International Law and either European Economic Community Law, International Trade or International Business Transactions. Furthermore, *Journal* members perform two tasks, production and writing. Production involves page proofs, clean reads and book proofs, which are usually completed by members during their weekly office hours (three hours). A member is excused from office hours when assigned to source checks, which verify citations an author uses in his or her article.

Members usually work in pairs during source checks, with each member performing approximately three source checks per year, and each source check must be completed within two weeks.

The writing requirement begins when topics are assigned after all new members have been selected. Even though the Board suggests the writing topics, students are free to select their own. However, such self-picked topics must first receive approval from

both the Board and a faculty advisor.

Ultimately, the board decides which papers will be published, and this year, the *Journal* has utilized stricter publishability standards as compared to past years. Consequently, just over one-third of all papers (as compared with two-thirds in past years) submitted to the editorial board were deemed publishable.

A student whose paper is deemed publishable receives two credits and automatically fulfills his or her upper-class writing requirement. During past years, authors of papers which were deemed unpublishable did not receive these perquisites. As a result of the stricter standards, authors of many well-written papers (about one-third of those submitted papers) are deprived of those well-deserved two credits and of fulfilling the writing requirement. To remedy this inequity, the 1990-1991 board has allowed authors of well-written papers to both get credit for their papers and fulfill their writing requirement.

By the beginning of the second semester, members are informed as to whether their papers are publishable. Students whose paper are either publishable or well-written, though unpublishable, become eligible to run for *Journal* board positions.

The recently-elected editorial board executives for the 1991-1992 academic year consists of: Editor-in-Chief Ramon E. Reyes, Jr., Managing Editor Thomas D. Perreault, Executive Editors Anne C. Bederka and William A. Epstein, Executive Symposium Editor Robert Hueston, Executive Articles Editor Philip A. Presby, Executive Solicitation Editor Mark W. Muschenheim.

Congratulations to the new editorial board, best wishes to the outgoing board and good luck to all of you who hope to be selected for membership on the *Brooklyn Journal of International Law* !



# Brooklyn Law Review

by Irene Chang

The *Brooklyn Law Review* is a scholarly journal of legal analysis and commentary. Over the years, the *Brooklyn Law Review* has been cited in nearly 400 federal court opinions and nearly 500 state court opinions with reference to articles written by eminent legal scholars, practitioners and judges as well as the notes and comments written by students.

The task of publishing *Brooklyn Law Review* is almost entirely the responsibility of its staff with much of this responsibility lying with the Editorial Board. *Law Review's* recently-elected 1991-92 Editorial Board consists of Editor-in-Chief Sven Krogius, Managing Editor Cynthia Watkins, Executive Articles Editor Renee Cyr and Executive Notes and Comments Editors, Jacqueline Bryks and Mark Kornfeld. This Editorial Board, along with the second-year members of *Law Review*, will soon select its newest members. While the Brooklyn Law School administration and student fees support *Law Review* financially, it is the Faculty Publications Committee which advises on issues such as academic standards and plagiarism. *Law Review* also receives support from its Faculty Advisor, Professor Arthur Pinto, who will be soon turning over this responsibility to Professor Joel Gora.

Last year, both *Law Review* and the *Brooklyn Journal of International Law* implemented new selection processes. There are now three ways to become a member of *Law Review*: through the Best Brief Competition, the Joint Writing Competition and by academic ranking. This last way is perhaps the simplest way to gain

membership, as *Law Review* is permitted to choose up to a third of their members on this basis. However, the "easiest" method of selection is through the Best Brief Competition whereby legal writing professors submit the best briefs from their respective classes. From these briefs, the *Law Review* will select up to one-third of the next year's membership. Last year, nine students were selected from the best brief competition. Students not selected on the basis of their briefs, including those who are highly-ranked, are strongly urged to enter the writing competition.

The competition is held after spring semester. After paying a registration fee at the Bursar's office, students receive a packet with all the material they'll need to complete their writing assignment in four days. This past year the assignment was a case comment. No outside research is permitted and a point penalty is applied to late entries.

Every entry will be read by three different editors who score them on the basis of organization, legal analysis, and writing style. A cut-off score sends the best papers to the next round to be read by three more editors. Last year, 300 students picked up the packets for the competition, and about 175 turn in written products. Nine were accepted from this competition.

To prepare for the competition students can look at notes and case comments in the past issues of the *Law Review* (available in the library). Generally, a note is an analysis of a specific area of the law, and a case comment is an analysis of a specific case. Written analysis or propositions should always be supported by sources. The whole idea of a student-pick is to offer a fresh perspective to the legal community.

Outgoing Editor-in-Chief Jack Moore expressed satisfaction with the selection process and commented that

it provides a well-balanced distribution of students. Moore explained that while the Best Brief Competition has been criticized as a method of selection (apparently, because of the possibility of outside help), he found the members selected by this method to be among the best.

This evaluation of members takes place on a daily basis since membership on the *Law Review* entails a great deal of work. There are two main tasks: writing a paper for publication and working on other authors' papers by source checking, proof reading and galley reading. These latter activities are overseen by the Managing Editor, who must be there almost constantly as was this year's Managing Editor, Lisa Salvatore.

Paper topics are suggested by the Editorial Board. Students may find their own topics, but must receive topic approval from the Editorial Board and a faculty advisor. Each paper is read three or four times by the executive editors and a faculty advisor also reads and critiques each paper. While six rewritten drafts are submitted, there is no presumption that the paper will be published. Any paper that is published satisfies the upper-class writing requirement, in addition to giving two course credits to the author.

The second task for the *Law Review* members is the source checking and examination of drafts of other authors' papers. Members are expected to finish source checks within two weeks. Source checking can consume an enormous amount of the student's time if an article is long and complex. The student receives one credit for this production work. Moore noted that while these tasks are sometimes detailed and menial, they are necessary to producing a good journal. Accordingly, Cynthia Watkins, the newly-elected Managing Editor looks forward to maintaining



Editor looks forward to maintaining the quality of *Law Review*.

During the semester, a member's average weekly workload from the *Law Review* easily surpasses 20 hours. *Law Review* members are also required to put in three hours of office hours per week. However, the hard work does pay off. This year's issues of the *Law Review* included several extremely well-received issues, one of which elicited a complimentary letter from retired Supreme Court Justice William Brennan.

Besides offering the opportunity to be published, being a member of

the *Law Review* enhances a student's career opportunities. In some instances, such as judicial clerkships, it can almost be a prerequisite. The value of membership is not just resume value, it develops from a member's work on *Law Review* which is intended to improve each student's legal writing and research skills. During the second year of membership, editing responsibilities further develop writing and analysis skills. While many law students perceive publishing to be the main objective, this second year adds a new dimension to journal work. According to Moore,

"While you're writing your own paper, your focus is narrow and you don't have appreciation for the big picture of producing a journal four times a year."

Apparently both Sven Krogus, incoming Editor-in-Chief, and Cynthia Watkins, incoming Managing Editor, recognize the benefits of advanced production work. They hope to repeat the success achieved by Moore and Salvatore. The continued success of *Brooklyn Law Review* not only serves to enhance the reputation of its members, but of Brooklyn Law School as a whole.

## Committee Announces Clerkship Recipients

On behalf of the Brooklyn Law School Clerkship Committee, *The Justinian* is pleased to announce that the following students have received judicial clerkships:

**Amanda Haines '90** - Hon. Shirley-Wohl Kram, Southern District of New York

**Randy Amster '91** - Hon. Stanley Marcus, Southern District of Florida

**Susan Barbour '91** - *Pro Se* Clerk, United States Court of Appeals - Second Circuit

**John Caruso '91** - Hon. John Azruck, United States Magistrate, Eastern District of New York

**Jim Costello '91** - Hon. Leonard Bemikow, Chief Magistrate Judge, Southern District of New York

**Richard Delheim '91** - Hon. Joel F. Dubina, United States Court of Appeals - Eleventh Circuit

**Nina Farber '91** - Hon. Edward Korman, Eastern District of New York (1991-92),  
Hon. John R. Browning, United States Court of Appeals - Ninth Circuit (1992-93)

**Jim Frydman '91** - Hon. Judith Wizmur, United States Bankruptcy Court, Camden, New Jersey

**Lisa Gomberg '91** - Immigration Judges, New York

**Elizabeth Hadad '91** - United States Court of Appeals - Third Circuit

**Jacqueline Lesser '91** - Hon. Manuel Real, Central District of California

**Mark Levine** - Hon. Jacob Mishler, Eastern District of New York

**Andrea Lewis '91** - Hon. Carol Amon, Eastern District of New York

**Nancy Silverman '91** - United States Court of Appeals - Second Circuit

**Michael Buchanan '92** - Hon. Franklin S. Antwerpen, Eastern District of Pennsylvania

**Jacqueline Bryks '92** - Hon. Leonard Wexler, Eastern District of New York

**Naftali Z. Dembitzer '92** - Hon. I. Leo Glasser, Eastern District of New York

**Kate Enroth '92** - Hon. Harlington Wood, United States Court of Appeals - Seventh Circuit

**Mark Kornfeld '92** - Hon. James J. Longobardi, Chief Judge - District of Delaware

**Mark Muschenheim '92** - Hon. Charles Stewart, Southern District of New York

**Laraine Pacheco '92** - Hon. Jack B. Weinstein, Eastern District of New York

**David Weinreb '92** - Hon. Stanley Brotman, District of New Jersey (Camden, New Jersey)

Congratulations and good luck to you all!



