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Justinian

Justinian wishes everyone a nice summer and says "Good Luck on the Bar Exam" to all those graduating.

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222

WEDNESDAY, MAY 10, 1978

NO. 10

BLS Teams Sweep

Tax, ABA, Jessup Teams Take First

By MADELAINE BERG

"We had a great weekend and a good year," commented Mark Harmon, chairperson of the BLS Moot Court Honor Society, speaking of the highly successful showing by Brooklyn Law School teams in moot court competitions held the weekend of April 15th.

The Tax Team, consisting of Rosemary Spiegel, Marlon Schulman, and Mark Harmon was named Best Team based on orals and briefs, and Mark Harmon received the Best Individual Oral Argument Award in the Albert R. Mugel Tax Competition held at SUNY at Buffalo, April 14-15. This year's winning results are the continuation of a trend of BLS successes in the tax competition. Last year's team advanced to the semi-finals and in 1976 the team placed fifth overall.

That same weekend, BLS teams placed first and second in the Second Circuit Regional ABA Competition. The team of Eleanor Doyle, Iona Kirshon and Adrienne Klein took first place, and Judith Miles, Charles Rose and David Spirakis won second place in the competition.

Sweet Victory

This double victory in the ABA competition was particularly sweet to the Moot Court teams considering the history of BLS participation in the Regionals. According to Harmon, last year Dean Lisle did not want to send any teams to the ABA Regional because he feared they would reflect poorly on the school. A team was entered and came in first. This year's teams managed to carry on the



Photo by Ken Shitani
Marlon Schulman, Rosemary Spiegel, Mark Harmon, BLS's Tax Team was named Best Team in the Albert Mugel Tax Competition.

tradition and BLS will go to the national competition in August.

Continuing the winning streak, a few days later, the BLS team of Mary Ann McDonough and Steven Hartmann took first place in the Brooklyn Bar Association Competition against St. John's University.

According to Harmon, "Last year was tremendously good, but overall, this year is the best we've ever had. The success of the Moot Court teams is a great way of enhancing the reputation of the school on a national level. The people at the competitions have a very high regard for the school."

In addition to the successful competitions in April, the Brooklyn Law School Jessup Team was awarded first place in the orals and third place in the briefs in the Regionals of the

International Law Moot Court Competition in March.

"Much of the success of the moot court teams has to do with the quality of the BLS advocacy and brief writing programs," Harmon said. "They obviously do something right because we do well so much of the time."

Harmon feels that this success can continue only if the faculty and students recognize the function and value of the Moot Court Honor Society. He noted that too often, people do not get involved in Moot Court because they feel it is too time consuming. He feels that if the Moot Court Honor Society is to continue to attract talented and dedicated people, the Society has to be recognized for course credit on a par with activities such as Law Review and the Journal of International Law.

By MADELAINE BERG

In what may be one of its greatest coups in recent years, Brooklyn Law School has won the Phillip C. Jessup International Law Moot Court competition.

The Brooklyn Law School Jessup Team, consisting of Elizabeth Aisenberg, Jean Bernstein, and Madelaine Eppenstein defeated the University of Toronto, the International Division winner on April 29 in Washington, D.C. during the annual convention of the American Society of International Law.

Previously, the team had captured the National Division honors, competing against schools from 11 regions. The BLS team was the only one to go 4-0 in the National competition. The team had five rounds of perfect scores, something never before done by any team in the Jessup competition.

The team won Best Brief and Best Overall Team honors at the final round, and team member Jean Bernstein was announced as Best Oralist following the Nationals.

The problem used in the competition dealt with the human rights, self-determination and legal aspects of the aftermath of an undeclared war resulting from a State's attempt to secede from a Federation. An abbreviated version of the problem was the basis for the International Problem for the First Year

Moot Court Competition this year.

The judges of the final round were the Honorable Phillip C. Jessup, a former member of the International Court of Justice, Harry H. Almond, Jr., Senior Attorney-Advisor to the International Law and Affairs Division, U.S. Department of Defense, and Professor Fritz Kalshoven, University of Leiden, the Netherlands.

Teams from Brooklyn Law School have previously brought back awards from Jessup Competitions. In 1975 the BLS team won Best Brief and the Regional competition, and in 1977 it won Best Brief.

