

# The Justinian

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## The Justinian

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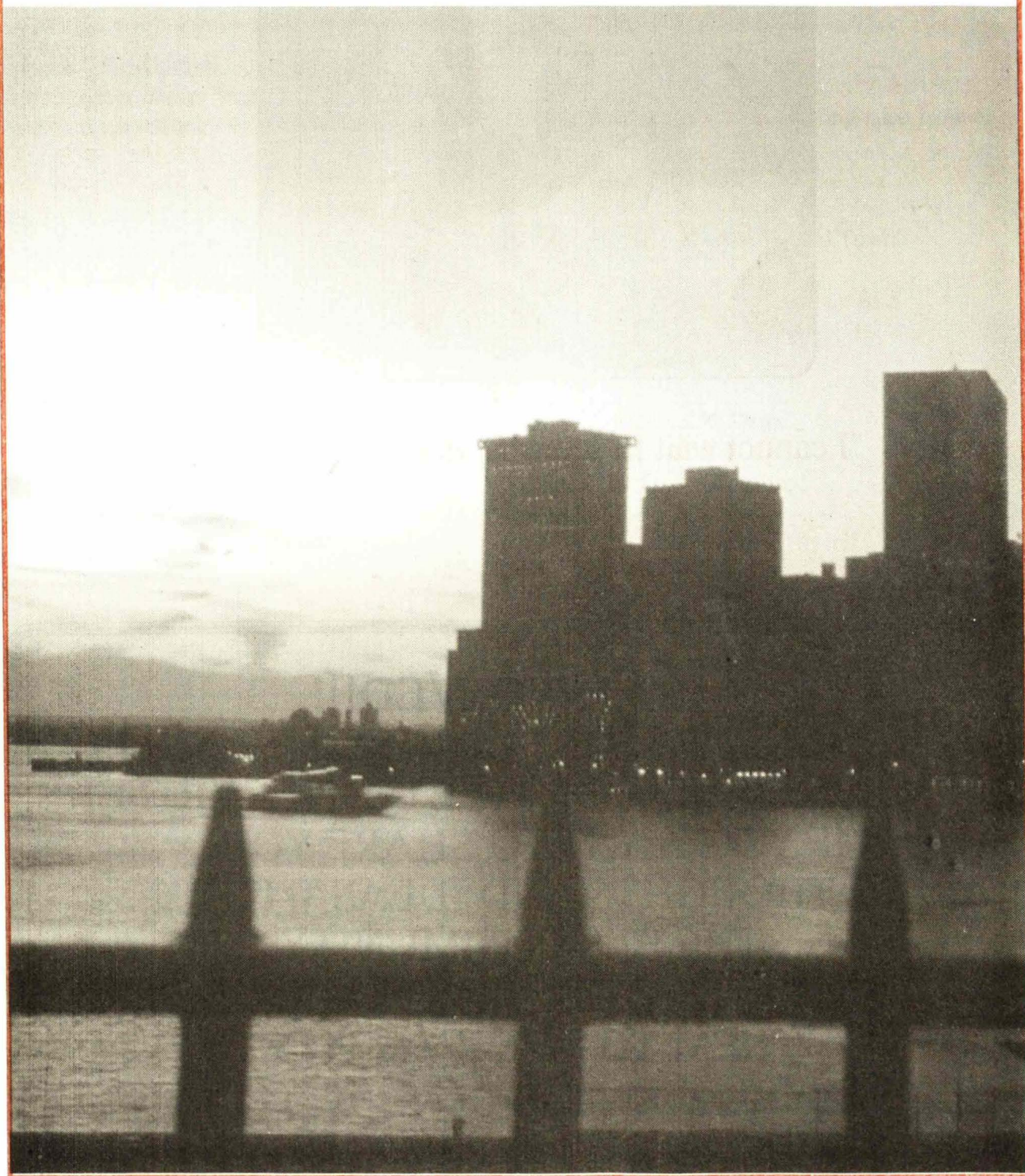
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# *The Justinian*

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

October 1995 • Volume 65 • Number 1







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# The Justinian

A Forum for the Brooklyn Law School Community

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## Editor's Corner

By Muriel Richards

On behalf of *The Justinian*, I would like to take this opportunity to welcome everyone to a productive semester at Brooklyn Law School. Since 1931, the goal of this newspaper has been to provide a forum for members of the BLS community to communicate their thoughts and ideas. The contributions of the students and faculty at BLS have served to create a newspaper that is interesting, informative and, at times, amusing. This editorial staff is committed to continuing that tradition. The *Justinian* welcomes article and photograph contributions on law and non-law related topics. If an author or photographer wishes to remain anonymous to the BLS community at large, we will withhold the name upon request. Submissions may be brought to room 610 or placed in our 5th floor mailbox.

While I recommend reading *The Justinian* from cover to cover, there are a few articles that I would like to mention here. Our feature article, an interview with Professor Maryellen Fullerton, concerns her year long sabbatical spent studying the refugee and asylum laws and policies of Germany, Hungary, Poland and the Czech Republic. Professor Fullerton's insights are extremely enlightening and a definite must for anyone interested in refugee and asylum law. There is also an excellent article, "Counselor Advise Thyself", written by a third year evening student. It is his recollection of his experiences during that first year of law school. The article may evoke bittersweet memories in upperclass students and will hopefully provide encouragement and advice to first year students.

We have also published copies of letters addressed to Dean Wexler at the request of the authors. The content of these letters reflect concerns

that may be of interest to the BLS community at large.

Readers who are familiar with *The Justinian* will notice that we have introduced two new features in this issue. We have instituted a section titled, "What Do You Think...", which features the photographs and responses of a few BLS students and/or faculty members to the question(s) of the month. While I have drafted the questions for this issue, The *Justinian* encourages the submission of questions that you would like to see asked in this format. If the question posed by you is used in The *Justinian*, you will be noted as the contributor of that question, if you wish. The second new feature is Joseph A. Hayden's column, "On Political Correctness".

*The Justinian* welcomes your comments on any aspect of this newspaper, but unless your comments are communicated to the editorial staff, we will not know what you want to see in this newspaper and what is found objectionable (no pun intended). **Let us hear from you!**

Finally, I wish to extend my gratitude to the previous editor-in-chief, John A. Baxter for his advice. A thousand thanks are due to his predecessor, Nell J. Uy, for her willingness to share her editorial knowledge and her invaluable assistance. Appreciation is also extended to Douglas H. Shulman, last year's managing editor, for his aid. Best wishes for an interesting and successful year at BLS.



*Dear First Year Student:*

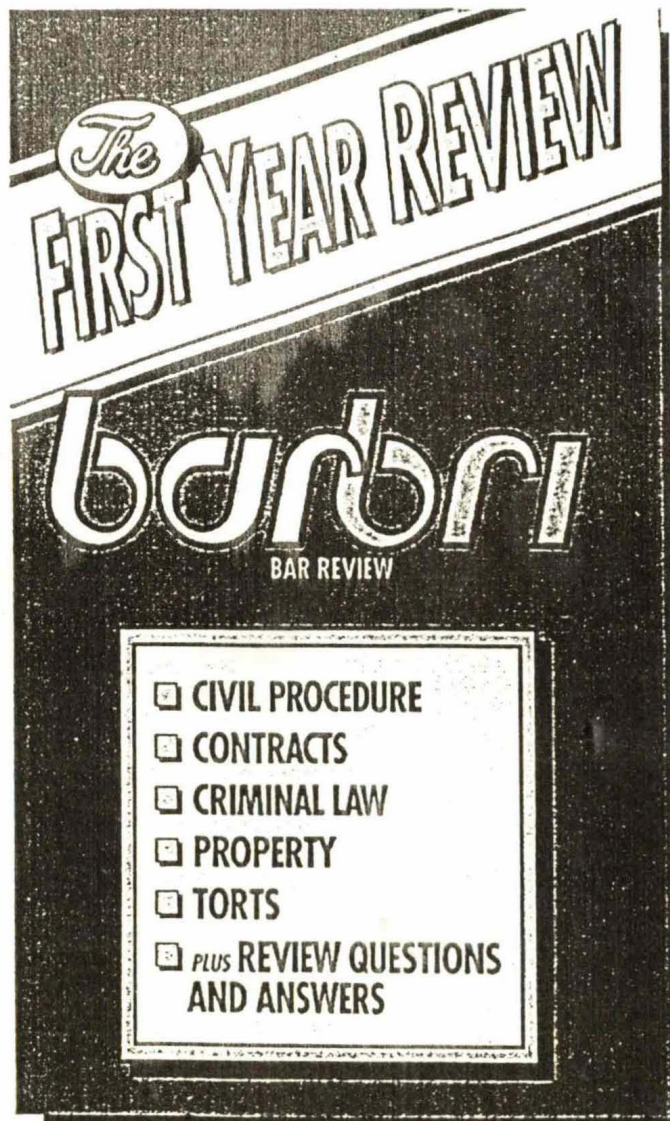
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# Interview with Professor Fullerton

By Muriel Richards

(Professor Maryellen Fullerton has just returned from her year long sabbatical in Europe. Professor Fullerton spent that year as a German Marshall Fund Research Fellow. During that time, she analyzed the immigration, refugee, and asylum laws and policies of Hungary, Poland, the Czech Republic and Slovakia. I interviewed Professor Fullerton regarding her impressions and experiences. Professor Fullerton is teaching "Asylum for Refugees" this term at BLS.

