1983

The New York Law School Advocate, vol 1, no. 6, March 24, 1983

New York Law School

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New Faculty Hirings May Include Minorities And Women

by Will Hart

New York Law School has sent contracts to eight new faculty members Dean Arnold Graham announced on Wednesday. Students have been concerned recently about the widening student/faculty ratio and the lack of minority and female professors. With the addition of the eight new professors, the student/faculty ratio will be about 29/1, Graham said. This is approximately what the American Bar Association recommends, although as Professor George Dent, Chairman of the Faculty Appointments Committee commented, the ratio is not always strictly enforced for accreditation by the ABA. Both Harvard and Georgetown fall short of the student/faculty ratio.

Chairman of the Faculty Appointment Committee commented, the committee is actively pursuing professors, the student/faculty ratio is not always strictly enforced for accreditation by the ABA. Both Harvard and Georgetown fall short of the student/faculty ratio. "The committee considers the candidates' potential as a teacher and a scholar almost to the exclusion of anything else," Dent commented.

While minority members and women will "receive especially careful attention," he said in an interview last Thursday, minority or female status will not secure a teaching post for a candidate who is not qualified. "We are fortunate," Graham said, "that the black professor and the women professors to whom we've offered contracts are of the highest quality."

There is now an excellent market for law schools in position to hire new professors. In addition to this, NYLS's reputation has risen considerably over the last several years. The new professors are, as Graham said, "top flight, top scholars." Several of them declined offers made by other law schools to teach here.

The hiring process involves numerous interviews with faculty members as well as a presentation by candidates at a faculty meeting. Candidates usually speak on topics about which they have special knowledge or keen interest. The Faculty Appointments Committee then makes a recommendation to the faculty on whom to hire. All of the 47 full time faculty members then vote. Candidates who are selected by the faculty are then reviewed by the Board of Trustees for their final approval.

Simon Named Dean Pro Tem

by John T. Schuler

New York Law School's 91st Commencement, on June 12th, promises to be one of the most important and prestigious in the school's history. Associate Justice of the Supreme Court Harry A. Blackmun will be the main speaker.

In addition to Justice Blackmun, honorary degrees will be awarded to United States Senator Lowell P. Weicker of Connecticut, the Honorable Constance Baker Motley, Chief Judge of the U.S. District Court for the Southern District of New York, and to Albert Parker, NYLS Class of 1921, and a senior partner with Parker, Chapin, Flat­tan, and Klimpl. An invitation has been extended to New York Governor Mario Cuomo, but he has not responded yet, according to Director of Alumni Affairs, Renee Grossman.

"It's very significant for the school to have a supreme court justice coming to speak and we're looking forward to his views with great interest," Dean Margaret Bearn said.

"You can imagine how many invitations a supreme court justice gets every year," said Roy Mersky, Visiting Professor of Law, "So obviously the school is pleased to draw someone of Blackmun's position and prominence." Mersky extended the invitation on behalf of the school to Blackmun to speak at graduation.

(continued on p. 8)

Professor James S. Simon was appointed Dean Pro Tem of New York Law School on March 4th. According to a news release that the administration posted, "he will serve while the school undertakes a nationwide search for a permanent dean."

Simon, 44 years old, received a B.A. from Yale College and a law degree from the Yale Law School. He has been Visiting Lecturer in American Studies at Yale University, Harvard Fellow in Law and the Humanities at Harvard University, and Visiting Fellow at the University of Warwick, England. Prior to teaching, Simon served as a Correspondent and Contributing Editor of Time Magazine, specializing in legal affairs. He is the author of The Judge, In His Own Image: The Supreme Court in Richard Nixon's America, which won the American Bar Association's Silver Gavel Award, and Independent Journey: The Life of William O. Douglas, which won the Scribes Award of the American Society of Writers on Legal Subjects.
Simon in Car Crash

According to newly appointed Dean Simon, on the way home from NYLS on Monday the 7th, both he and his driver, Jerry Denson, were involved in what Simon referred to as a “freakish” accident. A driver, coming towards them on the Palisades Parkway, lost control and skidded his car across a grassy divider. As it crossed into their lane there was no time to react, said Simon. The result was a collision. However, the cars only touched at their front corner bumpers and glanced off one another; thus, preventing serious injury to all parties.

Although neither Simon nor Denson were seriously injured, both have reported sore necks. Denson spent time in the hospital to recover from some rather painful bruises and Simon had to wear a neckbrace as a result of the case of whiplash (acute cervical strain) he received.

Dean Search Continues

The Dean Search Committee is making some progress. Visiting Professor of Law at the Institute of Judicial Administration, Sandy Froessel visited NYLS as the first of a number of candidates who will be considered for the job. Although Professor Kim Lange, Committee Chairperson, says that the process is ongoing, other sources have noted that unless a prestigious name is found before the end of May, at the latest, there is a chance of getting someone for the 1983-84 school year who would be slim to none.

This is especially likely due to the fact that the school is committed to finding a Dean whose name and there is a very limited number of people on such a list.

