

# The Justinian

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## The Justinian

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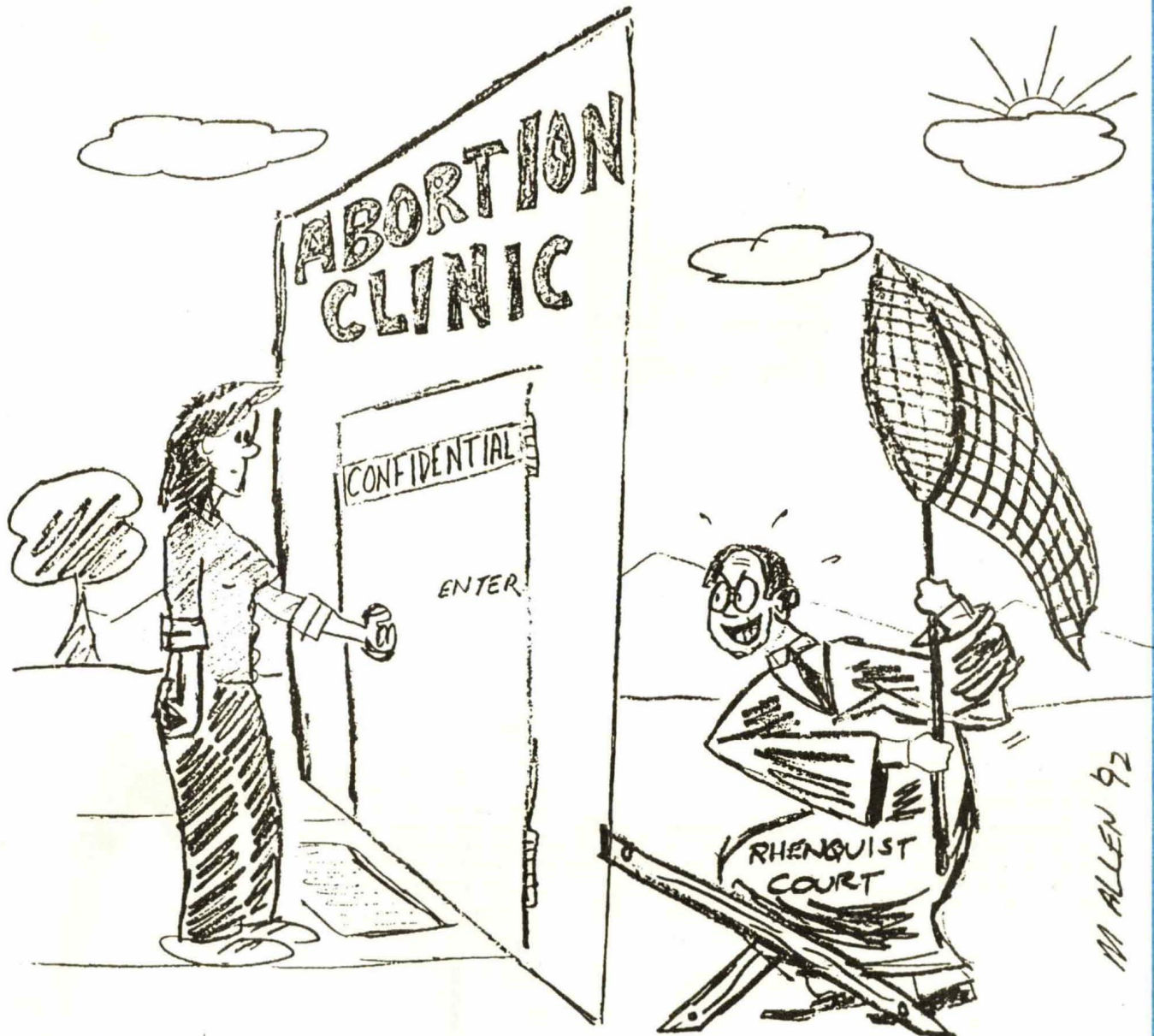
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# The Justinian

Founded in 1931 • A Forum for the Brooklyn Law School Community

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## In This Issue...

The Reasonable Man and Reasonable Woman  
Lawyers, Guns and Money (A BLS Retrospective)  
Our Political World

... and more!!!



## Present-Day Opportunities for the Woman Lawyer

By PAULINE MALTER, Legal Assistant to the New York City Council, and President of the Brooklyn Women's Bar Association.

The woman lawyer is no longer a pioneer in a masculine-minded profession. She has arrived at the gates of equal recognition; within are many inviting paths. Whichever she chooses leads to a desirable destination, provided she enters with self-confidence, perseverance and an awareness of her surroundings.

The War has in no small measure added to the steadily increasing number of opportunities open to women in the professions. This is particularly true of the law. New fields are constantly opening up; more lawyers are needed. Due to the transfer of men into the armed forces, the ranks of available lawyers have been depleted, and women lawyers are being specifically sought and requested by the various Departments of Government. It is no exaggeration to say there is presently no branch of the legal profession or government service to which the woman lawyer may not aspire. And the value of a sound legal education as a step to advancement in business is not to be overlooked. We now find women employed as attorneys in law offices whose legalistic doors were formerly barred to them. Some hold positions as managing attorneys; some as trial lawyers; some as specialists in charge of tax matters or other technical work, and some are general legal assistants.

### Judged on Merit Basis

It is not intended to create the impression that women lawyers are supplanting men or hope to profit at the expense of those who have answered the call of their Country. Naturally, they will benefit by the wartime changes, but only to the extent that any prejudice that formerly existed by reason of their sex will be eliminated. They will now be judged and accepted solely on merit. Skill and ability will become the determining factors. There will be room enough for the able woman lawyer, just as there has always been for her able brother at the bar no matter how crowded the profession might have appeared at times.



Miss Pauline Malter

In private practice the woman lawyer is to be found in the role of the independent practitioner, giving legal advice, writing briefs and pleading her cause before the Bar. She has the respect of the Court and Jury and the confidence of her client. She is to be found in the criminal as well as civil courts. She may be engaged in the general practice of the law or may be a specialist in any of its branches. We find her combining her career with home, family and communal activities, doing justice to all. She is articulate, resourceful and energetic, and is sought out for her leadership qualities by many civic groups and community organizations.

One of our leading women lawyers in Brooklyn, recently after an extended trial, obtained a plaintiff's verdict in excess of \$300,000 in a vigorously contested action for an accounting, which was affirmed in the Court of Appeals. A few years

back a woman lawyer, formerly of Brooklyn, obtained a judgment of over \$1,000,000 in a libel suit for her internationally known client.

We find Portia in the Halls of Congress, in State and Local legislative bodies, the duly elected representative of the people, sponsoring worthwhile legislation, and serving on important committees. She has the courage of her convictions, and rises to authoritative debate

on matters of public concern. She graces the Bench of some of the Courts of original and appellate jurisdiction in various parts of the Country; presides with dignity and poise, and is wise and just in her decisions.

### Seven Women Judges

In New York City there are presently seven women judges, two elected to the Municipal Court, two in the City Magistrates' Court, two appointed to the Domestic Relations Court, and one a Judge of the United States Customs Court. It has been predicted that the time is not far distant when women will be represented among the members of the judiciary of every Court. In fact, a movement was recently initiated and is receiving the support of leading women's organizations in many parts of the Country, to urge the appointment of a woman to the Bench of the United States Supreme Court.

There are women referees in quasi-judicial bodies, such as the Workmen's Compensation division of the Labor Department and the Unemployment Insurance service of the same Department.

In the Office of the United States Attorney for the Southern District of New York, we find women lawyers with the title of Assistant United States Attorney assigned to both the civil and criminal divisions. In the office of the Attorney General of the State of New York, women lawyers have been appointed as Assistant Attorneys General. In the District Attorneys' offices of the Counties of New York, Kings and Bronx, women have been appointed as Assistant District Attorneys, and in the Law Department of the City of New York, we find a number of women law Assistants to the Corporation Counsel.

With the growing number of Federal administrative agencies and expansion of the work of  
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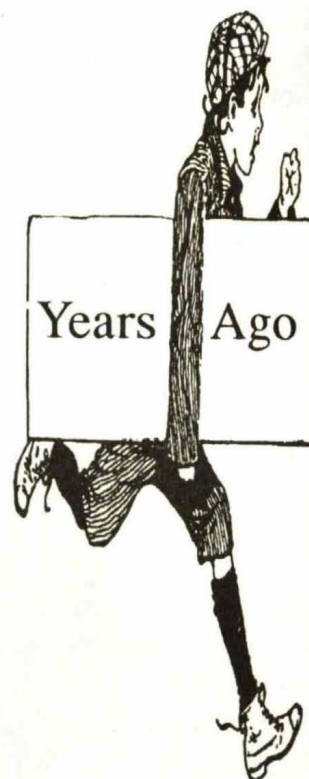
### Women Lawyers

(Continued from Page 5)

existing bodies, we find an increasing number of women lawyers in positions of responsibility, both as lawyers and administrative assistants, among these: the Office of Price Administration, the War Manpower Commission, the Selective Service Division of the War Department, National Labor Relations Board, Treasury Department, Bureau of Internal Revenue, Federal Communications Commissions, Federal Security

Agency, U. S. Board of Tax Appeals, Veterans Administration, Federal Power Commission, Office of Price Administration, and others.

The profession in general has recognized the ability of the woman lawyer. Today we find her serving on important committees and holding office in the leading Bar Associations in the country. We have come a long way from the time when a woman employee, in any capacity, was a rarity in the law office.





# The Justinian

A Forum for the Brooklyn Law School Community

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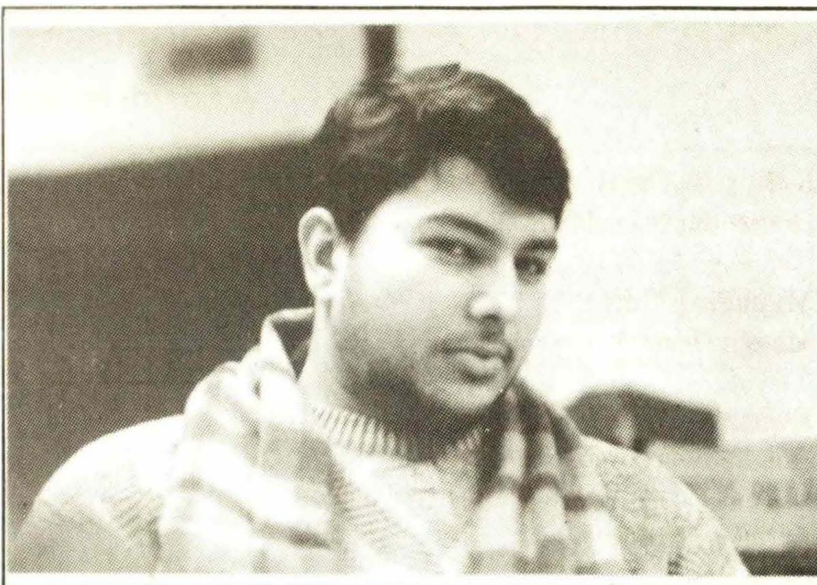
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## GREETINGS

On behalf of the entire *Justinian* staff for the 1992-1993 year, I would like to welcome all of you incoming first years to Brooklyn Law School. For all you upper-classmen (especially the third years), welcome back and let's make this year go by as quickly as possible!



Before I go any further, I would like to acknowledge a job well done by last year's *Justinian* editorial collective, especially the work of Austrack Fong, Teresa Matushaj and Peter Chin, which was par excellence. To steal an idea from *Star Trek VI*, we at the *Justinian* can only succeed them as editors, but we can never replace them. O.K., enough of this eulogy.

For those of you who are unfamiliar with *The Justinian*, the publication comes out three times each semester, and varies in length depending on the interests of the student body. In other words, you literally get out of this magazine what you put into it. If students take an interest in events around campus to events around the world, and decide to write about these events, then I will only be too happy to give those

students a spot in an issue. So, if you want to get a point across, or just like to see your words in twelve point Times, walk into room 307 of the main building (that's usually where the *Star Trek* reruns are playing) and lemme see what you got!!

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## EDITOR'S CORNER

by Maggie Tam

Articles XIX, XXIV, and XXVI of the United States Constitution provide women, the indigent and eighteen-year olds, respectively, with access to the political system. These amendments signify the major advances in voting rights in this country's recent history. Unfortunately, only fifty percent of all eligible Americans bothered to vote in the 1988 Presidential election, and even fewer participated in off-year Congressional elections. Why is it that Americans don't avail themselves of their right to be heard in this increasingly accessible political system? Were the hard-fought battles that allowed women a voice in the election process (a right that appears to be so common-place now, but one that was so alien to America in the early 1900s), and the lives that were lost to ensure the abolition of racially-motivated, discriminatory poll taxes all in vain?

As November creeps ever closer, various factions, not traditionally associated with increasing voter turnout, have commenced a media blitz for voter registration. You've seen the ads: Madonna, and other musicians and personalities, want you to "Rock the Vote"; "You don't count if you don't vote"; "Dump \_\_\_\_\_ {fill in the blank}: VOTE".

Why the media assault to gently (or blatantly) shock one's conscience into exercising one's constitutional right? According to a November 1991 *American Demographics* article, the U.S. now ranks twenty-third in voter participation among Western democracies. As previously noted, only fifty percent of registered people actually voted in 1988. Even more appalling is that only thirty-six percent of eighteen to twenty-four year olds voted in that same election. Slightly more encouraging is that sixty-seven percent of the twenty-five and older age group went to the ballot box and made a choice.

Additionally, according to the Bureau of the Census, only thirty-six percent of all adults voted in the 1990 off-year Congressional elections. In 1962, forty-six percent of the voting public made it to the polls. Are the more sophisticated and politically attuned nineties dwarfed by the naive sixties?

On any given day, however, anyone asked will freely vent their opinions about the state of the union, despite the above statistics. Apparently innocuous political discussions can instantaneously escalate into fisticuffs. Evidently, almost everyone has a gripe. Then why the disparity in numbers between the disgruntled and those who avail themselves of the democratic process that the Founding Fathers fought so desperately to maintain?