Interviewer:

"How long have you had an interest in refugee law?"

Professor Fullerton: "I became interested in refugee matters in the mid-eighties. My interest in refugees in Europe became more focused in 1986 when I took my first sabbatical. I went to Belgium. I had a Fulbright to study refugee law as it was developing in Belgium and Germany. I spent a year learning about the asylum law there and in Denmark and the Netherlands. I have been interested in this topic ever since."

Interviewer: "Was this your first trip to Hungary?"

Professor Fullerton: "No."

Interviewer: "When was your most recent trip prior to this one? What were the most drastic changes that you encountered?"

Professor Fullerton: "I visited Hungary in 1986

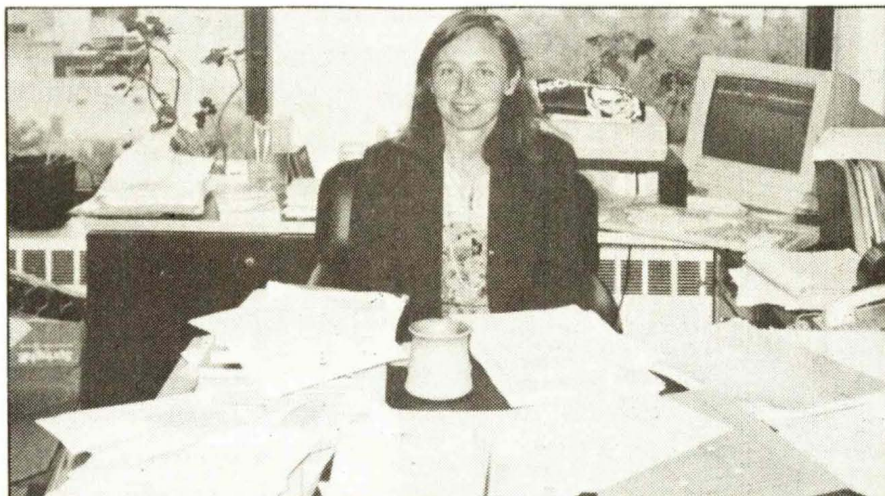
and the changes since then are just phenomenal."

Interviewer: "In what way—in the economy, the social structure...?"

Professor Fullerton: "In every way: in the economy, the physical appearance of the place, in the way people dress and in the way they act."

Interviewer: "Was it formerly more like a Third World Nation and now it is coming up to par with other European countries, similar to Germany and Britain?"

Professor Fullerton: "I was not a Third World country, but it is much more consumer oriented now. In 1986, there were some things in the shops; for a communist country there



were a lot of things in the shops, but nothing that you would want. Now, there are not only things of good quality but there is a wide variety of consumer goods, ranging from paper towels and basic things like that, to the kind of food you can get in the store. Fresh milk in cartons has arrived, finally. Also, electronic devices—radios and tape recorders are available. The stores look like they are in Western Europe."

Interviewer: "Were there any cultural aspects that you enjoyed more than others? For example, music, any kind of theater?"

Professor Fullerton: "I loved the folk music, the opera and the symphonic music. The folk music was really interesting and I saw a fair amount of



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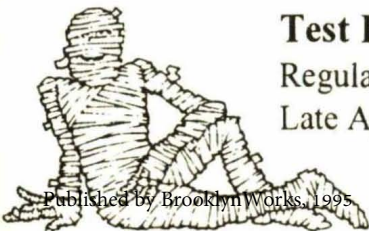
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folk dancing, with people in traditional costumes. I found that very interesting. I was also very taken with how many people still feel connected to folk dancing. For example, we went to a folk art festival at the equivalent of Madison Square Garden Sports Stadium and there were all these young people-teenagers and below-doing folk dancing. They were dressed in blue jeans and shirts, but they all knew how to do the folk dances still. So, it wasn't as if it was some museum piece, but rather still in the culture. They do not necessarily do it everyday, but many feel connected to it.

I also went to a lot of operas. I thought the opera was very good although the productions at the State Opera tended to be better than at the other opera house, the Erkel Theater. And then I went to some symphonic music. Budapest is renowned for its many orchestras and I particularly loved the hall at the Academy of Music.

There are flourishing theaters in Budapest, but music is obviously easier to gain access to than theater because to understand the dialogue, one needs to speak or understand Hungarian. This means that many ex-patriates living in Hungary are cut-off from much of the cultural life because they are not fluent in Hungarian."

Interviewer: "Prior to 1989, aside from a few East Germans that passed through Hungary on their way West, most individuals did not seek refuge in Hungary but since that time about 120,000 have arrived in Hungary. How has that changed the face of Hungary?"

Professor Fullerton: "What do you mean by 'changed the face of Hungary'?"

Interviewer: "To make my question more specific, how many refugees actually stay there and do not use it only as the country of first asylum? Of those who remain, how have they integrated into the job market and the cultural life?"

Professor Fullerton: "I think you have to look at the refugees who have come to Hungary since the late 1980's in two different categories. The first category, which consisted of about 50,000 people, was a wave of refugees who came from Romania to Hungary in the late 1980's."

Interviewer: "And were ethnic Hungarians."

Professor Fullerton: "Most of them were ethnic

Hungarians- maybe ninety-five percent of them were ethnic Hungarians. The statistics are totally inadequate. No one knows how many stayed and how many did not. It appears that most people in that group have stayed and most of those people have integrated into the society pretty well. Obviously they had no problems with the language and often they had relatives (in Hungary). They were culturally congruent even though they had lived in Romania. They in fact lived in Hungarian communities in Romania. I do not mean to say it was easy for them; I do not think it was. But relatively speaking, they have integrated well. You cannot tell them apart from people born in Hungary. Hungarian speakers can tell someone is speaking a more ancient form of Hungarian which is still alive in Romania, but most people cannot tell. Their transition was comparatively smooth.

Since 1991, about 70,000 more refugees have come to Hungary, mostly from the former Yugoslavia and there are two sub-groups within that category. The first huge sub-group consists of between 35,000 to 50,000 Croats from Croatia. Croatia shares a border with Hungary. The Croats integrated far less well (than the ethnic Hungarians from Romania). Their language was different. Economically speaking, former Yugoslavia and Croatia, in particular, were more prosperous than Hungary, so they felt like they were coming to a poor country, whereas the Hungarians from Romania felt that they were coming to a comparatively rich country. That had a big impact. It appears that most of the Croats in Hungary have now gone back to Croatia. Often they have not gone back to their own homes, but to nearby lands or villages or to re-settle with relatives elsewhere.

The Bosnians started coming in 1992, after the war in Bosnia broke out. And they, by and large, have not integrated well at all. Some have been allowed to go West. Hungary will let anybody go, but the West doesn't want many. There are now probably 7000 Bosnians in Hungary. Integration has been a real problem in terms of language, and so on."

Interviewer: "Have the ethnic Hungarians from Romania been treated better by the Hungarian



government than individuals who are not Hungarian by ethnicity?"

Professor Fullerton: "I think so. I think the system works to treat them better."

Interviewer: "Is there any resentment on the part of native born Hungarians in rendering this assistance? For example, when Germany was unified again, the people and government of the former West Germany were very helpful towards the former East Germans. Now, there is a lot of resentment concerning the economic aid, which is greater than the total economic aid given to Europe by the U.S. through the Marshall Plan. Is there any kind of resentment like that in Hungary?"

Professor Fullerton: "I do not think there is. I have seen sociological studies that show that the Hungarian population at large is less sympathetic now than it used to be to claims that ethnic Hungarians from Romania need to come to Hungary. But I think that is a different thing than being hostile. There might be a sense of 'you do not need our help as much as you used to'. Everybody I have talked to, and I have interviewed a lot of Hungarians from Romania, has talked about how welcome they felt and how welcome they continue to feel. By and large, there is not the kind of resentment you mentioned."

Interviewer: "I understand that Hungary will only accept refugees fleeing persecution in Europe. Can you explain the rationale for that? Do you see that changing? Are there any groups working in Hungary to change that, to get more acceptance for refugees in Hungary?"

Professor Fullerton: "When Hungary signed the 1951 Geneva Convention (dealing with refugees), it exercised the option available in that Convention, to recognize as refugees only those people who are fleeing persecution in Europe. In effect, Hungary said there might be refugees in lots of parts of the world, but Hungary was only going to extend the legal definition of refugee to people who flee persecution in Europe. Hungarian officials are currently debating this limitation; they have been promising for several years to lift the geographical reservation and to extend the refugee definition world wide. They say it is going to happen this fall. I personally do not believe it will,

but it might.

I do think it will happen in the next year or two.

Hungary's rationale for adopting the geographic reservation in the first instance is that Hungary feared it would be flooded with refugees. Hungary thought it was viewed as a more prosperous society than a lot of the rest of Central and Eastern Europe. Hungary is not as prosperous as Western Europe; its economy is not in as good shape. It may still, nonetheless, be a magnet for people from poorer countries. Also, geographically speaking, Hungary thinks it is more of a crossroads than Poland or the Czech Republic. Hungary is easier to get to from Africa and Asia through Bulgaria. That is the rationale for the geographical reservation. It is interesting to note that the adjacent country, Slovakia, does not have such a reservation and Slovakia has not been overwhelmed by refugees fleeing persecution outside of Europe. The Czech Republic, with much lower unemployment rates than Hungary, does not have a geographic reservation either, and it has not been overwhelmed. So, experience suggests that the rationale is not founded in reality."