The 110 law schools that competed in the 11 regions of the national division included Harvard, Columbia, Boston University, Fordham, University of California at Berkeley, University of Michigan and Georgetown. Among the representatives of the 26 countries in the International division were Cambridge University, University of Barcelona, University of Lagos, Nigeria, University of Exeter, and Soo Chow University, Republic of China. BLS defeated them all.

The team, which has been working since the beginning of October, is "deeply indebted" to Professor Sherman, and also thanked Professors Djonovitch, Schenk, and Chase. The team also had the encouragement of Rebecca Eppenstein, an honorary member.

Elections Held, Courses Evaluated

By ROBERT ROBERTSON

At the Delegate Assembly meeting on April 6, 1978, the Delegates appointed the members of the Election Committee. They are: Linda Irene-Greene (fourth year evening), Alison Cottam and Robin Garfinkle (both third year day). It was the Election Committee's responsibility to conduct this year's general election to SBA offices held on May 1 and 2. Largely due to their efforts, BLS was blessed with a scandal-free election this year.

First Year Day Delegate, Alex Valicenti, presented a proposal to the Student-Faculty Relations Committee regarding uniform guidelines for determining student membership on the various student-faculty committees. While the faculty voted to continue calling such committees "Student-Faculty Committees," the faculty refused to establish any guidelines for student membership or standing on those committees.

(Continued on Page 3)

SBA ELECTION RESULTS

President		1st Vice President	
* Pat Smillie	193	† Jay Cantor	131
David Fleisher	118	† Teresa Eddy	131
Hal Ruzal	56	Ralph Sansone	112
Susan Kalman	41	Bill Roethel	1
Sam Hagan	3	Non-Votes	54
Non-Votes	18	† Tie Vote — Run Off!	
* Winner!			
Secretary		Treasurer	
* Tom DeMaria	285	* Steve Taplits	196
Barbara Bernstein	6	Michael Heavey	75
Randy Kornfeld	2	Eric Brown	4
Caryl Rosner	2	Non-Votes	149
Non-Votes	128	* Winner!	
L.S.D. Representative		2nd Vice President	
† Deborah Gillaspie	123	* Charles Fox	30
† Barry Rothman	95	Bernard Oster	20
Barry Jacobsen	94	Sam Hagan	19
Non-Votes	114	Non-Votes	2
† Run Off!		* Winner!	

Revised SBA Constitution

* Yes — 243 No — 132 Non-Votes — 56

Results of SBA elections on May 1 and May 2.



Photo by Ken Shitani
BLS Jessup Team of Jean Bernstein (L) and Elizabeth Aisenberg (R) won the Jessup International Moot Court competition. Team member Madelaine Eppenstein was unavailable for photograph.

Justinian

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Letters to the Editor

Constitutional Threat

To The Editor:

The threat to a woman's right to choose an abortion is not the only right challenged by the present vigorous anti-abortion movement. Law school faculty and students should be aware that the drive for a constitutional convention also threatens the entire Constitution and its amendments. Legal scholars disagree on what, if any, restrictions there may be on the scope of the changes that such a convention could effect. At this time, eleven of the thirty-four requisite number of states have already voted for a convention.

Regardless of a person's views on abortion, we urge that there are methods of implementing them short of placing the Constitution "up for grabs." It is vital that we all pressure our state representatives against voting for a constitutional convention.

Nancy Miller
 Kathleen Whelan

Moot Court Dichotomy

Dear Editor:

The Moot Court experience represents an incompatible dichotomy. On the one hand it is supposed to be a learning experience and on the other hand it is a competition. Certainly, one can learn by competing, but not as much as one could learn without the specter of competition gazing down one's back.

To remove a bumbling, blithering, inarticulate individual after two rounds only defeats the learning process of said individual. No longer will this individual have the opportunity to gain experience in oral advocacy which the individual so desperately needs. The glib, articulate individual who is seemingly well-versed in oral advocacy is allowed to complete an additional two rounds which presumably the individual does not need in the first place. Hence, the individual who needs the practice does not get the practice.

In order to ameliorate this reprehensible situation, we just might dismiss Ms. or Mr. Glib from the festivities after two rounds and allow Ms. or Mr. Bumbling to continue the extra rounds. In this fashion, the bumbling one will have additional chances to improve while the glib one will be able to retire after two rounds rather than having to complete four rounds.