Unfortunately, there is no single answer, only speculation. As a Canadian citizen holding a resident alien card, I can go to school in the United States, apply and receive any multitude of loans, grants or awards, and obtain any type of license (*i.e.* driving, marriage, etc.). The only thing that is *verboden*

(continued on page 38)

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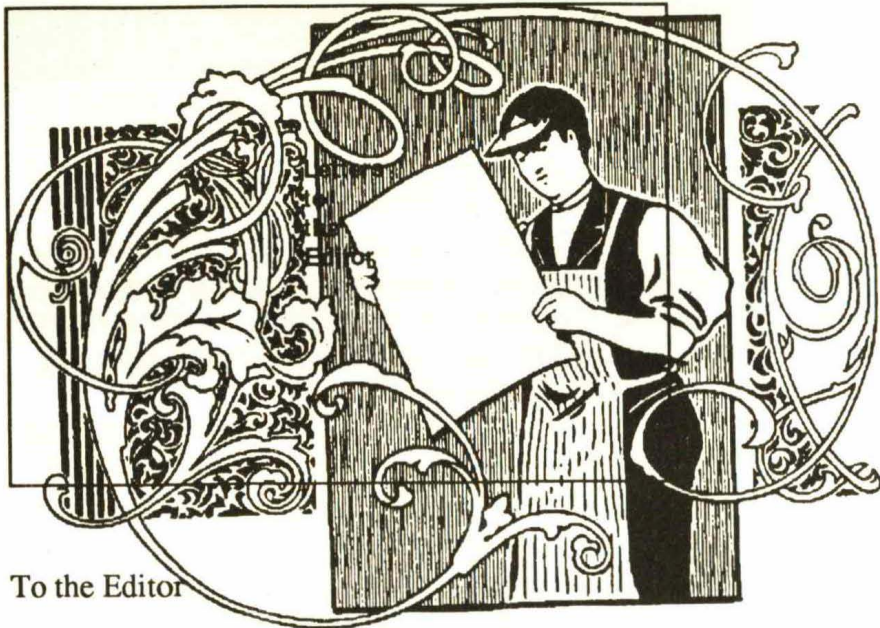


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To the Editor

Another year has arrived and I am disturbed to find that Brooklyn Law School has continued its embarrassing policy of ignoring the needs of students who smoke. Unlike faculty members - who freely stroll around their offices carrying cigarettes, pipes or cigars - a law student is relegated to one of two smoking areas within Brooklyn Law School, neither of which is conducive to studying.

The first area is located in the cafeteria. This section is poorly suited for studying because it is loud and overcrowded, especially around lunch or dinner time. Furthermore, on weekends, the lights are turned off and smokers must sit in the noisy, non-smoking section. At times, ashtrays are nonexistent, and with the crowding of the cafeteria, it is difficult to spread out because one must share space.

The second study area is in the Student Lounge. If this is indicative of a smoking area, smokers can soon look forward to studying out on Boerum Place.

Besides not having enough space to accommodate the school's smoking community, what conditions do exist are poor. The lights constantly burn out and are rarely replaced, leaving smokers with a dark study area. Because the garbage cans are emptied infrequently, the ashtrays constantly fill up with trash, causing smoldering. To make matters worse, the few tables and chairs that existed last year have mysteriously disappeared. Finally, students frequently watch television while smokers are attempting to study nearby (anyone who was around for the NBA Playoffs during finals knows what I am talking about).

Smoking is unpopular and no one needs to remind smokers of this fact. They are shunned in restaurants, movie theaters, at sporting events and in airplanes. The law school community is not a place where student smokers should feel unwelcome. Law school is a stressful environment; it causes many smokers to continue their habits,

and causes some non-smokers to start or re-kindle old habits. As an academic institution, Brooklyn Law School should respond to the needs of its students by providing a suitable study area for its smokers which is comparable to the one which exists for the school's non-smokers. If need be, the school should improve the ventilation systems to allow smokers and non-smokers to intermingle and study together.

Adam Stillman  
Class of 1994

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To the Editor

They say that you shouldn't stand in the path of progress. Unfortunately, the students of this school not only were forced to stand in the path of progress this summer, they were knocked over by it.

To say that the school's facilities over the summer were inadequate would be to grossly understate the situation. Between the asbestos removal, the construction of the new addition and the lack of study space, the atmosphere in school was hardly conducive to the pursuit of knowledge.

While the administration's decision to remove asbestos from the building over the summer is understandable, the student body should have been made aware, prior to registration for summer classes, that the removal would be taking



place. If I had known prior to registration that the removal would be taking place, I definitely would have thought twice about taking summer classes. Instead, students were notified of the project by signs posted approximately two days before work began, and long after our non-refundable tuition had been paid. We learn in our classes that as attorneys we should always advise our clients of all their options so that they can make informed and knowledgeable choices. The administration should have shown the student body the same courtesy as is expected of us in our intended profession.

Just spending one day in school is enough to see how distracting the construction of the new addition can be. Over the summer, however, the construction made the building not only noisy but hazardous. A thick haze of dust could be seen floating in the cafeteria on a daily basis. As the cafeteria was the only place in the building where one could sit and eat, the unknown haze made eating, let alone breathing, a very unappetizing prospect.

The construction affected access to the stairwells over the summer as well. On more than one occasion, I attempted to use the stairs and was confronted on the third floor stairwell with debris on the landing from where the wall had been broken through. And although there was a dumpster to collect the debris, the workmen did not seem compelled to use it on a regular basis.

Even if I made it past the debris on the steps, access to the classrooms from the stairwell was curtailed due to the asbestos removal. The only attempt to advise the students of this situation, however, were small signs posted on the doors to the floors you were trying to access. Therefore, students were forced to walk to the fourth and fifth floors just to find out that they had to walk back down to use the elevator. I assumed that the doors to the fourth and fifth floor were locked to avoid any possible accidents (I certainly didn't try to open the doors to find out), but the stairwells should have been cordoned off to protect the students from both the debris and any possibility of being affected by the asbestos removal.

Lastly, the lack of study space available this summer was intolerable. Even if students were willing to brave the noise in the library, eighty percent of the carrels on the second floor were inaccessible. The lounge was locked most of the time and when it was open, it resembled more of a warehouse for old furniture rather than a study area. On a good day, the lounge had one table, one couch and a few chairs. Students were forced to use the cafeteria which also was only partially accessible. Because the entire back of the cafeteria was unavailable, disputes occurred on more than one occasion between dislocated smokers and non-smokers who were already cramped due to the lack of space.

I do not doubt that the new addition is a necessary and

worthwhile venture if the school hopes to gain the national reputation it seeks. However, the administration's blatant lack of concern for the student body this summer is not conducive to producing alumni that will financially support the school and recruit prospective students to attend the school. The administration should remember that without the students there would be no Brooklyn Law School.

Ellen Marcus  
Class of 1993

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To the Editor

As a third year student at BLS, there have been many nights when I've left this place at unreasonable hours; in every instance, I knew I was safe after leaving the building because of the security staff. The majority of people (faculty, administration and students) take these guys for granted. Otis, Quentin, Claude, Smitty, Zach, Freddy, Roy, Glen, and all the guys are watching out for your safety. You may not always realize it but they are there. Don't treat these guys like furniture as you go in and out of this place each day. They make a difference, even if you're just going across the street to move your car out of the judges' lot. Thanks, guys.

Eric Schwartzman  
Class of 1993  
SBA President



## The Reasonable Woman

by Joan Marie Fasanelle

I have spent a great deal of time thinking about what the constitutional right of privacy means. I am certain it exists and can point to where it stems from in the Constitution. It is a personal right with the highest of value, a right I could not imagine living without, but I also realize that it is a right

currently existing on very tenuous grounds. As a woman I am greatly disturbed by this realization because it leaves areas of my life very uncertain.

In the past, American citizens have been able to use the Fourteenth Amendment's Due Process Clause as a

meaningful source of protection of their individual rights. The clause states clearly: "nor shall any state deprive any person of life, liberty, or property, without due process of law...." The impact of the protection afforded by this clause has lessened over the years. The clause originally was intended to prevent racial discrimination, but lawyers have been encouraged to use its broad language to protect other areas of rights. The areas it has served to protect are fundamental personal rights not specifically enumerated in the Constitution.

I cannot argue with the fact that the right of privacy is not explicitly mentioned in the Constitution, but I can firmly state that it is clearly an

implicit right. It is a right which derives its meaning from specific rights guaranteed in the Bill of Rights which create "zones of privacy." These specific rights, for example, protect personal decisions concerning whom one chooses to associate with and other facets of privacy such as the sanctity of the home.

The right of privacy has generally been invoked when dealing with issues which affect the areas of marriage, procreation, contraception, and abortion decisions. The fundamental status afforded to abortion rights found its roots in the *Griswold v. Connecticut* and *Eisenstadt v. Baird* cases. These cases set the stage for the *Roe v. Wade* decision in 1973. After *Roe*, it was clear that a woman had a constitutional right to terminate her pregnancy based on the Fourteenth Amendment's concept of "personal liberty," the Bill of Rights penumbra and the Ninth Amendment. This right, however, has been a constant source of controversy ever since.

Through the years the Supreme Court has continued to chip away at *Roe* and allow more and more state interference with a woman's right to choose. The Court's decisions in *Maher v. Roe* and *Harris v. McRae* to uphold legislation which restricts government funding for abortions directly affects indigent women's rights to choose to have an abortion. Justice O'Connor's view in *Akron v. Akron Center for Reproductive Health* of the right to choose an abortion as a "limited" fundamental right exemplifies the dangers of adopting a middle ground in this area. *Webster*, which followed *Akron*, virtually marked the dissolution of abortion as a fundamental right. Since *Webster* the Court has used a type of quasi undue burden standard.

The right to choose has become less and less secure as the bench becomes more and more conservative. It is absurd that my fundamental right as a woman is dependent upon the fluctuating composition of the court. The right to privacy is an implied fundamental right within the Constitution which the majority of the Court refuses to recognize. It may be true that as medical technology advances *Roe*'s trimester approach may need to be adjusted. But applying an undue burden standard

(Continued on page 10)





# The Reasonable Man

by Joseph Bondy

The Constitutional right to privacy is a hotly disputed issue today, and has been for a large part of the century. First in areas of economics, and then in areas of education, marriage, procreation, and abortion, courts have found the "penumbras" and "emanations" of the Bill of Rights to extend to protect one's right to privacy.

Oftentimes, the outcome of the Supreme Court's decisions in these areas have had substantive policy effects which I wholeheartedly agreed with. For example, I believe strongly in one's right to be free from government interference on almost all levels, including contraception, marriage, abortion, consensual sodomy and education to name only a few. And honestly, before going to law school, I never viewed the Court's decisions in light of their constitutionality, but only in light of the effect which they had on social policy. Now, however, things have suddenly changed. Somewhere along the line, I began to feel that the constitutionality of our government's actions mattered more than the outcome of one particular issue. And so, I truly question whether deriving privacy as an "implied fundamental right" from the fourth and ninth amendments and the due process clauses of the fifth and fourteenth amendments might not be a constitutional interpretation or evolution best left up to the legislature and to the people.

The fact that certain laws might seem necessary, or reasonable, or are protective of viewpoints, beliefs, or values which are beautiful to me does not mean that those things are protected within the Constitution. But the Constitution itself must be protected at all costs. The Constitution represents the ultimate source of our laws. It is best interpreted as written and should only be interpreted otherwise when changed through amendments, which are expressly provided for in Article V. A constitution whose meaning keeps changing according to arbitrary notions of "evolving standards of decency", for example, is useless. A constitution which provides for three separate branches of government, which is subsequently interpreted to

allow delegations and usurpations of each branch's functions becomes meaningless. This is exactly what has been done with the right to privacy. The judiciary has usurped a legislative function in its interpretation of the Constitution.

There is a far reaching danger in stretching the judiciary's role too far. The danger of power accretion in any one branch of government has long been recognized as an important justification for the separation of powers which our Constitution mandates. In the Federalist Papers, Madison

points out in #48 that "legislative usurpations, which, by assembling all power in the same hands, must lead to the same tyranny as is threatened by executive usurpations." At the time of the Federalist Papers however, the judiciary was not seen as dangerous to the Constitution's proposed scheme of

checks and balances. Thus, in Federalist Paper 78, Hamilton states that the judiciary "has neither force nor will, but merely judgement," and that its power is limited in comparison to that of the legislative and executive branches because the judiciary controls neither the "purse" nor the "sword". However, shortly after the ratification of the Constitution, in *Marbury v. Madison*, John Marshall established clearly that "it is emphatically the province and duty of the judicial department, to say what the law is." This power to submit the executive and legislative branches to the decisions of the court has endured ever since.

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## (Reasonable Woman continued from page 8)

is far too vague and subjective. It allows any majority of the Court at anytime to define what they consider to be unduly burdensome. There is no clear way of determining what my constitutionally protected right to choose means; in effect, it leaves the right hollow.

As I labor over what the right of privacy is, what it should be and what it has come to mean, the dissent in *Rust v. Sullivan* really strikes a chord. The dissent, authored by Justice Blackmun who penned the *Roe decision*, articulates very strong sentiments about the direction that the Court has taken.

"In its haste further to restrict the right of every woman to control her reproductive freedom and bodily integrity the majority contorts this Court's decided cases to arrive at its preordained result. While technically leaving intact the fundamental right protected by *Roe v. Wade*, the Court, 'through a relentlessly formalistic catechism,' [McRae (Marshall, J., dissenting)] once again has rendered the right's substance nugatory. This is a course nearly as noxious as overriding *Roe* directly, for if a right is found to be unenforceable, even against flagrant attempts by government to circumvent it, then it ceases to be a right at all...."

