New Code Adopted

Commercial arbitrators need no longer rely on their own con-
sciences to find the answers to ethical questions facing them in 
 arbitration cases. The American Bar Association and the Ameri-
can Arbitration Association, through their Joint Committee on Code 
of Ethics for Commercial Arbitra-
tors, has adopted a code of pro-
fessional ethics for commercial 
arbitrators. NYLS Assistant Dean 
Marshall E. Lippman, acting Re-
porter for the Joint Committee, 
was largely responsible for the 
content of the Code.

ABA Publication Here

by Cecilia Blau

The production of Human 
Rights, a periodical published 
by the Section of Individual Rights 
and Responsibilities of the Ameri-
can Bar Association, has been 
assumed by NYLS. Professor 
Lung-Chu Chen and Peter Schroth 
will head a staff of about 20 
students to be selected by a 
writing competition. 

This competition will consist of 
an essay, not exceeding 1000 
words, analyzing and commenting 
on a court decision selected by the 
Editor-In-Chief. Judging will be 
based partly on the use of the 
English language and partly on 
substance.

The decision to be analyzed is 
available from the Registrar's 
office, Dean Lippman's office, 
the S.B.A. office and the Library. 
Essays must be submitted by 
noon, December 21st. Results will 
be announced during the exam 
period.

All students are eligible to 
compete who, by January 13, 
1978, will have completed at least 
two full-time semesters or two 
part-time semesters with an aver-
age of at least 2.0. Members of 
the NYLS Law Review staff are eli-
gible, but no one may be a member 
of Human Rights and the Law 
Review at the same time.

Members of the staff of Hu-
man Rights will have duties sim-
lar to those of the NYLS Law 
Review staff, and will be expected 
to prepare casenotes and com-
ments for publication. They will 
receive academic credit on the 
same basis as members of the Law 
Review staff. (Students graduat-
ing in June 1978 are eligible, but 
may receive only one credit.) 

Human Rights will appeal 
particularly to students who have 
an interest in writing on the 
myriad topics of human rights, yet 
who might be restrained by an 
exact grade point barrier. In 
Human Rights, there will be op-
cont. on page 4

Koch Addresses Alumni

Mayor-Elect Koch and Dean Shapiro at Alumni Dinner

by Judith Waldman and Susan Werther

Mayor-Elect Edward Koch 
was the featured speaker at 
the NYLS Alumni Association annual 
dinner at the Waldorf Astoria 
Hotel last month. The dinner 
honored the classes of 1927 (50th 
anniversary), 1952 (25th anniver-
sary), 1967 (10th anniversary), 
and 1972 (5th anniversary).

Mayor elect speaks

Koch, likening himself to 
NYLS, remarked, "we've both 
been around for a long time, and 
we're both making a new begin-
ning." He complimented NYLS's 
efforts to make the study of law 
more accessible by implementing 
a new part time day program to 
augment a well established eve-
ning division to accommodate 
many students whose work or 
family responsibilities keep them 
from attending under the regular 
schedule. He also noted NYLS's 
success as an urban law school, 
meeting the needs of the urban 
community through various c linic 
programs, such as the Geriatric 
Law Clinic, Housing and Urban 
Development, and Landlord and 
Tenant Law and Lawyer in the 
Urban Crisis, among others.

The Mayor-Elect, himself an 
attorney, praised the legal profes-
sion, calling it one of the noblest 
professions a person could enter, 
but warned that more and more
cont. on page 4
News in Brief

Most Court Wins
In the world of intramural sports, the Most Court Executive Board defeated Law Review 26-24, in a hard-hitting flag football game played Sunday, November 20th in Central Park. The Executive Board’s touchdowns were scored by Michael Flynn (twice), David Dince and Richard Berman. The margin of victory came in the second half on defensive lineman Rich Fooshee’s safety after the Board’s defense trapped Law Review deep in its own end.

Legal Services Study
Presiding Justice Francis T. Murphy, Jr. of the Appellate Division, First Department, has announced the formation of a special committee to study the ‘41 legal services corporations in the First Department. Judge Murphy is a member of the NYLS class of 1962.

Alumni Notes
Alumni Assoc. Prepares Slate of Officers

by Judith Waldman
A slate of officers has been prepared by the nominating committee of the Alumni Association, to be presented at the annual meeting held December 14 in the faculty dining room of the 47 building. All dues-paying members of the Association are invited to attend.

If approved, these individuals will be installed as officers and directors of the Association at the annual luncheon at the Pierre Cotillion Room on January 20th, 1978. The Hon. Owen McGivern will be the guest speaker and installing officer. The cost is $15.00 per person. It is not yet known if there will be a special student rate.

A Phonathon to raise funds is scheduled for Tuesday, January 31st and Wednesday and Thursday, February 1st and 2nd. Present students of NYLS are asked to help by calling classes that otherwise would not be called.

Our Alumni reflect NYLS throughout their professional life; they offer opportunities to young lawyers and help them get started; they donate their time and money to the Law School. If you’d like to participate in the Phonathon, see Lucille Hillman, Rm. 604, 57 Worth.

Melvin R. Cooperman (‘51) has announced his return to New York from California and the opening of his new office in Kew Gardens, N.Y.

Bernard Gold, class of 62, has been appointed as counsel to Staten Island Borough President Gaeta. Gold, long active in Democratic Party politics on Staten Island, has been a member of the Democratic County Committee since 1964, and a district captain for six years. He has worked in all three of Gaeta’s campaigns for councilman and one for borough president, and served as campaign aide for Congressman John M. Murphy and for various Democratic candidates for local office.

OBITUARY
Rowland F. Kirks (Honorary degree, ’70) Director of the Administrative Office of the United States Supreme Court and a retired major general in the United States Army Reserve died last month at the age of 62.

General Kirks was a Jeffords Lecturer and was awarded an honorary degree by NYLS in 1976. Among the pallbearers was NYLS Professor Edward D. Ro, Chief Judge of the United States Customs Court.

Jonah Triebwasser
Rowland F. Kirks

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Vinnie Celebrates Two Decades

Vincenzo Cammilleri, Sr. known to the NYLS community as “Vinnie, the elevator operator” has been part of NYLS since the summer of 1956. This has given him an opportunity to look back at those years from a perspective few people have.

Vinnie has seen many changes as he thinks back through the years. The most apparent change was with his son Vinnie Jr. “When I started working here my son Vinnie was just a couple of months old.” Today Vinnie Jr. is on the staff of the school, also as an elevator operator.

Vinnie noted that, “the school is getting much bigger. We have two large buildings now instead of one small one.” In commenting on the increase in student population he smiled and stated “The more students, the more friends I have.” He also feels that the quality of education in the school has gone up because of the changes he has seen and what he has heard others say.

But for Vincenzo Cammilleri some things defy change. One of them is his ability to recognize old students who have not been at the school for years. For example, at the beginning of the year Prof. Jack Kleiner, who was a NYLS student in the late fifties, entered the elevator. Vinnie said “I recognized him when he first walked into the elevator” and told Prof. Kleiner who he was. Vinnie imitated the look of surprise the professor had on his face when he realized who was operating the elevator. He also remembers Dear Lippman as “A nice student. The way he was as a student is the way he is now; he never changes.”