After the Moot Court Practice for the masses has been completed, we might then have a Moot Court "Superstars" Competition including those who had been dismissed after two rounds. In this way everyone, glib or not would get a fair shake.

If the present system is allowed to continue as it is, in the same farce-like manner, we might make some improvements to give it the qualifications of a grand farce. Firstly, rather than have second year students act as judges, we might enlist the services of Rex Reed, Jaye P. Morgan, and Jamie Farr to act as judges. Secondly, the petitioner and the respondent

would be allowed to dress up in the most outlandish costumes. Also either side may decide to sing his or her argument to the tune of a popular recording. For example, to the tune of **Heartbreak Hotel**: "Well, these are the facts your honor . . . of which I'm about to tell . . ." Thirdly, the SBA might allocate funds to have someone host the competition and introduce the judges and the participants (e.g. Chuck Barris). Fourth, we might secure a gong for the competition, so that when the judges get tired of listening to someone they have appropriate recourse.

In summation, with a little imagination we might make Moot Court a worthwhile learning experience.

With abject disgust,
 Martin Edelstein
 Section #3

Parochialism

To The Editor:

One wonders when the leaders of Brooklyn Law School will finally have the insight to invite distinguished members of the bench, bar, and academia to participate in guest lectures, symposia, moot court competitions, and the like. While other area schools compete for visits by Justices of the United States Supreme Court and members of Congress and the Cabinet, Brooklyn continues to wallow in the mire of parochialism which has hampered recent efforts to elevate the school to a truly national prominence.

Yours sincerely,
 H. Schaffer

Questioning Without Restraint

Moot Court Honor Society

To the Members of the Executive Board:

It has been my privilege this year as well as for many years past to serve in the nature of a Judge in this Moot Court proceedings.

This year at the end of several arguments which I was privileged to hear, I announced publicly that the degree of excellence far surpassed any prior experience of mine. I now repeat it so that all participants whether appearing before me or elsewhere may be advised of this studied opinion.

I note by the Law Journal that the Brooklyn Law School Moot Court team has been unusually successful in competition with other schools, all corroborating my opinion of their excellence.

I do have a complaint but it is not against the participants and I mention it entirely because improvement can be obtained.

Many years back, it may be that I personally was responsible for the Frankenstein concerning which I now complain. It was my thought that in appearing before a multiple member Appellate Bench the students should be inured to the possibility of questions directed at the participant sometimes from several members of the bench at once.

If this is the way of life in the general practice of law, certainly the student should early learn to meet such disconcerting procedure.

However, I now find in Moot Court practice that the members of the bench ask questions **without restraint**, often developing into a continuing argument rather than a single question and resulting not in just a slight diversion of the participant but actually taking up a major portion of the time allotted to the participant and on occasion, we find a greater amount of oratory from the judges than from the lawyers. We also suspected some of the questions that we have heard have not been entirely pointed towards drawing out the participant and giving him opportunity to display his knowledgeability but rather pointed towards the judge's peticapacity.

We are especially pleased with the questions involved in the Moot litigation leaving the door open to reasonable support on either side of the particular question, which might well be that the genius who works out the causes of action might also work out the proper questions to be propounded by the judges.

In summation, we do not find propounding questions entirely bad but we think that all judges should be strongly urged to stay within reasonable limits in this respectation.

Please be good enough to keep me on your list. I promise to stay within reasonable bounds on my questions.

Sincerely yours,
 Leon E. Borden

SBA: Well Done

The students of BLS owe thanks to Joe Porcelli and the rest of this year's SBA. Although they ran into substantial opposition from the administration on various matters, they were always willing to stick their necks out to protect students' rights. Unfortunately, the risks they took were in many cases for naught, as they were not backed by the student body, which was largely apathetic to school problems except in the area of grades, exams and jobs.

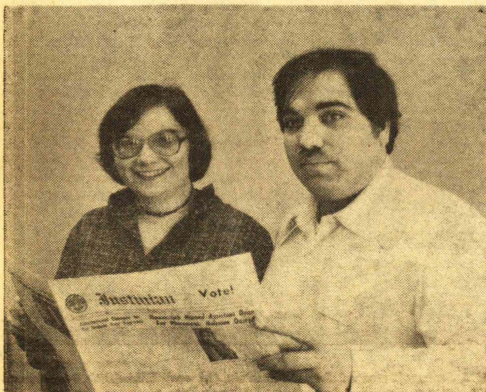
The SBA functioned well this year largely because anyone who wanted to be heard had an opportunity for input. Unfortunately again, few students really took the time to take advantage of the opportunity. We hope the newly elected SBA will continue and expand the progressive policies started this year. We also hope that next year the student body will show more interest in making BLS a better school, rather than sitting back and complaining.