The dangers that Justice Blackmun so clearly expressed have gone unheeded. This is evident by the Court's most recent decision in *Planned Parenthood of Pennsylvania v. Casey*. Unfortunately, the reality is that the right of privacy is being eroded. A fundamental right so deeply entrenched in our Constitution is being ignored. We, especially women, cannot afford to allow ourselves to get comfortable and wait till the Court decides to wake up and recognize this constitutional right. What we can do is lobby our state legislators and support legislation aimed at protecting privacy and reproductive rights. Our states' constitutions can be sources of broader rights for their citizens where the Federal Constitution chooses to be more limited.

I firmly believe that decisions regarding reproduction are personal decisions properly belonging to women, and are protected by the fundamental right of privacy. They are personal decisions which should be beyond the scope of government. The framers of the Constitution recognized the danger of government intervention in private affairs and that is why specific guarantees were included among the Bill of Rights. Implicit and underlying these specific rights is the fundamental right of privacy. In order to reclaim this right we have to participate in the process.

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## (Reasonable Man continued from page 9)

It is in the best keepings of our system of "checks and balances" that "the powers of government should be so divided and balanced among several bodies of magistracy as that no one could transcend their legal limits without being effectually checked and restrained by the others" (Hamilton #78). Relatedly, the doctrine of separation of powers is eroded when any one branch usurps the work of another. The worst thing which we as freedom-loving Americans could have is an erosion of separation of powers such that an ultra conservative or regulatory congress or court could allow a constriction of so called "fundamental rights" using the same arguments which have previously been used in touting the expansion of the doctrine. If judicial legislation is lauded when it works to our satisfaction, it may have to be tolerated when decisions come down of which we do not approve.

It is the classic slippery slope problem. When you bend the Constitution to suit your own substantive policy goals regardless of their Constitutionality, where do you stop? To be specific, when the court in *Roe v. Wade* decided on the trimester approach for regulation of abortions it acted as a legislature should. Its decision, however laudable it may be for American culture, was still not grounded in the Constitution, but in "implied fundamental rights." Well, if we keep interpreting and implying, eventually we get farther away from upholding and obeying the Constitution; the lines of separation between the branches get blurred and they are crossed.

For those of you who want the quick fix, there really isn't one. To safeguard our "implied fundamental right" to privacy explicitly involves legislation. It involves looking to our individual state constitutions for protection. On the national scale, it involves lobbying your congressperson, writing letters to a senator, or becoming active within your own community. Activism in America has always been afforded the greatest of protections in our Constitution. It is a behavior however, best suited to the people and not the judiciary. If the fact that there's no quick fix leads you to believe

that you can just interpret the Constitution to include what you think it should, you have missed the boat. As Harry Belafonte once sang: "house bilt widout' foundation cannot stand." And so it is. If we now allow the judiciary to overstep its bounds, as delineated clearly by Marshall two hundred years ago in *Marbury*, the foundation of our system of government is shaken. An interpretation which is expansive today can be constrictive tomorrow. Rights which were unconstitutionally bestowed upon the people and rights unconstitutionally taken away from the people have everything in common.

I am not a babbling idiot. Or if I am, at least I'm not alone. Justice Hugo Black, for example saw the danger of unbridled judicial interpretations in *Griswold v. Connecticut*. In dissenting, he did not dissent on a moral reason level, but on the level of judicial logic:

I realize many good and able men have eloquently spoken ... about the duty of this court to keep the Constitution in tune with the times. The idea is that the Constitution must be changed from time to time and that this Court is charged with a duty to make those changes. For myself, I must with all deference reject that philosophy. The Constitution makers knew the need for change, and provided for it. Amendments... can be submitted to the people for ratification. That method of change was good enough for our fathers and I must add [that] it is good enough for me.

But the discontent with interpreted privacy rights continues. Justice O'Connor in her dissent in *Akron v. Akron Center for Reproductive Health*, found it "difficult to believe that this court, without the resources available to those bodies entrusted to making legislative choices, believes itself competent to make these inquiries." Justice Burger, in his

(Continued on following page)



## (Reasonable Man)

Continued from previous page)

*Roe* concurrence notes that he is "somewhat troubled that the court has taken notice of various scientific and medical data in reaching its conclusion," while Justice Rehnquist's dissent finds that the dividing of pregnancy into three distinct terms and the outlining of state regulation "partakes more of judicial legislation than it does of a determination of the intent of the drafters of the fourteenth Amendment."

The Scalia/Thomas/Souter/O'Connor/Rehnquist team has already begun the trend toward strict interpretation of our Constitution, including its so called "implied fundamental rights." While this benefits separation of powers greatly, it reduces the constitutional protections afforded us through stretched interpretations. The effect of this interpretation for "the law" is positive, but is negative for substantive policy. The best way to remedy judicial legislation is to close the gap between law and positive substantive policy by pushing for legislative action, state constitutional safeguards, and constitutional amendments.

And remember, its not so much a fight between liberals and conservatives as it is a battle

between judicial interpretivists and judicial activists. The time for judicial activism is long past. It ended when the common law was derived and our own legal system was in place (*e.g.* after *Marbury*). Supreme Court Justices should interpret the law as it is written, rather than assume the role of activists. One major error which liberal interpretationalists (like Justice Brennan) seem to have made is in assuming that societies always evolve. When Brennan sees a need to change the Constitution according to "evolving standards of decency," all we need to do is look at the McCarthy era to understand that sometimes societies *devolve*; yet another compelling reason to stick to the text, and to change it legitimately, not through some extended interpretation.

Now, as lawyers-to-be, it should be important to us that all people's rights are protected openly, equally, and clearly. Tenuous interpretations of "emanations" and "penumbras" leave rights in danger of being compromised by future legislatures, executives and judiciaries. As lawyers, we too should be smart enough to realize that government will not just grant us "the right to just be left alone," and that it is our role to secure the right of privacy as a constitutional right for ourselves and for our progeny.

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# PRO BONO: THE DEBATE, THE ISSUES, THE OPPORTUNITIES

Karen Comstock, Public Interest Coordinator

If you have been able to set aside your studying or take time out from your job to read the newspaper during the past three years, you know that a debate is raging in New York State over the issue of mandatory pro bono requirements for practicing attorneys. What you may not know is that Brooklyn Law School offers you the opportunity to perform pro bono work as a student. This article will discuss the crisis in the access to legal representation by the poor and under-represented that has fueled the pro bono debate, and the Pro Bono Students program that enables you to take an active role in addressing this crisis.

Those who favor the concept of mandatory pro bono requirements feel that lawyers, as privileged professionals, have an ethical obligation to provide pro bono services to the poor, and that requiring a certain number of hours of pro bono work from practicing lawyers is the only way the great need for these services can be met. Some opponents feel that mandatory pro bono programs are unconstitutional under various Fifth, Thirteenth and

Fourteenth Amendment arguments. Still others simply feel that mandatory pro bono programs are too costly to fund and too cumbersome to manage, that the quality of legal services ultimately delivered will suffer, and that money is better spent to expand existing Legal Services and Legal Aid programs.

The State's Chief Judge, Sol Wachtler, favors a mandatory pro bono requirement for members of the New York State Bar. He has delayed the adoption of the mandatory pro bono rule to permit the voluntary efforts of New York lawyers to increase. If they do not, Judge Wachtler will propose adoption of pro bono requirements. Some law schools have adopted mandatory pro bono requirements for students, specifying that a certain number of pro bono hours must be completed as a condition of graduation. Other schools prefer voluntary pro bono programs. The battle lines are not clearly drawn in this debate. There is a mixture of public interest and private practice attorneys, and so-called "liberals" and "conservatives" on both sides of this issue. But no matter where

you may place yourself on the political spectrum, one fact is indisputable: there is a crisis in the delivery of legal services to poor and under-represented groups in this country.

A recent article in the ABA Journal stated that despite a population of over 690,000 lawyers in the United States, or approximately one lawyer for every 354 citizens, all of the legal services attorneys and private attorneys volunteering their skills through pro bono programs are currently serving only 6.8% of the legal needs of the poor. In other words, 93.2% of the legal needs of the poor go unserved. Moreover, government funding for legal services programs cannot meet these needs. In 1981, the Legal Services Corporation ("LSC") realized a very modest goal of providing "minimum access," that is, funding two legal services attorneys for every 10,000 poor people throughout the United States. One might say that this was a fairly modest goal, given the existence of approximately one lawyer for every 354 citizens in this country. But this goal of minimum access was al-



most immediately lost following President Reagan's election in 1980. In 1982, the Reagan administration cut the LSC's budget by 25% after failing in its attempt to abolish the LSC completely. In 1990, LSC funding remained below its 1981 level at \$316 million. When adjusted for inflation and increases in the poverty population, the LSC's funding is forty percent lower today per capita than in 1981 (Herring, Texas Lawyer, August 1990). Currently, the LSC is able to meet the needs of only 6% of the poor (Wechsler, Syracuse L. Rev., 1990). Pro Bono programs exist to try to increase the level of legal services to the poor, the under-represented and to non-profit organizations.

You have an opportunity as a Brooklyn Law School student to begin developing the habit of providing pro bono services now, a habit that will hopefully continue throughout your legal career. The opportunity is called Pro Bono Students ("P\*B\*S"), a program that I administer through the Office of Placement and Career Services. The purpose of the program is to inculcate the habit of pro bono service in law students and to thus increase significantly the probability that as lawyers students would continue the commitment. The project began in January 1991 using New York University School of Law as the pilot school to evaluate the effec-

tiveness of the program. A year later, the program was in operation at 13 out of the 15 law schools in New York State. Each participating law school is linked to a database management system listing over 300 organizations, government agencies or law firm pro bono projects which provide pro bono opportunities for students.

Brooklyn Law School has been participating in P\*B\*S since the fall of 1991. The program is currently available to second, third and fourth year students. The database allows us to match your specific interests in terms of type of organization, areas of law, preferred time commitment and geographic location, with the needs of available placements. So far Brooklyn students have been placed with, among others, Harlem Legal Services, the ACLU Women's Rights Project, the NYC Department of Corrections, the NYS Attorney General's Office, Lambda Legal Defense and Education Fund, the NYC Department of Corrections, the Kings County D.A.'s Office, Brooklyn Legal Services Corporation B HIV Unit, and many others. Students have worked on a variety of projects, offering short-term and long-term commitments. The key to the program is that it is designed to accommodate your interests and school schedule.

After students complete

their pro bono placement, they are asked to fill out a questionnaire about their experience. The feedback has been overwhelmingly positive, as students have found the work to be personally satisfying as well as a great learning experience: Of the ACLU: "The issues I researched were interesting...I was very much satisfied with my placement, [the attorney] was extremely helpful and accommodating and did a thorough job in critiquing my writing." Of Harlem Legal Services: "I really enjoyed working at Harlem Legal Services. The atmosphere was friendly and the staff was very helpful. I gained a good understanding of how Legal Services operates." Of the New York City Department of Corrections: "Although it was scary at first - my office was in the Manhattan House of Detention - I made many contacts and was given a great amount of responsibility and discretion." Of the NYS Attorney General's Office: "I found the work quite enjoyable and the assistant Attorneys General who work in this office were both helpful and friendly. The experience I gained in research and writing was invaluable."

The debate over mandatory pro bono is bound to continue for quite some time. As you think about how you may fulfill your personal pro bono obligation as a professional, also consider beginning the pro bono habit now as a law student.



## The Commissary

by Mayen Lagdameo

This Fall, BLS students were welcomed to a cafeteria with a new look, and even a new name.



"The Commissary" is certainly more than just a food supply store as its name implies. Owner, Mike Siegel, explains that giving our cafeteria a name was the first step in "making the distinction from cafeterias past." Open daily from 7:30 am - 7:15 pm, the school's new cafeteria offers low prices for good quality food.

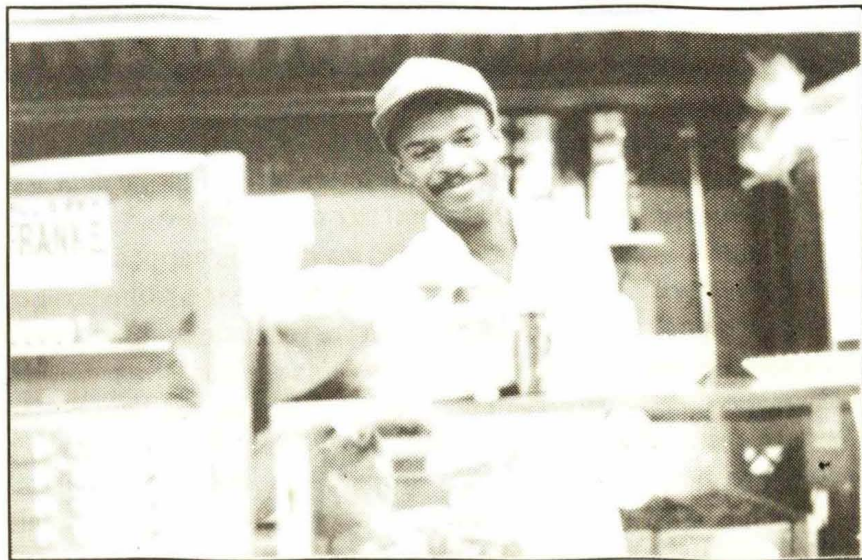
For the early birds, The Commissary serves some wonderful breakfast specials like pancakes or an egg on a roll for only 97 cents. One can also choose from a selection of danishes and muffins which are baked fresh each morning. For those partial to high protein breakfasts, The Commissary also offers a variety of breakfast cereals and fresh fruit to choose from. Of course, the morning would not be complete until one has had a healthy dose of caffeine. Our cafeteria now serves Yuban Colombian coffee, tea and even gourmet coffee. Several new juice dispensers have also been installed, and one may have the pleasure of selecting from a full range of sodas,

iced teas and flavored milk.

For those on the run, The Commissary offers a "grab-n-go" section stocked with freshly made deli sandwiches, a salad bar and a complete selection of snack items. You are also welcome to sit down and partake of The Commissary's full menu. Start out your meal with some hot soup and sample the daily special which ranges from grilled chicken to pasta to rice and curry. Kosher food is also available. No cafeteria would be complete without a grill to provide us with the traditional burgers and dogs, and of course, there is always a ready supply of fries, onion rings and mozzarella sticks to accompany your meal.