Most importantly, Vinnie loves what he’s doing and where he is. “This school is like my own house. I spend more time here than I do in my own home. There are very nice people here; I get along with them perfectly.” It was apparent that although work time was over he was in no hurry to leave.

Neal Greenfield
Vinnie relaxes between floors

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Expires 12-31-77
Koch Receives Dean's Medal

cont. from page 1

lawyers are seeking private wealth, not public welfare. He said the success of young lawyers ought to be reflected in a renewed "commitment from those who graduate NYLS— and other law schools in this area—that they will put some of their skills to work for their city—though we may pay lower salaries and offer less elegant working condition."

Koch, said "Every city agency has a counsel's office, and all of them need help." As an example of a city problem that reflected the need for more and better legal talent, Koch cited the current 1.0 million violations of the housing code on record. He said most of these are destined to go unre­medied, resulting in many unpleasant and sometimes unbearable living conditions for tenants all over the City. Last year, the City was able to remove only 30,000 or 3% of them through court action.

The Mayor-Elect concluded his remarks by pledging to eradi­cate many of these and similar "city rip-offs" with our help, and again called for a renewed commitment by all attorneys to the public welfare and the life of New York City. Mr. Koch was then awarded the prestigious Dean's Medal for his achievements as an attorney, Congressman and dedicated civil servant. The Dean's Medal, pre­sented by Dean Shapiro, is second in importance only to the highly coveted Honorary Doctor of Laws Degree bestowed by this Law School.

Dean Shapiro then announced that there were three alumni of the Law School who were also to receive the Dean's Medal for ex­ceptional and meritorious service and called upon Mr. Sheppard Broad (27), Mr. Frederick W. Schulein (27) and Prof. Otto Wal­ter ('54) to join him at the podium for presentation of this award.

Dean Sums Up the Year

Dean Shapiro spoke briefly about NYLS and its Alumni As­sociation commenting that under the leadership of its president, the Hon. William Kapelman, the Al­umni Association had doubled its membership and that in the last year over 24% of the alumni (4% better than the national average) had contributed in excess of $125,000.00 to the Law School.

The Dean announced that the school now enjoys the benefit of the Joseph A. Solomon scholarship for NYLS's program at the Uni­versity of Bologna, and that NYLS has been chosen as one of the law schools the deans of foreign law schools will visit on their tour of law schools in the United States as an example of an urban law school.

Reactions to the dinner were on the whole quite enthusiastic. The faculty members found the dinner quite enjoyable. Dean Lipp­man, '71, Director of the Alumni Association, found the turnout encouraging, although he noted that many of the most recent graduating classes were underrepresented. He said that people like Walter and Broad should get more credit for the time and money they contribute to the Alumni Association and the Law School.

New Code

cont. from page 1

interest to create such a code, in order to contribute to the main­tenance of high standards for arbitrators.

Some of the questions asked in the questionnaire were:

"Should an arbitrator have an ethical duty not to discuss a case with either party out­side the presence of the other party, except as to scheduling hearings or similar procedural matters?"

"Is it ethically proper for an arbitrator to refuse to make an award until after his fees and expenses are paid?"

"Should a person who is re­quested to serve as an ar­bitrator have an ethical duty to disclose all such relation­ships (financial, professional, social, familial)?"

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NYLS Hosts Bakke Affirmative Action Debate

by Sam Himmelstein

More than 150 people attended a debate and forum entitled, "The Bakke Case and Affirmative Action," organized by the NYLS Coalition for Affirmative Action and the SBA last month.

The first part of the program, moderated by Dr. Marshall Manrael, consisted of a debate between Victor Whitehorn, a private attorney representing the position of the Anti-Defamation League of Paul Britch, and Victor Goode, Associate Director of the National Conference of Black Lawyers. Mr. Whitehorn, after proudly referring to his life-long involvement in the cause of racial equality, stated his position as being opposed to all forms of racial discrimination. He cited the "separate lists" used by the University of California, defendant in the Bakke case, as a prime example of "separate, and therefore unequal" segregation outlawed by the Supreme Court in Brown v. Board of Education. He contended that although society has an obligation to prepare everyone to be able to compete equally in the "race" for admission to professional schools and jobs, any admission of the basis of skin color constitutes discrimination, and is therefore forbidden by the Fourteenth Amendment and civil rights legislation. He added that the general knowledge that minority students were admitted on the basis of a different standard would create an additional stigma and therefore hurt their chances for future employment.

Mr. Goode, after noting that it was unlikely that Alan Bakke would have been admitted to the University even if no affirmative action program had been in effect, indicated that the standards applied by the University in their special Task Force program included consideration of the economic and social deprivation of the applicant. Since the most severely deprived in California are overwhelmingly members of minority groups, this resulted in the sixteen places being filled exclusively by minority students. He urged the audience to abandon their conception of professional school qualifications as a numerically defined absolute (GPA and Board scores) and to support programs that take subjective factors into account. He pointed out that the standards which only take economic factors into account, ignore the history and reality of institutional racism in the United States. Goode maintained that "racial factor" programs are ways of providing effective professional services to the poor and minority communities.

He predicted that a Supreme Court decision in favor of Bakke would defeat all of these programs and thus return professional schools to their former status as pure white institutions. He concluded that only when there is true equality of opportunity for all to fully develop their potential will the need for these programs be eliminated.

After audience questions and a twenty minute break for refreshments provided by the SBA, a forum moderated by NYLS Professor Abigail Pessen. The featured speakers were Anne Shepard, Professor of Constitutional Law at Rutgers Law School, and former office of Audrey Corke, Geraldine Wenz, Dorothy Corke and Kathy Corke make up the Corke Family, a NYLS Tradition of Service.

Audrey Corke, Geraldine Wenz, Dorothy Corke and Kathy Corke make up the Corke Family, a NYLS Tradition of Service. 1975 has been working part-time as Dorothy's assistant.

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New York Bar Course Examiner


As the class of 1978 looks ahead to the July Bar examinations students have discovered that the Bar Review courses are marked by increased competition and higher prices this year. Competition for the limited number of students taking the courses has intensified as two new bar review courses, Pieper and BRC, have established themselves in the state during the last few years.

Students interviewed indicated confusion over the conflicting claims being made by the various courses. The number of optional courses, such as writing workshops, proctored course writing, and essay writing clinics, have increased, making the choice more difficult.

The directors of the courses justify the higher prices by citing the costs of updating the books, grading the tests, and high overhead, such as lecturers' fees. However, they agree to hold a cram course, as one director put it, "with adequate profits."

In an attempt to aid students in choosing a bar course, EQUITAS offers the following summaries of interviews with students and bar directors:

**All courses are substantially similar in that they cover the same material.** The major differences are in the type of book, proctors, professors, and the number of days per week that lectures are given.

One of the first questions asked concerns the passing percentage. Each course can quote figures that appear highly favorable. But the figures, given without reference to the number of students who have taken the course and the number passing, can be very misleading. In addition any course may have had a higher percentage of students who were in the top half of their graduating classes to begin with.