## Second Circus Revue - The 1991 Edition

by Paul Kaufman

On the nights of April 18 and 19, the 1991 version of the Second Circus Revue, the annual student-run production which satirizes the law school, the professors and Quentin through musical and comedic sketches, was held, and judging by the audience response, this year's show was a rousing success (except Karnak).

The show's first skit, a search for a new dean using the game of musical chairs, set the stage for the show. Mickey Heller's portrayal of Dean Trager was on target. He delivered one of the classic lines of the show "You're out, skinny chain-smoking bookstore lady." (The role of the bookstore lady was portrayed by Susan Jalowski). This skit, which featured the first of an excessive amount of Dean Trager "fat" jokes, also introduced the running character of Justin Lowenberger as the "cream cheese guy" and dean of Brooklyn Law School.

The next skit, a *Wizard of Oz* satire, was uneven: hilarious at times while over the edge of common decency at others. "The Wizard" featured Dorothy (Marcy Weinstein) on her search to find a way into Brooklyn Law School with a 32 LSAT score. Along the way, Dorothy encountered three faculty members who also had certain desires: Dean Trager (to see his feet), Professor Stempel (to stop scratching and to have hair), and Dean Lisle (to have a pulse). One of the highlights of this skit was the munchkin professors (Meehan, Demeo and Crea) directing Dorothy to Wiz Haverstick by singing "follow the cream cheese guy." Debra Baker's portrayal of wicked feminist Nancy Fink was hilarious. However, the skit went over the edge with Randy

Amster's portrayal of Dean Lisle. In an obvious takeoff of that classic motion picture, *A Weekend at Bernie's*, Dean Lisle was tastelessly carried throughout the skit until he was zapped back to life by the Wiz. Whoever wrote this should be ashamed.

After "The Wizard," the show moved along nicely with two relatively unoffensive skits, "Law School Days" and "Jeopardy." In "Law School Days," Debra Baker and Larry Greenberg nicely contrasted their summer employment to the tune of "Summer Nights" from *Grease*. Meanwhile, "Jeopardy" got many laughs with categories such as "Senile Professors," "First-Years Questions," and "Excellent Property Professors" (a category which had to be thrown out because there are none). Randy Amster's Alex Trebeck was excellent.

The next skit was a take-off on "Love Connection," entitled "Causal Connection." Hosting the show was Professor Twerski, brilliantly played by Rob Segall (who was really funny last year in "Batman"). The skit, which featured a date between Dean Wexler and Professor Kuklin was well-received by the audience. However, Randy Amster's infamous line "Excuse me, I speak Quentin" may have been more tasteless than his portrayal of a comatose Dean Lisle.

"A Reasonable Man," a duet between the show's male singing stars Jim Castro-Blanco and Rob Segall, followed. Besides the excellent harmony between the two, this song was memorable due to Rob Segall's mouth, which opened wider than what was thought to be humanly possible. The folks at Guinness are allegedly on the way.

The next two skits, the "Godmother of Brooklyn" and "I Love U.C.C.," were equally clever and witty. "The Godmother" featured a great performance by Debra Baker as Godmother Donna Ezersky and Stacey Woloshin as her ring-polishing assistant. This skit also featured the angelic voice of Irene Chang, (who paid for my dinner tonight). "I Love U.C.C." featured an amazing acting performance by Christine Mendola. Christine accomplished what no Brooklyn Law School professor could do -- she brought the U.C.C. to life.

The first act closed with what was by far the most powerful number in the show, a take-off of Queen's "Bohemian Rhapsody" entitled "Criminal Rhapsody." The skit was set as a first-year's nightmare, in which a student killed his professor for giving him a 17 in Contracts. The lead vocals in this number were supplied once again by Jim Castro-Blanco and Rob Segall, and they were phenomenal. Also featured were Mickey Heller as Professor Hellerstein, Barry Berkowitz as Professor Korman, and Irene Chang as Professor Caplow.

The second act began with a Second Circus tradition, The Brooklyn Law School News. The "News" was an uneven sketch, partially hysterical, partially amusing, and partially unfunny. A musical number, featuring Barry Berkowitz as a "crazed first-year" during finals, followed. Barry, actually a first-year who was featured in several skits, deserves much credit for being able to balance the demands of school with rehearsals. Barry's number was enhanced by the wonderful performances of Larry Greenberg and Marcy Weinstein as napping students, a role



which was a major stretch for Larry.

Three relatively short skits followed. "Evolution of the Law Student," a skit which contrasted the attitudes of first-year students with third-year students, received many laughs from the audience with lines such as "I got an old outline; the person only got a 72 - but it was typed."

Following "Evolution" was a duet between Marcy Weinstein and Rob Segall's mouth to the tune of "Freddy, My Love." This number, which satirized the pick-up scene at the Saloon on Tuesday nights, was well-received by the crowd. Next was the "Addams Faculty," which may have been the weakest number in the show. The "Addams Faculty" opened with a funny song, but the skit itself missed by a lot.

Physical comedy scored next with "Larry, Moe and Curly, P.C." David Frydman, Larry Greenberg, and Rey Muradaz, with help from Nancy

London, were hilarious in a skit premised on the Three Stooges as Brooklyn Law School alumni. Particularly impressive was Larry, who at one point did a full flip and landed on his back on the hard stage floor.

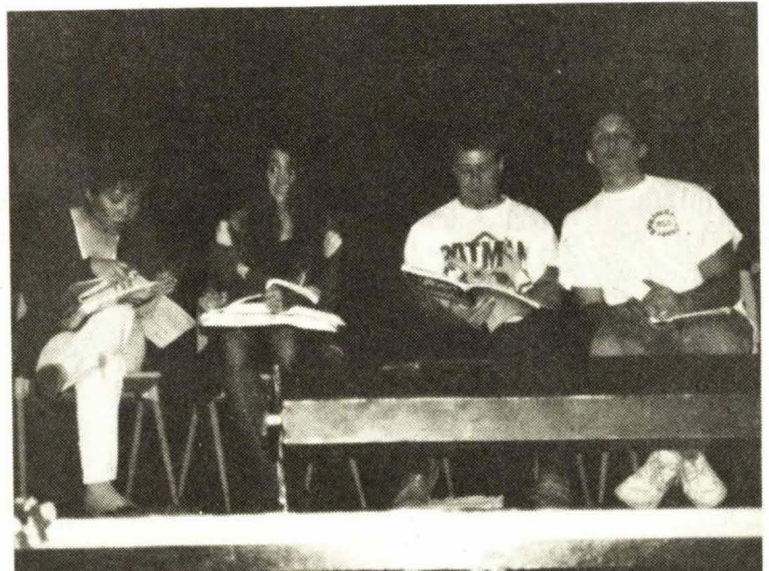
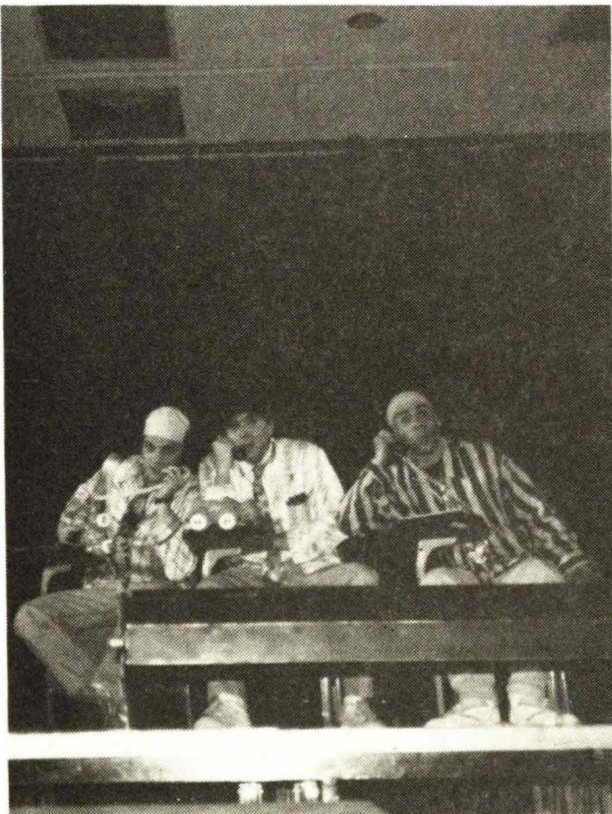
A rousing musical number to the tune of "Officer Krupkie" followed and kept the show moving at a high pace. This number was highlighted by Barry Berkowitz's truly animated facial expressions.