The Commissary recognizes that our student body is "Typical New York," and thus it is attempting to provide food that appeals to a wide range of tastes. They are always open to suggestions, so your input would be greatly appreciated.

Be adventurous!! Experiment with the



varied cuisine offered daily and enjoy the efficient, fast and friendly service of BLS's very own Commissary (currently located in the basement of 250 Joralemon St.)

Bon Appetit!!



## SBA Message

From

Eric Schwartzman, SBA President

It goes without saying that life at BLS this year will be anything but the normal law school experience. Then again law school is all about change and the transition we each go through during our training to become lawyers. Don't worry, this isn't going to be some philosophical speech about change. What I do hope to convey to all of you is that the Student Bar Association is a vehicle that can be utilized and is used by many to provide that much needed break to get through our years at BLS. OK, I realize this still sounds a bit philosophical. What it comes down to is that the SBA and the groups that make up the SBA hope to "ease the burden." In the past that burden was simply the overall class load we each piled on ourselves. This year, the ongoing effects of the construction have unfortunately increased that burden physically and psychologically by decreasing the services that a law school should provide. As I said earlier, the SBA hopes to help ease this added burden as opposed to our "sharing the burden," a catch phrase that has at times been used to describe our plight.

The SBA, as an organization unto itself, is known for sponsoring parties and speakers, as well as blood drives, food drives and clothing drives. The SBA, in conjunction with the *Justinian*, also published *JustInfo*. The goal of the publication was that it could be used as an information source about BLS and/or as a guide to what BLS is all about from the student perspective. I believe we accomplished that goal. By the end of this semester, we hope to have published a complete student directory as well as staged the "Race Judicata" — a fun run across the Brooklyn Bridge and back, to be held on October 18th — as well as other school-wide functions. Additionally, the annual food and clothing drives are slated to be held in early December.

All students are encouraged to participate directly in the SBA by joining an SBA committee. The standing committees of the SBA include Budget, Constitution, Elections, Social, and Student Affairs Committees. Specific projects also need student help. These projects include the Student Phone Directory, the various drives mentioned above, the "Race Judicata", the BLS yearbook, *The Torch*, the Annual Alumni Achievement Award Ceremony, not to mention next year's *JustInfo* magazine. If you have any additional ideas, please feel free to voice them.

For those of you who are wondering what has happened to Fallfest, we are working on it. If things work out we will have one, but we will admit that it's going to be quite a trick to pull off.

One goal we hope to accomplish this year is to increase the efforts of the SBA in addressing both the academic and social needs of the evening and part-time division students. This isn't an easy task because the day students can't do it alone. We need the help and input of those of you folks who drag yourselves into this place night after night. After all, to effectively program a function — either right before evening classes or after they are over — is tough because those of you who attend evening classes are usually rushing to get to class on time or rushing to get home; also, scheduling a party between six and ten usually is in direct conflict with most classes. We need your input. Please let your reps know what's on your minds and what services and events you need or want.

We know that this year will not be the easiest, and the odds are that services provided by the school will be less than those which we would normally expect for our tuition dollar. I hope the SBA and its groups can provide an occasional break or distraction; a break that many of us need from the classes we attend and/or the jobs we each hold.



# 1992 - 1993 SBA DELEGATE LISTING

## FULL TIME DAY DIVISION DELEGATES :

### Class of 1993

Keith Blair  
Ana-Maria Galeano  
Joshua Glantz  
Mitch Konichowsky  
Jennifer Naiburg  
Guy Oksenhendler

### Class of 1994

Steve Berk  
Lisa Bova  
Bill Horn  
Lewis Lieberman  
Adam Stilman  
Blair W. Todt

### Class of 1995

Melissa Bondales  
Peter Bucklin  
Stuart Eisenberg  
Douglas Eisenstein  
Michael Gordon  
Lori Milstein

## EVENING / PART TIME DIVISION DELEGATES :

### Classes of 1993/ 1994

Linda Fox  
Rick Fein  
Paul Morris  
Leonard Oppenheimer

### Class of 1995

Sharen Hudson  
Gloria Rios

### Class of 1996

Joe D'Addario  
James Kilduff

## SBA EXECUTIVE BOARD

Eric Schwartzman, President  
Pat Russo, Day VP  
Doug Gladstone, Eve VP  
Beth Lopez, Treasurer

Peter Toumbekis, Secretary  
Robin Bramwell, ABA Rep  
Tom Small, NYS Bar Rep



# Lawyers, Guns and Money

## (A BLS Retrospective)

*Editor/Author's Note: The opinions, views, statements and other comments expressed in this piece are solely those of the author and should not be attributed to Brooklyn Law School, The Justinian, The Brooklyn Law Review, The Moot Court*

*offer unsolicited advice. So this article is dedicated to the first-year students.*

*How to Survive Law School*

*1. Run away ... Get out while you still can*

*!!!*

*Honor Society or any other organization, past or present, with which the author has been accused of being affiliated.*

*As often happens*

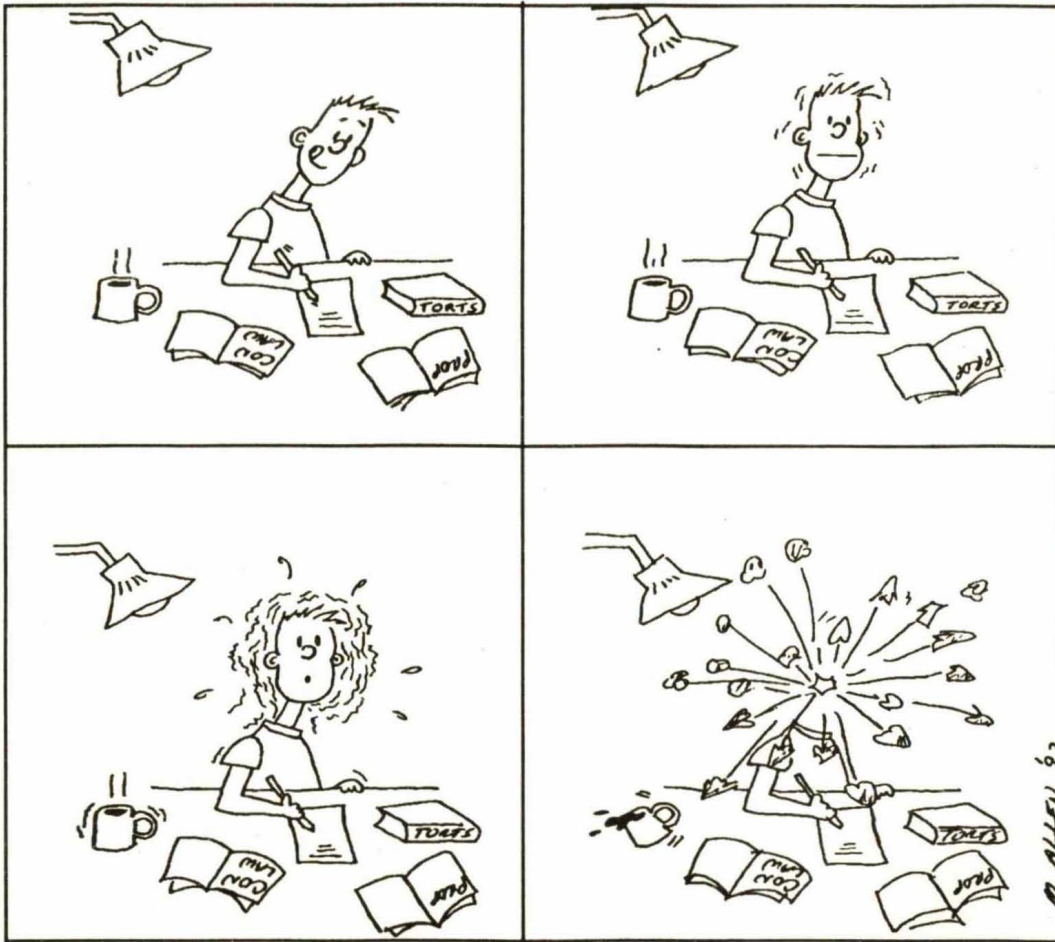
*in my life, I "volunteered" to write a column for this issue of our school publication, The Justinian. My volunteering consisted of a personal request from the Editor-in-Chief, followed by a plain brown envelope with a number of embarrassing photographs and a note stating: "For publication in the next issue of The Justinian if there's space that needs to be filled." After asking my illustrious editor repeatedly for a topic suggestion for this article, and having him shrug, grin and wave that brown envelope in my face, I decided to do what usually gets me into the most trouble ...*

*photographs that happened to be in focus, I suggest that you read on.*

*2. Take Law School Seriously -- Make the Commitment*

*It is probably clear to everyone reading this article that law school is a significant commitment, both academically and financially. Most people are prepared to spend a lot of money and a lot of time in their effort to become lawyers. Few, however, realize the psychological commitment that law school involves. There is always time for other interests. The problem is that law school,*

*This course of action, however, may be physically, economically or socially impossible for most. Since the editor has threatened to cut my column short and publish a significant subset of those*





especially during the first year, tends to pervade your life; you will eat, sleep and dream law school. Not because you want to, not because you have to -- you just will. Don't be afraid, you are not alone. The people least successful in law school are the ones who have not figured out what is important to them. Make your choices early. Once you know what is important to you, other things, including law school, will fall into place. Please understand, it is not as important which choices you make; just that you make them. Whether it is family, friends, law school, political causes, religion, or anything else, it makes little difference. Understand yourself and why you are at law school, and things will tend to fall into place.

...I am about to give you the best advice anyone ever will...

### 3. *Keep your sense of humor!!*

If you don't have one, beg, borrow, steal or even buy one. Learn to laugh at yourself. You will do a lot of silly things in your life; learn to appreciate the humor in what you do or say. Learn to laugh at others. You will meet a lot of people over the next few years. Some will amaze you, some will shock you and some will disappoint you. Don't take them or yourself too seriously. When things get rough, I suggest an old Marx Brothers movie and some Silly String.

### 4. *Zen and the Art of Studying*

The \$64,000 question (both literally and figuratively) asked by all first year students is "What is the best way to study?" As a third year student, I get asked this question quite often. There are really only two rules to follow. First, do what the professor tells you. If he or she tells you to brief cases, brief the cases. If you are supposed to be prepared to answer questions — do so! *Note:* It is very likely that the final exam will follow the style of the lectures. The skills that you learn in a particular classroom will serve you well in the corresponding exam (and probably in your careers).

The second rule is to do whatever works for you. If you learn the material best in a particular way - hey go for it! There is no hard and fast rule with respect to briefing cases, taking notes, highlighting, etc. If you feel comfortable with your study habits and they seem to be working, have a ball!

### 5. *Manage your stress*

Admittedly, law school is a high stress environment. You have to develop techniques to alleviate any stress resulting from law school. This rule is not optional. The form that your stress management technique takes, however, is up to you. Functional suggestions have included alcohol, sex, religion, meditation, exercise and bad cartoons. I have, at various times, endorsed all of the above suggestions and, specifically, the last one on the list in excess. This is predominantly due to the fact that the first five suggestions in excess can get you into a great deal of trouble. Too much of the last item just tends to make you silly.

### 6. *The most important things I learned in law school*

The other question I get asked a lot is "What are the most important things you learned in law school?" Well, here goes:

a) How to tie a Windsor knot. Yes indeed, readers, at age 25 I learned how to tie a Windsor knot in the halls of BLS. I shall always be indebted to BLS for this; and b) "You can think great thoughts or you can read the statute." *Special thanks to my first year writing instructor* for this last tidbit of philosophy. A great deal of "real lawyering" is not based on making policy arguments, but on statutory interpretation. You will notice that I said "interpretation." This means read what the darn statute says, and make sure that you read all of it. This attitude may save your job eventually (especially when you are stuck for a good answer) and it tends to help in law school, especially in the so-called "code" classes.

That's all folks. There's not much more to the secret recipe. Try to enjoy what you are doing and you just might get out in one piece.

*Note: The author is an editor of the Brooklyn Law Review, a member of the Moot Court Honor Society and will be starting a really nifty job when the parole board lets him go. How this happened, we'll never know.*



# Our Political World II

by Austrack Fong

The 1992 Presidential campaign enters its home stretch this week with a special nine day extravaganza — three presidential debates and one vice presidential debate. The media's coverage of the debates and the subsequent partisan spins on each candidate's performance should prove to be very interesting indeed. Since the debates are scheduled for such a small news cycle, first impressions become paramount. Therefore, before columnists, editorialists, pundits, and the *cultural elite* can ordain a winner of a debate, the next debate will be at hand with all its attendant pre-debate hype and hoopla. One can only hope that the three candidates will each use the opportunities to seriously, if not constructively, engage the real issues of the day. If the debate process descends into nothing more than a shouting match, with the winner being the candidate tallying the most "zingers," then the real loser will be all of us.

Americans want real answers to the problems facing this country. A presidential election bereft of a mandate for governance would amount to nothing more than four lost years. Candidates who win the office by offering the public the choice of the devil you know is better than the devil you don't (meaning that he is the lesser of the two evils), rather than giving the electorate positive reasons for voting for them, do a great disservice to both the country and its citizenry. In essence, this gambit reduces the ideal and potency of voting as an essential element of democracy to its lowest ebb.

Ronald Reagan's 1980 White House triumph and subsequent success in achieving his goals was due in large part to the fact that he offered the public a real choice in voting for him. Reagan ran on a platform that included, *inter alia*, lower taxes, increased defense spending and a balanced budget by the end of his first term. (I wondered whatever happened to the balance budget component of Reagan's plan). Therefore, because Reagan provided the voters with a real choice in voting for him, as opposed to today's candidates who offer the

choice that they are the lesser of two evils, his landslide victory contained true political capital: a mandate for governance which Congress could not readily deny, for it represented the country's true wishes. Reagan's second term, however, was not as successful (if it could be so described), because he did not seek a mandate. He chose instead to look backward to his first term—best exemplified by the "Morning in America" ad campaign—resulting in gridlock and frustration.