In our next issue, EQUITAS will publish a chart with the number of students in each of the quartiles of the 1977 graduating classes to begin with. This will help the students judge the strength of the course.

Students are advised to take into account the amount of note-taking required by the courses. Marino and Pieper stress the importance of their classroom lectures, the former distributes outlines while the latter distributes textbooks, but the emphasis in both is on the lectures.

BAR/BRI and BRC provide extensive outlines similar to the Gilberts and Sum & Substance series respectively. There is less emphasis on taking notes, and more on reading.

PLI requires still less note-taking. There is a heavy emphasis on the texts distributed for the course.

The increased competition has resulted in more aggressive advertising techniques. There were some heavily-publicized early sign-up discounts. There were student discounts which they felt pressured by not knowing which course to take, but signed for one in order to take advantage of the discounts. Others admitted that even the discount was not enough of an inducement to dispel their confusion enough to make a choice.

To illustrate the advertising and competition, BAR/BRI sent an open letter to students of NYLS claiming the superiority of their written materials, quality of their lecturers, the sophistication of their testing program and the course options as to time of lectures.

Marino responded with an open letter specifically answering the claims made by the competitors, saying "Marino said, "... and our claims in your letter are misleading and deceiving. You would be well-advised not to redistribute this letter at any other law school."

Another illustration is the use by Marino of an EQUITAS article published two years ago. The presentation of the full set of figures in the article was praised by the Marino publication, but wrongly attributed the survey to NYLS.

The EQUITAS article was used as the basis of a suit brought against this writer. The suit, which was not a libel action, was commenced two years ago, and has since been discontinued. In the course of the action, Marino sought to discover the names of the survey's publishers. The suit had provided EQUITAS with a list of names of Marino students. The list, obtained by EQUITAS, had expressly indicated the manner in which the passing percentage figures had been misused by Marino in his advertising.

Finally, EQUITAS advises students that the National Bar Examination Digest published by Harcourt Brace and Jaconovich and Black's New York Bar Exam Review published by Black's Law Publishing Co. are not official publications of any law school.

In summary, the rule of caveat emptor still applies. Students would be well-advised to realize that it is only through their own efforts that they will pass the exams. The courses are merely vehicle to insure a steady study schedule. As their own imprints on their face. Reason not to decide on the basis of factors which they emphasize, but rather to decide on the basis of factors that individual students feel most comfortable with.

---

**BRC**

Cost: $325 includes the course, testing and materials.

Locations: The Doral Inn of 49 St. and Lexington Ave. Two sessions daily, live lectures in the morning and evening with videotapes in the evening. Other locations for taped courses are planned in Brooklyn, Westchester and Long Island.

Duration: The seven week course has sessions five days a week, Monday through Friday, 9:30 a.m. to 4:30 p.m.

**Multi-State:** If the New York exam is given several days prior to the MBE (multi-state exam), there are plans to hold a cram course to allow students to prepare for it. There is a $50-$100 discount if a second BRC/BRI course is taken in another state.

Books: There are four volumes on substantive and procedural law, and one volume of testing material. The material is similar to that of various law course summary series.

Miscellaneous: 1) Once the New York course is paid for, a student may opt to take a BRC/BRI course in another state for the fee. 2) The testing program includes 9 graded essay questions plus 12 given in a mock bar exam given on Saturdays (Sundays for Sabbath observers). Other essay questions, with model answers are distributed.

---

**BAR/BRI**

Cost: $325. Includes the course, testing, and materials.

Locations: The Doral Inn of 49 St. and Lexington Ave. Two sessions daily, live lectures in the morning and evening and videotapes in the evening. Other locations for taped courses are planned.

Duration: The seven week course has 3 1/2 hour sessions five days a week, Monday through Friday.

**Multi-State:** There are plans to give the cram course the New York Exam be given prior to the MBE.

Books: There are three volumes of substantive law, similar to the Sum and Substance series, one on procedure, and one on procedure and materials.

Miscellaneous: 1) There is a strong emphasis on testing including pre-testing that is computer graded and referenced to pages in their books. 2) There is an essay writing clinic included in the course at the Manhattan location. 3) Missed lectures may be made up by taking a tape home or viewing a videotape in the BRC offices.

Courses are given in other states and other New York locations.

---

**MARINO**

Cost: $325. This course breaks down the fees, so it is possible to take the basic bar review course, which is a non-profit organization, specializing in continuing legal education, for a substantial discount in the price.

Location: There are two sessions daily in Town Hall, 43 St. and 6th Ave. The live session is in the morning and the tape replay is in the evening. Other locations are planned in Queens, Brooklyn and Hempstead.

Duration: The six week course has 3 1/2 hour sessions six days a week, Monday through Saturday. There is no evening session.

**Multi-State:** There are no plans to hold a cram course for the MBE.

Books: The Compendium of New York Law, the New York Law of Evidence by McLaughlin, and two volumes of questions and answers similar to those on the bar exam, and New York Practice under the CPLR by Wachtel is made available to students at a discount.

Miscellaneous: 1) There are 21 hours devoted to a problem analysis clinic, for analysis of essay questions. 2) For those who miss a session, tape replays are held in the afternoons and on Sundays. 3) In the event of illness, the number passing in each group.

---

**PLI**

Cost: $100. The Practicing Law Institute is a non-profit organization, specializing in continuing legal education, for a substantial discount in the price.

Location: There are two sessions daily in Town Hall, 43 St. and 6th Ave. The live session is in the morning and the tape replay is in the evening. Other tape locations are planned in Queens, Brooklyn and Hempstead.

Duration: The six week course has 3 1/2 hour sessions six days a week, Monday through Saturday. There is no evening session.

**Multi-State:** There are no plans to hold a cram course for the MBE.

Books: Sainer on New York Law for the substantive law and Weinstein, Korn and Miller CPLR for the procedural law.

Miscellaneous: 1) Missed lectures can be made up by signing a letter that he is present at home. 2) There is a daily testing program. 3) Class size is limited to 200. 4) There are essay writing sessions every two weeks, one of which is graded and critiqued at each session. 5) The emphasis advertised by the course is the individual attention given to each student due to small classes. 6) Students who take this course and fail may take it again free.
Complications of Tax Simplification

by David Farber

Before we get to the subject matter of this month's column, I have to clear up some confusion from last month regarding Student Loans. When I said "free to do with as you please," this is not true. According to the U.S. Code and New York State law, you must use your NYSHESC money to pay for your tuition and other educational expenses such as books, clothing, meals, etc. The checks even have two payees, you and the school. The money you are free to use as you choose is the money you would have used if you did not take advantage of this loan program.

It seems to me that every time we have a "tax reform" or a "tax simplification" act, our lives get more complex. While working with a young doctor and his professional spouse recently, I had to recommend that they have five different checking accounts. Each one for his/her practice, one joint for general household items, and each with his/her own personal account. It is these individual accounts which may be the most important at the time of death of one spouse.

The individual accounts will establish the basis of contributions to jointly owned property and each spouse should write a check for half the down payment and for half the monthly payments. Also, as a general rule, you should have cross ownership with your spouse on each other's life insurance. With your spouse recently, I had to recommend that they have five different checking accounts. Each one for his/her practice, one joint for general household items, and each with his/her own personal account. It is these individual accounts which may be the most important at the time of death of one spouse.