Editorial Board Elected

On March 3, The Advocate elected its new Editorial Staff. The new Editor-in-Chief is Paul Friedman, the Features Editor is Karen Schwartz, the News Editor is John Schuler, and Kerry Lutz continues in his role as Business Manager. With the exception of Lutz, all the new editors are members of the Class of 1983.

“For the Advocate to be successful, it not only needs to command the respect of its readers but their active support as well,” Friedman said. “Thus, one of my main goals will be to attract as many new contributors as possible.”

“We know that with the talent available at NYLS, we will continue to produce a high quality newspaper,” Friedman added.

The new staff will take over full responsibility for the newspaper with the next issue, which is due out in April.

News Briefs

An Eclectic Collection

Edmonds Wins

Cornell Edmonds, a former Chairman of the Black and Latin Law Students Association, was elected President of the New York Law School S.B.A. on February 15. Tom Ryan was elected Vice-President, and David Michaels was elected Attorney General. Both were unopposed.

Carmella Kurzewski, a first year student, is the new Secretary. And Harry Weinberg defeated three candidates to win the A.B.A./L.S.D. Representatives position.

Some first and second year students will be voting for S.B.A. replacement representatives this week or within the next few weeks. These elections are being held to replace the S.B.A. representatives who have dropped out of the S.B.A. Senate.

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Financial Aid Legislative Update

by Drew Britcher

Once again it is budget time in Washington and once again the Reagan Administration has taken out its knife to pare away money from the allocations for financial aid programs. Here is a look at what they have proposed.

Student Loans—These programs are utilized by about 85 to 90 percent of all New York Law School students. Originally the Reagan Administration suggested cutting all aid to Graduate students through the Guaranteed Student Loan Program, to effectively force graduate students to rely on less practical or feasible programs. While they have retreated from this proposal, two other proposals pose problems for many students.

First, the administration wants to increase the origination fee from five percent to ten percent. A $5000 dollar loan would then be worth less than $4500. To students at law schools where tuition exceeds that amount the result is a decrease in aid.

Second, the proposed budget requires that all students, not just those students with an adjusted gross income over $30,000, undergo a financial needs test to analyze their eligibility to receive a loan. For students in a two income household who earn just under the $30,000 mark, this could preclude them from receiving loans, or seriously reduce the amount they could receive.

Pell Grants (REOG)—While this program does not effect graduate students, it is indicative of the administration’s general philosophy. The overall appropriation for these grants would stay the same, but the eligibility criteria will change. The plan would raise the maximum award level, but make funds available to fewer people, thus eliminating some present recipients entirely.

College Work Study—The administration’s proposal calls for an increase in the appropriation, mostly to compensate for the proposed elimination of the –SEOG, SSIG, and NDSL programs. This plan reflects the view that students should work for their aid. For law students, the obvious flaw in this approach, is that this plan provides little relief for decreases in other programs.

National Direct Student Loans—the administration has proposed a total elimination of the capital funds for this program. Since NYLS has only been in the program for one year this would effectively eliminate the availability of these loans to NYLS students.

The budget process is long and involved. A final decision will be unlikely before summer. This provides a very good opportunity for students’ input to the budget process. However, if changes are to be made, it is essential that input be made before May and reinforced during the summer. If you wish to write your representative The Advocate will be posting a list of the names and addresses of all New York, New Jersey, and Connecticut Senators and Congresspersons in the lobby of 57 Worth Street.

Remember that expressing what the proposed changes will mean to you directly is the best approach and that personal letters are preferable to form letters.
Student Project Aids Haitians

by Karen Schwartz

Law Students for Haitian-Americans Inc., a new student organization at New York Law School. Brainchild of Mari-Rose Jean, a mid-semester third-year student, this group will focus on the legal issues affecting the Haitian community.

When asked why this group was formed, Jean answered, "The Haitian community lacks legal support. There are 400,000 Haitians in the New York area. One-third of them are illegal. Immigration is only one of their legal problems."

For their first undertaking, LSHALD will be working in conjunction with the Lawyers Committee for International Human Rights, which has been representing Haitian asylum claims for the past two years. Project Director Arthur Helton has the faculty and the administration of attorneys to LSHALD. Helton has been representing Haitian attorneys and their Haitian clients. Jean, a past member of A.B.A. evaluation committees, when asked for comment on the possibility that NYLS might not be re-accredited, said, "NYLS presently meets the minimum requirements of the A.B.A. and it is in a unique position to develop its full potential due to the resources available to it. These include the student body, the faculty, the school's location and its financial resources."

The administration's comments have also been positive. Roberta Robins, Director of Academic Programs, said, "There is a 96 percent chance that all will go well in October and we will be re-accredited."

A.B.A. Postpones Evaluation

by Paul A. Friedman

The American Bar Association is presently scheduled to evaluate New York Law School sometime in early October of this year. Every A.B.A. accredited law school is regularly reviewed to assure minimum standard requirements are being met.