The debates will present the candidates the opportunity to present the country with a true choice of governance. Since up until now the campaign has produced little in the fashion of true leadership, Clinton and Bush (prior to Ross Perot's re-entry) have both skirted the issue of the national deficit (\$4,500,000,000 plus interest) and obfuscated on the real costs and sacrifices needed to right the ills of our national economy.

The country is approaching the dawning of a new century. The choices that will be made in the upcoming election will no doubt have profound effect upon the role of our country in the new century to come. America's decline in the decade of the 80's is well documented. (See *America: What Went Wrong?* by Pulitzer prize winning reporters Donald L. Bartlet and James B. Steele. (Andrews & McMel, \$6.95) *A MUST READ FOR ALL!*) The '80's produced an increasingly stratified two class society: the very rich and the bedeviled poor. The latest figure from the government's own statistics revealed that the aggregate wealth of the upper 2 percent of the wealthiest Americans, counting only wages and salaries, equaled the aggregate wealth of the 51 percent of the remaining citizens. The rich received unprecedented tax breaks, as the poor and middle class were given petite tax cuts while simultaneously being forced to shoulder, unfairly, a greater percentage of the national social security tax burden. Deregulation of the Savings and Loans Industry resulted in the biggest taxpayer bailout in history, with conservative estimates reaching over five hundred billion dollars (\$500,000,000). Dur-



ing the 1988 election, both of the major political parties, because both had dirt on their hands, conspired jointly to downplay the extent of the Savings and Loans' debacle from the public; choosing instead to spring the news of the taxpayer bailout upon an unsuspecting public after the election.

One would think that this sort of thing couldn't happen, but it would be a false assumption. It appears that the commercial banks are also facing similar straits after a highly speculative decade of trading junk bonds and third world debt, as well as numerous undisclosed and ill-advised real estate ventures. The failure of the commercial banking institution, such as Citicorp/Citibank, portends greater havoc than any worst case scenarios of the Savings and Loans' debacle. Earlier in the year the FDIC reported to Congress that they were for all practical purposes insolvent. This admission necessarily augers that the Fed's \$75,000 depositor account insurance will be again paid by the nation's taxpayers—us. While no candidate has addressed this specific issue, it is one that hangs ominously over all our heads.

Getting back to the campaign race, needles to say, the race up to this point has proven to be highly entertaining, if not unconventional. Ross Perot's "October Surprise" re-entry to the race has added another dimension to the myriad twists and turns that have made up Campaign '92 so far. At a minimum Perot's entry shakes up Clinton's momentum. His greatest effect would be to throw the election into the House of Representatives. The following is a recap of the respective campaigns so far, including the good, bad and the ugly.

In the intervening period between Perot I and Perot II, Arkansas Governor Bill Clinton, the Democratic Party standard bearer, has undergone a well deserved make over. The American electorate has given him a second look, a rarity in the world of politics. The Clinton road to the presidency was anything but smooth sailing. After the national press tabbed him to be the front runner, before the New Hampshire primary, it seemed that Clinton's aspiration for the presidency, was doomed from the start. Successive tabloid stories, which the mass media irresponsibly chose to legitimize, concerning marital infidelity and draft dodging, beset his

campaign. It appeared that the press was against him. Some within the Clinton camp claimed media bias, others claimed that the president was getting a free ride on the infidelity issue. Funny how things change isn't it? Today it is the Republicans who are charging the media with a bias in reporting that they view as slanted favorably toward the Arkansas governor.

Clinton was buoyed by a highly successful convention, in which New York Governor Mario Cuomo, to the surprise of many, made both the case against Goerge Bush and for Bill Clinton. The importance of Clinton's own acceptance speech was magnified by the departure of Ross Perot from the race earlier in the day. Clinton speech outlined his vision of government that was not beholden to either party philosophy—less government and more government. Clinton called for a new philosophy of effective government, which would take the best of each philosophy, he called it "the new covenant." The three pillars of the Clinton plan are: 1) planned governmental investment in human capital seeking to create high wage work for a highly skilled work force. Anyone seeking a better life and future realizes that education is paramount; 2) universal health care, "nuff said"; and 3) public investment in research and infrastructure. Clinton has taken his message on what appears to be a nationwide bus tour. I say that he does appear to be a life size imitation of the "energizer bunny": he just keeps on going.

President George Bush's ride through campaign '92 has also been fraught with problems. Since most elections are referendums on the records of the incumbent, Bush's problems with the polls are understandable. His economic record is dismal on most accounts. Indeed, at the Republican convention, nary a word was uttered concerning either the current unemployment problem or the state of the economy. We were presented with nothing more than a glamorized diversion and smoke screen, headed under the rubric of "family values." The two speakers who were most striking were Pat Buchanan and Marilyn Quayle. These two speakers were blunt in their castigation of people who were not like them: Buchanan calling for a cultural and religious war against gays and liberals; Marilyn



Quayle chastising working women, like Hillary Clinton, who chose not to give up their jobs and become traditional mothers. Their tone was confrontational and divisive—one gets the feeling that they believe that they are somehow superior to people who are not like them.

Bush's campaign after the Republican convention continued the "family values" crusade against the Clintons: Bill and Hillary. Bush's attempt to provide the country with a national economic plan turned out to be nothing new: he simply asked for the old capital gains tax cut, which benefits the rich mostly, and a tax check-off gimmick.

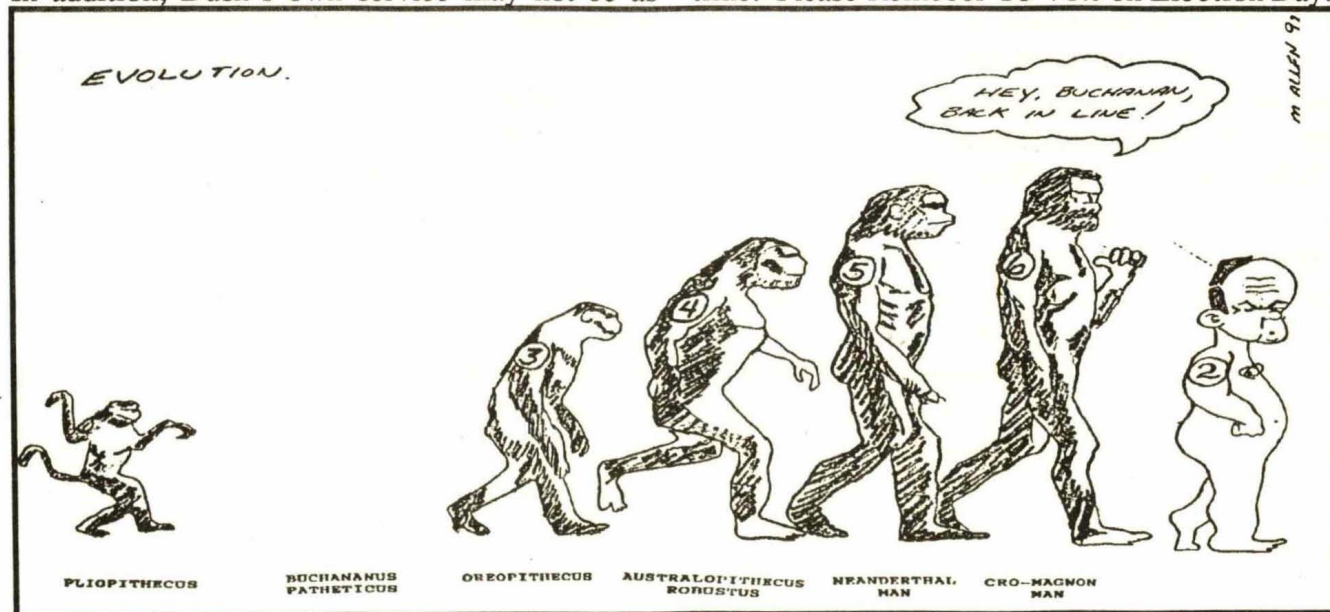
On the campaign trail, as President Bush's economic plan failed to gather support for his candidacy, he resorted to attacking his opponent, Bill Clinton. Bush went negative on "family values," the draft and most recently, and pathetically, going for the low road of suggesting that Clinton was somehow a communist, or at a minimum unpatriotic. While Clinton did oppose the Vietnam War, and Bush is quick to parade his military service in World War II, one must realize the differences in the attendant circumstances. After the Japanese bombed Pearl Harbor on December 7, 1941, lines formed around military enlistment centers throughout the night; Vietnam, on the other hand was a highly unpopular war, which was starkly brought into the American living room through the television. The country has still yet to resolve its internal conflict over the Vietnam War. In addition, Bush's own service may not be as

impeccable as he believes. (See *The New Republic*, *Bush's War Record*, by Sidney Blumenthal, October 12, 1992).

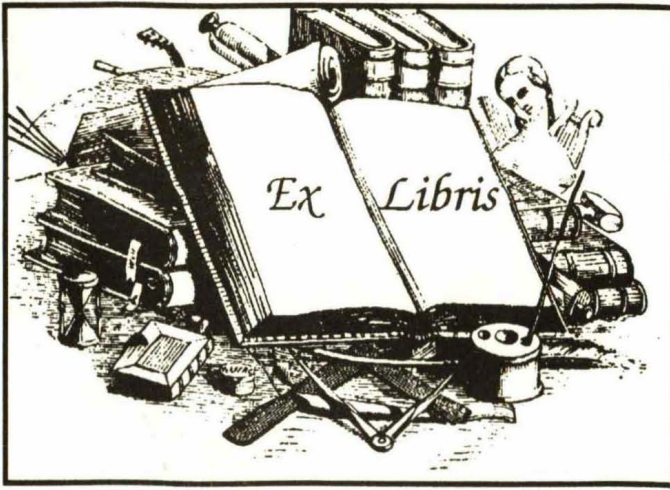
On Ross Perot: it appears that the Texas billionaire is serious about staying in the race this time around. Perot is the flawed messenger of the anger and discontentment of the public. While many people consider a Perot candidacy at this late stage of the campaign as a joke, one can still respect the message. Perot's primary message concerning the state of the economy, budget deficit and all, is very important. For the longest time it appeared that neither Bush nor Clinton wanted to or were going to talk at all about the deficit. Perot's presence, along with his best selling paperback book, *United We Stand*, squarely puts this issue on the table, where neither Bush or Clinton can legitimately duck it. Moreover, Perot's true value to the process may be his influence on the debates; he will force both Bush and Clinton to speak to the issues, rather than getting involved in the traditional mudslinging of debates gone-by.

Perot's lasting effect on the campaign and the election may be that he crystallizes the choices and options available to the American public. This is to be encouraged because it makes a mandate for governance possible.

It's late in the campaign, but one can hope that our presidential candidates will provide real answers and real choices upon which an increasingly vote conscious polity can make an informed choice for effective government—there is still enough time. Please Remember To Vote on Election Day!







by Pat Russo

### GRAND INQUESTS

*The Historic Impeachments of Justice Samuel Chase and President Andrew Johnson*

by William H. Rehnquist

Illustrated. 303 pp. New York: William Morrow &

Company.

\$23 (10% discount at Remsen Books currently)

It is not often a regularity for a Supreme Court Justice — let alone the Chief Justice — to write a work of scholarship and insight beyond the Court's opinions; even then the finished product may be lacking. For the second time now, the sixteenth Chief Justice of the United States has produced such a work of interest to both the lawyer and the layman.

As one can see from the title, William H. Rehnquist's *Grand Inquests* relates a detailed account of two episodes in our nation's democratic experiment which tested the constitutional system of checks and balances: the impeachment trials of Justice Samuel Chase in 1805 and President Andrew Johnson in 1868. The former is grounded in an interparty conflict while the latter is grounded in an intraparty tension.

When Thomas Jefferson took office as the third President of the U.S., his administration repealed the Judiciary Act of 1801, which had allowed President Adams to appoint more than 200 "midnight judges" just before he left office. One such

appointment was William Marbury who was made famous in the cornerstone case of *Marbury v. Madison*. While the outcome of *Marbury* should have pleased Jefferson and the Democratic-Republicans, they were disturbed by the idea that the Supreme Court, which the Federalists still controlled, could declare unconstitutional a law passed by Congress. The Democratic-Republicans tried impeachment as a way of checking the federal courts. First they impeached John Pickering, a New Hampshire judge who was described as "hopelessly insane." He was successfully impeached by a vote along party lines, despite the fact that the Constitution required conviction based on "high crimes and misdemeanors." After the Senate had removed Pickering from office, the House brought impeachment charges for malfeasance against Justice Samuel Chase of the Supreme Court in 1804. The House claimed that Chase had shown bias in conducting trials against several Republicans prosecuted under the sedition law. The Senate acquitted Chase, much to Jefferson's consternation, helping to establish the precedent that political changes do not affect the tenure of judges.

Andrew Johnson, 17th President of the United States, was impeached in 1868 for violating the Tenure of Office Act, corrupt use of the veto power, interference at elections, and other high crimes and misdemeanors. Under the Tenure of Office Act passed in 1867 over Johnson's veto, presidential removal of executive officers required senatorial approval. President Johnson's removal of Secretary of War Edwin Stanton tested the Act but led to impeachment rather than litigation. His case came to trial on March 13 and ended on May 26. The vote was one vote short of the two-thirds required for conviction. In addition to the Stanton episode, the background of this impeachment was fueled by the deep and bitter difference of opinion over the treatment of the defeated Confederate states. Johnson's belief that a much milder policy should be utilized was at odds with a large portion of Congress.