The last skit before the closing was a takeoff on what Dean Trager's judicial confirmation hearing would be like. The skit was basically one Dean Trager fat joke after another, and while many in the audience laughed at this skit, many also felt that the show had far too many jokes of this genre. The saving grace of this skit was Larry Greenberg's impersonation of Professor Crea. In fact, rumor has it that Larry, who captured the essence of Professor Crea so well, may be teaching Commercial Paper

next year.

Overall, the show was excellent. There were weaknesses, such as the telethon and a few too many tasteless jokes. However, the entire cast, especially director Jim Castro-Blanco, deserves much credit for putting on an entertaining show for the Brooklyn Law School community.

It must be noted, unfortunately, that 15 of the 19 cast members of this year's show are graduating. Thus, the burden of putting on Second Circus Revue next year will fall on this year's first and second-year class. This year's first-years could not have been expected to forego study time for rehearsals during this crucial year. However, the same cannot be said for this year's second-year class, who, with the exception of poster boy Nick Papadopoulos, took no part in Second Circus Revue. Hopefully, the second-years will gain some school spirit next year and keep the Second Circus Revue tradition alive.



### Scenes from Second Circus

At left, the Stooges take a call; at right, a scene from "Evolution of the Law Student"



# How Reliable is an Eyewitness?

by  
Robin Smith

"I'll never forget his face."

"His features are imprinted on my brain."

"I am absolutely positive that he is the one."

Sound familiar? There is a common belief that crime victims and eyewitnesses are extremely reliable when identifying criminal suspects. However, scientific studies now show that there are many factors that can make eyewitness identification inherently **unreliable**.

For example, when the use of a weapon is involved, the victim will focus on the weapon and not the criminal because the victim is frightened for his life. Put yourself in a victim's position when a knife is flashed: are you going to focus on the location of the knife, i.e., how close it is to your flesh, or on the particular features of the criminal's face? Studies show that the more violent the act, the lower the accuracy and completeness of perception and memory will be.

Even without a threat to one's safety, criminal identifications can be unreliable. Dr. Robert Buckhout conducted a study on nightly news programs in New York City, where viewers were shown a videotape of a mugging incident followed by a lineup consisting of six men. The viewers were asked to phone in their choices of which person in the lineup, if any, was the attacker. Less than 15% of the more than 2,000 responding viewers correctly identified the assailant.

Lineups and photo identifications may also lead to unreliable identifications. If the police invite a victim or eyewitness to a lineup or photo identification, the victim will likely believe that one of the subjects must be the criminal. Often, the victim may choose someone who looks most like the criminal rather than choose no one at all in order to alleviate psychological discomfort. That misidentified face then becomes the one recorded in memory and leads to misidentification in court, even if that suspect isn't the actual perpetrator.

Unfortunately, jurors are not aware of this scientific evidence and give eyewitness identification great weight. They often have rejected credible alibi evidence for less convincing eyewitness testimony.

However, a judge in New York City who was so curious about eyewitness reliability developed his own system to check on the frequency of mistaken identifications. In 10 cases where the identification of the accused was virtually the only evidence, the judge permitted defense attorneys to seat a look-alike alongside the defendant. In only two of the 10 cases was the witness able to identify the defendant. [Editors' Note: The preceeding information was taken from a story in *Time*, April 2, 1973,

p.59]

Even cross-examination cannot compensate for such unreliability, since eyewitnesses, unaware of the defects in their perception and memory processes, honestly believe that they are relating accurate observations and memories. Thus, they appear unflappable in their beliefs and convey sincerity and certainty to the jury and closing arguments will not apprise the jury of scientific evidence of the unreliability of eyewitnesses. Moreover, a closing argument is not evidence and is instead viewed by jurors as the attorney's opinion as advocate for his client.

Most Circuit Courts of Appeals that have considered a district court's denial of the defense motion to present expert testimony on the reliability of eyewitness identification have held that trial court's refusal is not a constitutional abuse of discretion. They often reason that such expert testimony "usurps the function of the jury."

That rationale, however, ignores the conflict between scientific determinations on the reliability of eyewitness identification and the more commonly-held beliefs described earlier in this article. Such expert testimony would assist the jurors to properly and critically evaluate eyewitness identification.

*Inter Alia* has been suspended for this month. Any writers interested in writing this column next year, please see Joe or Dan.



# Hate Speech Regulations: A Clash of Constitutional Values

by Austrack Fong

On April 10 1991, The Brooklyn Law School Sparer Fellow Association conducted its annual symposium. The topic of this year's event was the propriety of "hate speech" regulations in the academic environment. A panel consisting of John Powell, Legal Director of the American Civil Liberties Union (ACLU), Professor Joel Gora, former General Counsel of the ACLU, and Professor Nan Hunter, current Associate Director of the ACLU, was assembled to discuss the complex issues raised by attempted regulation of hate speech. Afterwards, Professor Jeffrey Stempel revealed the findings of the questionnaire circulated to the student body concerning hate speech regulations.

Hate speech regulations, which are currently being employed in over 200 universities, generally prohibit speech which either stigmatizes or vilifies an individual or group on the bases of race, religion, ethnicity, gender or sexual preference. These regulations have been implemented in hopes of promoting a greater sense of community in the campus environment. To this end, college administrators have strived to reduce the existing tensions among differing groups of students present at a university. The regulation of hate speech advances this interest by sanctioning students whose speech evidences a disrespect for others. Such sanctions vary from reprimand to expulsion.

Speaking first, Professor Gora, the self-acclaimed "village liberal," described the controversy caused by hate speech regulation as being a clash of core constitutional values: specifically, the First Amendment right to free speech and the Fourteenth Amendment right to equal protection. In balancing these two interests, Professor Gora believes the First

Amendment interest to be greater, asserting that hate speech regulations impermissibly infringe upon protected First Amendment activity. He stated that speech has historically enjoyed extensive protections under the First Amendment. In the past, the Supreme Court has upheld the proscription of speech in only very limited circumstances. Currently, the only types of speech which may constitutionally be proscribed are obscenity, libel, defamation, and fighting words.

"...it may not be the best method of achieving awareness and equality among the diverse members of the student body."

Articulating the absolutist views of Supreme Court Justices Black and Douglas, who felt that speech cannot be prohibited unless the state first demonstrates a compelling reason for requiring the restriction and that the means chosen to restrict the speech be the least intrusive means possible, Professor Gora concluded that, unless the "hate speech" sought to be suppressed fell in one of the narrowly defined classes of proscribable speech, hate speech regulations are or should be found unconstitutional.

Professor Gora said that current hate speech regulations are unconsti-

tutional because the proscriptions on speech are not narrowly drawn. This defect necessarily causes a "chilling effect" on speech because the public has no clear notice as to what speech is essentially subject to sanction. More precisely, there are two levels of the chilling effect at work. The first level deals with the stemming of free expression, since a speaker probably will not articulate his true feelings if he realizes that he maybe punished for doing so. The second level deals with the chilling effect on general conversation regarding race, religion, ethnicity, and other group classifications. These subjects would attain the status of social taboo since any controversy in the mind of a potential speaker as to the offensive nature of words used would be resolved in favor of caution. These statutes or regulations invariably involve some viewpoint, held by the universities, on what is the correct perspective of differing groups of people. This ability to create, define, and mandate what is to be the approved view of other groups is nothing more than thought control, and therefore an impermissible "tax" on the First Amendment "market place of ideas."

John Powell, spoke next, prefacing his comments by stating that the issues involved in the hate speech context are not easily resolvable. He stated that the Equal Protection Clause of the Fourteenth Amendment deals with more than espousing legal equality among different classifications of people. It deals with the ability to affirmatively stem harassment on college campuses, without compromising the First Amendment. Mr. Powell compared hate speech regulations to existing anti-harassment regulations utilized in the work place, where courts have held that



female workers who suffered sexual harassment from their male counterparts could be compensated. Critical to a court's analysis is the fact that the women, while voluntarily fulfilling their obligations to their employers, were a captive audience for the offensive or degrading speech directed at them. Mr. Powell extended the captive audience analogy to respond to the argument that the universities, which have traditionally been considered to be places in which robust interchange of differing ideas occurs, were not equivalent to the work place. He stated that in the sense that the student must attend classes and utilize the campus' facilities, they constitute a captive audience. Although Mr. Powell did not take a position on which of the two competing interests - free speech versus equal protection - should emerge victorious, he did end his presentation by suggesting an inquiry as to what exactly was on top of the "slippery slope," which "we will slide down from should an infringement on the First Amendment be allowed in the form of hate speech regulations."