Originally expected in April, the A.B.A. evaluation committee requested the delay because it felt it would be overburdened during that time.

The task of the committee is primarily threefold. It must first examine NYLS to determine that it is in compliance with the minimum standard requirements and is attempting to reach its full potential as a law school. It then provides a critical analysis of the school's weaknesses and strengths for use by the trustees, the faculty and the administration of NYLS. Finally, it suggests ways that corrections can best be affected.

Roy Mersky, Visiting Professor of Law and a past member of A.B.A. evaluation committees, when asked for comment on the possibility that NYLS might not be re-accredited, said, "NYLS presently meets the minimum requirements of the A.B.A. and it is in a unique position to develop its full potential due to the resources available to it. These include the student body, the faculty, the school's location and its financial resources."

The A.B.A., last here in 1974, will be examining every aspect of NYLS from the student/faculty ratio to the actual performance of the students. Currently, according to Vice-Dean Arnold Graham, the student/faculty ratio is approximately 28 to one. While this is above the A.B.A. standard of 30 to one, the school intends to reach a ratio of approximately 29 to one next fall with the addition of new faculty, Graham said.

Minority hiring, the amount of minority students, library materials and facilities, and the school's financial aid program are among the many areas the committee will review in October.

In order to aid the A.B.A. committee and put the best light on even the dimmest of areas, there has been a special committee set up called the Self-Study Committee. Chaired by Professor Ed Samuels, the committee is designed to have both the faculty and the administration develop a report on the school's current posture and its future goals. According to Samuels, the committee will seek student input at some point.

The A.B.A. committee, meanwhile, also intends to inspect NYLS' financial picture. They will want to be assured that the goals listed in the report are actually achievable. In Mersky's view, the report should prove more valuable to NYLS than to the A.B.A., though, because it will force the leadership of the school to examine the school carefully, and start thinking about ways to reach its full potential.

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Opportunity Knocks in the Public Sector

by Robert Gordon

Over 100 NYLS students attended the fourth annual Public Interest and Public Service Legal Career Symposium at NYU School of Law on March 3-4. The event, sponsored by New York Law School and the other metropolitan area law schools, is intended to encourage the exchange of career and job information between attorneys from public interest and government offices and law students.

The participating organizations were varied. They ranged from Bronx and Kings County District Attorney’s offices to the Legal Aid Society’s divisions to the NAACP and the New York Civil Liberties Union. Some representatives met with small groups of students to discuss their summer and career opportunities, while others spoke at specialized panels.

One panel, entitled “Public Service Alternatives” brought together speakers from the Public Advocate of New Jersey, the NYC Human Resources Administration, and the NYC Corporation Counsel. The Public Advocate, for example, provides counsel for inmates, the mentally ill, the handicapped, the elderly, and the infirm. The H.R.A. protects adult infirm, and abused and neglected children. The Corporation Counsel represents the city in contract, tort, and labor matters.

First year student Tom Mansfield found the information he gained valuable. He explained, “There are all these organizations, and you’d never know they existed.” Third year student Andrea Coleman added that it was convenient to be able to speak to people at one location rather than the usual chore of spending several weeks with letters and phone calls.

The main motivation for students to attend the symposium was the various panels and speakers. This goal was met with minimal success. Many organizations were willing to take on summer interns, but few could afford to pay salaries. Students were urged to seek work-study money or volunteer in order to gain experience and make contacts.

This problem was further exacerbated by the fact that NYU students at the symposium were given first opportunity to sign up for the few available interviews which were being conducted. This happened despite the fact that the symposium was cosponsored by other schools.

The permanent job picture was no less uncertain. Most government agencies have frozen hiring. Legal Services offices are anticipating even less government funding than they have now. In many cases, positions only become available when a current employee leaves. And yet, the various representatives were optimistic that this situation would improve. As Paul Klein of the Legal Aid Society put it, “If a public interest job is what you really want, stay with it. You might have to do something else for a year or two. If you keep looking you’ll find something.”

In the end, students’ attitudes toward the symposium shaped their evaluation. One third year student, Daniel Greenberg, spent a good deal of time attempting to find people who were not in their assigned places. He lamented that “people were helpful and informative but there weren’t many jobs.” Another third year student, Julie Fishinder, didn’t find many jobs either but reflected, “This event was good for me because after seeing that there are still a lot of people doing good work, my motivation to find a public interest job has increased.”

Preparing for the Public Interest

Here are some helpful hints for job-hunting culled from two days of the 1983 Public Interest and Public Service Legal Career Symposium:

1) Clinics - important; good experience for law job. Also lets you know if this is what you want to do. Also work-study and volunteer work during year and summer.

2) Work for a public interest organization while in school to show you truly have a commitment. Don’t just show up after graduation and say you want to do it. Have proof that you actually participated and this has been an interest of yours.

3) Inquire as to whether attorneys know other attorneys in your field of interest, and ask about geographical locations, etc. Ask questions, make contacts.

4) Cover letters and resumes should be flawless. They represent you and your work.

5) Sales Club of New York - How to get and prepare for interviews.