Interviewer: "Are there any groups working in Hungary to gain wider acceptance for refugees?"

Professor Fullerton: "Yes, there are. I think the strongest force in Hungary at the moment working on behalf of refugees-refugees in the broad term, not just the narrow legal term, is the Office of the United Nations High Commissioner for Refugees. It is a very active office. It is very creative in trying to keep the issue of refugee protection on the front burner and trying to improve the lot of refugees. There are also a number of NGOs (non-governmental organizations) in Hungary, some of which are working on this issue. There are church groups that are working on the issue. But, I must say, in Hungary, as in all the other Central European countries that I visited in the former East Bloc, there is no real advocacy culture. So, the idea of being an advocate for change, and certainly the idea of publicly confronting the government about its treatment of refugees, is just not there yet. I think it will come. But it's not there now. But, to go back to your question, yes, there are groups that are interested in refugees. There are a lot of people



who say the refugee policy must be changed and improved."

Interviewer: "Overall, how would you rate Hungary's system for refugees compared to other countries, such as Germany? I know that Germany amended their constitution in 1993, restricting asylum..."

Professor Fullerton: "Germany drastically restricted asylum. Hungary has not. I do not think you can compare a country such as Hungary, whose economy is in transition, with a country with a developed economy. But, comparing Hungary to the Czech Republic, I thought the Hungarians had a long way to go."

Interviewer: "Was that due to attitude or official policies and the law?"

Professor Fullerton: "Both. I do not think the Czech Republic is anywhere near perfect, but in terms of the legal structures they have in place, the system is pretty good.

I think the attitude with which it is administered is a different issue and it is always a hard issue. But, the refugee system in the Czech Republic I was impressed with. I would say the Hungarian refugee policy is probably somewhat more developed than Poland's, but less developed than the Czech's. I am using 'developed' to refer to carefully thought out policies with few gaps in how people who come into the country are treated. I am referring to having a legal process in place that 1) allows people access in order to file claims for refugee status and 2) allows a real ability to contest claims that are denied. In theory, both aspects are available in Hungary, but in practice there are a lot of barriers." Interviewer: "How long does it usually take for the processing authority in Hungary to render a decision concerning refugee status?"

Professor Fullerton: "In my view, it occurs in an unbelievably short time-anywhere from two weeks to two months."

Interviewer: "Until that time, they are kept in a refugee camp?"

Professor Fullerton: "No. Asylum-seekers can be, but they do not have to be. I think your question assumes that people fleeing persecution in their homelands seek refugee status in Hungary. That is not always true. I was astonished when I was in

Hungary to discover that there were two separate categories: refugees and those seeking temporary protection. This is an incredibly important distinction in Hungary. For people who formally seek refugee status, there is this relatively quick procedure. This does not apply to the others. Almost all the people from former Yugoslavia-the Croats and Bosnians-have not formally sought refugee status and have not been granted it. They are allowed to stay in Hungary temporarily; there is no fear that Hungary is going to expel them suddenly. But, there is no law regulating the people who are there temporarily. They receive protection, but without refugee status. They have no rights. So, there is a big vacuum. They cannot get permission to work. It is a serious problem."

Interviewer: "What are their reasons for not seeking refugee status?"

Professor Fullerton: "There are various reasons, but the main reason that is heard is that they think they will go home eventually; that this is a temporary disaster..."

Interviewer: "That they will be going home."

Professor Fullerton: "Yes, that they will be going home. They really look towards going home. After a point-three years in a refugee camp-with no end in sight..."

Interviewer: "One has to face reality."

Professor Fullerton: "And people do not seem all that interested in facing reality. I think it is a vicious cycle. The Hungarian government does not encourage them to want to stay. They want to go home, naturally; and they do not get out of that cycle. The longer they are in a refugee camp or any kind of institution, the more dysfunctional they become at living their own lives and at being in touch with reality. The Hungarian government provides them with food, shelter and primary medical care so their basic needs are taken care of. Although the government acts out of a humanitarian motive, I think this provision of basic services does a disservice to those in the camps because they lose their skills at being self-sufficient."

Interviewer: "What is one of the most striking differences between Hungarian and American law? You can focus on refugee law or law not related to refugees. You can name more than one area."



Professor Fullerton: "For me, the most striking difference is that the law in Hungary, by and large, seems to be much more rigid and inflexible than in the United States. It is very much a civil code system, which is a big contrast from a common law system. I am not sure to what extent this inflexibility is specific to Hungary as opposed to countries based on a code system. The most astonishing difference that I noticed concerned corporations, not refugees. In a nutshell, in Hungary, a corporation is only allowed to act pursuant to the specific purposes enumerated in the articles of incorporation. So, if you are trying to incorporate a company, whether it is a non-profit organization or a profit-making enterprise, it is not good enough to state the general purposes. You have to state explicitly what the organization wants to do. And if you do not mention an activity in the articles of incorporation, Hungarian law does not allow it. Our corporate and our general law tends to be the opposite. Our law prohibits you from doing certain things. So long as you do not violate those basic prohibitions, you are free to do what you want. This is a whole different sense of the role of law. In one society, you need specific authorization before you go can go forward; in the other, you can do whatever you want, so long as you do not go beyond certain legal limits."

Interviewer: "In Hungary, is that a carry over from the days of communism?"

Professor Fullerton: "I do not know that it is. My hunch is it has much more to do with the organization of law, and particularly of corporate law, in Germany, where a lot of Hungarian law is derived from. But I do not know."

Another fundamental difference was the lack of public debate about important political and legal issues. Governments get elected "democratically"; then they seem to act autocratically, by decree."

Interviewer: "Was this in Budapest, or in the smaller towns?"

Professor Fullerton: "This is true throughout Hungary. The current government of Hungary was elected in free elections, but now it just issues decrees without prior public debate. The newspapers may comment on the decree after the fact, but

there is no forum for having a real debate. The parliament does not work yet-maybe it will-for having real debates on issues of public concerns. I saw that in privatization and other business matters and I saw that in asylum matters. For example, suppose a bill is going to get amended. To amend the new refugee law, which is desperately needed in order to deal with these people in the temporary status, there would not be hearings where people could make their objections known. Instead, there is a committee hearing some time late in the process, but, in fact, most bills are totally finished by then. The hearing is totally a formality. There is no way to have input from outside the government and I think that goes along with the fact that there are few power centers outside. In Hungary, there is not big business; there is not even small business. There's new business. New businesses are struggling to get organized or re-organized. They do not have the resources to present their views in an ongoing, effective manner to the government. If this is true for businesses, you can imagine how much of a problem it is for the public sector to organize and present their views. And even if both of these interest groups were more effective at lobbying, the government is not particularly keen to listen to other voices. So far, essentially the government is it in terms of having power."



# On Political Correctness

By Joseph A. Hayden

How far is too far when it comes to political correctness? I cringe when I hear right-wing critics accusing the left for the ridiculous extent to which our language has recently gone in an effort to be less offensive and the direction it is heading. English is an inherently racist, sexist language. How we remedy that is not necessarily the blame of the progressives in our country, but rather a weight they tend to bear since it seems as if they try harder to use these newly-created words. It was probably one of my fellow liberals who created the term "differently-abled" to replace "handicapped". As much as I try to say "congressperson" and "chairperson", I will not, simply for the purpose of political correctness, go quite as far as six syllables. I hope that does not make me insensitive. I just want to be an efficient speaker.

On the other hand, it was no doubt some conservative zoologist who came up with the absurd "Wildlife Conservation Park" euphemism for the Bronx Zoo. Not even the advocates of that one can get it out without an intermittent breath. The subway advertisements still use "Bronx Zoo" prominently. What is so horrible about the word "zoo" anyway? It is poetic justice for our beloved but less than perfectly run city. If we were renaming the "Paris Zoo" I might understand the concern. Some conservative's fear of being associated with his perception of the Bronx is probably the reason for the name change.

In our efforts not to insult in English, we simply should not create stumbling blocks. It is hard enough to stay on top of English's *en vogue* phrases and terms like "*per se*" and "*vis a vis*" which have become so much more popular in the last few years. There is something to be said for the practicality of politically correct words with two syllables. I applaud these phrases. Having to use too many unnecessarily polysyllabic words is probably why I find it easier to speak English instead of Italian at home. Of course I love to use sophisticated words in English to express something more meaningfully. What I don't like is that, while I love the Latin sounds and rhythmic flows of the most widely-spoken European languages, I don't see why I should take five times the number of breaths when I can say the same thing with one breath in English.

Admittedly, there are a few phrases in those

languages which can be said more economically. I am certainly not an "English-only" advocate. However, Anglophones seem to be fortunate based on my conversations with bilingual people. Even a Norwegian-speaking friend of mine said she could express herself more specifically and with fewer words in English and that people in Norway are glad to have a language which makes their lives easier.

English is compiled from the scraps of other languages, but nonetheless a practical one in most ways. On the other hand, English has its shortcomings. A friend of mine noted that in Hindi one need only say one word for "paternal grandfather" and another for "maternal grandfather". In addition, I never liked translating "mother-in-law" to Italian either. Italians use the word "suocera" which, I believe, comes from "sorceress", a euphemism for "witch". So much for being PC in that regard.