Professor Nan Hunter then addressed the issue brought forth by the recent decision of Brown University to expel Douglas Hahn for violating the school's hate speech code. Mr. Hahn violated the ordinance when he, in response to a fellow student's request to keep the noise level or commotion down, shouted words to the effect of calling the student "a nigger-loving, faggot Jew. Mr. Hahn made these statements at approximately three o'clock in the morning when he was walking about the common area of his residence, in a drunken state. Since it was his second infraction of the school's hate speech regulation, Hahn was expelled from the school. Professor Hunter believed Hahn's punishment to be excessive for the level of disturbance caused.

Professor Hunter also expressed concern regarding the distinctions drawn between conduct and speech. She referred specifically to statements by Vartan Gregorian, Dean of Brown University, that the University's actions were justified as a case involving conduct only and that he would resign if they ever engaged in any suppression of speech.

Professor Hunter acknowledged that if the regulation dealt only with conduct, Mr. Hahn would have no case. She asserted, however, that Mr. Hahn's case deals with more than just conduct, since the crux of the case was his utterance of a few words which the university had chosen to eradicate from campus usage. If not for his use of those words - among them "nigger" and "faggot" - Mr. Hahn's actions probably do not signify a unique event. Professor Hunter believed that in the run of the mill late night disturbance case, expulsion is not an equitable punishment. Therefore, Brown University must have punished Hahn for the content of his speech.

When speech and conduct are intertwined, the Supreme Court has articulated that the activity deserves some level of protection. (See *United States v. O'Brien*, 391 U.S. 367 (1968), where the Court, in upholding the state's right to proscribe the burning of draft cards, established the test for protecting symbolic speech.) Professor Hunter referred to the recent flag burning decision of the Supreme Court (*Texas v. Johnson* [1989]), as an example of the Court's new willingness to protect the First Amendment interest in speech, both literal and symbolic. A quick application of the Court's *O'Brien* test would invalidate "hate speech" regulations because even though a university has an interest which is unrelated to the suppression of speech - namely the fostering of good relations between

different groups - the means chosen to restrict the speech is not content neutral. Therefore, under the appropriate strict scrutiny standard, such regulations would also fail because they are not "narrowly tailored" and the interest served may not be compelling.

Professor Jeffrey Stempel concluded the symposium by revealing the results of the student questionnaire on this topic. A quick recap of the findings indicated that approximately half, of the students who responded, favored some form of "hate speech" regulation. Although a majority of those responding would prefer to limit the severity of any sanction which may become applicable under such a regulation.

Brooklyn Law School currently has no official policy on the regulation of hate speech. Since Brooklyn Law School is a private institution, it is not governed by the restrictions of the First Amendment and could implement a broad reaching hate speech regulation. However, Senator Hyde has originated a movement in Congress to treat private institutions which have some contacts with the government, most likely through their participation in financial aide programs, as "state actors" for purposes of applying the Fourteenth Amendment.

Therefore, while Brooklyn Law School and many academic institutions are now free to regulate hate speech, they may soon be required to find alternative methods to combat insensitivity in the academic community. As the panelists and members of the audience suggested during a brief discussion at the end of the symposium, this result may ultimately be the best, because while hate speech regulation is now permissible, it may not be the best method of achieving awareness and equality among the diverse members of the student body.



# We'll Sparer You the Details

## A Summary Report on the Results of the Sparer Questionnaire on Hate Speech

On April 10, 1991, the annual Edward V. Sparer Public Interest Forum addressed the topic of "hate speech" and the controversies surrounding its definition and regulation. One component of the Forum involved a questionnaire surveying the attitudes of the Brooklyn Law School community. The questionnaire was derived in part from questions used by the Higher Education Research Institute and the National Center Against Violence and Prejudice in their respective questionnaires on the subject.

The Sparer questionnaire was drafted by a Sparer sub-committee comprised of Professors Jeff Stempel, Beryl Jones, and Susan Herman, and students Ilona Marsh, Raymie Priesmeyer, and Renee Redman, with suggestions from Dean Trager. The questionnaire was administered by mail during the week of March 18. Nearly 600 questionnaires were completed and returned. Coding and compiling the data involved the questionnaire authors with help from Public Interest Placement Director Karen Comstock and a number of students. Special thanks are due Degna Levister, Fred Arriaga, Mitchell Konekowski, Mark Muschenheim, Paul Zimmerman, Jane Landry, Denise Bricker, Steve Landis, and Jonathan Wilmott for enduring the boredom of coding the data.

The questionnaire was aided by the Law School's funding and assistance in distribution, and particularly the cooperation of first year faculty. Respondents also deserve thanks for taking time to complete the questionnaires.

While the questionnaire covered a variety of topics, including campus environment, following are the data on selected questions including those specifically to hate speech and the regulation of hate speech.

Anyone with questions regarding the questionnaire and the results can contact Professor Stempel at (718) 780-7953 or in his office, Room 801.

[**Editor's Note:** The actual questions were selected by *The Justinian* Editorial Board. Look elsewhere in this issue for coverage of the Forum.]

### Sparer Questionnaire Summary Results

Reference note: "N" refers to the number of respondents in the given category. Unless otherwise indicated, all figures indicate the percentage of responses.

#### 1. Law school officials have the right to regulate student behavior off campus.

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly
All Respondents	0.3	6.7	12.7	79.2 (N=582)
First -Year Students	0.3	6.2	11.1	82.4 (N=307)
Upperclasspersons	0.4	8.1	13.5	77.1 (N=223)
Faculty	0.0	0.0	13.6	81.8 (N=22)

#### 2. Law school officials have the right to ban persons with extreme views from speaking on campus.

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly
All Respondents	5.8	14.9	27.7	50.2
First -Year Students	5.2	14.7	28.3	50.5



Upperclasspersons	6.3	17.0	26.9	49.3
Faculty	18.2	9.1	18.2	54.5

3. Racial discrimination is no longer a major problem in America.

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly
All Respondents	1.5	7.0	26.8	63.7
First -Year Students	2.0	7.2	27.7	62.5
Upperclasspersons	1.3	6.7	26.9	65.0
Faculty	0.0	4.5	13.6	81.8
Black	0.0	0.0	15.8	84.2 (N=19)
Hispanic	5.4	2.7	13.5	78.4 (N=37)
Asian	0.0	4.8	19.0	76.2 (N=2)
White	1.3	7.1	29.9	61.6 (N=451)
Jewish	0.4	4.9	28.1	65.6

4. Law schools should be actively involved in solving social problems.

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly
All Respondents	28.2	46.2	16.3	8.2
First -Year Students	25.7	50.5	15.3	8.1
Upperclasspersons	26.6	42.6	18.4	8.5
Faculty	45.5	36.4	04.5	13.6

14. The Law School needs to maintain a climate where differences of opinion can be aired openly.

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly
All Respondents	73.5	21.3	1.5	1.9
First -Year Students	72.3	22.5	2.3	2.0
Upperclasspersons	75.8	19.7	0.9	2.2
Faculty	86.4	9.1	0.0	0.0

15. In class, I have often felt inhibited from speaking my mind because of what the professor might think of my views.

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly
All Respondents	8.6	25.3	34.2	27.5
White	7.9	24.1	37.1	30.9
Black	0.0	31.6	42.1	26.3
Hispanic	21.6	35.6	35.1	8.1
Asian	14.3	47.6	19.0	17.0
First -Year Students	7.5	24.8	34.7	31.3
Upperclasspersons	11.2	27.8	35.0	25.6
Men	7.3	23.3	32.0	37.5
Women	11.6	30.0	39.9	18.5
Gay/Lesbian/ Bisexual	27.7	16.6	44.4	11.1



19. People in minority groups of race, religion, or sexual orientation are too sensitive about the way they are treated.

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly
All Respondents	8.8	26.5	39.3	21.
First -Year Students	9.1	27.0	38.8	10.4
Upperclasspersons	8.1	26.0	39.9	22.4
Faculty	0.0	27.3	45.5	18.2
White	13.8	45.7	34.0	6.5
Black	22.2	27.8	33.3	16.7
Hispanic	19.4	30.6	25.0	25.0
Asian	15.0	35.0	35.0	15.0
Men	11.6	30.8	41.3	16.3
Women	5.5	23.4	42.1	28.9

20. It is permissible to tear down posters or other publicity by a group with which you disagree.

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly
All Respondents	1.7	1.9	8.1	86.9
First -Year Students	2.0	2.0	9.1	86.3
Faculty	0.0	0.0	9.1	86.4

26. While at the Law School, I have (All Respondents):

	Frequently	Often	Never
(a) Discussed racial or ethnic issues.	26.8	55.3	16.5
(b) Socialized w/one of another racial/ethnic group.	58.4	36.9	03.1
(c) Discussed political or social issues.	53.6	37.6	06.4

28. Heard about or seen any incidents at the law school this year where a person or a group of people have been insulted, harassed, attacked, or made fun of for what you would consider reasons of race, sex, religion, ethnicity, sexual orientation, handicap or illness, or national origin?