6) Follow-up sending a resume with a telephone call.

7) Know about the organization for which you are interviewing.

8) Find graduates of your school who have worked for the organization.

9) Read your writing sample before a job interview.

10) Assume long hours and hard work. Never ask about that in an interview.

11) Keep writing and calling. Don’t be a pest, but persevere in the “right” way. Don’t give up!

Feeling Radical?

Get Involved in The National Lawyers’ Guild
Editorial
A Better Way to Choose

New York Law School is presently engaged in recruiting a substantial number of new faculty members. Given added incentive by the coming ABA review, the school is diligently attempting to lower the full time faculty/student ratio. The result has been a deluge of aspiring applicants being processed by the faculty, administration and trustees. Part of the processing involves numerous interviews with current faculty members as well as a presentation to the faculty on a topic of the applicant's choice.

Currently, students play little if any role in the process. This is unfortunate because these applicants are being considered for the job of teaching students - yet the first time anyone has a chance to know how the applicant actually interacts with students is after the contract has been signed. It is hardly unusual in many educational institutions for students to be involved in the process of evaluating applicants. Given the central importance of a faculty to a school, decisions about who to hire should be made with the most input possible. And one would think that those making the ultimate decisions would want to know rather than just speculate about how students will respond to the applicant. The process of faculty recruitment at NYLS should therefore be changed to incorporate active student involvement.

Letters
In Defense of Minars

To the Editor:

We are currently students of Professor Minars enrolled in his Sales course during the day. We would like to state "for the record" that we believe Professor Minars to be an excellent instructor with a view towards the real practice of law and not merely the philosophical and theoretical aspects. His practical knowledge and experience (since he is a practitioner) are of the utmost value to a law student who very often is exposed only to full time instructors.

It is unfortunate that Mr. Panero (presumably a disgruntled student) does not have the insight or intellect to appreciate the outstanding qualifications of an instructor such as Professor Minars and the benefit that all law students can obtain from his abilities and practical experience.

Sincerely,
Denise J. Mortner
Mary Burns

To the Editor:

Your recent article, 'A MINAR PROBLEM' is a minor injustice.

Professor David Minars is an excellent professor. He has the rare ability to teach intricate and sometimes dry material in an exciting and challenging manner. His explanations are clear; his classroom discussions are touched with humor and his manner is straightforward and relaxed. Additionally, he has a great concern for his students and their future well being as attorneys.

Sincerely,
Louise S. Alberda

Cohn on Cohn

To the Editor:

Being by conviction a Shakespearean, I do not let little people or non-events get up my dander - because there are too many important things in our short lives. But your frenetic reaction every time I debate at New York Law School occasions some observations:

1. You obviously believe profoundly in the First Amendment and free speech - except when it applies to someone like me with whom you disagree.

2. I have lectured at New York Law School since I was 21 years old. I can't reduce my rates - as I decline compensation. My feelings about the school go back to 1907, when my father won the gold medal on graduation from night school while teaching during the day. It was my father who initiated the petition that restored to New York Law School its charter, which it had been forced to surrender to the American Bar Association during World War II. Our law firm employs more New York Law School students and graduates than it does ones from Ivy League schools.

3. When I speak, debate or lecture at Harvard, Yale, Stanford, etc., my treatment has without exception been courteous and warm - despite disagreement as to content.

4. Similarly, at New York Law, I find large audiences of students, very many of whom talk with me after my hour, and others who write to me on various subjects.

5. I do not feel the need for self-defense, but I'll be damned if I'll let a few bigots poison my mind toward a fine institution with which I have had a life-long connection, and which will surely survive as your editorial writers graduate and go on to achieve the recognition and eminence at the bar to which their fairness and infinite judgmental wisdom clearly entitles them.

Sincerely,
Roy M. Cohn

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Snow Bunnies Melt

by Alice A. DeVoe

As the winter days peel off the calendar and fall into the waste basket, two thoughts come to mind—spring and final exams. The latter is repugnant to any fashion of spring. Such a thought should not merely be discarded but incinerated to help keep the body warm through the end of winter. Besides, our being excruciatingly cold and running away.

April showers not only bring all those May flowers but also pollen. At least pollen gives the nose a change in smells from city soot for a little while before the legitimate use of antihistamines shuts down the olfactory process. Once the tearing stops, you can still enjoy the color of the flowers even if you cannot smell them.

The one nice thing about the spring rains is that it does not need shoveling. In truth, irritation with this weather's extraction of energy is also consumed by keeping warm and running away. Oddly, it seems that we only run in place and get nothing accomplished.

This may be why spring follows winter. If trees and plants can get their act together and grow a few leaves, law students should be able to follow the example. Perhaps exerting a little energy and reading all those pages of cases will create a little growth, plus a sense of accomplishment.

Never mind that you could have read (and enjoyed) ANNA KARENINA six times over for the second month reading great novels maybe you should have enrolled in a master's program in literature. Perhaps the real lesson is remembering why we are here at all and start expanding our minds seriously.