New Law Review Editors



New Law Review Editors: Editor-in-Chief Arlene Dubin and Managing Editor Alan Zeiger.

Justinian Names New Editors



New Justinian Managing Board: Madeline Berg, Managing Editor and Harry Hertzberg, Editor-in-Chief.

The Docket

Summer School applications must be submitted to the Bursar's office on or before June 2, 1978 together with the payment of the \$60 registration fee. Classes run from June 12 to August 3, including exams. Classes will be held from 6-7:45 PM, Monday thru Thursday.

Certificate of Attendance. All students are required to complete the Certificate of Attendance for the Spring 1978 semester and submit it to the Registrar's office on or before May 19. Certificates submitted after that date

will be subject to a late fee of \$5.

The **ABA/LSD Convention** will be held at the Americana Hotel on August 4-8. Registration fee for Law Students is \$25. For more information see the LSD Rep. in the SBA office, or contact the LSD directly. This is a good chance to rub elbows with the big shots and beg them for a job.

For those of you who want to brief out early, school begins again in the fall on Tuesday, September 5. Have a nice summer.

BLS Art Law Expert Speaks

By ROCHELLE STRAHL
 "Art law, being so new, still has opportunities for interested, dedicated lawyers." With that, Professor Leonard DuBoff began a two-hour survey of the field of art law, which he delivered at a lecture on March 21 at Brooklyn Law School.

Leonard DuBoff was valedictorian of the Brooklyn Law School Class of 1971, graduating with the highest index in the school's history. He is presently professor of law at Northwestern School of Law of Lewis and Clark College in Portland, Oregon and a consultant to the National Endowment of the Arts. In addition, he is founder and president of the Oregon Volunteer Lawyers for the Arts and is chairman of the Association of American Law Schools' Section on Law and the Arts. Together with his wife, Mary Ann Crawford DuBoff, he edited *The Law and the Visual Arts*, and, in 1977 he wrote the definitive book on the subject of art law, *The Deskbook of Art Law*.

What provided the impetus for Prof. DuBoff to specialize in this area of law was "a dearth of material and a great deal of inconsistency." What leads to some of these inconsistencies are the varying standards used to define just what constitutes a work of art. Often the definition is shaped by a combination of the persuasiveness of the party alleging and trying to establish that its piece is a work of art and the perception and liberalness of the Customs Court judge's cultural conditioning. As a means of illustrating such inconsistencies in Customs Court decisions, Prof. DuBoff pointed to two cases, one involving a work by Brancusi and the other, a work by Picasso. In the *Brancusi* case, decided in 1928, the judge determined that the bronze sculpture entitled "Bird in Space" was a work of art and, being so adjudged, was able to enter the United States duty-free as an original work of art. However, in 1960, the judge deciding *Silberman v. United States* determined that though a mosaic by Pablo Picasso was entitled to be classified as a "work of art," it was not a painting, and thus, it was not entitled to the free entry accorded certain works of art. In this case, the importer was required to pay duty on an original work of art.

As Prof. DuBoff pointed out, cases involving art have produced some rather unique claims as well as innovative legal and judicial reasoning. In 1974, the government of India sued the billionaire industrialist cum art collector Norton Simon and his Foundation for the return of a tenth-century bronze idol known as the "Swapuram Nataraja," which Simon had purchased from a New York art dealer. Besides alleging illegal exportation and denial of the Indian people's right to freedom of worship, India claimed that the idol was kidnapped and wrongfully detained. Its reasoning was that the Nataraja was a juristic person and thus was capable of holding property, of suing and of being sued. An agreement was reached between the parties under which the defendants quitclaimed all title and interest in the idol, and India allowed the statue to remain at the Foundation for ten years.

A very large and developing field in art law, Prof. DuBoff stated, is counseling the artist as well as the investor in art. Both the creator and collector or would-be investor may be ignorant of the tax implications, copyright and warranty rights, and estate planning problems of their actions either in creating, acquiring, donating or bequeathing works of art.