My solution is to take control of a word. Recently on an episode of "*Oprah*" (hey, at least I do not watch "Jenny Jones") I heard a bisexual man say that the word "queer" had been reclaimed by the gay community. Hurrah! That is an accomplishment — namely, a pejorative becoming a compliment. One less politically correct toe to avoid stepping on.

A friend of mine recently saw a bumper sticker that said "VPA" for "Veteran of Police Action" in lieu of the standard acronym for a war veteran like former POW. However, I do not think my uncle, who did two tours as a Navy Seal during Viet Nam's civil war, would feel any more satisfied with this newfound description of the American presence there.

I cannot tolerate more than one segment of the "Seinfeld" show unlike so many of the students at Brooklyn Law School so I am probably alienating myself at school by admitting it. He does not strike me as too politically correct though. What irked me once was his bantering about the word "hood" (as in "Boyz 'N the Hood"). Having been granted an honorary degree for reasons beyond me by the university he failed to complete getting a degree in, he is obviously far removed from street talk. "Is it the jackets they wear?" he asked in his whiny way. An ounce of thought and a bit of perspective would result in the realization that "hood" is a "neigh-



borhood" without the "neighbor" qualities in it. The Justinian often wonder how this guy ever got a television show? He admittedly has an excellent supporting cast and good staff writers.

Is it "second-hand smoke" or "passive smoke"? As a member of Action on Smoking & Health ("ASH"), Stop Teenage Addiction to Tobacco ("STAT") and Smokefree Educational Services, Inc., this is a dilemma. They take as much time to say, but not everyone is familiar with the terms. Most people catch on quickly though. I understand "second-hand smoke" is preferred by the tobacco companies — that makes it seem like it is less toxic than "primary smoke". Never mind

that 400,000 people die annually from vicarious smoke. Talk about an attorney being a hired gun — the kind of lawyer who devised the euphemistic idea of "second-hand smoke" is no mentor of mine. How un-PC can you get?

And speaking of social responsibility, how convenient that Philip Morris calls its museum project "Whitney Museum of Modern Art". What a wonderful way to disguise from the masses where the altruistic funding comes from. Spare me the generosity. This is a case where the non-partisan politically correct name for the museum would be "We Make Cigarettes Which are Addictive Enough to Kill You Museum of Modern Art".

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# Presumed Ignorant

By Daniel Ajello

Law students, myself included, are taught to see the United States as a nation of laws, not men. In many ways our Nation has certainly lived up to this statement. Every facet of our lives is touched, some would say pushed, by laws. In the transformation from law student to lawyer each of us hopes to master some area of the law. Each of us will hone our skills, equipping ourselves to answer difficult questions of law. However, the most difficult questions we may face in our careers may have little to do with the law, and much more to do with the men, women and children who live under them.

Much time has been spent over the last two years of my law school life pouring over statutes and cases concerning a plethora of problems-from falling scales to wild dogs. When reading so many cases it is easy to forget the people behind them. The silly common tort examples and the endless finger-pointing of negligence become cartoon-like.

When my daughter, Megan, who will be two years old in November, was diagnosed with cerebral palsy, I knew it would be quite a challenge to care for her. However, neither my wife nor I foresaw how immersed we would become in the law because of our daughter's condition.

In obtaining care for Megan (therapy, special equipment, etc.) we discovered that there was a law designed to help us and others in similar situations. That law, on the state level, is Subpart 69-4 of Title 10, Early Intervention Program (Statutory authority: Public Health Law ss2500-a, 2500-e, Article 25 Title II-A). Most law students, like most lay people in New York State, have no idea what this eighty-five page law contains. Because of this fact, the implementation of this law to the purpose for which it was designed depends on the good nature of the individuals entrusted with carrying out the services to be provided. Having dealt with the law, the agencies and my daughter's condition for over a year now, I came to the disheartening realization that people cannot depend on the agencies administering this law to fully apprise them of their benefits under the law.

Basically each child and his family must deal with many individuals and several approved agencies and individuals, as well as countless forms, to obtain treatment and care for their child and their family. These services typically include therapy,

special education, medical services and counseling. Each child and family is to have their needs diagnosed and met by a series of approved providers and agencies.

In my own dealings and in speaking with other families, it became obvious that, in many ways, the system which was created has begun to exist for its own benefit and not for those who need the services. My wife and I were given information which was false and denied given access to records or information which we needed. Other parents in the program were told that they basically had no say in what services their child received. Others were forced to make decisions they really did not understand. Those providing the service, depending on how they formulate a plan for a family, have varying degrees of fees they receive from the state for services. Under this system, a plan was devised where my daughter would have to take a bus to a therapy center when she was a year old. She was nine and a half pounds and could not walk, sit or feed herself. Of course, after some legal research, we discovered that there indeed was another option. And, as you may imagine, the people we had to deal with had a change in attitude when they discovered I was a law student. My legal research skills allowed us to present them with information that most families are unable to access.

I began to see the law in a different light because of my experiences. Of course it is wonderful to have a law address an issue, yet it is another thing to have it successfully applied to the problem it was created to address. In the instance of the Early Intervention law, I realized that very few families who were falling under its umbrella had ever even read it. While efforts are being made to help inform parents of their rights, many are still uninformed. As a result, they do not receive all of the benefits that the law should confer. The stress of having to face severe medical problems every day and the shock of diagnosis also impair the ability to assert all of one's rights under the law.

I write this with the hope that students will remember the human element of the problems they are presented with. People are not going to walk into an office and ask for an explanation of the Erie Doctrine. They will come in with a story and a problem and ask for help. It may be to obtain



et al.: The Justinian  
custody of a child, they may have been hurt, or they may be looking for someone to make sure they are not having their rights violated. In my case I was trying to understand the law and how it was being implemented in the hopes of obtaining therapy and equipment for my child.

Regardless of whether the individual is

right or wrong, innocent or guilty, believe me, they will almost always be confused and scared. A lawyer must try to avoid getting caught up in these emotions, but should acknowledge their existence. While a lawyer needs to know and focus on the law, an attempt must be made to understand the individuals who fill our textbooks with real problems.

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## DISTRICT ATTORNEY RACE ON STATEN ISLAND

By Muriel Richards

The incumbent District Attorney on Staten Island, William ("Bill") Murphy, is campaigning for re-election this year. His challenger is the current Staten Island Borough President Guy Molinari. Murphy is a 1969 graduate of Harvard Law School. He worked as an Assistant District Attorney under Manhattan District Attorneys Frank Hogan and Robert Morgenthau (who became District Attorney upon the death of Hogan in 1973) from 1969 until 1976, when he became the Chief Assistant District Attorney in Richmond County. Murphy has held the office of District Attorney continuously since 1983, when he was appointed by Governor Mario Cuomo to fill the vacancy created by the election of Thomas Sullivan to the Supreme Court of Richmond County. He was subsequently elected to the office that November. He is a member of the Democratic Party. Murphy is fifty-one years old and resides on Staten Island. He is married and has two children.

Borough President Molinari is a 1951 graduate of New York Law School. Molinari, a Republican, has been in elected office since 1975, when he was elected to the New York State Assembly. His first term as Staten Island Borough President commenced in 1990. His current term is scheduled to end in January 1998. Molinari is sixty-six years old and is a resident of Staten Island. He is married and is the father of the U.S. Representative to Congress for the Thirteenth Congressional District, Susan Molinari.

District Attorney Murphy granted me a telephone interview on September 27, 1995. During this interview, he stressed the high (ninety-five percent) felony conviction rate of his office. Only one conviction was overturned by the New York State Court of Appeals on 1994. It is the written policy of Murphy's office to allow a "one count down" plea. (In the parlance of the criminal justice system, this means that if a defendant is charged with manslaughter one, he or she can only plea bargain down to manslaughter two. Murphy's office operates a victim notification program, whereby victims of crimes are notified when the convicted offender is going to be paroled. Murphy is in favor of imposing the death penalty for certain particularly heinous crimes.

Borough President Molinari could not be reached for an interview, but his office did provide me with a fact sheet. One of the accomplishments listed is his role in preventing the closing of the former U.S. Public Health Service Hospital (it is now operated by the Sisters of Charity Health Care System and is referred to as Bayley Seton Hospital). An additional achievement stated is his involvement in bringing the Navy Homeport to Staten Island. He successfully opposed the operation of a coal-burning power plant on Staten Island in the 1970's and 1980's. Molinari supports the death penalty.