Actually all this agony will be good practice. Exert a little energy every once in a while and get in shape for the summer. There's no time to catch up then; the weather's too nice. Of course the first few days will be hellish. The first 50 sit ups always are. The only unfortunate thing about spring is that final exams occupy its best six weeks. (But remember how tasty those first beers were after fall exams?)

There will still be enough time left in spring after exams to enjoy a little sunlight, softball and folderol in the Park. The snow bunnies will have stuffed their winter layers into the summer's. The only unfortunate thing about snow bunnies is that they do not need shoveling. In truth, irritation with this will stop, you can still enjoy the color of the flowers even if you cannot smell them.

Oddly, it thought of how far behind one is, energy is also consumed at keeping warm and running away. Oddly, it seems that we only run in place and get nothing accomplished.

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There will still be enough time left in spring after exams to enjoy a little sunlight, softball and folderol in the Park. The snow bunnies will have stuffed their winter layers into storage and will be transformed into sun worshippers sporting the latest in minimalist fashion.

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WET BRIEFS
by Donna Lieberman

From time to time, The ADVOCATE likes to devote space to a very serious subject—the bar exam. Perhaps the most overlooked part of the bar is the MPE of “ethics” section. In order to correct that oversight, WET BRIEFS offers some sample questions to help readers prepare for the ethics exam.

1. A few minutes after Prosecutor’s arrival in court, defendant's attorney offers her an envelope filled with money. Which response is consistent with Prosecutor’s ethical obligation?
   a. Reporting the attempted bribe to the judge
   b. Handing the envelope back to defendant’s attorney
   c. Putting it in her briefcase
   d. “Not now, stupid”
   e. Counting the money

2. Attorney Alpha wishes to advertise for clients. He places his firm’s name on a neon sign over Times Square. Is Attorney Alpha subject to discipline?
   a. Yes, if anything is misspelled
   b. Yes, if his sign attracts pigeons
   c. Yes, No, if the sign attracts clients
   d. No, as long as the neon lights are white, off-white or beige

3. Client goes to Lawyer’s office and tells Lawyer that a recent series of drug-related arrests have him concerned. He has five pounds of cocaine which he no longer feels comfortable keeping at home. Which of the following is (are) consistent with Lawyer’s ethical obligations?
   a. Flushing the cocaine down the toilet
   b. Calling the police
   c. Taking out a straw and calling some friends
   d. Telling Client that barter is illegal if fee is fine, but it will have to be declared for income tax purposes
   e. Counting the money

4. Client tells Attorney of his plans to murder his wife. Attorney will be subject to discipline unless he:
   a. notifies the police
   b. sends the wife flowers
   c. reports Client to the ABA
   d. waives the fee and gives Client address of Attorney’s spouse
   e. refers Client to a psychiatrist and takes a referral fee

5. Client informs Lawyer that he is presently engaged in a scheme to defraud lawyers. Lawyer should:
   a. shoot Client
   b. hire someone to shoot Client
   c. ask for a piece of the action
   d. no, as long as the neon lights are white, off-white or beige

ANSWERS WILL BE DISCUSSED IN THE NEXT ISSUE.

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Crime Control Measure Threatens Civil Liberties

by Julie Fosbinder

The F.B.I. and the U.S. Attorney's office are attempting to discredit the Black liberation movement, according to Attorney Susan Topograph, a New York Law School graduate.

Topograph, who has defended many political activists and is presently representing Sekou Baraldini, a supporter of the communist organization May 19th, was speaking about the Racketeer Influenced and Corrupt Organizations law "R.I.C.O." Passed in 1970 as part of the Organized Crime Control Act, its original intent was to aid the government in its fight to keep organized crime from infiltrating legitimate businesses. However, over the years, Topograph asserted, R.I.C.O. has instead become a device for political suppression.

The problem, she said, is the vagueness of the statute. The statute says that it is unlawful "for any person employed by or associated with any enterprise which is involved in a pattern of racketeering to create an enterprise out of very little evidence." She noted that the mere association with convicted criminals or membership in a group in which embezzlement on an ongoing basis may be enough for an indictment under R.I.C.O.

Nonetheless, the defendants who are currently involved with the组织的名称和组织的名称 are attempting to discredit the Black Liberation Army and the New Nations. The indictment, as Topograph's client, is charged with conspiracy. A conspiracy which is claimed to have robbed four banks, attended others and planned several more. However, according to Topograph, the only link to this "conspiracy" that the defendants have is their membership in radical political groups such as her client's - the communist organization May 19th, the Black Liberation Army and the New African Independence Movement.

Indeed, the prosecution's allegations of criminal involvement vary from defendant to defendant. Sekou Odinga, a New African Independence Movement fighter, has 19 predicate counts (i.e. robbery or murder) against him. While Baraldini, Topograph's client, is charged with conspiracy. Specifically, she is charged with planning four bank robberies (none of which occurred). She was arrested for assisting in the escape of a prisoner.