Throughout *Grand Inquests*, the reader will appreciate the obvious dedication to detail without compromising its appeal to the non-lawyer. The

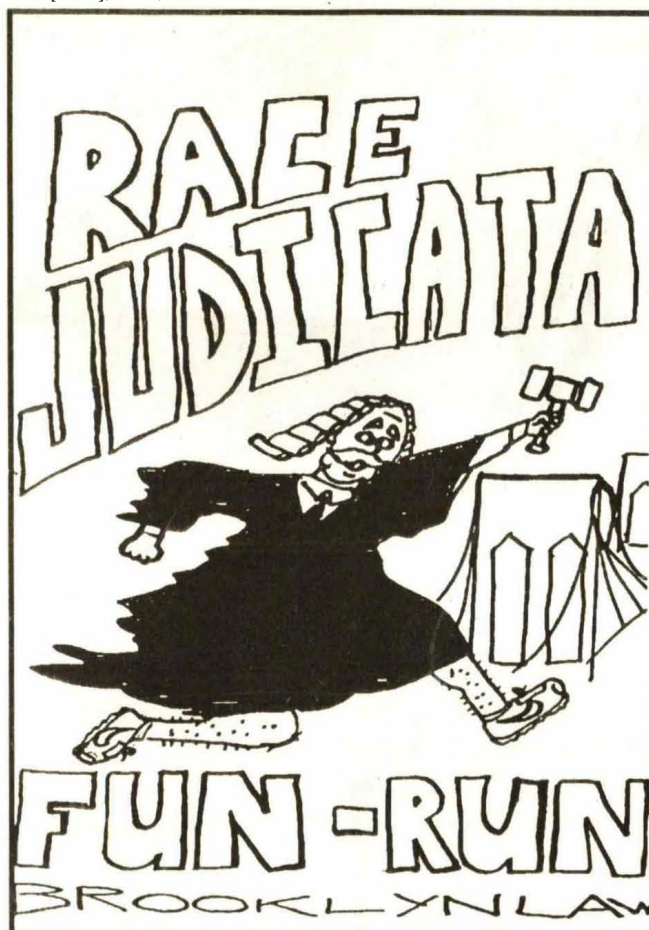


text is nicely complemented by photos of the "players" and accurate reproductions of newspaper stories, in addition to the many footnotes (a not-so-subtle means of revealing the author's day job). Those waiting for a holding rooted in the Constitution will be disappointed in the analysis typical of the detached historian (perhaps this must be so since the Court hears a case this term, *Nixon v. U.S.*, regarding the impeachment proceedings utilized by the Senate). Nonetheless, both the lawyer and non-lawyer can appreciate Rehnquist's quite germane concluding point that these two "cases" — surely firmly rooted in constitutional law and as important in our nation's legal history as any others — are to be decided in the Senate according to the framers' textual provisions and not the expected forum: the courts.

\*\*\*\*\*

#### IN MEMORIAM

At the time of this writing, I learned of Allan Bloom's death. Professor Bloom was a political philosopher who taught at Yale and Cornell between his teaching stints at his alma mater, the University of Chicago. I had already used his translation of Plato's *Republic* prior to purchasing his best-selling *The Closing of the American Mind*. It is my belief that this latter work not only provided the necessary marketability for later critics of higher education like Dinesh D'Souza to publish their works, but stimulated their critical review of the state of education today. Putting aside any disagreements on conclusions, Dr. Bloom added to the educational landscape of this nation during his life by stimulating a discourse and debate over the methods and merits of today's educational system. His overt disdain for administrators as a whole could only be tolerable when juxtaposed with his love and concern for the student and his future contributions to civilized society. This gadfly of the university system did his self-appointed duty. If a book's value is to be judged by the amount of time one spends thinking about its arguments and conclusion, buying an Allan Bloom work is clearly a bargain. He shall be missed.



The Student Bar Association extends an invitation to anyone in the BLS community who wishes to run in this year's Race Judicata. This "fun run" will take place on Sunday, October 18th, at 10:00 am.

The race will start at Borough Hall in Brooklyn, where runners must check in between 8:30 and 9:30 am. The Race Judicata is a 3.6 mile run. Runners will set out from Borough Hall towards the Brooklyn Bridge. After traversing the span of the bridge from one side to the other and then back again, contestants will then run back to the finish line located at Borough Hall. The purpose of the race is to foster a sense of community among the different groups that make up Brooklyn Law School.

Roads will be blocked off to allow entry onto the bridge, and the pedestrian walkway over the bridge will be open to Race Judicata participants only. Split times will be given at each mile mark. Heavenly Bagel, of Court Street, will be donating bagels, etc., after the race, and Thrifty Beverages (also of Court Street) will be donating beverages for race participants. All runners will receive a T-shirt acknowledging their participation in the race.

Entry fees are: \$7.00 for pre-registration and \$10.00 on the day of the event ( \$5.00 for children under 18). To help us in planning, please respond as quickly as possible. We look forward to seeing you at the run!!



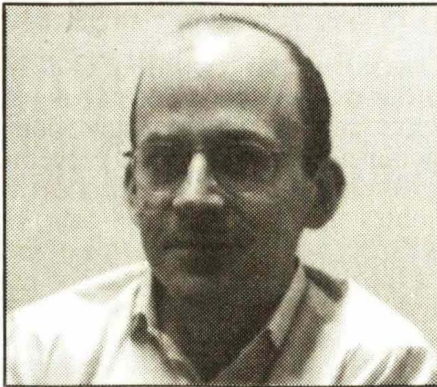
# NEW FACES AT BLS

by Mayen Lagdameo

Brooklyn Law School's continually expanding faculty reflects the school's goal of creating an excellent institution with a broad program. This year, we would like to extend a warm welcome to the five new members of the BLS faculty.

## Full-time

Professor Colin Crawford graduated from Columbia University and went on to Cambridge University to pursue his interest in history. Half-way through his Ph.D., he decided to come back to the U.S. where he attended Harvard Law School. During this time, he developed his interest in Land Use and Environmental Law. After graduation, he spent a year working for a law firm in Japan. He then came back to



New York City and worked in environmental litigation for a couple of years. He is presently the Secretary of the Bar Committee on International Environmental Law, and when not busy teaching Legal Writing, he has his hands full with Not-for-Profit environmental projects. Professor Crawford hopes to teach an International Environmental Law class here at some time in the future.

Professor Jennifer Rosato graduated from Cornell University with a major in social work. She then attended the University of Pennsylvania Law School, knowing all along that she eventually wanted to teach. After graduation, she clerked for a judge in the Federal District Court in Pennsylvania before beginning her practice in the field of commercial litigation. Later she taught at Villanova University Law School before becoming BLS's newest Civil Procedure professor. Professor Rosato is also currently working on issues regarding children and the law. Her main interest and current project is on medical care for children.

Professor Anthony Sebok graduated from Cornell University with a major in philosophy. He

was granted a scholarship at Oxford where he pursued his interest in political theory. He then came back to the U.S. to complete his Ph.D at Princeton University which had a program in Public Law and Legal Philosophy. Professor Sebok began his dissertation and taught a bit but the idea of being a professional political scientist was not enough. Thus, he decided to attend Yale Law School and responded to the lure of academia once again. After clerking with Judge Ed Kahn in the

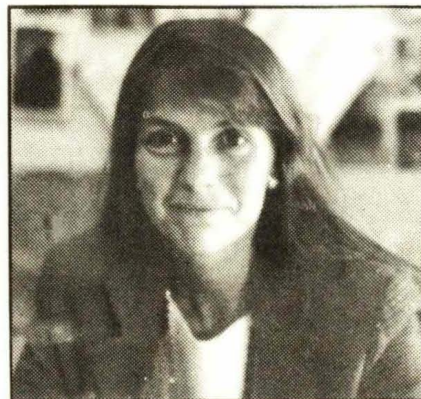


Eastern District of Pennsylvania (as did Professor Rosato), he was associated with three different firms. He subsequently spent time with the NAACP Legal Defense and is now at

BLS. Professor Sebok is currently teaching Jurisprudence and will be teaching Torts in the Spring. His interest in public policy is evident in his work on employment discrimination issues. Professor Sebok extends an invitation to anyone interested in any form of legal theory to speak with him.

## Visiting

Professor Robin Greenwald is one of our three visiting professors this year. She is on sabbatical from the U.S. Attorney's Office and is currently teaching Environmental Law and Evidence. She graduated from the University of Illinois with a double major in English and Philosophy. She then attended the University of Illinois Law School. Her Environmental Litigation Seminar in the Spring semester



should prove to be a good indicator of her interests in the differest aspects of Environmental Prosecution.



## JUDAISM AND THE HIGH HOLY DAYS

by Michael Cohen

The High Holy Days in Judaism signify a period for introspection and repentance. In Hebrew, the word for repentance is Teshuva, or literally, "return." But to *where* should we return, and where is it that we have gone, from which we must return? These questions were the focus of Professor Aaron Twerski's talk that he gave at the Jewish Heritage Society's Welcome Back Deli Night on September 21. Following are highlights from that talk.

Repentance invariably denotes three basic themes: sensitivity, responsibility and acceptance of ourselves. Naturally, a process of introspection and repentance involves focusing on the actions that you have done. But it also requires focusing on what was done to *you* by way of your actions. For when we transgress repeatedly, we become each time less sensitized to our actions: the first time our conscience bothers us, the next time we feel only a flicker of guilt, until ultimately we feel no qualms about our conduct. The process of Teshuva, or repentance, then is the return to our former state of sensitivity and awareness of what is good and bad. During the High Holy Days, we request of G-d to enable us to feel again that which we can feel no longer through our actions.

Another central theme in the process of repentance and return involves verbal confession and responsibility; in fact, it is the core of the Yom Kippur service. This confession, however, should not be viewed as mere litany. For in verbally confessing one's sins, one admits responsibility for his or her own actions, recognizing that man is endowed with the free will to choose between good and evil. Verbal confession also implicates the recognition of the very concept of sin as a consequence of a G-d given system of right and wrong.

Finally, repentance involves the ability to accept ourselves and the will of G-d. It is G-d's will that through the process of repentance we be forgiven for our wrongdoing. Yet, as easy as it is for G-d to forgive, we often have a more difficult time coming to terms and learning to forgive ourselves. Rather than accept ourselves for who we are and go on, we carry our past with us, often preventing ourselves from adopting a positive and ambitious attitude for the future. The Teshuva process facilitates the introspection and confrontation with ourselves that enables us to look at the past, recognize our shortcomings and get ahead with our lives. This process is timely with another theme of the Jewish New Year: the anniversary of creation. For upon completion of the repentance process, one has taken stock and accepted the past; yet, at the same time, has also adopted a new, firm resolve to improve and succeed in the future.



Heavenly Bagel

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TO CHANGE  
WITHOUT NOTICE.



# An Entertainment Guide

-by David Frey

## Movies

### *Sneakers*

What would happen if five techno-geek/rebels/movie stars and a beautiful lady of mystery found a scientific device that people would kill for? Why, high-jinks, and lots of them, of course!

In *Sneakers*, Robert Redford stars as the head of a high-tech security alarm company who has something to hide about his past. His merry bunch of socio-pathetic cohorts is comprised of Sidney Poitier, Dan Aykroyd, River Phoenix and the guy who starred in *Electric Dreams*. One day Elliot from *thirtysomething* and a member of the cast of *Dune* (not Kyle MacLachlan or Patric Stewart - the guy who explodes) threaten to expose Robert Redford's past misdoings if he doesn't accept an illegal assignment that the government can't be involved in. Forgetting about the statute of limitations and George Bush's involvement in Iran-Contra, Redford accepts this assignment and, together with his band of misfits, finds the above-mentioned scientific device. People try to kill him, he loses the device, he saves the device, and the government stores it in a crate in a warehouse. No, I'm sorry, that was *Raiders of the Lost Ark*. In this movie, Redford plays Scrabble, people try to kill him, he loses the device, he saves the device and I won't give away the ending.

Actually, this was a good movie if you are capable of suspending your disbelief. This is not a movie to see if you don't like Star Trek movies because you can't figure out how a warp engine works or where the crew of the Enterprise goes to the bathroom. There is a lot of action, a lot of technology, and it's a pretty funny movie.

Starring Robert Redford, Sidney Poitier, Dan Aykroyd, River Phoenix and Mary McDonnell, this movie should win the Academy Awards for Most Amusing/Annoying Titles of the Year and Best Come Back for Someone Involved with Havana.

I'd give this movie an overall B (an 86 for you third-year students).

### *Last of the Mohicans*

This movie, starring Daniel Day-Lewis (or is it Daniel-Day Lewis?) is about a sensitive man, brought up somewhere in the United Kingdom, whose only real way of communicating is with his left foot. No, I'm sorry, that's *My Left Foot*. In this movie, Daniel-Day-Lewis is a sensitive man, brought up somewhere in the United States, whose only real way of communicating is with his Native American/frontiersman philosophy.

If you read the book by James Fenimore Cooper you'll be surprised to find out that Natty Bumpo is now Nathaniel and that this film was not produced in upstate New York, but somewhere out West (I've seen Albany, Senator, and that was no Albany). The movie was directed by Michael Mann, of Miami Vice. And although I'm not sure how Cooper would've reacted to some of the music in this movie (is that "Rico" and "Tubbs" coming around the bend?!), Mr. Mann does a nice job with this movie. While *Mohicans* retains a leather stocking tale feel to it, it also has enough suspense and unrequited love to hold the attention of a Staten Island movie crowd. The violence and gore wasn't enough to upset my wife (on the Traci scale™ it only rates 1: turn-your-head-away-from-the-screen), but was enough to impress upon you what war was like in the early 1700s. In fact one of the most impressive parts of this movie is the attention to detail in the war scenes. I went to this movie to see someone get a scalping (hence the 1 Traci™) but walked away with an appreciation for what the Native Americans went through when the British and French decided to conquer what they hadn't already bought or adversely possessed. Makes you think twice about "eminent domain."

I'd give this movie an overall B+, and an A for making you think.



## Movie Notes:

- \* I've heard mixed reviews about Woody Allen's *Husbands & Wives* (a.k.a. "How I Spent My Summer Vacation," by Soon-Yi). They ranged from "classic Woody Allen" (whatever that means) to "the camera shook so much that I got nauseous." Sounds like a videotape to rent with *Spinal Tap* (just in case).
- \* Prof. Richard Allen highly recommended *Glengarry Glen Ross* during his last Family Law class, with the caveat that there should be an I.Q. test in order to be admitted.