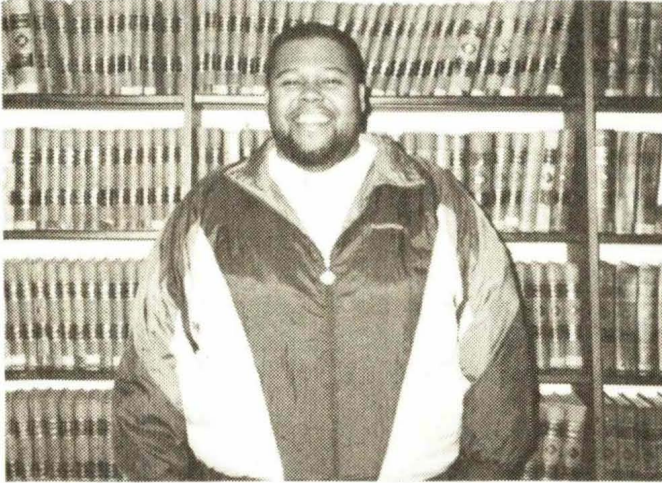
District Attorney Murphy's entire career has revolved around the criminal justice system. He is a past President of the State District Attorney's Association. He teaches the Basic Prosecutors Course Administered by the New York State Division of Criminal Justice Services. He was instrumental in the lobbying effort to shift the burden of proof in insanity defense cases. Prior to the change in the law, the prosecutor had to prove a defendant who pled not guilty by reason of insanity was sane. Because of the change in the law, the defendant must prove he or she is insane. Murphy established an Environmental Crimes Unit on Staten Island. He opposes the self-audit approach espoused by many politicians. Under that scheme, companies who assume responsibility for an environmental accident within a certain time frame become immune from criminal liability and civil sanctions. Murphy wrote the white paper against self-audit for the National District Attorney's Association.

Remember, election day is Tuesday, November 7, 1995.



# WHAT DO YOU THINK?

What do you think of the grade curve?



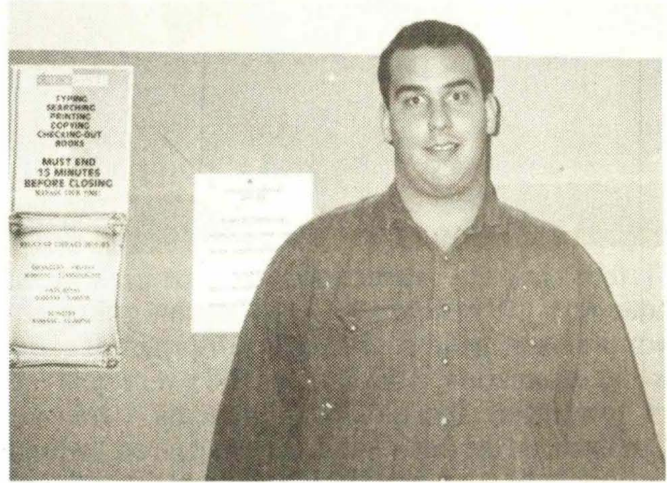
"I do have a concern with regard to the grade curve in that there are schools such as Columbia and NYU that curve their students so that the students do not receive lower than a B (grade). It gives the impression to employers that their students, because they excel so much academically, that they are more qualified than a student at BLS who receives a lower grade who might be more qualified."

Michael Baston, BLS Student



"I think it is a bad idea to have a grade curve because I think it discourages learning for the sake of learning. I think it encourages unnecessary competition."

Ruth Kalbitser, BLS Student



"Generally I agree that there should be a curve but I do not believe the curve should be such that the middle third of the class winds up with a 3.0 or 3.5 GPA range. I believe the curve should be adjusted to correct that."

Gary Constable, BLS Student

"What do you think the verdict should be in the O.J. Simpson case?"

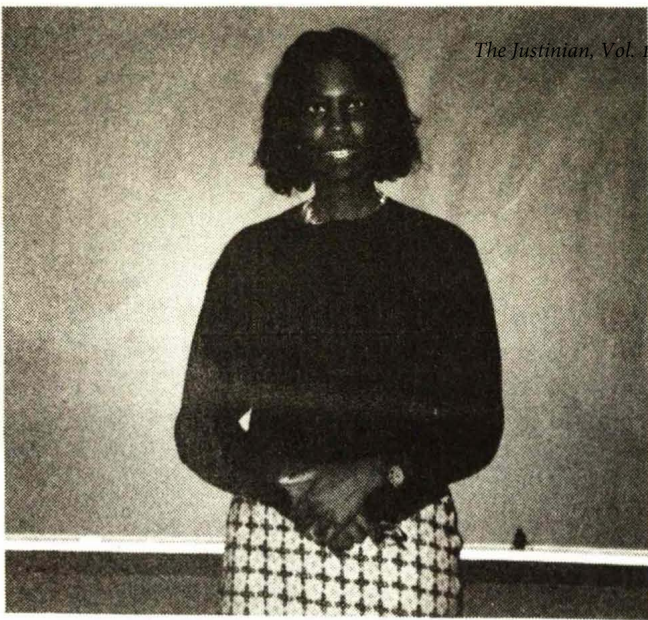
(This question was asked on September 29, 1995, four days prior to the announcement of the verdict.)



"I think the prosecution has enough evidence to get a guilty verdict."

Melissa Pedone, BLS Student





(Photograph not available.)

"I do not know what the verdict should be. I do think that certain events, such as Mark Fuhrman's actions, may have created enough of a reasonable doubt in the minds of the jurors for an acquittal."

Robert Hollander, Personnel Administrator

"I feel that the prosecution did not present an adequate job in finding O.J. Simpson guilty beyond a reasonable doubt, especially when it came to the summation. Marcia Clark did a very poor job of presenting the closing arguments. Johnnie Cochran, on the other hand, if I was a juror, I would definitely be convinced by his words at the end. Let us all remember that if the circumstances do not fit, you definitely must acquit."

Michelle Thompson, BLS Student

## CULTURAL EVENTS AROUND TOWN...

At the Brooklyn Museum:

Leon Polk Smith: American Painter is a comprehensive retrospective of the paintings of this artist, on display now through January 7, 1996. Mr. Smith's works center around nonobjective art patterns. One of his more recent creations is "Event in Orange" (1994), which consists of monochromatic canvases marked with black lines that do not touch the edge of the canvass.

A Slice of Schiaparelli: Surrealism in Fashion from The Brooklyn Museum is an exhibition of the works of the couturier Elsa Schiaparelli scheduled to be on display from October 20, 1995 through March 24, 1996. Ms. Schiaparelli was an avant garde designer who designed garments beginning in the 1920's through the 1970's. Oversized suit pins designed to resemble gilt hand mirrors are just one of many works included in this collection.



# Some Of My Thoughts On BLS

By J. Wilson

In my experiences at BLS, I have found the faculty remarkably available to students. Those of us with academic problems are allowed to speak to members of the faculty. This, of course, does not ensure that the faculty will respond. I must say, however, that I have had only one professor decline to speak with me during office hours.

Sometimes it is difficult to reach the Financial Aid Office. Some of their personnel are extremely unhelpful. Do not worry; you will not receive any aid anyway. This office seems to exist only to guarantee students loans at exorbitant rates that the students will not be able to pay. Take the

loans-at six thousand dollars a term, you cannot afford to turn them down.

As for the Registrar's Office, did you really expect to receive your grades within three months of taking your final exams? Did you really expect to get your grades before you are billed for the next term?

In short, our beloved law school is a wonderful, responsive environment. I know we are all so pleased to be here, where real problems are met with real solutions. We are all getting our money's worth.

## HUMAN RIGHTS WATCH

By Muriel Richards

Harry Wu, an outspoken Chinese-American human rights advocate was released from prison in China on August 25, 1995 and flown back to his home in California. Mr. Wu has written articles and books on human rights abuses perpetuated against the Chinese people by the Communist regime. He was detained at the Chinese border on June 19, 1995. He was formally charged with entering China with a false passport and espionage on July 8, 1995. (Mr. Wu's passport states his name as "Peter H. Wu".) After being convicted of these charges and receiving a conviction of fifteen years imprisonment and expulsion from China, Mr. Wu was placed on a plane headed for the U.S.

This was not Mr. Wu's initial experience with the Chinese criminal justice system. Prior to emigrating to the U.S. in 1985, Mr. Wu had spent nineteen years (1960-1979) in prison labor camps in China for criticizing the Chinese government. The abuses that he suffered and witnessed inflicted upon others inspired him to become one of the most vocal opponents to the human rights abuses taking place in China.

At the time of his arrest, Mr. Wu was reportedly gathering more information concerning human rights abuses in China.



# The following (edited) letters have been

September 11, 1995

RE: *Cafeteria/Smoking Room*

Dear Dean Wexler:

Through our previous correspondence I understand that Brooklyn Law School has shown some concern over the condition of the smoking room on the fourth floor. There was apparently an outpouring of complaints when the new cafeteria and its dining areas were first opened. However, I must contend that there has not been enough done to protect the air quality of those who do not wish to inhale Group A carcinogens when going about their business on the law school's fourth floor.

I am not the only student who suffers from physical nausea when I walk past the "smoking room". I think it is absurd in this day and age to regard the smoking room as "separate" and therefore the air breathable in other parts of the floor when there is no wall or door to at least trap the smoke in the smoking room. Instead, students at Brooklyn Law School are supposed to ignore what even our legislators have recognized-that truly separate smoking sections must be independently ventilated or eliminated altogether. The latter is my personal preference.

I hope that the staff of Brooklyn Law School has not put this issue to rest. The health of all students and staff are in jeopardy if the status quo persists.

Sincerely yours,

Joseph A. Hayden



# published at the request of the writers:

September 19, 1995

Re: I Have A Complaint

Dear Dean Wexler:

With respect;

I am a third year evening student at Brooklyn Law School who also happens to be black. Yesterday, as I stood in the lobby speaking with another student (who happens to be white), I had the unfortunate and utterly humiliating experience of having a maintenance worker approach me and ask me for my school identification card. I am familiar with the new security rules. It is my clear understanding that those rules apply after hours and on weekends. This incident occurred at approximately one o'clock in the afternoon. Not having noticed this gentleman request a school identification card of any other individual, and also noticing that I happened to be the only black person in the crowded lobby, I inquired as to why I was being singled out for such special attention. After all, I was not carrying any obvious weapons. Nor was I wearing a sign that said, "I am lost. Please help me!!". From the rude response I received, I could only form the opinion that this special treatment was being accorded me simply because my pigmentation is dark and this individual had somehow been empowered with the discretion to ask and the inclination to discriminate.