Although the R.I.C.O. law, in Topograph's opinion, has obviously been applied too broadly, the Supreme Court has interpreted the law in a manner that would make convictions under it difficult to overturn.

In the case of U.S. v. Turkette, appellants argued that technically their convictions under the R.I.C.O. law should be overturned because the term "enterprise" was never intended to apply to an illegitimate business. Rather, it was aimed at legitimate "enterprises." The Court did not agree, however, and ruled in favor of the government.

A recent Second Circuit decision, however, reversed the R.I.C.O. convictions of 4 Croatian nationalist defendants who were convicted of attempted murder and extortion. Thus, it would appear that future R.I.C.O. convictions could run into trouble.

In that case, the Court felt that the prosecutor had finally overreached his authority, stating that, "The potentially broad reach of R.I.C.O. poses a danger of abuse where a prosecutor attempts to apply the statute to situations for which it was not primarily intended." The defendant's had found to be merely "used in organizations "seeking for the independence of their native land."

In the past two decades the American public has become more aware of the attempts by the F.B.I. to discredit political organizations by finding ways to brand them as criminals. However, whether or not the U.S. Attorney is bringing the Brinks case to trial for the purpose of discrediting the Black liberation movement and other groups, it may still have that effect.

The news media is quick to write about such connections, said Topograph. Myron Farber, in a March 9, 1983 article in the New York Times, did just that, she asserts, when he wrote of the defendants' "alleged" links to drug trafficking. He also accused one defendant of being a pimp. The clear implication of the article, Topograph continued, was that many of the defendants are tied to their groups only for personal gain.

In a suppression hearing on March 9, 1983, Judge Duffy responded to the Farber article, stating that since nothing in the indictments dealt with drugs, he was not going to hear testimony on that subject during trial.

The suppression hearing is the beginning of what is likely to be a lengthy proceeding in the Federal district court. The trial itself is sure to cast more doubt on the applicability of the R.I.C.O. law to this case.
March 24, 1983

ADVOCATE

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Building Committee Sets Goals

by Paul A. Friedman

"In the next few weeks," according to Professor David Rice, "Decisions about next fall will have to be made." Professor Rice, the newly appointed chairperson of the New York Law School Faculty Building Committee, was referring to the lack of space available to house the new faculty that is expected at NYLS in the fall. According to Rice, the burden placed upon the school to handle the new faculty, their support staff and the new classrooms that will be needed, can be alleviated. However, in order to succeed, the school will have to act quickly.

As a result, the Building Committee has its sights upon two immediate goals. The first goal is to completely refurbish the classrooms. The committee hopes that by the fall of 1983, carpeting, sound systems, and desks and chairs will be improved and upgraded in all the classrooms. At present, the general feeling seems to be, Rice said, that the desks and chairs in room B-305 would be the best type to switch to, since they offer portability and appropriate desk top space. No firm decisions have yet have made, Rice added, and suggestions from students and others are still welcome.

In past years, efforts toward improving NYLS classrooms were, as Rice sees it, often put off on the theory that when the new building was constructed those problems would be solved. However, when the building plan was shelved and plans were made to increase the size of the faculty, some of those long put-off solutions began to appear more necessary than ever.

The second goal is to find or create more space for the fall expansion. This can be done by renting nearby office space and/or renovating existing space. There is also the slim possibility that a pre-fabricated building might be constructed on the parking lot. However, this is considered unlikely because of the limited space it would provide, among other reasons.

While these actions will hopefully solve NYLS' short-term problems, they obviously are only temporary answers. Thus the Law School is also actively researching long-range alternatives. One such alternative, said Rice, is to acquire a building as close as possible to NYLS, although no specific building was mentioned.

All decisions to expand or renovate are considered important by the committee and deserving of appropriate study by outside experts. The problem is that the dynamics of the school are constantly changing and, thus, old studies are of little value. Important decisions must be made in the next few weeks, according to Rice, well before any new studies can be completed. Yet, he is hopeful that expert advice will be available to the committee as those decisions are being made.

Rice conceded that mistakes may be made, but there is little choice, he added, but to move forward as carefully and quickly as possible. In his view, not acting at all would be a much bigger mistake.

Rice expressed the hope that NYLS will eventually have a consolidated facility that will give all members of the NYLS community a "place to hang their hat" when they arrive, a "place to have a comfortable lunch," a "place in which they can relax when they aren't working" and, most of all, a "place that offers the proper environment to study in, which includes properly designed and refurbished classrooms, a spacious library with separate study areas and room for more materials."

In Rice's view, this is not just a dream, but, a reality that may not be too many years away.

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Environmental Law Society

by Alice A. DeVoe

What's going on at the Environmental Protection Agency? Amid staff resignations, paper shredding, budget cutting, claims of executive privilege and six congressional investigations, only one thing is certain: Pollution continues.