No:	72.7
Yes: Heard about it.	10.8
Yes: Personally saw it.	12.7

29. If the Law School were considering a regulation prohibiting "the subjecting of another person, group or class of persons to inappropriate, abusive, threatening or demeaning actions based on race, religion, gender, handicap, ethnicity, national origin or sexual orientation," I would:

- (a) oppose such a regulation strictly on first amendment grounds.
- (b) oppose such a regulation on other grounds.
- (c) approve such a regulation.
- (d) applaud such a regulation.



	(a) oppose I Am.	(b) oppose other	(c) approve	(d) applaud
All	25.1	17.0	31.1	21.6
First -Year	25.7	17.9	31.3	20.2
Upperclass	23.8	17.0	31.4	24.2
Faculty	31.8	09.1	31.8	09.1
White	27.8	17.9	32.8	21.6
Black	11.1	16.7	50.0	22.2
Hispanic	20.0	22.9	25.7	31.4
Asian	19.0	19.0	38.1	23.8
Jewish	26.8	16.1	30.4	22.8
Men	28.3	22.1	29.8	19.9
Women	24.4	13.7	35.9	26.1
Gay/Lesbian/ Bisexual	27.8	11.1	16.6	22.2

30. If the Law School were considering a regulation prohibiting the "use of `fighting words' intended to insult or stigmatize an individual or a small number of individuals on the basis of sex, race, color, physical disability, religion, sexual orientation or national or ethnic origin," I would:

- (a) oppose such a regulation strictly on first amendment grounds.
- (b) oppose such a regulation on other grounds.
- (c) approve such a regulation.
- (d) applaud such a regulation.

	(a) oppose I Am.	(b) oppose other	(c) approve	(d) applaud
All	29.7	16.8	32.0	15.6
First -Year	32.2	16.6	30.9	14.0
Upperclass	26.9	17.5	34.5	18.4
Faculty	31.8	09.1	13.6	13.6
White	32.6	17.1	34.4	14.8
Black	16.7	11.1	50.0	22.2
Hispanic	37.1	17.2	20.0	25.7
Asian	28.6	28.6	23.8	19.0
Jewish	31.3	15.6	33.0	15.2
Men	31.1	20.1	34.4	14.3
Women	32.6	13.9	33.5	20.0
Gay/Lesbian/ Bisexual	33.3	11.1	22.2	27.7

31. Recently, a student at Brown University was expelled for shouting anti-black, anti-Semitic and anti-homosexual remarks outside a University dormitory late at night, including calling an individual who asked him to be quiet a "faggot." The expelled student had been drinking. He had also engaged in similar conduct once in the past. Expelling the student was:

- (a) Appropriate.
- (b) Too severe a penalty.
- (c) Too severe, but only because he had been drinking.
- (d) Too lenient (he should have been expelled the first time).



(a) appropriate (b) too severe (c) severe, but (d) too lenient

All	28.9	56.5	8.6	1.4
First - Year	28.0	58.6	8.1	1.6
Upperclass	30.0	57.0	9.0	0.9
Faculty	31.8	45.5	4.5	4.5
White	27.5	63.5	7.9	1.2
Black	47.4	26.3	21.1	5.3
Hispanic	51.4	37.8	10.8	---
Asian	38.1	52.4	4.8	4.8
Jewish	28.1	58.9	7.1	0.9
Men	25.5	62.9	9.7	1.8
Women	34.8	55.4	8.6	1.3
Gay/Lesbian/ Bisexual	44.4	38.9	5.5	5.5

35. The Law School should be permitted to forbid the Black Law Students Association from bringing Louis Farrakhan to campus as a speaker since he once termed Judaism a "gutter religion."

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly
All Respondents	18.6	12.2	24.2	41.6
First - Year Students	19.2	13.7	25.1	42.2
Upperclasspersons	18.8	10.3	26.0	42.2
Faculty	9.1	9.1	77.3	4.5
White	18.2	11.9	25.2	44.7
Black	15.8	21.1	31.6	31.6
Jewish	16.1	11.2	28.6	41.5
Hispanic	22.2	11.1	22.2	44.4
Asian	10.5	26.5	31.6	31.6
Men	21.9	10.4	20.8	47.0
Women	16.7	14.6	30.1	38.5

36. A Law School film society should not be permitted to show a film like "Birth of a Nation", which many interpret as glorifying the Ku Klux Klan.

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly
All Respondents	10.5	10.1	26.9	46.4
First - Year Students	12.1	12.4	29.6	44.3
Upperclasspersons	8.5	8.5	30.9	49.8
Faculty	0.0	0.0	13.6	81.8
White	9.9	9.7	29.7	50.8
Black	10.5	21.1	36.8	31.6
Jewish	16.1	11.2	28.6	41.5
Hispanic	11.1	16.7	30.6	41.7
Asian	15.0	5.0	50.0	30.0
Men	13.6	2.1	25.4	53.9
Women	8.8	14.6	35.8	40.8



37. Showing "Birth of a Nation" would be all right if there was a consciousness-raising discussion afterward.

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly
All Respondents	31.6	33.5	10.5	13.9
First -Year Students	30.6	35.8	13.7	11.4
Upperclasspersons	34.5	35.8	8.1	14.8
Faculty	22.7	9.1	0.0	45.5
White	33.8	39.4	10.9	15.9
Black	50.0	22.2	5.6	22.2
Jewish	32.6	37.9	9.4	11.2
Hispanic	52.8	27.8	13.9	5.6
Asian	37.5	37.5	18.8	6.3
Men	30.5	37.6	12.9	19.2
Women	40.5	32.4	10.6	11.5

40. Assume law students are having a private party off campus. The host puts on a 2 Live Crew record and several men at the party begin rapping along to the record, with their chorus clearly directed at one of the women at the party. She acts offended and the taunting increases. Eventually, she leaves the party to the jeers of the men. The impromptu rap group should be subject to discipline by the Law School.

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly
All Respondents	2.7	5.3	13.2	74.6
First -Year Students	3.6	4.6	14.7	75.2
Upperclasspersons	2.2	6.7	11.7	77.6
Faculty	0.0	0.0	4.5	95.5
White	2.3	5.4	12.4	80.0
Black	0.0	5.3	26.3	68.4
Jewish	2.2	5.4	8.0	81.7
Hispanic	8.1	5.4	21.6	64.9
Asian	10.5	15.8	10.5	63.2
Men	2.9	4.7	14.0	63.2
Women	2.5	5.4	14.2	77.8

43. The Law School should have the right to regulate biased behavior by students off campus.

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly
All Respondents	1.9	3.4	11.3	78.7
First -Year Students	1.3	3.3	9.4	83.7
Upperclasspersons	3.1	4.0	13.5	78.0
Faculty	0.0	4.5	4.5	90.9
White	1.4	2.9	11.5	84.2
Black	5.3	10.2	10.5	73.7
Jewish	1.8	3.6	11.2	80.4
Hispanic	5.6	5.6	13.9	75.0
Asian	5.6	0.0	11.1	83.3
Men	2.2	3.6	10.4	83.8
Women	2.1	3.8	12.9	81.3



## 44. The Law School should prevent student groups from presenting music, speakers, or movies that exhibit bias.

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly
All Respondents	4.8	14.8	23.9	50.2
First -Year Students	4.6	15.0	26.4	50.8
Upperclasspersons	5.8	12.0	21.5	52.5
Faculty	4.5	4.5	13.6	68.2
White	4.4	13.6	25.2	56.8
Black	15.8	15.8	26.3	42.1
Jewish	5.8	17.4	25.0	47.3
Hispanic	2.8	30.6	25.0	41.7
Asian	16.7	16.7	33.3	33.3
Men	5.4	11.6	24.3	58.7
Women	4.7	21.4	25.2	48.7

## Respondent Information

First -Year	52.7	(N=307)	Faculty	03.1	(N=22)
Second -Year	16.8	(N=98)	Full-time	<u>71.8</u>	
Third -Year	16.3	(N=95)	Part-time	<u>21.1</u>	
Fourth -Year	05.0	(N=29)			