As an example, suppose you have a home mortgage that you share equally with your spouse. Each of you pays half the mortgage payments. This is important because the mortgage is a liability of the estate. Your family will have to sell the house to pay off the mortgage, and the proceeds will be divided equally between your family and your spouse.

The mortgage is a liability of the estate, so the proceeds from the sale of the house will be divided equally between your family and your spouse. This is important because the mortgage is a liability of the estate. Your family will have to sell the house to pay off the mortgage, and the proceeds will be divided equally between your family and your spouse.

Great Moments in Law

From the highly respected news wires of United Press International, EQUITAS presents: Great Moments in Law:

The police department of Radnor, Pennsylvania recently was told by a Bucks County judge that a Xerox machine cannot be used as a lie detector.

Detectives bent on obtaining a confession pretended an office copier was a lie detector and a suspect agreed to undergo a polygraph test. Prior to interrogation, the sleuths placed a typewritten card in the machine reading: "He's lying.

The suspect was seated near the copier. A metal colander was fastened to his head and wires ran from the colander to the Xerox machine.

Each time investigators received answers they did not fancy, they pushed the copy button.

Out came the message: "He's lying." Convinced that the machine was infallible, the suspect finally confessed.

Judge Ira Garb threw the case out of court. "It's the kind of comic relief we need around here once in a while," the judge laughed.

Our Editor-in-Chief claims never to have used such tactics when he was in law enforcement. Proudly, we don't believe him!

Attitudes Force Change

by Joe Stavola

In a speech prepared for delivery to a University of Virginia student legal forum, ABA President William B. Spann, Jr. has observed that a dramatic shift in public attitudes has been forcing a great change on the legal profession.

Spann explained that today, "people expect to be protected not only from bodily harm, but from economic hardship as well; not only from invaders and criminals, but from pollution, from accidents, and even from their own gullibility." Labelling this emerging attitude a "psychology of entitlement," Spann cited the resulting demands that have been placed upon the justice system. "For example, it is not unusual," he said, "that everyone is entitled not just to a fair trial, but to a perfect trial." The ABA President added, "The result has been increased court congestion that has created interminable delays in the settlement of civil suits... delays that are unreasonably long and have prevented citizens from receiving the justice to which they have always been entitled.

And noting that another major change has been the specialization and depersonalization of the professional-client relation-
Answers & Counterclaims

To the Editor:

I read with great interest the results of the faculty poll on posting of grades (Nov. '77), which was particularly disturbing by the remarks of Dean Graham, which have also been voiced by most opponents of grade posting, to the effect that posting would encourage "shopping" for higher grading professors. Grade shopping is in fact a desirable objective. Every school has its share of teachers who profess to have taught for 20 years and never (or seldom) seen an "A" exam paper. In my first term at NYLS, two of the freshman evening class's four professors gave only two "A's" in a class over 150 students. The slaughter that term left approximately 50% of the class below a 2.25 index.

From a statistical standpoint, it would appear that the class had more right to be disappointed with them. When a class of 150 performs "poorly," the fault lies with the professor's grading, or his teaching—or both.

To expand on the "shopping" theme, I should like to suggest an economic analysis of the problem of grade shopping. There is an implicit understanding between students and educational institutions that grades should fairly reflect students' performance. Professors with eccentric grading patterns (NYLS has its share) should suffer the consequences of a "free market"—if they raise the "price" of earning grades in their courses to unacceptable levels, they should lose their "customers," and be forced to lower the price, i.e., raise grades to reasonable levels, consonant with this implicit understanding.

On the other hand, professors who persist in granting inflated grades should be "regulated" (disciplined) by the faculty or administration for "shoddy merchandise," i.e., inflated grades destroy the distinction between good and bad student performance and deny students fair evaluation of their work (not to mention the deflation in market value of the diploma).

I believe that most of my classmates will agree that the grading inequities which we experienced at NYLS were demoralizing, and that it would serve both the students and the law school well to end such inequities by adopting the marketplace approach described.

Saul Shafineid
Eve. '78

To the Editor—

I am compelled to respond to Roy Cohn's allegations of omissions in my article, "The Rosenberg Case: A Second Look" (EQUITAS, October, 1977).

1. Mr. Cohn accuses me of a major omission in failing to discuss the prosecution's rebuttal witness, Schneider, the photographer. I did not discuss Schneider because in my opinion he was not a major witness. Though Schneider testified that the Rosenbergs had purchased passport-sized photos from him ten months earlier, he was unable to produce negatives, sales slips, or any other documentation to support his testimony.

2. The statement by the Rosenbergs' counsel, Emanuel Bloch, as to the fairness of the trial was in keeping with Bloch's (unsuccessful) trial strategy of placating the judge so as to avoid a death sentence for his clients given the political climate of 1951, according to Marshall Perlin, an attorney who worked with Bloch on the appeals. Mr. Cohn has been treasuring this statement out in "defense" of the prosecution and trial judge for almost 25 years, though he knows full well, as in apparent from Bloch's post-trial speeches and writings, that Bloch (in Perlins's words), "at some time believed that the case was anything but a frameup or that any of the defendants received a fair trial."

3. The fact that Judge Jerome Frank, who affirmed the conviction, was a prominent New Dealer with no bearing on the defendants' guilt or innocence. The fact remains, as Justice Hugo Black said, that no court ever reviewed the trial record.

4. The motion before Judge Weinfeld (decided February 14, 1967 in the S.D.N.Y.), which is characterized by Mr. Cohn as "painstakingly reviewed," in fact involved only two prosecution exhibits. Judge Weinfeld did not deal with the question of guilt or innocence. He denied Sobell's petition for a hearing to challenge the two exhibits. I did not "betray" my readers, as Mr. Cohn charges. Space limitations unfortunately prevented me from dealing with anything beyond the facts of the case, a few major witnesses, and the alleged crime itself.

5. Finally, and most important, Mr. Cohn makes the false assertion that the documents obtained thus far in the Mezrowitz trial cost on page 7.
Had Koffler Written Romeo and Juliet

By George Parkas

Editor’s note: For those new students who have not yet taken their first law school exam and for those upper-classmen who can’t wait to take their next, we present our 1970 version of an exam Prof. Koffler might give on Romeo and Juliet.

The story of Rome and Juliet is familiar to all. From the family which hates the family B comes from. A meets B on the street. Their affair ensues in which B is killed. A flees. C comes from the family which A’s family hates. A, however loves C. Many words of affection pass between A and C. A is known to make nocturnal and clandestine visits to C’s balcony. As a result, their passion grows to the point where they decide to elope and marry. They are both under age. D, a friend of A tells him he is crazy. E, a nurse to C helps the two elope. F, the priest, performs the marriage without the consent of the parents. The aforementioned characters, with the exception of B, who is dead, all plot to somehow get the two youngsters together after A is forced to flee as a consequence of the constabulary being on his tail for the aforementioned death of B. F hides A from the authorities. Meanwhile F arranges for C to take a potion which will simulate death, and thus have her reunited with A. A is not aware of this plan. However, D runs off on his horse to tell him but he is waylaid and cannot get word to A. A hears that C is dead and being buried. A rushes to the cemetery where he sees his “dead” wife (C) whereupon he kills himself. After C awakens, she kills herself. They are buried side by side, as the heads of the two opposite families. They are buried side by side whispering profanities and obscenities to one another.