More than a decade ago Congress enacted a wide range of environmental laws determining that the states had primary responsibility for prevention and control of pollution. And in 1970 an executive reorganization plan created the EPA. The idea was to bring most but not all federal regulatory authority over pollution within one agency. EPA was to work with the states to set and enforce standards for air, water and certain pollutants. While the overriding effort was not to create new environmental problems in the process of controlling existing ones, EPA has failed to develop a comprehensive approach towards pollution. Each federal statute has a singular approach. One example is that air pollution regulations disregard the effects on the environmental quality of water and solid wastes.

Today, however, EPA has created even more serious problems for itself. A year old congressional report focusing on organized crime involvement in hazardous waste disposal found a “disregard or indifference by top agency officials regarding their enforcement responsibilities.” The recent handling of the dioxin crisis in Times Beach, Missouri, is a specific example of the general malaise.

EPA faces accusations of ‘sweetheart deals’ with corporate polluters, political bias, and general mismanagement in executing the Superfund, the toxic waste cleanup program. The $1.6 billion fund comes mainly from a special tax on the chemical and oil industries.

It is no secret that the Reagan Administration favors big business to the extent of proposing relaxation of environmental controls in order to promote economic growth. The nosy smell of corporate and political favoritism clings to some of the known Superfund settlements.

In December 1982, EPA Administrator Anne Burford became the first Cabinet level official to be cited for contempt of Congress. Acting on presidential orders, EPA refused to give the House Public Works Committee Investigating Superfund the documents relating to enforcement of cleanup programs at 60 sites. President Reagan claimed executive privilege based on a belief that the release of the documents would compromise EPA’s efforts to enforce the law at the involved sites. The President has since relented and withdrawn his claim of privilege, thus allowing the House access to the requested documents.

The House viewed the President’s actions as signs of a cover-up to conceal wrongdoing in the administration of the Superfund. The Justice Department, empowered to enforce contempt citations, has not acted to prosecute Burford. This has added further fuel to Congress’ general malaise.

The general EPA practice has been to release setting companies from liability only to the extent of what they paid to clean up. However the Court in October, 1982, an EPA agreement for surface cleanup with 24 companies in Seymour, Indiana, released the companies from any liability to local, state or federal governments without full resolution of the extent of ground water and subsurface contamination. The companies may still be held liable to the public interests. The settlement was supposedly hastened because of the impending congressional elections. Republican Senator Richard Lugar of Indiana retained his seat.

In California, cleanup of the Stringfellow Pits was delayed because it was thought that such action would help Democratic Governor Jerry Brown’s election. He lost.

Another charge is that EPA falsely suggested in early November a new technique for destroying dioxin had been found. However the new technique had only been tested in the laboratory. As a result of the alleged discovery Senator Danforth, a Missouri Republican, set up a re-election in the state where dioxin contamination is a major problem.

Political manipulation of federal financing does not appear to be recognized as a crime by the Justice Department. Section 935 of the Federal Criminal Code states that any federal official who, in connection with federally financed activities, “uses his official authority for the purposes of interfering with, or affecting, the nomination or election of any candidate” for President or congressional seat “shall be fined no more than $1,000 or imprisoned not more than one year, or both.” Whatever the outcome of “Toxic gate,” the credibility of EPA has been severely damaged.

The Right to Inherit Fame

by Donna Thurston

The right of heirs to benefit from the fame of an individual is becoming a hotly contested issue in the courts. Few states have affirmatively spoken out in this area. Since most of these cases end up in the federal courts due to diversity of jurisdiction, the lack of state law can give rise to other jurisdictions.

The latest fuel to the fire was added on September 10, 1982, by the U.S. Court of Appeals for the Second Circuit with its decision in Grouch Marx Productions, Inc. v. Night Productions, Inc. (Docket No. 82-7183, 82-7185). The action was brought by the heirs of the Marx Brothers who contended that the right of publicity of the Brothers had descended to them and that the defendants had violated this right with their stage production, A Day in Hollywood/A Night in the Ukraine. In reversing the district court, the Second Circuit held that California rather than New York law was applicable and that no such right existed under California law.

The Marx case joins two other federal decisions on this issue, Factors, Inc., Inc. v. Pro Arts, Inc., 652 F. 2d 278 (2nd Cir. 1981) and Memph­­is Development Foundation v. Fac­­tors, Inc., Inc., 616 F. 2d 956 (6th Cir. 1980), both of which found that Elvis Presley’s right of publicity was not descendible to his heirs. In Memph­­is Development, the Sixth Circuit found no Tennessee precedent and applied “general law” to reach its conclusion. The Sixth Circuit in Factors accepted the Sixth Circuit’s determina­tion of Tennessee law in making its decision.

In determining whether the right to publicity is descendible most courts make an analogy to priva­tion or defam­­ation, both of which are non­­descendible because they are personal to the individual. However, advocates of descendibility point out that the policy considerations underlying privacy and defam­­ation are not rele­­vant to the right of publicity. An indi­­vidual may wish to capitalize on his fame in order to provide for his heirs after his death. Allowing descendibility, it is also argued, will encourage creative development since it will allow that his heirs will benefit from his fame after his death.