## Plans after graduation:

<u>30.9</u> private practice	<u>10.3</u> civil litigation	<u>7.2</u> criminal defense
<u>6.9</u> other commercial law	<u>7.7</u> as a prosecuting attorney	
<u>4.6</u> in another type of government position	<u>7.4</u> for a public interest organization	
<u>4.6</u> with an in-house legal department	_____ other (describe)	

45. Male	49.1 (All)	Female	41.9 (All)
	45.3 (Upperclass)		49.8 (Upperclass)

## 46. Race/ethnicity:

(1.9) Black/Caribbean	(1.4) Black/other	(2.7) Puerto Rican-American
(1.0) Cuban-American	(2.6) Other Hispanic	(10.1) White/Italian-American
(38.5) White/Jewish-American	(29.6) White/other	(3.6) Asian-American
(0.2) Other	(8.6) Missing	

## 47. Sexual orientation:

(90.9) heterosexual	(1.4) gay/lesbian	(1.7) bisexual
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## 48. Self-characterization of political views:

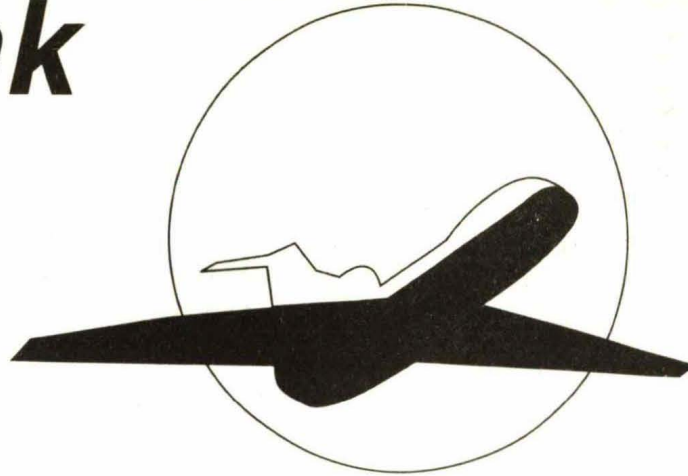
(4.5) Far left	(32.3) Liberal	(34.9) Middle-of-the-road
(18.9) Conservative	(0.7) Far right	(8.2) Missing

## 49. Current religious preference:

Baptist(0.7)	Methodist(1.0)	Buddist(0.5)
Presbyterian(3.6)	Congregational (UCC)(0.2)	Quaker(0.7)
Eastern Orthodox(2.1)	Roman Catholic(23.7)	Episcopal(2.2)
Seventh Day Adventist(0.0)	Islamic(0.0)	Unitarian.(0.5)
Jewish(33.8)	Other Protestant(1.5)	Latter Day Saints (Mormon)(0.0)
Other Religion(2.6)	Lutheran (0.0)	None(20.1)



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# THE KING OF COURT STREET

by  
P.J. Brackley

**Tone. Tone.** Flashing above his head below the movie screen, the "NO SMOKING" sign toned. King liked the word and the sound. They fit nicely together. Airplane travel always fascinated the King. Airborne, both he and his spirit reborn into the sky. Icarus, King thought, never had the luxury of first-class. Do you really get a perfectly red Maine lobster with a perfectly green parsley sprig - just like the commercial? Icarus..Icarus.. Lord help my wings from getting baked by the merciless onslaught of mortality.

Ironically, the old lawyer was quite safe in this icy steel pod of a jetliner body. Hoping that the unionized welder who welded the wings did not have an awfully drunk weekend prior to welding those silvery flat flaps. They kept him in his present state of being. Sort of like money, way down there on the now flattened Earth. Those flat bills were like wings of their own, they kept him floating above the street, above the New York filth. It even soothed his soul a bit, despite what wingless people think.

Catapulting toward the front line again, King began the metamorphosis. Having been out of the sun for a few days, his skin began to peel away, the chrysalis, the shedding. The brown and illusory tan of fantasyland would eventually flake off his body as he slipped into the pale skin of Court Street pallor. He couldn't wait.

Why did he come back? In victory, he, like the waves of returning veterans, had escaped the SCUD. King had escaped his personal SCUD, affectionately known as the Slowly Coming Upon Death. Retirement for King was a search for death, when all his natural instincts were to escape

death. King would avoid the subject of rebirth by remounting, by returning.

He did get a chance to live his favorite Cole Porter lyric, though on that island - he did a heck of a lot of brushing up on his Shakespeare. He did in fact doze off one afternoon entirely satisfied with his decision 35 years ago to go to lawyer school. His second level dream at the time was to follow his beloved bard and lock himself up in some Ivy League tower and pour forth daily his soul - full of sonnets and dramatic interpretations of the playwright who taught him more about life and love than any foolish and self-absorbed modern mind ever could. Shakespeare was the law, and the law was encapsulated in Shakespeare. Lear. Caesar. MacBeth. Hamlet. All Kings. King read them at a time in his life when his own mind was blossoming. He loved the plays he was fortunate enough to grab a part in. His Brooklyn accent, usually a hindrance, brought him fame and glory. Bravado, he called it. Ten years later, he could, with a speech, woo a jury to cast a sinner from the lions and release the thief from the cross. King attributed it all to his prescient parents and his beloved bard. What would life had been like in his favorite tweed blazer, standing before fertile young Ivy League minds, throwing them wisdom like a fish to trained seals, mouths wide and eyes looking beyond him to the exam. No. He would pour forth himself, use his talent to fight the monster deep within. He was the master there. He decided to go inward and to go outward. He didn't regret staying in the city, in the cement. He missed his college woods, its green, its wood fires, its charms and its deer. He had it there though.

When he bought his second home on the coast up there, he was reborn yet again. He could have it when he wanted it - he didn't have to exchange his dreams for a way of life. His way of life brought him his dreams. He followed the law and it was the law of nature and he was natural.

Descent. He felt it in his stomach. He dusted off his couch. He made his bed, kissed his wife - that eternal flower - and felt good. In the morning, he would go to Court Street. Home.

He lay on his back with his hands behind his head and tried to sleep. He was ready all right, and Brooklyn seemed to need him as much as he needed Brooklyn. There were lots of lies and misperceptions when he left and he knew they would multiply like Hydra's heads. Snaking and hissing their inevitable way around those happy streets polluting.

The environment actually worried King. One thing that being on the island taught him was that the world can die. It can be choked by poison, it can develop foul cancers and suffocating, persistent illnesses. He loved it so, because the world gave him a place, and he knew there was something else going on here, and the maker of it all certainly cannot be pleased. Oil. Waste. In the past...no more, thought King - the past meant nothing. He would change it all.

His journey concluded, and he rolled over, prepared to wake up in the morning and ride high and proud - replenished back to the land of his personal truth and his private dream - for in Brooklyn this moment, this second, this very instant, sat a King - to rule. Pleased with himself, King dozed off with a smile... for he would be just the King to rule it....



# Rotisserie Baseball Roundup - The Draft

by Rob Dashow and Paul Kaufman

On April 6, 1991, 24 men from the Brooklyn Law School community met for 13 consecutive hours in the student lounge. They did not discuss law. They did not discuss sex. They discussed baseball. Yes, once again it was time for the Brooklyn Baseball Association's annual fantasy baseball draft.

For those few who are not in a fantasy baseball league, or have not lost a friend or a loved one to a fantasy baseball league, a brief explanation of fantasy baseball is in order. On draft day, team owners bid on players until each team roster spot is filled. Then, during the course of the baseball season, teams are ranked on the basis of the cumulative statistics of all of their players. At the conclusion of the year, whichever team owner is in first place receives valuable prizes, as well as the undying respect and jealousy of the remaining owners in the league.

This year's draft was marked by what seemed to be great parity between the teams. No team chose its players on the basis of first names (See last year's **Bob Lives**, where Randy Amster and Paul Kaufman chose their team not on the basis of little things like ability to hit or pitch, but rather whether or not the player was named Bob. This little joke netted them a second-to-last place finish and the ridicule of fellow owners, their family, and the electoral college). Rather, each owner came in prepared with statistics of each player for the past few years, and projections for the upcoming year. So now, without further ado, comes an early season review of each team:

## Ann Arbor Gold McMiners

Team owner Marc Miner, who

modestly combined the home of the University of Michigan with his own name, has accumulated quite a fantasy baseball dynasty. He has won the BBA championship the past two years, and has once again put together a solid team. This explains why no one in the league likes Marc. Marc's strategy in this year's draft was to obtain promising young talent such as Frank Thomas and Steve Decker.

## The Justinian

The past and present editors-in-chief of *The Justinian*, Stan Lee and Joe Accetta, are the Odd Couple of the BBA. Stan and Joe entered the draft in the best shape of all the teams, having saved the likes of Ryne Sandberg, Matt Williams, and Dennis Eckersley from last year's team. However, conflict between the two owners during the draft lead to some questionable picks, such as Gary Redus and Rick "my arm's about to fall off" Sutcliffe. Nonetheless, *The Justinian* remains the favorite to unseat the McMiners.