Photo by Ken Shitani
 Professor Leonard DuBoff speaking on art law.

Prof. DuBoff remarked that both the creator and purchaser of art need certain rights and protection in today's art market. A review of statutory law reveals that there are gaps in legislation in the area of control and regulation of the art market. "Only Michigan and New York have statutes dealing with warranting the authenticity on the sale of fine art," Prof. DuBoff commented. "Caveat emptor is still the guide for the purchaser of fine art."

Prof. Chase Taking Leave To Teach NYU Courses

By ILEANE SPINNER

Professor Oscar Chase will be taking a one year leave of absence from Brooklyn Law School to become a Visiting Professor of Law at N.Y.U. He will be teaching in the Civil Procedure — New York Practice field and possibly in the area of Law and Discrimination.

Professor Chase explains that it is common in the academic community to be invited to visit another school to "avoid inbreeding of ideas." He views the temporary move as a good opportunity to see how things are done in another law school. "N.Y.U. is a law school that has improved itself dramatically in the last ten years," claims Chase. If there are any "secrets" to its success, he wants to bring them back to BLS.

As a professor at BLS for six years, Chase has enjoyed teaching here but also wishes to experience another student body. The GPA and LSAT scores that are required by N.Y.U. are higher than those required at BLS; Professor Chase hopes to find out what differences, if any, that makes in class performance. N.Y.U. is less homogeneous than BLS and Chase welcomes the opportunity to get more points of view from both the faculty and students there.

Presently, Professor Chase is awaiting the Supreme Court's decision in *Monell et. al. v. De-*

In the area of artist's rights, Prof. DuBoff noted that the U.S. is far behind Europe in recognizing the artist's rights of *droit de suite* and *droit moral*. *Droit de suite* is the economic right of the artist in the work he has created. In France, this takes the form of the artist's right to receive a percentage of the price when his work is resold for profit. In Italy, the artist gets a percentage of the profit on resale. Statutory law in California — the first state to give artists *droit de suite* — gives the artist a percentage of the profit if the work is resold at a price greater than \$1,000.00. As of January 1, 1978, the Copyright Revision Act of 1976 gives the federal government complete preemption in the area of art copyright and grants "an exclusive right to sell copies of one's copyrighted work." Prof. DuBoff foresees much litigation in the area of the interpretation of the new Copyright Act and the extent of a creative artist's rights, and for this reason, he has rather wryly dubbed the Copyright Revision Act of 1976, "The Lawyer's Relief Act."

Droit moral is the artist's moral right in his artistic creation. This includes an artist's right to control the creation or noncreation of a work, to enjoin another from profiting by sale or publication of works which the artist has discarded, to withdraw his work from view after publication, and to have a voice in — or even bring a court action to prohibit — alteration or modification (such as repainting) of the work. Both France and Germany recognize this right; as yet there is no *droit moral* by statute in the U.S.

partment of Social Services of the City of New York in which he represented city employees challenging rules and regulations that compelled pregnant employees to take unpaid leaves of absence before medical reason required them to do so. (See *Justinian*, Dec. 1, 1977)

SBA News

(Continued from Page 1)

As it stands, the number of students who are to be on any particular Student-Faculty Committee is determined by the faculty members on that committee. The faculty has rejected the SBA proposal that the number of students be equal to the number of faculty on any one committee. Furthermore, it is up to the discretion of the faculty members of each individual committee whether all, some or none of the student committee members will have voting power.

Finally, in the past week course evaluations were handed out in each class. The course evaluation project was first proposed by First Year Executive Board Member, George Taylor, and in final form, the project is largely the product of his effort. The evaluations should serve to help the students as well as the faculty and the School Administration.

New Course Offered; New Faculty Hired

Editor's Note: The following is an announcement by Dean Glasser of new course offerings and new professors for 1978-79.

Law and Medicine, a new elective course, will be offered for the first time in the fall 1978 semester on Monday evening from 6:00 to 8:00 p.m. The course will provide a survey of the various legal problems confronting the lawyer in the health care field. Consideration will be given to medical malpractice, government regulation of health care, patient rights, problems of death and dying, problems of consent, experimentation on human subjects and the rights of the mentally ill, among others.