Those opposed to descendibility contended with the argument that no such encouragement is needed — the personal and financial satisfaction that the artist enjoys during his lifetime is sufficient motivation for creativity.

It seems that the right of publicity stands a better chance of being held descendible if the individual has either retired or died in the particular area during his lifetime or if he has contracted for such exploitation. Thus, in Lugosi v. Universal Pictures, 25 Cal. 2d 813 (1959), the Court found that the heirs of Bela Lugosi had no descendible right because Lugosi had not availed himself during his lifetime of the type of exploitation presented in the case before the Court. Under this reasoning, a court dealing with the exploitation of an individual’s image or likeness on a poster might be persuaded to find no right descendible to the individual’s heirs if the individual had only exploited himself on T-shirts. The Marx case would then be in conformity with California law since a stigmatic stage production is not in the category of a product which the Marx Brothers used to exploit themselves.

Though the question has been proposed in this area (both state and federal), there has been no action as of yet. Most state courts have not fully developed the issue, possibly because of the tendency for the actions to appear in federal court based on the diversity of the parties. In the Marx case, the District Court affirmatively proclaimed that New York law recognized descendibility. However, on appeal, the Second Circuit hinted that this interpretation of New York law may have been incor­­rect. An individual in a state with no precedent in this area, continues to have the rights of his famous citizens adjudicated by a federal court applying “general law.” Thus, another decision has been accepted as controlling in Tennessee by yet another federal court. The debate will, in all probability, continue hotly until the states or Congress affirmatively speak out and let it be known just who the heirs of fame are.
Conference on Battered Women

by Will Hart

Last November, the Second Annual Conference on the Legal Rights of Battered Women was held by the Association of the Bar of the City of New York. About three hundred people attended the conference, most of them women. Participants were lawyers, social workers, women's shelter volunteers, law students, probation officers, police officers, and auxiliary court personnel.

The purpose of the conference was to inform participants of the legal rights of battered women and to discuss the legal remedies that are now available under New York law.

The keynote speaker, Marjory Fields, Esq. (Co-Chairperson of the Governor's Task Force on Domestic Violence) spoke on the legal reforms that have taken place in the area of wife abuse in the last fifteen years. She explained that legislation has been passed within the last decade which permits direct access to Family Court for battered women seeking orders of protection from their husbands. Previously, delays in the court system required women needing immediate protection to wait for weeks before the court would issue a protection order.

The importance of a protective order, Fields explained, is that if the husband violates the order and continues assaulting his wife, she has the option of demanding the arrest of her husband. If she is without an order of protection, her husband can be arrested only if he assaults her in the presence of a police officer. This is true even if the wife has been injured by her husband.

"Changes have also been made in the police department's treatment of domestic violence complaints. Prior to Bruno v. Cudd, a class action against the New York City Police Department, the New York City Probation Officers, and the clerks of the Family Court, the police routinely discouraged women from ordering their husband's arrest. Because the parties were married, the police preferred to mediate.

When a summary judgment requested by the defendant police department was rejected, the police offered to reform their policy towards battered women in return for the plaintiffs' dropping of charges. The new procedure takes the option of mediating away from the police if there is probable cause for believing that a crime has been committed by the husband, or if the wife has an order of protection.

Because of Bruno the New York City police now treat wife battering just as they would violence between two strangers. This landmark case has furthered the dignity of women, such that physical violence against wives is not only unacceptable, but criminal as well.

When she first began to work on the issue of battered women, Fields explained, contradictory descriptions emerged as to who the battered woman was. Psychologists and social workers described her as a "paralyzed, ambivalent woman of low self-esteem." Legal Aid lawyers, on the other hand, witnessed a "confident, strong woman who was managing under the stress of a warlike atmosphere at home." "There is no such thing as a battered woman," Field declared. "Rather there is a situation of a woman in a process."

There are five stages to the process that Fields describes as "the battered woman." In the first stage, the abused wife reacts with "denial and disbelief." Often her mate gave little or no evidence of his violent side until the couple were married.

The second phase is characterized by guilt because the woman perceives that she is the cause of her husband's brutality against her.

In the third stage, she feels depressed and confused, realizing that no matter what she does, her husband still beats her. In this stage, the woman is unable to make a decision. As Fields explains, "she is nonfunctional in terms of survival. She has lost control."

The fourth stage is "anger and outrage." She calls the police, or seeks legal protection from the courts. Here she encounters immense frustration in seeking police protection and a legal remedy against her husband. What the probation officer and the police see is an angry, aggressive, volatile person who appears to contribute to the violence.

Finally, in the last stage, when she realizes that she can protect herself and her children, she decides to get a divorce.

The job of attorneys and social workers, Fields stressed, is to recognize what stage of the process the woman is in and "to move her along to the next stage." "Batterers degrade wives," she continued. "They call them lousy wives, lousy mothers, dumb, and sub-human. We must not contribute to this practice of telling her what she is and what to do. Instead, empower her. The battered woman is the expert. She knows the cost and benefits of the relationship. Her judgment is best."

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