What tort actions may arise as a result of the foregoing? Against and for whom may they be maintained? Explain fully.

Yes Sir

That’s my Baby

cut from page 3

Then the women show up in his courtroom again. Each asks about the health of her child.

Weary, but sure of himself, Solomon greets the women. He gets to the point.

“Do either of you know biology?” he asks.

“I teach it in high school.”

“Get my Ph.D. in it last year.”

“Oh,” breathes Solomon. He had hoped to convince the women that they were both the mother of the child, that they were sisters.

“Just making conversation,” says the King.

Solomon taps the carved arms of his throne. Smile.

“I have two tickets for a concert tonight,” he says. “Do either of you like music?”

“Sure,” says the slender woman, “though we could agree on nothing else, we agreed to come here. They told us that you were the wisest of the wise.”

“They?” asks the King.

“Miss my child,” she goes on.

“Come back,” says King Solomon. “No, I mean it. Come back in a month—twenty-eight days—and I will have your answer for you.”

“I’ll be back.”

“Later.”

During the next few weeks the King cannot be found. Discontented subjects believe he has fled to the border in disguise, disguised as a shepherd. Ministers and clerks keep the kingdom running. Rumors spread that the King is in consultation with philosophers and scientists.

On the twenty-eighth day the women appear. They are radiant, clear-eyed, vital. They ignore each other. Solomon sits on his throne, cradling a child in each arm. They are identical. Spectators shift on the cold court benches, whispering and pointing.

“Lovely ladies,” Solomon says, “one of these two children is a clone, duplicated from a cell of the child you originally left with me. Both are normal, healthy children. However, one of them is the child of one of you. The ancients tell us that a mother will always know her child.”

The women race to him. Each clutches a child to her. Each seems at the other, as if to say I know you took the clone, phony.

“You are wise, sweetie.”

“Thanks, Sol.”

They leave, walk off into the desert, one going east, one going southwest.

Solomon regards them. Puzzled, astonished at the outcome, he shrugs and says, “Next time: no jurisdiction.”
Feinberg’s Friendly Financial Facts

by Merrill Feinberg
Director of Financial Aid

My new assistant, Ms. Judith Goldenberg’s office is in 47 Worth St., Rm. 106. If you have any questions, need a form, would like to speak with me, etc., stop by Judy’s office. She is your first contact person.

Loans: New Regulations

1) New York State Higher Education Services Corp., will now guarantee loans for full-time state students who are enrolled or accepted for enrollment in a school in New York State.

a) You may not apply for a NYSHEC loan if you have already borrowed the maximum through another guaranteed student loan (State or Federal). Full-time students may not borrow more than $5000 in guaranteed student loans a year; part-time students may not borrow more than $2500 a year.

b) NYSHEC has advised that while the Corp. is willing to guarantee the loans, the banks may not be willing to lend the money to non-residents of New York State. You will have to “shop around” for a bank willing to be your lender.

2) New Jersey has increased the maximum loan for part-time students from $500 to $1250/year. Any New Jersey student applying for the additional loan may submit a loan application to the Financial Aid Office. If all required forms are already on file, only the loan application itself is required at this time.

3) Students should apply for loans on a yearly basis rather than by semester. This will avoid the Catch-22 problem that will make funds readily available when tuition is due, and will cut down on paperwork.

TAP: Tuition Assistance Program for New York State residents attending school full-time (12 credits or more).

- 1977-78 TAP awards for independent single applicants with no income tax exemption (other than your age) during 1976 are based on new Schedule D. Single means unmarried or legally separated under a decree of divorce or separation, or one who lives apart from his or her spouse and filed a separate tax return during the preceding tax year. If your 1976 net taxable balance was $5667 and above, you will receive no TAP award. Students who received large TAP grants last year and expected the same this year should carefully consider the following table. If you have questions about this, check with the Financial Aid Office.

SCHEDULE D

<table>
<thead>
<tr>
<th>Net Taxable Balance</th>
<th>Annual TAP Award</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1000 and under</td>
<td>$600</td>
</tr>
<tr>
<td>$1000 - $3000</td>
<td>$600 less 25% of NTB in excess of $1000</td>
</tr>
<tr>
<td>$3000 - $5666</td>
<td>$100</td>
</tr>
<tr>
<td>$5667 and above</td>
<td>No award</td>
</tr>
</tbody>
</table>

NTB = Gross income less the standard deduction (15%) less exemptions (1 x $650)

You are urged to write your State Representatives to protest this drastic cut in TAP awards for single independent students.

2) All other eligible TAP applicants will receive TAP grants if the family’s net taxable income for 1976 was not more than $30,000.

3) Procedure to collect your TAP award:

a) Check is sent directly to NYLS.

b) Check is made payable to the order of the student.

c) Mrs. Block, the Bursar, will post the names of students on the “Official Board” when their checks arrive.

If you have already paid your tuition, the check is yours.

d) TAP award certificates cannot be used as credit against Spring 1978 tuition and fees. Tuition and fees must be paid in full.

4) 1976-77 TAP awards

Contact the Financial Aid Office if you:

a) never heard anything from NYSHEC

b) believe the award to be incorrect

c) have received your 77-78 TAP award certificate, but not the 76-77 award certificate.

(Did you change address? Is it possible the certificate was lost in the mail? Are your parents forwarding the mail?)

5) 1977-78 TAP awards: NYSHEC will accept TAP applications for the current academic year until March 31, 1978.

a) If you applied before June, 1977 and have heard nothing as of now from NYSHEC, please leave your name with Judy in 47 Worth, Room 106. A list will be prepared and sent to Albany. Hopefully, the Corp. will act on your applications quickly with a list of students experiencing difficulties prepared by the FAO. It is also suggested that you call NYSHEC (518-474-8645) if you have heard nothing and your name does not appear on the 3rd quarter roster, recently received by the FAO; check with us.

b) If you move, notify NYSHEC. They have stressed that they prefer a local address, rather than the parents’ address, if it means direct communication with the student.

Independent status: If you were 36 years old by July 1, 1977 and/or if you were considered independent for your 76-77 TAP award, you will automatically be considered independent for your 77-78 TAP award. If you receive the blue financial independence form in the mail, do not complete it if you are in either of the categories above. Simply mail it back, stating automatic independent status because of one of the above.

d) If you find it necessary to make any changes on your TAP application, send the information change form which is the last page of the TAP application booklet. DO NOT SEND ANOTHER COMPLETE TAP APPLICATION. If you have misplaced your TAP booklet, you may pick up an information change form in Judy’s office.


Outside Sources of Aid

Students should consider applying for financial aid provided by outside agencies. Listed below are programs with upcoming deadlines for applications for the 1978-79 academic year. The list is, by no means, exhaustive and it continues to grow as the FAO explores and follows-up on additional programs.