## The Alienators

(formerly **Bob Lives**)

Co-owners Randy Amster and Paul Kaufman abandoned the "Bob" method for the more traditional "talent" method of choosing players. Paul ran the actual draft because Randy was vacationing in Florida (Paul vehemently denies he paid for Randy's trip so he wouldn't have another year with the likes of Bob Geren and Bob Walk). Paul came to the draft prepared to the hilt, having literally outlined baseball. Other owners heaped praise on Paul for his preparation, as well as pity on him for having no life whatsoever. Anyway, the **Alienators** had a rather successful draft, and could

contend. However, a team that saved Lenny Harris from last year can only be expected to go so far.

## The ERAgents

Owner Lawrence Schuckman, a man extremely proud of his witty team name, also had a successful draft. Lawrence, who realized at an early point last year that he had a pitiful team, traded overpriced veterans for up-and-coming talent such as Kevin Maas and Ron Gant. The secret to Lawrence's success was that he didn't show up for the first part of the draft. Rather, Lawrence left his girlfriend, Robin Smith, in charge. The relationship must be serious. Anyway, Robin gained the respect of the rest of the owners when she ripped up Lawrence's instructions and drafted on her own.

## The Hammers

Last year, the **Hammers** were solely owned by Fabio Valentini and finished in last place. Embarrassed by being the only team to finish behind **Bob Lives**, Fabio went through a winter of therapy and was ordered by the Commissioner to get a co-owner. So with the help of Gary Grabas, the **Hammers** had a very strong draft, and could also contend.

## Back Door

Team owners Rick McGuirk and Gregg Beinstock had a great draft, picking up Will Clark and Ramon Martinez. Expectant father Rick had a potent draft, picking up no blanks. His strategy was well-concieved. Rick and Gregg have gone with a youth movement this season. Look for Gregg to end the season by receiving a ring.



## Barred From the Game

Robert Dashow and Evan Weintraub had a disastrous draft. Besides ending the draft with seven dollars extra, Rob attempted to draft the recently released Mel Stottlemyre, Jr. and the long dead Cy Young. **Barred From the Game** does have the best rotation in the league...undergoing therapy in the trainer's office. If things go well, **Barred From the Game** may overcome the expansion teams. However, if all their pitchers recover, Rob and Evan could have a strong team by 1996.

## Casey's Shadow

Owner Dave Rubin surprised everyone by actually leaving his couch and coming to the draft in person. Dave, who hasn't been seen in public since getting cable TV, put together a strong lineup. However, Dave's bullpen, led by Vincente Palacios and Mark Davis, is highly questionable. When asked about his team, Dave said he was most proud of his dugout.

## The Yankees and Big Red

**Yankee** owners Dave Pratt and Rob Bergman and **Big Red** owner Jon Kaiden both had strong drafts. However, because they did nothing remotely funny or stupid, they don't get their own paragraph.

## The Expansion Teams: Team Vengeance and Totally Clueless

The expansion teams came into the draft with a severe disadvantage, not being able to protect any underpriced players from last year. Under these circumstances, the expansion teams did extremely well. However, they did make rookie mistakes of bidding too high on certain superstars. Nonetheless, if they eat their vegetables, get enough sleep, and buy *The National* on a daily basis, they should be able to be competitive by next year.

# First Round Madness

## The Moot Court Competition

by M.Z. Heller

Scheduling judges, sending out student briefs, scrambling for replacement judges when an outside attorney cancels at the last minute and having to reschedule frantic students who forgot about their round. were some of the precarious situations confronted by those students working for Professor Walter and the Legal Writing Department during the first round of the Moot Court Competition. There were approximately 190 first rounds, 390 first-year day students to schedule, and, with an attempt to have three judges per round (one outside attorney, a faculty member and a student), approximately 570 judging hours had to be scheduled.

"Whether or not you advanced to the second round, you survived and can take pride in the work you put into writing your brief and preparing for the oral argument."

Despite some minor crises, the first round competition ran very smoothly. As student coordinator, I know that this could not have been accomplished without an excellent group of people putting in many long

hours and working very hard. I submitted to *The Justinian* to acknowledge and thank some of those people.

First, thanks to every first-year student who actually made it through the first round without fainting at the podium. Whether or not you advanced to the second round, you survived and can take pride in the work you put into writing your brief and preparing for the oral argument. Good luck during your remaining years at Brooklyn Law School. Make the most of them because, although it may not seem like it now, the time goes by very quickly.

Next, thanks to the outside attorneys, faculty and students who served as judges. Despite your busy schedules, you took time out to help judge, critique, and encourage the students. Although there are many who deserve individual acknowledgements, special thanks go to Professor Wheat and Naftali Dembitzer for constantly availing themselves to 'fill in' at 'crunch time'. Also, thanks to Professor Feldman for her constant encouragement and for being there when needed for a last minute emergency replacement.

Mindy, Maureen, Marci, Joe, Andrew, Karen, Paul, Christine, Mike and Judy. Thank you for all of the work you did and thanks especially for keeping me calm as the last minute cancellations came in... you're all great people.

Finally, thank you Professor Walter for your faith in all of us working for you. Your confidence and 'hands off' approach allowed us to handle every task with a high degree of professionalism. It's a credit to all involved when a project of this scope can come together in such a short period time, yet run smoothly.



# Reporting On Rape:

## Should The Media Reveal A Victim's Name?

by Inge Hanson

The media's frenzied coverage of the story that a Palm Beach woman had been allegedly raped by William Kennedy Smith, the nephew of Senator Edward Kennedy, has embroiled *The New York Times* and NBC in a charged controversy over whether either news organization should have revealed the name of the alleged victim. Due to the attention the media has given the alleged rape, most readers are aware that Senator Kennedy, his son Patrick Kennedy and William Smith left Au Bar, a trendy Florida nightclub, at 3:30 a.m. on March 30 accompanied by two women and went to the Kennedy's oceanfront estate. The next morning, one of these women reported to the police that Smith had raped her at the estate during the early morning hours. This complaint turned Palm Beach into a "media circus," occupied by legions of reporters scavenging for every possible detail of the event. *Time* magazine reported that one journalist handed his business card and a note to a hospital employee, promising \$500 for the name of the woman who had been treated for injuries following the alleged rape.

Despite this obsession with the name of the woman who had filed the complaint, most news organizations complied with the media's general policy of withholding the identities of sex crime victims. A week after the alleged incident, however, *The Sunday Mirror*, a London tabloid, published her name and photograph and *The Globe* followed suit a week later. On April 16, in an NBC News program on whether news organizations should withhold the names of rape victims, the network identified the woman. The following day, *The New York Times* published a profile of her with a statement explaining that editors had decided to reveal the name because "NBC's nationwide broadcast took the matter of her privacy out of their hands."

*The New York Times* article disclosed a variety of personal details about the woman's life, including the fact that she was an unwed mother who received poor grades in high school and never graduated from college. The article also reported that as a high school student, she was popular socially and "had a little wild streak," meaning "she and her friends liked to drive fast cars, go to parties and skip classes" evidenced by 17 speeding tickets she received over the past eight years and her frequenting of the most expensive bars and nightclubs in Palm Beach. The article quoted a bartender as saying that she was "always having lots of fun out there on the scene."

Consequently, *The New York Times*' and other news organizations' decision to release the woman's name has ignited intense public debate over the propriety of identifying a rape victim or complainant. Traditionally, the media has withheld these names to protect the alleged victim's privacy and because rape carries a unique stigma other crimes do not share. A female faculty member at Brooklyn Law School characterized rape as "the most horrifying crime where a victim's life is not taken" because "the most private [aspect] of yourself has been violated." Harry Stein, a journalist and former "Ethics" columnist for *Esquire*, asserted that "because of the nature of our culture" people will believe that the rape victim "invited it".

Indeed, the very details of the woman's life that *The New York Times* chose to disclose seem to reinforce the Victorian notion that as an unmarried mother who frequented bars, she was a deserving victim. However, according to *New York Newsday*, some *Times* staffers were concerned about the perceived negative tone of the profile and questioned "whether the details about her private life...were relevant to the issue of whether she was raped."

Such public disclosure of facts about an alleged victim may result in a "secondary victimization" that can seriously delay or even block psychological recovery from the assault, according to the Brooklyn Law School professor interviewed. Publicizing rape victims' identities will likely deter women from reporting the crime for fear their privacy will be invaded. As Susan Estrich, a professor of law at the University of Southern California and author of *Real Rape* explained in a *Times* op-ed piece, "The practice of not publishing rape victims' names is intended to encourage more women to come forward, secure in the knowledge that their name and photograph won't be plastered all over the papers, ... their high school grades and speeding tickets detailed and their reputation slammed. All of which, of course, has happened to one woman this week."