An unknowing observer might assume that my experience is rare. After all, I was told that only a few such complaints have been filed in the past few years. My answer to that assumption is that most minorities are either too afraid to say anything or put down such incidents to "business as usual" and therefore do not file complaints. They may even, as I did at first, feel somewhat ashamed, asking what they did wrong, what it was peculiar to them as individuals that made them unworthy and caused this kind of harsh treatment. Is an education worth this type of self-examination?

I hasten to remark that while I am not very familiar with the maintenance staff, I have become acquainted with most of the security guards, if not by name, then at least by sight. From what I have observed during the past three years, these men (why are there no women?) perform their jobs extremely well. They are polite and fair, stopping many people regardless of race, dress and age. I am not referring to these individuals in my complaint. I would also add that all of the faculty that I have spoken to concerning this incident have been extremely understanding. I have been assured that this incident will be looked into. I appreciate this greatly, but I think something more has to be done.

The rule should be simple. Either every person is stopped and checked, or no one is. It is only in this manner that discrimination or the appearance thereof may be avoided.

Very truly yours,

S.A.R. Chichester





## Brooklyn Law School

---

Joan G. Wexler  
*Dean and Professor of Law*

September 29, 1995

Mr. Joseph A. Hayden  
163 President Street  
Brooklyn, NY 11231

Dear Mr. Hayden:

I am responding to your letter of September 11, concerning the smoking room on the fourth floor.

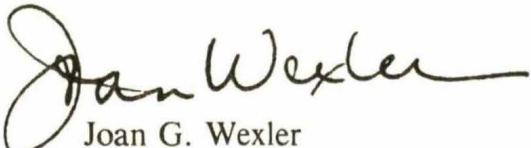
In my previous letter to you last March I indicated that, in response to student concerns such as yours, we had the mechanical engineers who worked on the building revisit the fourth floor smoking lounge. They recommended that additional air returns and exhaust fans be installed. We followed their recommendations, and, after the work was completed, the room appeared to be better and students seemed to be satisfied with the results.

Recently, however, the two fans broke down, and while they were out of order the room was no doubt smokier than usual. That may have been the situation which prompted your most recent letter. In any event, the fans have since been fixed, and we hope that the ventilation system is now functioning satisfactorily. However, we will continue to monitor the situation closely.

Thank you for your interest in this matter.

With all best wishes,

Sincerely,

  
Joan G. Wexler



# Counselor Advise Thyself

By Joseph A. Hayden

I remember feeling a momentary urge to call the registrar last year when I received a notice to "upper class students." I wanted to complain that the wrong package was sent to me, but, alas, I had forgotten that I was already an upper class student. Perhaps more because I was a second-year evening student I did not yet feel as if I had accomplished what was required to get over the "hump" in law school and hesitated when I saw the package. This year, my third year, I have no qualms about being called an upper class-man (upper class-person?). I have only one more requirement to fulfill and everything else is going to be at my discretion. This should be fun from now on, right?

Non-legal friends (yes, I still have some) seem shocked when I tell them that I am not taking Summer courses. I do not wish to sacrifice the solace of my Summers, I explain, when, as strictly an evening student, there is no mathematical way that I can graduate a year earlier. I understand that one can possibly graduate six months earlier, but I choose to go with the flow on this one. Besides, that means the prospect of paying off those loans begins six months before my counterparts. All I would accomplish would be to burden myself for six months with loan expenses even though I would probably not obtain legal employment any earlier than the others because the potential employers are set in their ways in their methods of recruitment. I know this having watched the senior partner in the firm I work for make yearly trips to Cambridge to recruit at Harvard. Its because I go to Brooklyn (and I am proud to be going here) that I will not even try to get a job at my law firm. In a way I fit there so well as an employee, but would be the black sheep if I was an attorney.

This year returning to school felt different. Upon returning from a relatively early vacation this Summer, to my surprise, I found an invitation to be a student guidance counselor. Me? Counselor someday maybe. But guidance counselor is an entirely different responsibility. Not too frequently an attorney has a fellow attorney for a client, at least so it would seem. Guiding those who will guide led me to consider whether the blind would be leading the blind. However, that is when

I realized that perhaps I *had* experienced something of value which could be passed on. Oh the things I would have done differently had I known what the first year would truly be like.

I pondered for a while if the issuance of this letter was something they check class rank for or if they just sent it to every upper class student. I decided to take the plunge because I was eager, not so much that I was extraordinarily insightful, although being asked to be a counselor created the need for me to become very much more reflective about my first year.

I remember my guidance counselor. He called me at the phone at work as I was grinding my teeth in anticipation of school in a few weeks. I was one of the fools who read "1L" the Summer before starting. I should have stuck to the suggested reading list Brooklyn Law School's Admissions Office sent me. Anyway, it was nice having a human being to speak to who had been through the same process. He was so calm that I knew I would survive. He seemed to have acquired a confidence that I would soon find common among us — namely, those who had survived the hump. And by now he has been practicing his second year of law.

I reflected on what kind of counsel I should be. The instruction booklet asked me not to terrify the 1Ls, but yet to stress they would be expected to accomplish a lot. That is quite a fine line to draw indeed. When I met the new faces I thought I saw the trembling and fidgeting, but yet the pride which I felt when I first got that letter saying I was admitted. It changed my life forever as I am sure it did theirs. One of them was going into securities. The other into patents. The other wanted to save the world like I did. Good luck to them all I said, but of course reserve your right to change your mind about what you want to do when you graduate. First you want to work. You can save the world on your free time. I can not help but have a special place in my heart for the idealistic ones though. Atticus Finch eat your heart out.

I told them this would be the best and worst year of their life. Above all, it would be the fastest year of their life. I never aged so quickly than I did that year. Everyone else seemed to be in limbo as I morphed into my law school predecessors. I told



my group of 1Ls to anticipate the same. I also remember the logical advice of one of the professors upon hearing the prospect that our social lives would be put on the back burner for a year — your friends will still be there when it is over. My friends were still there.

What was most important about *my* first session with the student guidance counselor is that I met a friend for life. What did we have in common? Almost nothing. We had different cultures, different religions and were of a different sex. She worked in the public sector, I worked in the private. She was an immigrant; I was born here. She had a masters; I had just come from college.

True we were both married (and boy did people gossip). We both were liberals and had many idealistic tendencies, but were both grounded by reality. We just clicked. Neither one of us can really explain it to this day. Ironically, she was so disorganized that first day she did not know what group she was going to be in but she stood by. She often complains to me about my compulsive list making and schedule planning. We sat next to each other in that first class. We sat next to each other in every class. People kept talking. We spoke on the phone from our jobs every day. People kept talking. We did lunch from time to time. Our whole first year we were just about inseparable. Our relationship became symbiotic and law school has come to include, in its definition, a place where we can find the other one of us.

The lawyers who told me they are still close

friends with their first year counterparts were not kidding when they said they made friends for life. After enduring that year together, one cannot help but have a connection with someone who was in almost every class with you, hearing every professor's utterance and every class nuance transpired between students and professor. Note passing was our passion. How else to politely gossip and comment on every character type our class, like every other, seems to possess? Somehow we managed to also learn the law.

What would I above all suggest a first year student do as their student guidance counselor? Find a best law school friend like I did — someone to suffer with, someone who would be there in case the rest of the world falls around you like mine seemed to do. Do not be afraid to connect deeply with that person. It is he or she who, for practical reasons, will share your most vulnerable moments in front of the professor, not your beloved families or friends of different genres. It is that one friend who will swallow and choke for you when you dare to make a comment in class or even, inevitably, get called on. It is that person who will tell you you did wonderfully when you know you screwed up royally. It is that person who will be in the right place at the right time for you when you need someone the most. No on-the-spot question or deeply-digging professor will be able to bother you with a support-group-of-one like that.

Good luck 1Ls!



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# TOP TWENTY COMMENTS OVERHEARD FROM THE BLS 1LS.

By Rebecca Schwartzman

- 1) "Yes, Mom, I am eating...again."
- 2) "The most difficult part of law school? Figuring out the seating charts."
- 3) "I love seating charts. I get to sit next to the same cute guy in class *all semester long!*"
- 4) "I hate seating charts. I have to sit next to the same dorky guy in class *all semester long!*"
- 5) "Law school keeps me off of the streets."
- 6) "How hard can it be? It is only a four page memorandum."
- 7) "Meet me after class. I will be freezing in the library."
- 8) "I could be wrong, but I think deep pockets answers any legal question."
- 9) "If an upperclassman tries to convince you that there is a pool and weight room on the tenth floor, do not believe him."
- 10) "Trust me-black loafers with *everything*."
- 11) "Another thirty dollar course packet?"
- 12) "I have been camped out on 76th Street and Lexington Avenue for three weeks now. In only nine years, eleven months and one week, I think I will have acquired adverse possession!"
- 13) "Why is everyone so dressed up for class?"
- 14) "Professor Leitner's convocation speech was *fantastic*."
- 15) "Hey, it is more free kosher pizza and highlighters from Bar Bri."
- 16) "Come over to my place after class. Twenty-five of us are getting together to form a little study group."
- 17) "Have you started outlining yet?"
- 18) "How come I did not get to take Legal Process over the summer?"
- 19) "See you at O'Keefe's on Thursday night."
- 20) "What is all this legal mumbo-jumbo?"