Program Eligibility Deadline

1) American Association of University Women- Women in Education Services Corp., to NYLS for two years of a Master’s degree in any field beginning American Women, Sept., 1978

2) Hattie M. & Henry F. Lehman Foundation for Educational Mexican descent in any field.

3) Leopold Scholarship Foundation

4) Brooklyn & Long Island from the Metro- Scholars to Women in Education Services Corp., to NYLS for one year of study.

5) Kosciauskos Americans of Polish descent

6) Jewish Fund- Women from 31, 1978

7) Lemberg Mortgage Loan Fund

8) Clairil Schol- Women within May 1, 1978

9) Edward Ar- Women within 24 mos. of completing their degree programs. Must be at least 35 years old

10) Women's Foundation for Educational Mexican descent

Bar Associations Offering Financial Assistance

1) Bergen County (New Jersey) Bar Association Student Loan Fund: Open to students who have lived in Bergen County for at least 2 years.

Amount: $1,000

Contact: Bergen County Bar Association Student Loan Committee 61 Hudson Street, Hackensack, New Jersey

2) Bristol County (Mass.) Bar Association Scholarship Fund: Awards scholarships on basis of need and scholastic record.

Amount: 2 scholarships of $250 each school year.

Contact: Mr. Charles I. Tucker, Clarksdale Tucker, 215 Bank Street, Fair River, Mass. 02722.

3) Somersett County (New Jersey) Bar Association- Awards loans and scholarships to Somerset County residents on the basis of need and merit.

Amount: $300 to $500 annually

Contact: Somersett County Bar Association, c/o William B. Rosenberg, Esq., 85 North Bridge Street, Somerville, New Jersey 08876.

4) Scholarship Foundation of the Stamford (Ct.) Bar Association: Open to residents of Stamford, Ct., and surrounding towns. More consideration given to need rather than to academic achievement.

Amount: Varying amounts up to $1,000.

Contact: McAnerney, Miller & Ehrlich P.O. Box 1297, Darlen, Ct. 06820.

5) Waterbury (Ct.) Bar Association Scholarship?

Must have completed 1 year in law school in order to demonstrate ability to continue studies in law; must certify intention to practice law in Waterbury, Ct. area; based on need, academic achievements and fulfillment of above requirements.

Contact: Clerk of the Superior Court, 300 Grand Street, Waterbury, Ct.

More detailed information on these programs and many other sources of financial aid available at the Financial Aid Office. Check the table outside the office for information and addresses. Here are some sources to hand-out. Also, check the bulletin boards in both 47 and 57 Worth Street.

Please share any information on outside sources of aid with the FAO and your fellow students.
Getting a Job: The Dos and Don’ts of Interviews

by Susan Werther

"The job market for lawyers is looking up, if you are willing to do what you have to," claimed Vera Sullivan, NYLS’s new placement director. At her recent workshop titled, "Interviews - Do's and Don'ts," part of the ongoing series of workshops designed to help students formulate career goals and ways to achieve them.

Through role playing, role analysis, and informal discussion, the students decided that, “doing what you had to,” meant preparing fully for an interview. “Fully prepared” does not necessarily mean showing up in new clothes with your latest resume in hand. On the contrary, there are numerous things to do, things to read, and things to think about before embarking on the interview circuit.

Here are some of Sullivan’s suggestions:

- Things to do:
  - Make sure your resumes and writing samples are in order;
  - Learn about the prospective firm — talk to practicing attorneys, friends; read Martindale-Hubbell;
  - Make up your mind;
- Things to read:
  - Newspapers or journals pertaining to legal subjects;
  - Newspapers;
- Things to think about:
  - Your goals and how this firm will help you meet them;
  - How to maximize your strengths and minimize your weaknesses;
  - Anything the interviewer has written (very flattering and impressive when mentioned at an interview);
  - Cases the firm is involved in (shows your interest);
  - Your resume (just to remember all the good things you have done);
- Things to think about:
  - How you think being married to a doctor, will affect your ability to handle plaintiff’s malpractice?"

Remember, your responsibility at the interview is to convey as much of yourself as possible.

This is just a small sample of the many important pointers discussed in Ms. Sullivan’s workshops. All students, and especially those seeking employment in the summer or after graduation, will find these seminars extremely valuable. All information as to time, place and date are posted on bulletin boards throughout school.

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Dear Mom and Dad,

Things are swell here at college except, of course, the food, which is so bad that I’m down to 91 lbs. living on salted water sending samples to the biology lab hoping you’ll buy me a prepaid Trailways ticket home to get a decent meal.

I sure could go for some of Mom’s good ol’ apple pie Riz de Veau à la Financière blood transfusions Trailways tickets paid for at your local station and picked up at mine.

Dad, next time we get together, I want to tell you about my part-time job how I suddenly realized what a truly wise and magnanimous fellow you are where I left your car last New Year’s Eve thanks for making this trip possible with a prepaid Trailways ticket.

I also need some advice on a personal matter my backhand where one can hire decent servants these days how to separate you from a few bucks for a prepaid Trailways ticket.

Got to sign off now and go to class to pieces drop three or four courses to the Trailways station to see if anyone sent me a prepaid ticket to get out of here for the weekend.

Love,

P.S. Just go to the Trailways station and pay for my ticket, tell them who it’s for and where I am. I pick the ticket up here when I go to catch the bus.

There is a $5 service charge for pre-paid tickets. The tour will be notified by the driver. Trailways terminal when the tour is ready. Prepaid round trip tickets are good for one year from the date of purchase. Prepaid one-way tickets are good for 30 days from the date of purchase.

NYLS students welcome as always

THE GALWAY BAY
179 WEST BROADWAY
JUST ROUND THE CORNER ON WEST BROADWAY BETWEEN WORTH AND LEONARD
Hard Liquor
Hot Sandwiches
Good Prices Too!
Although the holiday season means studying for exams, the SBA would still like to wish the entire NYLS community a happy, healthy and prosperous holiday season and New Year. Special greetings go to the entire Maintenance and Building Staffs and to all Administrative Staffs who perform so well during the school year. And to the students, study hard and good luck on your exams!

Looking forward to next semester, the SBA plans on implementing: a Bi-monthly Film Program, with various legal and non-legal films to be shown throughout the semester, a Student Communication Center, where students and faculty members will be able to effectively communicate by use of a pinboard and filing system; and a New York Law Review in the Spring, consisting of comedy skits, satires, etc., relating to NYLS life. Students interested in working on any of these programs should contact the SBA 47/311. The successful Intramural Basketball League will continue with its season in the New Year, and we hope to expand the recreational facilities to include volleyball or an exercise class. Consult the bulletin boards for more information.

Inadvertently the Commencement Committee was left out of the SBA Rap Sheet committee description. This year under the chairmanship of Janet Tietz and Helena Yuhas, the committee of third year students has significantly aided Lucille Hillman in the planning of graduation. The 1979 committee will be appointed in the Spring to insure input over the summer for the 1979 Commencement. Details will be posted next semester.

Upperclass students are needed to assist the school, during the semester break, in orientation of the new mid-year students. If interested, leave your name and telephone number at the SBA Office 47/311.