## Concerts

### New York Philharmonic

The New York Philharmonic is celebrating its 150 year anniversary this year. On Monday, October 5, 1992 they commenced their new "Rush Hour Series" of concerts. This new series starts at 6:45 P.M. (instead of the usual 7:30 or 8:00 P.M.) and lasts only an hour. If you've never been to a concert at Avery Fisher Hall, any concert in the series is perfect for beginners. The pieces, which were chosen with the novice in mind, are explained by the Philharmonic's conductor, Kurt Masur, before they are played.

At this concert, the first of three in the series, the orchestra played the "Hary Janos" Suite by Kodaly, and the Gorchakov version of "Pictures at an Exhibition" by Mussorgsky. "Pictures at an Exhibition" is a famous piece, and even if you think you've never heard it, you probably have in cartoons or in movies. The Kodaly piece, however, is a Hungarian piece that I had never heard. Apparently neither had most of the audience, who burst into applause after the fifth movement. Although this seems an unremarkable occurrence, consider that the piece has six movements (can you say faux pas?). In baseball terms, that's equivalent to taking the seventh inning stretch and singing "Take Me Out to the Ball Game" as loud as you can during the fifth inning. Also consider that they were recording the concert live. If the people at Teldec Records weren't going to have enough trouble editing the guy two rows behind me who was apparently trying to cough up a lung, this should make them really happy.

After the concert there was a reception for the audience by the members of the Philharmonic. It was here that we met and were interviewed by someone from the Wall Street Journal. See if the "cough up a lung" comment makes it to print in that rag.

This concert gets an A+.

## Video

At or soon coming to a video store near you:

- \* *My Cousin Vinny* - "You mean I ask them for documents, and they have to give them to me?" "It's called discovery, d\*ckhead." Comedy rating: A.

\* *Young Mr. Lincoln* - A classic oldie, starring Henry Fonda. A must-see for law students. Overall rating: A+.

\* *Shakes the Clown* - (a/k/a "The Last Temptation of Bobo") Starring "Bobcat" Goldthwait. Didn't see it, and for some reason it's always rented out. But any movie boycotted (by clowns!) can't be all bad.

\* *Beethoven* - Didn't see it yet, but Entertainment Weekly's review says its "a shaggy-dog tale starring Charles Grodin."

\* *The Hand That Rocks the Cradle* - Why babysitters and greenhouses have a bad reputation today. Overall rating: B.

\* *Hook* - If Peter Pan grew up to be Robin Williams... I liked it, but there are many who didn't. My rating: B+.

\* *Wayne's World* - The greatest movie I've ever seen. An A++...NOT!! Overall rating: C, but you'll be quoting from it for years.



# *The Club Scene*





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## ANIMAL RIGHTS COLUMN

by Hayley Greenberg

"A universe is indeed to be pitied whose dominating inhabitants are so unconscious and so ethically embryonic that they make life a commodity, mercy a disease, and systematic massacre a pastime and a profession."

Prof. J. Howard Moore

\* \* \* \* \*

Welcome new first year students and welcome back to you upperclass students. We are the group on campus that represents those who cannot speak for themselves, the most oppressed group in our society: the animals. In the U.S. and all over the world, animals are raised for food, slaughtered for fur, tortured by vivisection and systematically massacred (within the bounds of the law) for the benefit of certain individuals. If you would like to get involved with our group, drop us a note in the SBA office (back of the cafeteria) in our box marked Animal Rights Group, or call us at (718) 225-4103.

## INTERNATIONAL NEWS OF ANIMAL ABUSE

A round of applause is in order for China, where it is a capital offense to murder a Panda bear. Now for the bad news.

Japan is undercutting the international moratorium on commercial whale hunts by claiming that this year's catch of 300 minke whales were for scientific research. Since 1986, Japan has killed 4,726 minke whales. Call the Japanese Embassy at (212) 371-8222 and tell them what you think. Be sure to mention that you will avoid Japanese products. Also mention that you will be contacting your Congressperson and insist that the U.S. Government should enforce sanctions against the Japanese for murdering whales. Don't forget to actually carry out your threats.

Do you like the beach? In 1988, 62% of trash found on America's beaches was plastic. Plastics kill wildlife (by entanglement and ingestion), pollute waters, and are a disgusting eyesore. Just the other day at my local bird feed spot, I spotted a Canadian goose with a plastic six-pack

holder around its neck. I am still trying, with the help of a local "bird rescue person," to help it. Many birds and sea mammals are strangled when these plastics float out to sea. Do not buy products with plastic rings, and, in general, buy products with as little packaging as possible. Also, if you do buy plastics, **DISPOSE OF THEM BY CUTTING EACH INDIVIDUAL LOOP!!!** Throwing plastics in the garbage uncut is not good enough, as they often wind up in the water when they are blown or dumped off the garbage barges.

"Dolphins go to war." How does that sound? It's not enough that we senselessly kill each other. Now the innocent dolphins are being dragged into madness. According to Lieutenant Commander Douglas Burnett:

"If the U.S. Navy or the C.I.A. can train dolphins to be weapons so can the Soviet Navy or KGB. In a hostile confrontation, both sides will have to consider dolphins as potential enemy biosensors or weapons. In some situations there may be no choice except to destroy dolphins or any marine animal presenting a similar threat .... It may be a sound tactical decision to protect shipping in a harbor by poisoning the surrounding waters to remove the threat of dolphin attacks, which would coincidentally remove a sizable portion of the area's ecology...."

Write to your Congresspeople about the practice of using dolphins and tell them what you think.

Under the Convention on International Trade in Endangered Species ("CITES"), captured wild animals and captive-born animals are treated differently. Captive-born animals belong to Appendix 2 (export permit only required), while captured wild animals belong to Appendix 1 (import and export permits required). Animal dealers use this loophole to their advantage. They simply forge documents, often claiming that they represent zoos, and in some cases by actually working



with zoos who receive a cut of the action. This tactic was quite popular with Polish zoos until recently when they were caught by an animal rights group. However, the practice still continues and is thriving in other countries, including the U.S. where chimpanzees are currently only listed as endangered (Appendix 1) if they're caught in the wild. Obviously, if one can somehow prove their animal was captive born, they avoid an Appendix 1 listing and hence do not need an import permit to transport animals into the U.S. as well as other CITES countries. Write to your Congresspeople and tell them what you think.

## **BLACK LAW STUDENTS ASSOCIATION**

by Keith Blair

The Black Law Students Association of Brooklyn Law School is one of many chapters of the National Black Law Students Association. Almost every ABA approved law school in the country has a chapter of BLSA, as it is more commonly known. The primary goal of BLSA is to provide a support system to African-American students, as well as other students of color who are attending law school. Additionally, events are held which celebrate the African-American culture.

One of the support services that BLSA provides for members is a buddy system for incoming students. Upperclass BLSA members contact incoming students and welcome them to Brooklyn Law and try to alleviate some of the fears of being a first year student. Generally, the most important thing that upperclass members provide is moral support to deal with the complexities of first year life in law school. Other events that BLSA sponsors are a resume workshop, and moot-court preparation for first year students.

A very popular cultural event that all members of the law school community are encouraged to attend is the annual Kwanzaa celebration. Kwanzaa is an African-American celebration that increases awareness of the African heritage, and encourages qualities such as unity, self-determina-

tion, and cooperation in the African-American community.

Last spring, BLSA, in cooperation with the Hispanic Law Students Association and the Asian-American Law Students Association, sponsored the first Race & the Law symposium at Brooklyn Law school. The topic of the symposium was Affirmative Action, and featured Linda Howard of the New York City Corporation Counsel, Prof. John Calmore of Law at Loyola University, and Prof. Derrick Bell, who was a visiting Professor of Law at Harvard University. This event was widely attended and enjoyed by the entire law school community. This year's symposium is being planned for the spring semester.

The Brooklyn Law chapter of BLSA is under the capable leadership of Robin Bramwell. Any questions about programs or membership can be directed to Ms. Bramwell.

## **JEWISH HERITAGE SOCIETY**

by Michael Cohen

The Jewish Heritage Society ("JHS") got the new year off to a big start with its annual Welcome Back Deli Nite. Attended by well over seventy students and faculty members, the gathering was privileged to hear Professor Aaron Twerski deliver a touching speech on the meaning of the Jewish High Holidays. After the new president of the club, Michael Cohen, discussed JHS's upcoming events, the assembly dug into a smorgasbord of deli, salads and doughnuts.

The JHS board is presently getting ready for Campaign Nite '92, to be held at school on October 21, 1992, at 4:30 pm. The program will begin with a debate between representatives of both the Bush and Clinton campaigns, and will be followed by a Question and Answer session. The board of JHS has invited the student organizations of BLS to choose their own representatives to pose one question during the course of the Q & A session, which promises to be a media-covered event. Details about the location of this event will be forthcoming.



## LEGAL ASSOCIATION FOR WOMEN

by Rhonda Panken

Legal Association for Women ("LAW") is an organization committed to exploring issues affecting women in law school and the legal community.

This year's upcoming elections will have a tremendous impact on women's lives. Record numbers of women are running for office across the country. As a result, LAW will be happy to provide information concerning these political candidates. Find out where local candidates stand on women's issues before you cast that ballot in November! Find out which women candidates you can elect! If you haven't registered to vote, stop by our stand on the 3rd floor lounge and fill out a voter registration form or an absentee ballot by October 2nd. LAW's Electoral Information Night is scheduled for October 19th, from 4:00pm to 6:00pm in the 3rd floor lounge.

LAW is currently planning, in conjunction with other student groups, a panel discussion addressing AIDS as a women's issue. The discussion is being scheduled for the end of the Fall semester. Anyone interested in getting involved in the forum should contact a steering member at the introductory meeting, or at future organizational meetings. You can also drop us a note with your name and phone number in the LAW mailbox (located in the SBA office, in the back of the cafeteria).

Finally, LAW will conduct its traditional rap session/workshop on outlining and preparing for exams towards the end of the semester. First years will get the opportunity to discuss with upperclass students various study strategies as well as how to prepare for final exams. Learn what mistakes not to make, and how to keep exam stress at bay!


LAW encourages all interested students to attend upcoming meetings and events. We look forward to meeting you.



# THE MOOT COURT HONOR SOCIETY - EVENING DIVISION CONGRATULATES:

Maria Fasulo Mcdermott  
and  
Ellen Reiser

For being selected to the 1992 Privacy Law Team. We wish  
them luck in this year's competition.

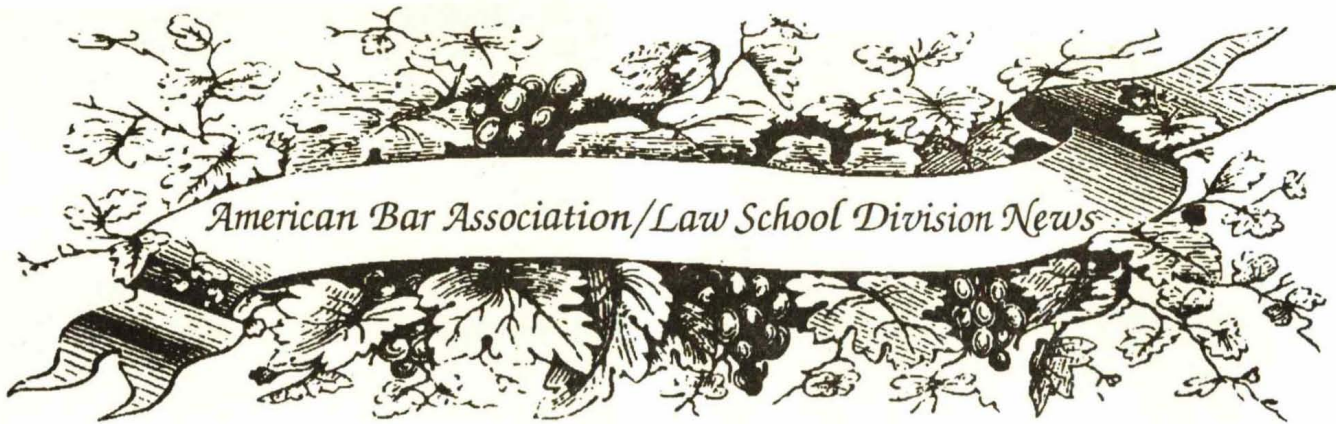


ADDITIONALLY, CONGRATULATIONS ARE IN  
ORDER TO EVENING DIVISION MEMBERS:

Jennifer Baum,  
Nichelle Johnson  
and  
Steve Lane

FOR BEING SELECTED TO THE 1992 TRIAL  
ADVOCACY TEAMS. GOOD LUCK TO ALL!!





by Robin Bramwell

The ABA Law Students Division held its fall roundup in Washington, D.C. on Saturday, October 10, 1992. The roundup was attended by the 1st, 2nd, 3rd, 4th, and 11th Circuits. Over one hundred students from all over the Eastern seaboard participated. The purpose of the roundup was to bring students together to discuss problems and concerns which had been encountered at the many schools in the above-mentioned regions.

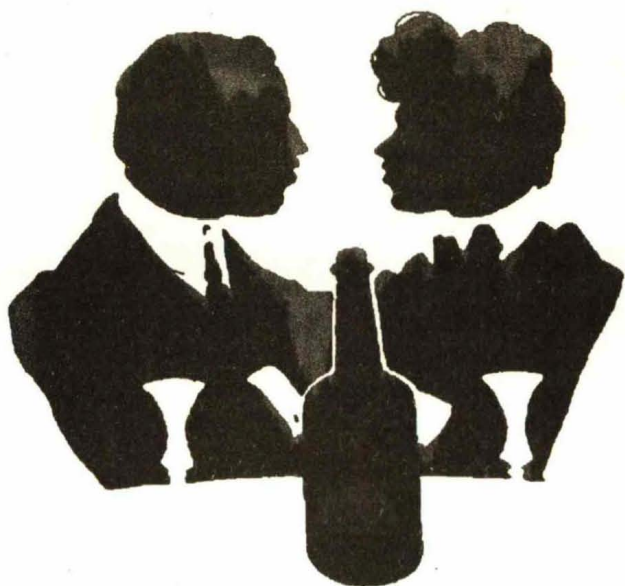
The second circuit approved three resolutions. The first specifically affected students in New York. The circuit passed a resolution regarding the change in dates of the New York bar examination. It urged the State Board of Bar Examiners to reconsider its decision on this matter. As many of you may already know, the date of the bar exam for July has been changed to Thursday, July 29, 1992. This means that students who plan to sit for the New York bar are precluded from taking the New Jersey or Connecticut bars. Many students who may have already accepted offers in these states will be forced to sit New York at some later period of time. The members of the Second Circuit felt that this was unfair to students who planned to sit for more than one bar, and are planning to return to their schools and ask the Dean's to use whatever influence they may have to have this policy changed.