**NOTICES PROVIDING DETAILS FOR  
THIS YEAR'S RACE JUDICATA  
WILL BE POSTED SHORTLY!**



# BLS Dumps on Jewish Students on Rosh Hashanah

By Todd Bank

To Jewish Students at Brooklyn Law School:

You had a choice on the night of Tuesday, September 26th.

A) You could have observed the second night of Rosh Hashanah (Jewish New Year), or

B) You could have attended your evening classes.

But when the BLS bureaucracy cancelled all classes on Monday of Rosh Hashanah and daytime classes on Tuesday of this holiday, what was the point of slapping students in the face by holding evening classes?

So what will it take to get some common sense through to the BLS bureaucracy? Even higher tuition?

As I am sure those who make up the school calendar are aware, Rosh Hashanah is a very serious holiday. In fact, it is one of only two times a year that many Jewish people attend synagogue.

This means that almost all Jewish students, from Orthodox to hardly observant, spend these two days with their families. As I am sure some of the bureaucrats here also know, the holiday ended on Tuesday at approximately an hour after sundown, which on that night meant it was over at 7:30.

So right off the bat, Jewish students who chose to observe the holiday could not attend their six o'clock classes. And as for eight o'clock classes, it does not take much brain power to know that one could not possibly leave home from, say, Long Island or Westchester at 7:30, and make it to school in half an hour. The fact that BLS has such a large number of Orthodox students only adds to the insult.

Not that any of this should come as a surprise, when for all practical purposes the administration told observant Jews to stay home during last year's graduation party by holding it on a Saturday afternoon.

To their credit, many professors, Jewish and not, canceled their classes for that evening. But these individual acts of decency and respect should not have been necessary in the first place.

Please don't misunderstand. This is not about anti-semitism or anything like it. Rather, it is about an administration which claims sensitivity to these issues but has failed to live up to that claim. And at bottom it is about something more fundamental: stupidity.

**BLS BLOOD DRIVE IS SCHEDULED FOR  
MONDAY, OCTOBER 30TH  
FROM 12:00-5:30PM  
AT ONE BOERUM PLACE,  
FOURTH FLOOR.  
PLEASE SIGN UP IN  
THE CAFETERIA  
WHEN NAMES ARE BEING  
COLLECTED!**



# A Little Advice

By Muriel Richards

Recently, I attended my tenth high school reunion. It was a pleasant enough event, even though some of the individuals who I regarded as friends in high school did not attend. Some of them probably fell into that, "I did not become a brain surgeon so I am ashamed to go to the reunion" syndrome. Others may have had conflicting demands on their time—a sick child, work responsibilities, etc. The absence of still others may have been due to a lack of interest in seeing how one's classmates have fared over the past decade. Despite the absence of those individuals who did not attend for whatever reason, there was a fairly good turn-out of people at the reunion. I sat at a table with eight other people (six alumni and two spouses of alumni). Invariably, I was asked what I do for a living. When I responded that I am working and attending law school, there were a few, varied reactions. A former classmate (who, until I said I was in law school, was running around the room, informing all who would listen that he is a lawyer) who is now a corporate attorney, picked his spoon up and began shoveling his fruit cocktail into his mouth, as if he was not so occupied I was going to plead with him for a job. I did not like him back in high school and I do not care for him now. (So much for the adage that nothing stays the same!)

One of the other alumni who I was friends with in high school stated that she is a nurse and is thinking about going to law school. She wanted my advice. Out of the corner of my eye, I saw that the former classmate/corporate attorney was still viciously impaling his peaches in an attempt not to be dragged into the conversation. Ignoring him for the moment, I asked her if she had any specific questions about law school. She seemed fairly well versed on the LSAT and even had a rudimentary understanding of briefing cases. I decided to cut to the chase. I asked her what she knew about bookstore policies, elevators and sharks. (The former classmate/corporate attorney looked up for a nanosecond, then resumed his attack on the fruit cocktail.) She stated that I must be joking. When I assured her I was perfectly serious, she asked me to explain. I indulged in a little of the Socratic method (well, someone had to prepare her for the torture!). I said, "Imagine it is August. Your classes are going to begin in a week. You receive a reading list

from the law school. What do you do?" She stated, "I go to the bookstore at law school." "Oh," I said. "And what do you find at the school bookstore?" She gave me an odd look and replied, "The assigned texts for the term, I guess." (I began to understand exactly what thrill this method of teaching holds for first year professors.) "No, that is wrong! You only think you will be able to find the assigned texts at the school bookstore. Oh, they may go so far as to label the shelf correctly and the titles might even match the reading list. But rest assured, you will not be able to purchase the correct books at that juncture. My advice is that you wait at least a week after classes commence to purchase your books. This allows time for any errors to be discovered." (The former classmate/corporate attorney was now consuming his salad with vigor.)

"You also mentioned something about elevators?" she queried. "Yes. This advice comes from my personal experiences. When you are able to leap onto the wings of Mercury (more commonly referred to as the BLS elevators), the doors will not close for five minutes. But, when you are trying to make it through the obstacle course better known as "the lobby of 250 Joralemon Street at 5:55PM" to reach the wings of Mercury, the elevator doors will slam shut in a nanosecond as if they were being pulled together by a giant magnet." (The former classmate/corporate attorney may actually have grinned at this point. Or, he may have been baring his fangs. I will never know, as the main course arrived and he seized a potato.) She laughed at this and said, "What about the sharks you mentioned?" (This time, the former classmate/corporate attorney's dorsal fin definitely twitched.) "Well, you know how many, many lay people think that a law school is a shark tank with library shelves?" I asked. "Yes. I have always laughed at that analogy," she replied. I assured her she might begin crying instead at the veracity of that quip. I then proceeded to inform her about model answers disappearing from the library, of students running to professors with mendacious "evidence" of a fellow student maligning a professor in an attempt to ingratiate oneself with that professor, of morals being regarded as an impediment to a great legal career, of general rudeness, etc. (The former class-



mate/corporate attorney had stopped <sup>Justinian, Vol. 1995</sup> ~~Justinian~~ <sup>am taking a literary liberty here</sup> ~~his~~ <sup>and</sup> ~~face~~ <sup>was</sup> aglow, no doubt with cherished memories of his part in the activities mentioned supra.)

She asked me if there was any defense to these machinations. I informed her that osculating posterior works well for some, but that since my personality does not lend itself to that, I have had to devise other strategies to cope. One, to get to the library as early as possible to copy the model answer before it vanishes. Two, to hope that prior to believing the lies and subterfuges of another student, that the professor would remember the Sixth Amendment Confrontation Clause and at least allow you to confront the mendacious "evidence" prior to condemning you. (Okay, okay, I know that applies in criminal prosecutions, but I

and four, those are matters that must be individually decided. (The former classmate/corporate attorney was still aglow with law school memories.) She thanked me for my advice. I do not know what her decision was, but she assured me she would call me if she decided to go to law school for further advice.

For the rest of the reunion, I enjoyed reminiscing with my old friends. Oh, and the last I heard, the former classmate/corporate attorney was suing the banquet hall. It seems that when I thought he was sitting there glowing at memories of his law school machinations, he was choking on a brussels sprout.

The JUDICIAL FELLOWS COMMISSION is currently accepting applications through November 17, 1995 to work in the Supreme Court of the United States, the Federal Judicial Center, the Administrative Office of the United States Courts or the United States Sentencing Commission for the 1996-97 program. Candidates must be familiar with the federal judicial system, have at least one postgraduate degree and two or more years of successful professional experience. Fellowship stipends are based on salaries for comparable government work and on individual work histories, but will not exceed \$74,426. Further information about the Judicial Fellows Program and the application procedure may be obtained by contacting Vanessa M. Yarnall, Administrative Director, Judicial Fellows Program, Supreme Court of the United States, Room 5, Washington, D.C. 20543.  
The phone number is (202) 479-3415.



## LAW AND POPULAR CULTURE

"We may not have tenure but  
we always have two hours for a movie."

Professor Spencer Weber Waller  
Professor Anthony Sebok

(The *Justinian* staff offers abject apologies to Professors Waller and Sebok for the delay in publishing what were very timely reviews when we originally received them)

As we begin our third year of reviewing, we are pleased to announce that we are finally syndicated. Beginning with this column, our reviews now appear in the student newspapers of both Brooklyn Law School and Boston University Law School.

A quick review of the rules before we begin. We review anything with Harvey Keitel, Jean Claude Van Damme or obscure legal themes. We do hokey theme reviews like all recent films based on video games or computer hacking.<sup>1</sup> We occasionally even review the publicity trailers of movies we refuse to see.

Previously, we rated each film according to the Brooklyn Law School grading curve. This year we chose to shift our focus away from grades and explore each week how films measure up against a dichotomy of our whimsical choice. This month we look back on a summer parade of movies and ask the question: Feminist Parable or Cautionary Tale?