Thanks go to first year SBA Rep Susan Lauder, for coordinating the most recent SBA Wine and Cheese Party, which was another smashing success. Due to the popularity of these informal parties, the SBA plans, on continuing them on at least a monthly basis in the Spring semester, with the added possibility of a Spring Picnic to parallel "Oktoberfest and of course, our annual St. Patrick’s Day Beer Blast.

Christmas Five Movie Discount Cards will only be available through Friday December 16, 1977 for those who have not yet obtained them, in 47/311, for the cost of $2.25.

Thursday December 15, 1977 will mark the SBA Holiday Beer Party from 4-7 p.m. in the 47 Lounge. Admission is free and the entire NYLS community is invited and urged to attend.

PHI DELTA PHI SKI TRIP

There will be an organizational meeting on Wednesday, December 14, 1977 at 6 p.m., in room 57/501. Anyone interested in skiing is invited to attend.

The meeting is open to all students and faculty.

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**SBA President’s Message**

*By Lindsay Rosenberg*

Fifteen NYLS students, all members of the National Lawyers Guild, joined the striking Legal Services Staff Association of part-time workers for two hours on Worth Street and Broadway last month. The students marched with the strikers, whose number exceeded 100. When they arrived, the students were cheered by the strikers. One of the organizers asked the students to send two delegates to the negotiations which were then taking place between the management of Community Action for Legal Services (CALS) and members of the community who were supporting the striking staff. Jon Kay and Gary Schultz were chosen, and participated in the negotiations for about one hour. "Management explained their position," stated Mr. Schultz. "We claim that they can’t afford to pay the raises demanded by the staff."

Steve Paganzuzz, a spokesman for the NYLS-NLG explained the reasons for the students’ participation. He said, "We not only fully agreed with the goals of the strikers; we wanted to give a morale boost to the picketers, but many of us hope to be directly involved with Legal Services upon graduation. We feel that it is essential for the effective delivery of legal services to the poor that all staff members, attorneys and legal workers alike, receive a decent wage and more favorable working conditions."

The purposes of the strike, according to the union literature, were to resist a move by management to force attorneys to forward confidential client information to a computer file in Washington; to achieve a more equitable distribution of salaries from the $2 million grant which had recently been received by CALS; and to guaran-
By Jerome H. Skolnick

Americans are upset about crime. We are understandably angry and frustrated when we cannot safely walk down city streets, or take the kids on a camping trip for fear the house will be robbed in our absence.

We are morally outraged when we discover that businesses and government officials have been conspiring to use public funds for private gain.

Sometimes, frustration virtually tempts us to demand the ridiculous — to insist that there be a law against crime. In fact, of course, many laws already prohibit and threaten severe punishment for all sorts of conduct including armed robbery, obstruction of justice, failure to report law, or not in the same way. By addressing some of the more popular —

First, not everyone revives criminal law, or not in the same way. By passing a law we may even make the prohibited conduct more popular. President Hoover's Wickersham Commission, which studied the effects of Prohibition on the nation during the 1920's, concluded that — the speakeasy — made drinking fashionable for wide segments of the professional and middle classes who had previously not experienced the delightful delight of recreation.

It is evident that the passage of law, especially criminal law, does not always work out the way those who advocated passage foresaw.

LEGISLATIVE POLITICS

Second, criminal law reflects through political advocates and conflicting views — and so it changes. Testtakers serpously obeyed the Prohibition laws; drinkers did not. Drinkers changed the law.

During the 1960's, laws prohibiting marijuana use amounted to a new prohibition. People over 40 — who drank whiskey — complied with the law and were offended by younger people who smoked marijuana. As young people are becoming successful politicians, penalties for smoking marijuana continue to diminish and may eventually disappear.

We could introduce criminal penalties for manufacturing defective automobile brakes, which kill and maim thousands. But we don't, because in recent years the automobile manufacturers' lobby has had more clout than Ralph Nader, who proposed such laws in the Congress. May that, too, will change.

Other crimes — serious crimes such as murder, rape, assault, and robbery — are almost universally condemned. It is these crimes that are the focus of proposals to "solve" the crime problem by increasing the severity and certainty of punishment.

Why, then, not simply enforce these laws more rigorously and punish swiftly and surely those found guilty of violating them? Many people — including some prominent criminologists — have advocated this seemingly simple and therefore attractive solution to the problem of American crime. But such a solution is not so simple. A criminal justice system can increase risk for a criminal — but not by much, and at higher cost than many people believe.

HIGH COST OF PUNISHMENT

The social and economic costs of punishment are often underestimated. It is easy to call for a major expansion of law enforcement resources; it is not so easy to pay for it.

Policemen, courts, and prisons are expensive. It is cheaper to send a youngster to Harvard than a robber to San Quentin. And the average San Francisco policeman now draws — with pension — more than $25,000 per year, to say nothing of his police car, support equipment, and facilities.

The recent experience of a "law and order" administration that poured billions of dollars through the Law Enforcement Assistance Administration into the war on crime is exemplary and sobering. While violent crime rose 14% from 1969 to 1971, local spending for law enforcement multiplied more than seven times — and L.E.A.A. poured in $3.5 billion between 1969 and 1974.

MOTIVES OF CRIMINALS

The war on crime looks more and more like the war in Vietnam. Those who pursue it are largely ignorant of what motivates the enemy.

Of course, the threat of punishment deters. But nobody is clear how much threat deters whom, and what effect. For example, millions of presumably rational human beings are not deterred from smoking cigarettes even though the probabilities of punishment through cancer, emphysema, and heart disease are clear and painful.

People often believe that present benefits or pleasures, outweigh future costs or threats of pain.

Heavy punishment programs can also incur unexpected social costs. Several years ago Nelson Rockefeller, then governor of New York, proposed as an answer to street crime that harsh sentences, up to life imprisonment, be imposed for drug trafficking, and that sterner enforcement and heavier punishment be imposed against drug users, many of whom are engaged in street crime. The "look-'em-up" approach seemed sensible and hardheaded to many New Yorkers fearful of walking the city streets and to numerous law enforcement officials.

Yet, a recently conducted New York Times survey of 100 New York City judges, reported on Jan. 2, 1977, found that the new, very tough narcotics law failed to deter illegal drug use in the city.

Furthermore, over half the judges believed the laws had worsened the situation because youngsters — immune from the harsher provisions — had been recruited into the drug traffic. This is an unexpected social cost of punishment. There are many others.

Particularly for young people, being a criminal may even have advantages over working in a boring and unrewarding job. One can earn far more stealing cars than washing them. Even the risk may prove advantageous. In some circles, a "jolt" in prison offers an affirmation of manhood — as well as advanced training in criminal skills and identity. Thus, the administration of justice can generate criminality as well as deter it.

ACTUALLY, the most promising targets of deterrence are white-collar criminals — business executives and professionals who have the most to lose by conviction for a crime and are more likely to weigh the potential costs of committing crime against its benefits.

FUNDAMENTAL CONTRADICTIONS

There are no easy prescriptions for crime in America. It has become an intrinsic part of life in this country as a result of fundamental contradictions of American society. We maintain an egalitarian ideology amidst a history of slavery and contemporary unemployment. We say we are against organized crime, but millions of us enjoy and consume its goods and services — drugs, pimping, prostitution, pornography.