The second resolution concerned academic freedom in relationship to student written and edited scholarly publications such as law reviews and journals. The circuit unanimously approved a resolution that law schools respect the rights of students to manage, publish, and edit these publications. The third resolution urged that law schools respect the discretionary authority of student bar associations to allocate funds, and not to interfere with such activities.

In addition, members of the Second Circuit plan to band together to institute some of the national programs sponsored by the ABA. One program which I hope to bring to Brooklyn Law School in the coming year is the Volunteer Tax Assistance program ("VITA"). This is a nationwide program which trains law students to assist elderly and low income persons in completing their tax returns. Students receive approximately 8-10 hours of training and are then sent into the local community. Sites are usually local senior citizens homes or community centers. Each school is free to plan as many or as few sites as they think they are capable of handling. No prior tax experience is required, and it is a great way for students who wish to get practical experience on their resumes. We will be holding organizational meetings later on in the semester for students who are interested.

We also plan to have more interaction this year between students from other schools in the Second Circuit. Any groups who are hosting speakers who they believe may be of interest to students in other schools, please contact me so that we may provide this information to representatives from these other schools. Also, anyone who wishes to take part in the ABA Second Circuit can leave a note in the SBA office and I will post the date and location of the next meeting.





Gage and Tollner is located down in the Fulton mall just steps away from the Brooklyn Law School, and it is one of the most overrated restaurants I have ever eaten in. In panning this long time favorite of judges, attorneys, and law school deans, I have eaten long and hard. I have gone beyond the call of duty in analyzing their menu, and I can honestly say that the best dishes in the house are mediocre at best. The waitstaff is very attentive and the dining room is in it's original glory, but Cajun chef Edna Lewis leaves a lot to be desired.

The first time I ate at Gage and Tollner was last spring with Deans Trager and Wexler as part of a prize I won at the BLSPI auction — undisputably Brooklyn Law School's best social event. While with the noble Deans I barely noticed my stuffed rainbow trout which was very dry. I was too rapt with attention as the story of the library with no books and the new building unfolded. According to the deans, the new building will be done by the spring of 1994, the library will have books, and BLS will be on the map. Well, I believed the Deans but it didn't make the food any better.

Afterwards, I wondered if I had just missed the Gage and Tollner experience. In returning, I found that nothing had changed. The dining room still had ambiance, the waitstaff was still attentive, and the food still wasn't stimulating. Unfortunately, Gage and Tollner has a wonderful "permanent" menu which the current chef is unable to prepare. As one of the waiters explained to me, when current owner Peter Ashkenasi acquired Gage and Tollner four years ago, the chefs who were

## WINE, WOMEN AND SONG

by Joseph Bondy

familiar with the menu were replaced with Ms. Lewis who does not enjoy the same familiarity with the original course selection. So, although you may order off of the "original" menu, you are better off ordering off of the "contemporary" menu which has also proven disappointing.

The crab soup is a Gage and Tollner tradition, and it is a very tasty, creamy, tropical fruit scented crab soup. However, a miniscule portion costs \$5.00, and the soup often tastes like several distinct, crudely blended ingredients (evaporated milk, some fruit extract, and maybe some crab). The lobster bisque is also very good, although overpriced at \$5.50.

The Oysters Rockefeller is the worst oyster dish I have ever had in my life. After attempting to eat these, please tell me if they tasted like liver snaps to you too. At \$9.00, they too are not worth the damage that your palate may receive. The Crab Newburg is a pretty decent tasting dish, but once again is very crudely mixed. This dish is also a glaring example of the cheap ingredients which Gage and Tollner use. The cheapest grade rice mixed with a fair amount of lump crabmeat and possibly a touch of lobster bisque as a base are served to you on a diner (not dinner) plate for \$17.50. The Tuna Steak, hyped as "selected fresh from the Fulton Fishmarket daily" has been fishy twice in a row to the point of inedibility. For \$15.00, I'll find ambiance (and edibility) somewhere else. I must admit that the pecan breast of chicken with yam fritters and chutney-salsa is great, and at \$13.00, may be the best bet on the menu.

I could go on and on about the menu, but I'm sure that you get the idea. There's no need to get into the Clams Casino, Crabmeat Virginia, or



the supertannic wine list. A few things that owner Peter Ashkenasi would like you to know, however, are that 1) Gage and Tollner has private dining rooms available at a group premium of fifty dollars for parties less than twenty, and that 2) Gage and Tollner offers free parking to its dinner patrons. They also have a price fix lunch for \$18.95, which is as reasonable as multi-course dining at Gage and Tollner gets. For what it's worth, I'd like you to know that Gage and Tollner is expensive and overrated; it is, however, a restaurant of historic significance which you can relax in for hours, and you should probably try it out just to say you've been there.

There are so many restaurants which I'd like to mention, but space is limited to just one more. Antics, at Atlantic Avenue, has proven to be my favorite spot for brunch as well as for an occasional lunch. Unlike Gage and Tollner, Antics is contemporary, with a large outdoor terrace and a reasonably priced menu. Antics serves a pizza of the day, a calzone of the day, a salad, sandwich, and an entree of the day with a formidable cappuccino. The dishes on the menu are all prepared with health conscious ingredients, and the pizzas are all cooked in Antics' wood burning pizza oven. At about half the price or less of Gage and Tollner, Antics provides a nice degree of ambience as well. The waitstaff can be slow, but they are attentive if they recognize you (or maybe its just me). The split level outside garden is the best spot at which to sit, weather permitting.

Specific dishes on the menu which I highly recommend are the chicken breast salad with gorgonzola dressing (which is a great mix of dark greens and grilled chicken with a strong cheese dressing), the smoked turkey breast sandwich, the gazpacho (but it needs pepper), the mesquite grilled chicken breast, and Steven Markhoff's favorite: the burgers.

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(Editor's Corner, cont'd from page 5)

to me is voting. In other words, I can pay taxes but I surely cannot help decide which candidate's economic strategy will prevail. So who am I to castigate the eligible voting public? Just someone who isn't going to be counted this November, no matter how vehemently I feel about one or the other presidential nominee; just someone to whom Articles XIX, XXIV, and XXVI do not apply.

According to the 1990 Harris Alienation Poll, public alienation is near an all-time high. More than six in ten American adults feel a sense of "powerlessness and disenchantment with the people running the nation's major institutions." Forty-four percent felt "left out of things going on around [them]." Nevertheless, nearly sixty MILLION adults (or thirty-three percent of all eligible people) were not even registered to vote. Because the two major political parties usually split the vote, Presidents are routinely selected by fewer than one-quarter of the participating voters. One-quarter. Contrast that number with the sixty percent who feel "powerless" and tell me what's wrong with that picture?

Of course, the nation's statistics probably are not applicable to the BLS community. There is a corresponding increase in voter registration and participation according to education level (*i.e.* high school dropouts are less likely to vote than college and graduate school educated adults). But there is the potential in BLS of rendering one's constitutional right to vote into a mere reading of the amendments in a Con Law class. In other words, we are not immune from criticism and should not rest on our academic laurels.

If you are already registered, don't use the tired and useless excuse that you are too busy or swamped with work to get out of your chair and go to the polling booths this November. If you are not registered, BLS, through the initiative of the Legal Association for Women, has provided a convenient system to get you registered. The process really isn't that complicated; a trip to the registrar and bursar is more horrifying. If you're from out-of-state, send in your absentee ballots (my college use to make election day and the day before a holiday so out-of-state students could go home over the weekend to vote). Also, don't use the excuse that you are too involved in a job search, because your inaction may put an inept candidate in the executive branch whose economic platform was merely an empty promise used solely for campaigning purposes. As the economic situation plummets to an all-time low, and there are so few jobs left, you'll have four more years to hope for an economic turn-around, while your chances for a job become slimmer than ever and your loan repayments become due immediately.

Voting may not change your life instantly, but the long term repercussions are self-evident. While you can't know whether the ramifications of voting in an election are positive or negative, you do have the option. And since choice is one of the key issues in this election year, don't cast away that privilege. Abusing your prerogative to vote insults those of us who don't enjoy this precious right.

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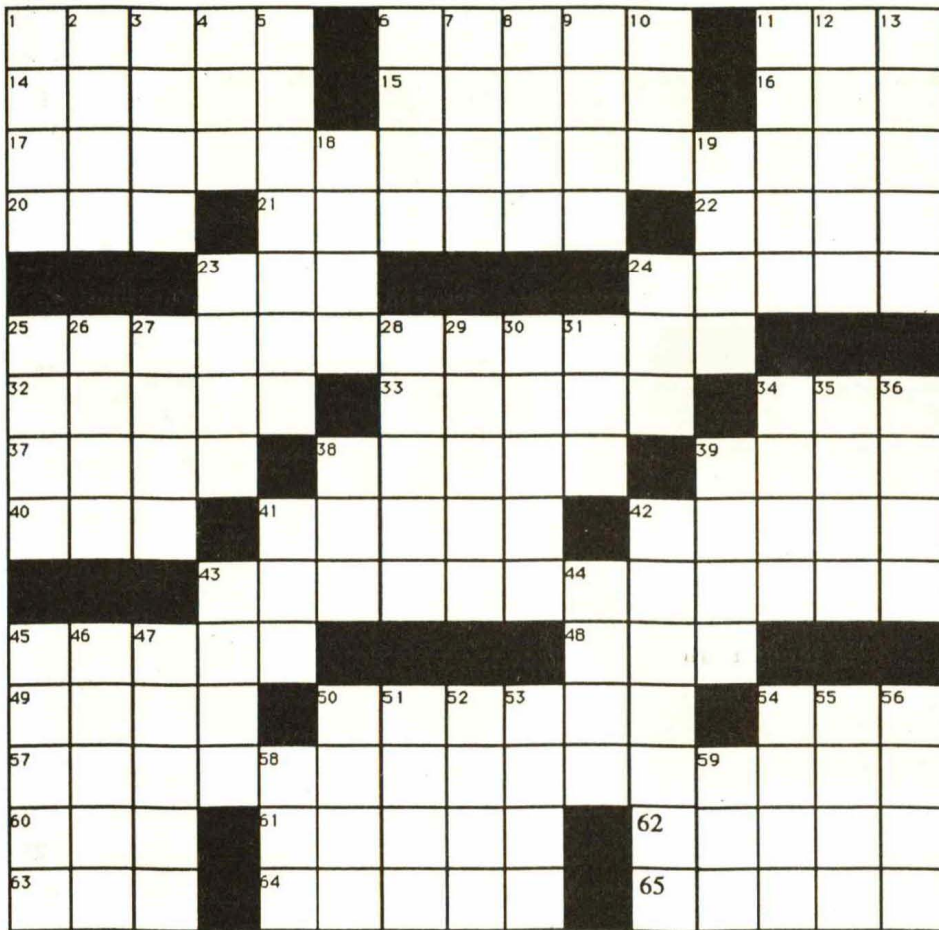
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 34 Work ingredient  
 35 Coloring agent  
 36 Mail  
 38 Mont Blanc, e.g.  
 39 Benefit  
 41 Wall St. command  
 42 A color?  
 43 Dispatched  
 44 Foil's cousin  
 45 Impudent  
 46 Winged  
 47 Senior member  
 50 El \_\_\_\_\_  
 51 Aleutian island  
 52 British gun  
 53 Furnish the feet  
 54 Didn't sink  
 55 River flowing to the Seine  
 56 Addict  
 58 "\_\_\_\_\_ Do You Sleep?," Lennon song  
 59 Jackie's second

**ACROSS**

- 1 Put out  
 6 \_\_\_\_\_ Building, New York musical mecca  
 11 \_\_\_\_\_ King Cole  
 14 Key type  
 15 Street show  
 16 Suffix with project  
 17 1 CRANCH 137  
 20 Ginger \_\_\_\_\_  
 21 With 40 across, Mediterranean tract  
 22 God, to Augustus  
 23 Mil. branch  
 24 Western U.S. capital  
 25 AUTHOR OF THE OPINION  
 32 Borders  
 33 Separated  
 34 Heel adjunct  
 37 Venus de \_\_\_\_\_  
 38 Worship

- 39 Machete  
 40 See 21 across  
 41 Author of "To the Muses"  
 42 Salon pieces  
 43 FORUM  
 45 With sorrow  
 48 Turn out well, with out  
 49 Lotion ingredient  
 50 Young, often  
 54 Dauphin's pittance  
 57 THE PROVINCE AND DUTY OF THE JUDICIARY, ACCORDING TO 25 ACROSS (IN 17 ACROSS), IS "TO \_\_\_\_\_"  
 60 Fr. holy woman  
 61 Bone (comb. form)  
 62 Wipe out

- 63 Hankering  
 64 Coiled  
 65 Race official

**DOWN**

- 1 Peel of "'The Avengers"  
 2 Lab container  
 3 Concerning  
 4 Cygnet's sire  
 5 Bromides  
 6 \_\_\_\_\_ Mawr  
 7 Shankar  
 8 Columnist Bombeck  
 9 "Summertime" director  
 10 Took charge  
 11 Sanseil's parent  
 12 Baseball family  
 13 Verb form  
 18 Columnist Barrett

Answers will appear in the next issue of the Justinian.

This puzzle was artfully composed by Joshua M. Levine.



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