The course will be given by Michael G. Macdonald, Vice President and General Counsel of the Mount Sinai Medical Center, who has been appointed Adjunct Associate Professor and by Kathryn Meyer, Associate General Counsel of the Mount Sinai Medical Center, who has been appointed Adjunct Assistant Professor of Law. The course in Medical Jurisprudence will not be offered in the fall semester, 1978.

The course in Civil Liberties to be offered in the fall 1978 semester will be given by a new member of the full-time faculty, Professor Joel Gora. Professor Gora is a graduate of Columbia Law School, LL.B. cum laude, 1967, where he was a Stone scholar and a member of the staff of the *Journal of Transnational Law*.

Professor Gora has been affiliated with the American Civil Liberties Union as National Staff Counsel from 1969 to 1976 and as Associate Legal Director since 1977. He is the author of the *Rights of Reporters* (Avon Books — 1974) and "Due Process of Law" (National Text Book Company — 1976). Professor Gora has also served as an adjunct member of the faculty of the N.Y.U. Law School.

Professor Barry L. Zaretsky will join Brooklyn Law School's full-time faculty for the academic year 1978-79 and will give

the courses in Unincorporated Business Associations and Commercial Transactions — Sales and Secured Transactions. Professor Zaretsky is a graduate of the University of Michigan Law School (J.D. Magna cum laude, 1974). He has been a member of the faculty of Wayne State University Law School since 1975 and was a Visiting Professor of Law at the University of San Diego Law School during the fall semester of 1977. He has also taught at Eastern Michigan University and the University of Michigan and is the author of several law review articles.

The course in Labor Law I will be taught by a new member of BLS's full-time faculty, Professor Gary C. Minda. Professor Minda received his J.D. from Wayne State University Law School in 1975. He is a candidate for the J.S.D. degree at Columbia Law School in June, 1978. He is currently a Fellow at the Center for Law and Economic Studies at Columbia University. From 1975 to 1977, Professor Minda served as Law Clerk to Judge Ralph M. Freeman of the U.S. District Court for the Eastern District of Michigan.

Thomas R. Pattison and Edward A. Rudofsky, Adjunct Assistant Clinical Professors of Law, who supervised the clinical program in the U.S. Attorney's Office, have resigned as Assistant U.S. Attorneys and, therefore, will not supervise that program in the fall semester of 1978. Appointed as Adjunct Clinical Assistant Professors of Law to supervise that program are J. Christopher Jensen, Assistant U.S. Attorney and Chief of the Civil Division in the Eastern District and Peter R. Schlam, Assistant U.S. Attorney, Criminal Division, Eastern District. Mr. Jensen received his J.D. in 1973 from New York University School of Law where he was Editor of the *Review of Law and Social Change*. Mr. Schlam received his J.D. from Cornell Law School in 1969.

ABA Team Takes First



The BLS ABA team of Eleanor Doyle, Adrienne Klein and Ilona Kirshon took first place in the Second Circuit Regional Competition.

Criminal Justice:

Parole Fails as Financial Crunch Breeds Recidivism

By P. J. DWYER

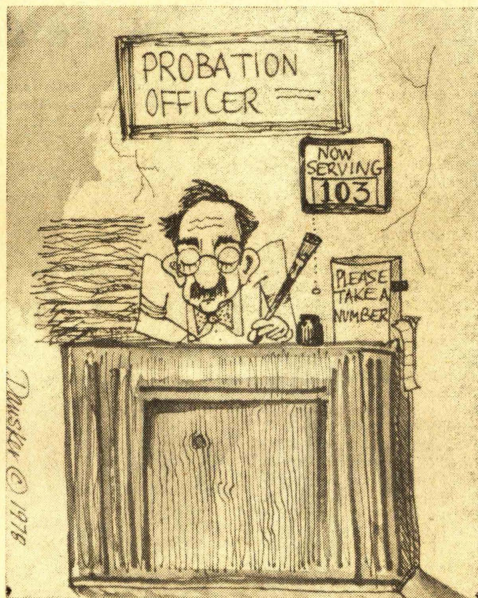
Probation is not a highly visible segment of the criminal justice system. Relatively few people know what a Probation Officer does, still fewer are able to distinguish between Probation and Parole. The reason is relatively simple, it's not a glamorous job. They don't make TV shows about P.O.'s.