### *Clueless*

SWW: This one's easy, even for beginners. It's based (however loosely) on Jane Austen's *Emma*. *Clueless* is a charming adventure in self-discovery for a popular Beverly Hills teenager who rises above her initial superficiality, helps her father abstract depositions for a big case, and finds a soul mate who has both self-respect and respect for her. Feminist Parable.

AS: This film was the biggest surprise of the summer for me. Who would have thought that Amy Heckerling, the director of *Fast Times at Ridgemont High* would have made a film without irony? Then I realized that the decision to make a movie about an inaccessible, cold, young woman without casting Winona Ryder was itself an ironic gesture. Cautionary Tale.

### *Water World*

SWW: Hard to categorize since this is a very bad movie. Initially seems to be a cautionary tale since an environmental catastrophe has destroyed all dry land and caused Kevin Costner to grow gills and to speak in a dull monotone. Then again the high point in Costner's day seems to be drinking recycled human waste until he learns to trust Jeanne Tripplehorn and her adopted daughter. They lead him to a pretty island where he sees a horse and a waterfall, but then he leaves to spend more time staring at endless ocean vistas. Close call, but ultimately appears to be feminist parable by all male production team who do not seem to get it.

AS: Once again my colleague, Spencer W<sup>2</sup>, has misunderstood the point of an important film. This is clearly a Cautionary Tale; the lesson is that Dennis Hopper should not share the stage with a small child (he should probably avoid animals also, but remember, Costner is supposed to be only half fish). Dennis Hopper plays a depraved Captain Ahab who, instead of losing a limb to a whale, loses an eye to a man with gills. The first half of the film is a tolerable synthesis of *Mad Max* and the America's Cup race. The second half, inexplicably, has Hopper screaming his best lines at a six year old. At some point near the end, I realized that I was watching one of the weirdest, most expensive Disney movies ever made.

### *The Usual Suspects*

SWW: With the exception of *Tank Girl*, this is the best movie I saw this summer. It features an excellent ensemble cast including Gabriel Byrne, who used to live in my coop until he separated from Ellen Barkin. It is convoluted in a good way even if doesn't always play fair with the audience. Who is Keyser Soze? If you know Nietzsche's theory of the will to power then you know. Cautionary Tale all the way.

AS: This film is based on a simple and fascinating premise: it's a whodunit where you are given all the facts by a narrator who you can't trust. The mystery lay in trying to figure out whether what you are seeing on screen is true or just part of an elaborate deception. Kevin Spacey leads a tremendous cast in the retelling of a crime that may have more versions than *Rashomon*. Because the film questions the conventions of narrative truth, and illustrates the power of storytelling, I think that it is a postmodern masterpiece (oops, that's next month's category). Well, because it undermines



logic and authority, which are two pillars of patriarchy, this film has to be a Feminist Parable (despite the fact that there are almost no women in it).

### Clockers

SWW: Very nearly Spike Lee first completely coherent movie. It's a powerful but very grim look at four generations of drugs and violence in the projects. The cops and the dealers are all flawed complex characters. Only the woman struggling to keep their families intact have true virtue. It would have been a feminist parable if the women had more screen time. Cautionary Tale.

AS: It's very hard to critique *Clockers*, and it would be churlish to make fun of it. Like all Spike Lee films, there are moments when he indulges his worst film school urges. Nonetheless, it attempts to tell its story without picking simple heroes and villains. The audience is forced to reevaluate its sympathies towards the major characters as we see a police investigation of a murder unfold. In the end, neither Strike, the young dealer suspected of the murder, nor Klein, the jaded detective on the case, are easy to judge: their choices are rational within the context of a world with few options. Lee has built a satisfying story around moral contradiction, which is a rare feat in American moviemaking. Cautionary Tale.

### QUICKIE MOVIE REVIEW

*To Wong Foo, Thanks for Everything, Julie Newmar.* The second best drag queen buddy road film of the year. Go see *Priscilla: Queen of the Desert* instead. Cautionary tale about pitfalls of ripping off charming offbeat art-house film.

### THE LAW AND ECONOMICS SECTION OF THE MOVIE REVIEW:

Correlation between Waller and Sebok in predicting a sample film's position on the Feminist Parable/Cautionary Tale dichotomy: **.25** (excluding the Quickie Movie Review)

### Next Month: Post-Modern Masterpiece or Pretentious Drive!

<sup>1</sup> Professor Sebok would like to apologize to the entire BLS first year class for stating that we would review *Mortal Kombat*. That promise, made without any consultation with Professor Waller, was *ultra vires* and utterly without authority, apparent or otherwise. Don't let him sell you any real estate, either.

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# CROSSW RD® Crossword

Edited by Stan Chess

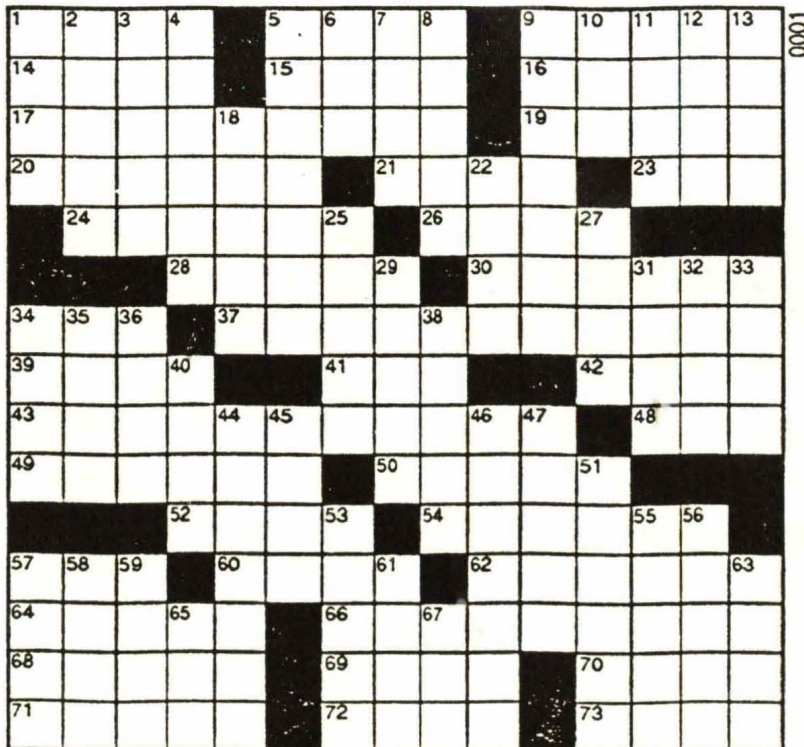
Puzzle Created by Richard Silvestri

## ACROSS

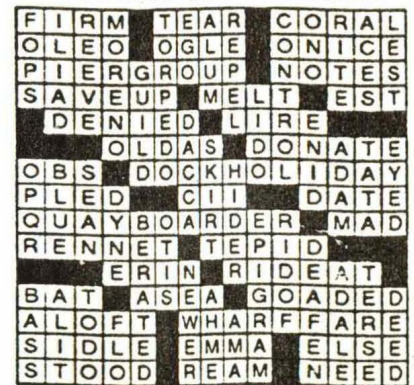
- 1 Concern  
5 Eschew the scissors  
9 Peachy color  
14 Marge  
15 Make eyes at  
16 In the cooler  
17 Longshoremen?  
19 Paper money  
20 Accumulate  
21 Get all mushy  
23 Erhard's method  
24 Turned down  
26 Roman wherewithal  
28 \_\_\_ the hills  
30 Be benefactor  
34 Dict. label  
37 Waterfront vacation?  
39 Argued a case  
41 XXXIV tripled  
42 Watch display, perhaps  
43 Passenger on the landing?
- 48 Epithet for Anthony Wayne  
49 Junket ingredient  
50 Not so hot  
52 Actress Gray  
54 \_\_\_ anchor (move securely)  
57 Stand at the plate  
60 Where port is left  
62 Prodded  
64 In the clouds  
66 Shore dinner?  
68 Move edgewise  
69 Mrs. Peel  
70 Alternatively  
71 Got up  
72 Twenty quires  
73 "\_\_\_ I say more?"
- 4 Oscar-winner of 1961  
5 Hero  
6 Psyche component  
7 Styptic stuff  
8 Fight against  
9 Smart organization?  
10 The Plastic \_\_\_ Band  
11 Liturgy  
12 Escadrille members  
13 In case  
18 Association of merchants  
22 Adriatic island  
25 Capital of Bangladesh  
27 Author  
29 Miss by a whisker  
31 *Paradise Lost* character  
32 *Ciao*, in Chelsea  
33 Gave the once-over
- 34 N-S connection  
35 Babe's hue  
36 Young or Penn  
38 Low liar  
40 Cgs unit  
44 Yelled at  
45 "Willie and the Hand Jive" recorder  
46 Oscar Wilde specialty  
47 Get \_\_\_ (ditch)  
51 Deluge with decibels  
53 More recent  
55 Allan-\_\_\_  
56 Concise  
57 Woofer sound  
58 Came down to earth  
59 Hoo-ha  
61 Verbalized sigh  
63 Proof of purchase  
65 *Alice* spin-off  
67 GP gp.

## DOWN

- 1 Dandified  
2 Troy tale  
3 Chaucer pilgrim



## CROSSW RD® Crossword



0001



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