News organizations, however, argue that by shielding the names of rape victims from the public, the press is failing in its obligation to publish truthful and newsworthy information. If a rape allegation results in court proceedings against a named accused, shouldn't the accuser be identified? Allan M. Siegal, an assistant managing editor at *The New York Times*, was quoted as saying



that withholding the name of the accuser can be justified only so long as the accuser retained enough privacy to protect. Identification can also prevent the rare instances where stories are allegedly fabricated by the accuser, as in the Tawana Brawley case, or even by the reporter.

In addition, there are arguments that releasing rape victims' names will reduce the stigma attached to sexual assault. Dorrie Hansworth, an attorney who defends media clients, stated that "the notion that rape is shameful is a vestige of a patriarchal and sexist society." In her view, the media would help destigmatize rape by regularly publishing victims names. Harry Stein, however, dismissed this argument as "cloaking [the decision to release the name] in sanctimony". Hansworth acknowledged that this practice would be traumatic in many cases therefore, other segments of society would have to encourage victims to come forward. He has stated in the past that "the media alone cannot shape society."

From a legal perspective, publishing the name of a rape victim raises tensions between the rights accorded to a free press under the First Amendment and the protections conferred upon personal privacy by various statutes and common-law doctrines. A Florida statute, enacted in 1911, bars the media from identifying the victim of a sexual offense. A Florida State Attorney has asked a judge to decide whether news organizations who print or broadcast the alleged victim's name can be prosecuted under the law. The United States Supreme Court recently considered the constitutionality of the Florida statute, as applied to a newspaper that identified a rape victim, in *The Florida Star v. B.J.F.* (\_\_\_ U.S. \_\_\_, 109 S.Ct. 2603 [1989]) where the reporter got the name from a report posted in the press room of the local sheriff's department. Although refusing to adopt a broad holding that "truthful publication may never be punished consistent with the First Amendment," the Court concluded that absent a need to further a state interest of the highest order, a newspaper cannot be punished for publishing truthful information, lawfully obtained, that concerns a matter of public significance. Applying this standard, the Court found that the First Amendment protected *The Florida Star* from civil liability under the state statute but did not "rule out the possibility that, in a proper case, imposing civil sanctions for publication of the name of a rape victim might be so overwhelmingly necessary" as to satisfy this criterion.

As a constitutional matter, Hansworth

stated that because the alleged victim's identity is a true fact and part of a newsworthy story, the First Amendment allows its publication since the name was not obtained unlawfully but was widely known in Palm Beach. She does not believe the media should be prosecuted for publishing the name. But simply because the press cannot be punished constitutionally for revealing this woman's name does not mean rape victim identification should be automatic. *The New York Times'* argument that because other news organizations had revealed the woman's name, further publication was justified seems "morally vacant," as one female professor asserted. In a perfect world, there would be no stigma attached to rape and victims would not experience the embarrassment and even the harassment that often follows public disclosure of their names.

Society has not reached that stage, however. Irrational and genuine prejudices persist about rape that often damage victims who do not want the media and the public scrutinizing the details of an extremely private and traumatic ordeal. Publicly exposing the names of sexual assault victims and complainants without their consent exacts a high cost from these individuals to improve cultural attitudes in a distant future. The media should allow an alleged victim to decide whether to publicize her name. Those who come forward will inspire others to do the same far better than a press that forces unwilling persons into the headlines. Voluntary disclosure would help dispel the notion that rape is shameful and disreputable without capitalizing on the names of women who want to maintain their privacy.





# **The Bill Of Rights: A Bicennential Celebration**

## **BLS Students Teach Individual Rights In New York City High Schools**

by Nancy London

In recognition of the 200th anniversary of the Bill of Rights, the New York City Board of Education sponsored a new program to educate recent immigrant students about the history and purpose behind the document. The program includes the utilization of law school students as teachers with the assistance of a practitioner advisor. Six students from Brooklyn Law School participated in the program this year.

The program targeted English as a Second Language students in New York City's public school system whose ages ranged from 12 - 18. Many of the students recently emigrated from other countries and weren't proficient with the English language. Despite this barrier, the students expressed a genuine interest in learning about the Bill of Rights, one of the foundations of the American legal system. Many of these students had no understanding of the American legal system and suffer from severe television-induced misconceptions.

The classes provided them with answers to many of their questions and shed light on some important concepts affecting their everyday lives.

In addition to educating the high school students about the law, the program also effected the law student-teachers by broadening their knowledge in both areas of law they already covered and areas they never covered. From my own personal experience, I realized that no matter what, without further research, I would never have all the answers to students' questions, since for every question that could be concisely answered, there were a dozen more to which I had to respond, "I'm not 100 percent positive but I will try to have a definite answer for you next class." It is analogous to dealing with a client: you never want to give them an answer until you are reasonably certain that you are right.

This pilot program provides a unique opportunity for law students

that heretofore did not exist. Hopefully, the program will continue for the future, opening up a new avenue of career opportunities that has not traditionally been explored by the average law student. Many programs akin to this one, such as "Street Law", are opening up as the need for them becomes evident, and if there is enough interest expressed by the student body, perhaps Brooklyn Law School will become involved in them too.

Brooklyn Law School Professor Linda Feldman was instrumental in organizing and coordinating Brooklyn Law School student-teachers with the schools selected by the Board of Education. Students interested in getting involved in this type of program should contact Professor Feldman for further information. Based on the quality of my experiences and those of other Brooklyn Law School students, I hope Brooklyn Law School's involvement in this type of work will expand in the future.

### **CONGRATULATIONS TO ALL THE NEW SBA OFFICERS:**

**Marni Schlissel, President**

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**Eric Wollman, Evening Vice-President**

**Kim Gilman, Secretary**

**Eric Schwartzman, Treasurer**

**Steve Landis, ABA Representative**

**Thomas Small, NYSBA Representative**

**and congratulations to all the new delegates.**



# et al. The Justinian

# Alitalia : 3L? - No Problem!!!

by Paul Mastropietro

Earlier in the semester, Joe Accetta, one of the editors of *The Justinian*, asked me to write an article for the final issue of the semester. However, he had trouble finding me, since I had gone skiing in Jackson Hole, Wyoming before Spring Break. I wasn't sure what to write about, but then the idea came to me when Joe (and everybody else at school) kept asking me, "How come I never see you anymore? Don't you have any work to do?" I always had the pleasure of answering, "No, not until the summer."

After almost three years of law school, and countless hours of studying, your last semester should be a time to sit back, relax and enjoy yourself a bit before preparing for the Bar Exam. If you take my advice, you will have as little work to do and as much time to enjoy yourself as I did during my final semester.

To prove that my system works, it is now April 29, and I'm writing this article aboard an *Alitalia* jetliner, on my way home from a trip to Italy. Don't worry, guys, I didn't forget the Scopa cards (Scopa is an old Italian card game, which has become very popular lately at Brooklyn Law School).

In order to achieve this enviable situation, one need only follow a few simple steps. First, you should take as many credits as possible early on, so that you will only need 10 credits (the minimum amount allowable to retain your status as a full-time student and to receive any financial aid) to complete your last semester.

The best way to accomplish this, while simultaneously gaining valuable work experience, is to enroll in one of the various Brooklyn Law School clinics offered during the

summer session. Secondly, make sure to enroll in the more rigorous courses, including Corporations, Criminal Procedure, Commercial Sales, Debtor/Creditor Rights, Evidence, Federal Income Taxation, etc., before your last semester. And, if it's offered, take New York Civil Practice during your first semester of third year. Furthermore, you should complete the Upper Class Writing Requirement as early as possible (plus, you might need it as a writing sample).

Finally, during your last semester, enroll in as many courses as possible that do not have a final exam. These courses include Civil Practice Workshop, Entertainment Law, Negotiation Seminar, Trial Advocacy, Discovery Workshop, Evidence Workshop, Family Law Workshop, Advanced Legal Writing and Advanced Legal Research. Or, you can

take the advice of my esteemed colleague Andrew Finkelstein and participate in the Federal Litigation Clinic. This clinic runs for the entire year, carries 12 credits and contains no final exam. In fact, Andrew is already on vacation in Jamaica, since he doesn't have any final exams this semester (he's only had two all year).

We all know that law school is a very challenging and time consuming experience, which is followed by the pressures of the Bar Exam and a career in law. But if you follow my advice, your last semester at Brooklyn Law School should provide a smooth transition into preparation for the Bar and it should be fun as well.

I'd like to wish good luck to all of my friends and classmates on the Bar Exam and in their respective careers. And just remember one thing, "Le carte sono lunghe."





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