Yet Probation plays an important role in both the pre- and post-adjudicatory processes. It is unique because it's involved in all three areas of criminal justice: arrest, conviction and corrections. Therefore its range of services is necessarily broad. Typical Departments may have a release-on-recognition program, rehabilitative volunteer services, and Family Court Intake in lieu of court hearings. The bread and butter of Probation, however, remains its supervision and investigation services.

Probation has two main goals; First, to protect the community; and; Second, to help offenders lead law-abiding lives. Ideally these goals will be reflected in its supervisory and investigative services. But Probation is plagued with many of the same problems as the rest of the criminal justice system, plus a few unique unto itself.

Investigation Services

Mandated by statutes for some offenses, discretionary for others, pre-sentence investigations are conducted by Probation for Police Courts as well as the Family and Criminal Courts of NY State Supreme Court. Before sentencing a judge needs to know more about the offender to make an appropriate decision. Accordingly the Probation Dept. conducts interviews with the offender, and compiles background information about school, jobs, prior criminal record, and police and community attitudes toward the offender. This information is analyzed and a sentence recommendation is made to the court. Since the case has penetrated this far into the system, the



choices have generally been narrowed to either Probation supervision or incarceration.

The value of these reports has been borne out by surveys which indicate that judges follow the Department's recommendations 85-90% of the time.

Clearly they play a large part in determining who will be allowed to participate in community-based supervision and who will be locked up. But how useful are they? We'll examine their real effectiveness after a look at Probation's other main service.

Supervision Services

Supervision involves monitoring an offender who has been sentenced to Probation for a period of from one to five years. NYS Division of Probation guidelines mandate a three-tiered system with a decreasing number of contacts until release. Immediately after sentencing there are four personal and four

collateral checks per month. After satisfactory adjustment, a probationer is contacted twice per month, then once a month, eventually earning his release. Ideally, at the beginning of his sentence a probationer and his P.O. work out a program of mutual objectives in employment, education, home-life and other areas which, with improvement, may help avoid re-arrest. An example under an employment heading might be: "OBJECTIVE — finding and keeping a job." To that end the client agrees to contact three potential employers per week, and the Probation Officer agrees to enroll client in a CETA job program designed to enhance job interviewing skills and help client with a resume. These goals serve as quantifiable criteria for measuring client progress and success. As an incentive, once the client completes the objectives for a specified time, he gets an early

discharge. Yet few Departments utilize these goal-oriented programs, in fact few Departments even attempt it.

What's wrong? Why don't Probation supervisory and investigative services work?

Problems

Probation suffers from the city-wide malaise, lack of money. During the 1975 fiscal crisis the City laid off 40% of its Probation Officers. Supervision caseloads which were already two to three times higher than the recommended standard of thirty-five, spiraled to one hundred fifty per P.O. Home visits were replaced with office reports. Personally stylized mutual-objective supervision, which was about to be introduced after a successful trial period upstate, never got off the ground. Investigations continued to supply large amounts of material for the sentencing process, yet judges grew fearful of placing offenders in the community when it was apparent they received inadequate supervision.

Inevitably this led to what the P.O.'s call "the numbers game," a policy which epitomizes the revolving door of criminal justice. The bureaucracy, top-heavy with Supervisors and short on P.O.'s, initiated a one year limit to hold down caseloads. Offenders, many of whom are felons sentenced to five years Probation, are recommended for release after one year of supervision if they meet the requirement — no new arrests.

All of this has led to the most severe problem faced by Probation at this time, low morale. Faced with plea bargained agreements that make pre-sentenced investigations of little use, the ballooning caseloads that force cursory supervision and breed recidivism, the Probation Officer has little incentive to perform well. One need only visit the local Probation office to witness it himself. It's evident in the faces of the P.O.'s forced to spend only a few minutes per client, and the rest of the day filling out viola-

tion forms. It's evident in the waiting room, the floor littered and the walls black with dirt. Worst of all, it's evident in the faces of the probationers, who have concluded that the system doesn't work. As one Probation official stated, "It's all just a game. That's what they think, and they're right."

One Third Repeat

One Director thinks that Probation deals with roughly three different categories of people. One third are hard core recidivists who'll return no matter what, another are first and second offenders who are either scared enough or smart enough not to return, and the other third are "maybe's" who, depending on the job Probation does, may or may not return. No one can expect NYC Probation will succeed in the latter category under the present circumstances.

What's Next?

If we accept the theory that Probation has a built-in failure rate which is doubled by the current fiscal crisis, where does that leave the prospective lawyer? It's been said that Probation only works as well as the community. In an area as crowded as NYC there will inevitably be high crime. Hopefully, Probation will remain, as a viable alternative to incarceration.

How well it works then largely depends on the availability of resources for adequate staffing, which is the best way to raise morale and lower recidivism. Unfortunately few of us have enough power to influence those decisions.

There may be one other avenue of recourse. As one P.O. put it, the root of the problem lies not with the Probation Dept. but with the community. Through preventive medicine the criminal justice experience can be avoided by many. His advice for today's law students, "Become a Big Brother or Sister, a Scout Leader or join any community group active with youth. It's the best investment anyone can make in the future of Probation."

Second Circus Revue: A Hit

By ILEANE SPINNER

Electricity was in the air as the Second Circus Revue opened Thursday night, May 4, to a near capacity crowd in the Moot Court room. The show popped fun at, among other things, the faculty, the students, and staff, as well as this publication and its editor, Howard Cohen. It should be noted that Barbara Naidech was granted a special leave of absence from the Justinian to pursue her theatrical career. Naidech and Todd Silverblatt instituted the proceedings of the evening.

The opening number was a rollicking salute to Dean Glasser authored by Bill Schrag. Other musical numbers of Act I included: "Alumni" to the tune of "Wouldn't It Be Nice" and Pat Smillie's mournful ballad "Maybe This Time (I'll Pass)" about the trials and tribulations of first year.

The first skit was a joint session torts class featuring Conrad Dombrowsky as Professor Nightingale and Larry Becker as Professor Crea. Both Dom-

browsky and Becker did amazingly credible impersonations of the professors. The class sang "You're Gonna Sue the Pants Right Off The Man" and Robin Garfinkle, giving a repeat performance from last year's show, left the audience in stitches with her portrayal of the proctor.

Next, Mark Hallett commanded the stage with his interpretation of Dusan Djonovich — BLS' "chief law librarian, number one." Hallett's fracturing of the English language (as well as his striking resemblance to the character) fractured the audience.

Lunch hour at the BLS cafeteria was replicated in a skit starring Conrad Dombrowsky and Charles Goldman. Robin Garfinkle re-appeared, this time as Cafeteria Annie. The final scene of Act I was LEGALINES NEWS with anchormen Charles Goldman as Chuck Scartissue and David Fleischer as Roger Glumpsey. Here fabricated news items about faculty and students were reported a la Weekend Update. Pat Smillie played Pia Four the confused inter-

viewer speaking with Mark Hallett in the role of Dean Glasser on "The Enigma That Was Dean Lisle."

Act II featured Barbara Naidech and Todd Silverblatt starring in HOW THE OTHER HALF LIVES — an interview with Richard Goldenswartz, a second year BLS student in the bottom of his class with a doubtful future. Toby Pilsner and Phil Brown were patient and law school psychiatrist in THE DOCTOR IS IN.

Charles Goldman did an excellent portrayal of Professor Jerome Leitner in a tour of the BLS art collection. The material and Goldman's delivery of it made this scene particularly entertaining.

Act II musical numbers included Naidech and Hallett singing "Tomorrow" — a lament about the job situation and latter David Spatt (extremely talented, albeit a first year student) proving that "the folkie student protest movement is not dead but on vacation in Club Med" with his guttural and vocal rendition of the "Eve of Induction."



Photo by Ken Shiofani

Cast joins in for the finale of the Annual Second Circus Revue.

The finale included the whole cast in DISCO — a take-off on BLS Thursday night Disco parties. The scene composed of black-outs, began with Mark Hallett and Conrad Dombrowsky as a comical pair of drunks, included some incredible dancing by Pat Smillie, and ended with a rousing rendition of "There Is Nothing Like A Date" performed by the entire cast.

The technical crew was composed of Alison Cottam; Teresa Eddy, and Joanne Greenwald. Tom Scavelli and Jim Smillie comprised the stage crew. Marla Hirsch did make-up while Conrad Johnson and Benny Weinstock were responsible for music and audio effects. Lastly, this reporter was a fine script person (if she does say so herself).