We demand heavier punishment — longer prison terms — yet fail to appreciate the social and economic costs of prisons.

We support the Constitution and its protection of individual liberties — yet criticize judges who insist the police conduct themselves in accord with constitutional protection.

Our legacy of slavery, immigration, and culture conflict, combined with the ideologies of free enterprise and constitutional democracy, is unique in the world. As David Bayley's recent work comparing high American with low Japanese crime rates shows, we are not strictly comparable to Japan or, for that matter, to any place else.

Although politicians — as well as some scholars and police spokesman — will try to sell us on apparently simple solutions to the American crime problem, we should remain skeptical. In the past simple solutions have not worked.

Unless we understand why, the future will prove comparably unsuccessful. We have to know what doesn't work to find out what might. The reasons for past failure and possible remedies will be further explored in later articles in this 15-part series on institutional crime, street crime, the limits of the criminal law, the administration of criminal justice, and the organization of punishment.
Rosenbergs: Launching the Campaign

The opinions expressed in this article are those of the author, and not necessarily those of EQUITAS or New York Law School.

By Alan Rosenberg

[This is the concluding article of the series]

It was during 1978 and 1979 that Robert and Michael Meeropol, the sons of Julius and Ethel Rosenberg, began to think seriously about launching a campaign aimed at the reopening and reexamination of their parents' case. The Rosenberg-Sobell trial in 1951 for conspiracy to commit espionage resulted in the 1953 executions of the Rosenbergs, and the imprisonment of Morton Sobell. (See "The Rosenberg Case: A Second Look" in the October EQUITAS.)

On January 20, 1975, the Meeropols took the first step toward the reopening of the case. On the first day that the 1974 amendments to the Freedom of Information Act (FOIA), 5 U.S.C. §552, became effective, the Meeropol brothers made FOIA requests to six United States Department of Justice offices, and to two United State Attorney's offices. They asked for the production of all pages pertaining to the investigation and prosecution of their parents and of Morton Sobell.

The U.S. State Department and Civil Service Commission made some files available under that request. Similar requests to the other agencies and offices, however, were denied. In July 1975 the Meeropols filed suit pursuant to the FOIA. That FOIA lawsuit is still pending.

Brothers Attorney: "A Frameup"

Marshall Perlin, chief counsel for the Meeropols, believes that the Rosenberg-Sobell case was a "fraud and a frame-up designed to heighten Cold War fears and suppress radicals and dissidents." Perlin noted several objectives of the FOIA lawsuit: "To get all files to show the immensity of the Rosenbergs and Sobell; to show the motives behind the prosecution; to show that evidence, which if made known, would have rebutted or impeached government witnesses, was suppressed during the trial and afterward by the government; to show the fraud committed by the prosecution on the American public; to show that what happened then in terms of government suppression of dissent was a precursor to suppression of dissent in the 1950s, 1960s, and 1970s; and to show the need for an investigation of the judicial and extra-judicial conduct of trial judge Irving R. Kaufman (now Chief Judge, U.S. Court of Appeals for the 2nd Circuit), culminating in impeachment, if warranted."

The Federal Bureau of Investigation has the most extensive files on the Rosenberg-Sobell case of any government agency. Excerpts in court affidavits of the number of document pages in Bureau Headquarters vary from 800,000 to 1.1 million. FBI Field Offices around the country are estimated to contain an additional one to two million pages.

The number of documents retrieved thus far through the FOIA lawsuit is miniscule by comparison: 33,000 pages (or 3%) from FBI headquarters; 33,000 pages from the U.S. Attorney's office in the Southern District of N.Y. (mostly consisting of newspaper clippings and legal motion papers submitted over the years by Morton Sobell); 4,000 pages from the Energy Research and Development Administration (successor agency to the Atomic Energy Commission); and 1,000 pages from the Central Intelligence Agency. The Rosenberg-Sobell files of the U.S. Attorney for the District of New Mexico (where some acts of the conspiracy were alleged to have occurred) were "pulled" in 1969.

According to Perlin, destruction of "certain vital files" has been acknowledged by the FBI. These include notes and logs of FBI interviews of David Greenglass, the chief prosecution witness against the Rosenbergs. They were destroyed in 1967, four years after the Rosenbergs' execution.

Shortly after the filing of the FOIA suit Judge June Greene, of the Federal District Court in Washington, D.C., issued an order barring the defendants from further destroying Rosenberg-Sobell files.

The fight for the files will apparently be a long hard one. "The government has been fighting the Meeropol FOIA requests every step of the way," said Michael Weber, of the National Committee to Reopen the Rosenberg Case (NCRC). "We have suffered from the Meeropol lawsuit. They are making this the major test case of the FOIA. If the government can stop the Meeropols, the FOIA will be rendered ineffective as a means for citizens to exert a check on their government."

FBI Field Files Contain

The most recent development in the case is that the plaintiffs discovered that most of the original source material on the FBI investigations are to be found not in central Headquarters files but in the files of 55 of the 59 FBI Field Offices, as well FBI Offices in Mexico City and London. Motions for the inventorying and production of the Field Office files are now pending.

Many of the documents already produced are illegible or have been massively and severely deleted by the FBI. Some of the deletions apparently fall within the several exemptions established by the FOIA, 5 U.S.C. §552b, but numerous others may be questionable. In addition, many documents have been deleted or withheld under a claim that they are "not relevant" or "not pertinent," despite the fact that neither relevance nor pertinency appear anywhere in the FOIA unless specified for exemption. As legal questions and others are being litigated, the files thus far obtained are undergoing the long and tedious process of cataloguing.

The Kaufman Papers

Last year the Meeropols and NCRC published "The Kaufman Papers," thirty documents, covering the period from the trial (March 1951) to May 1975. These documents deal specifically with the conduct of trial judge Irving R. Kaufman and raise serious questions of alleged judicial impropriety.

EQUITAS asked Judge Kaufman to comment on the chages contained in "The Kaufman Papers" but was told that the judge "has made it a practice not to comment on any aspect of the (Rosenberg) case." We also called former federal judge Simon H. Rifkind, who has acted at times as an unofficial spokesman for Judge Kaufman, and Roy M. Cohn, a member of the prosecution team, but neither was available for comment.

Marshall Perlin contends that, "although the Meeropols have only gotten a small percentage of government files so far and although we feel certain that many important files have been destroyed, there are a number of shocking revelations in "The Kaufman Papers," such as:"

• Judge Kaufman indicated privately during the course of the trial and prior to the verdict that upon conviction he would impose a death sentence. (Memo, 3/16/51)
• Although Judge Kaufman stated at sentencing that he had consulted with no one regarding the sentences, he had in fact held ex-parte conversations with the prosecutor, during which he discussed and resolved the nature of the sentences to be given to the defendants. (Memo, 4/3/51 and letter, 3/13/55)
• Between the trial and the execution of the Rosenbergs, Judge Kaufman frequently communicated with the FBI and the prosecutor, seeking to expedite the execution date and thus immunize the sentences and his conduct from further appellate review. (Memos, 2/19/53, 6/15/53, 6/17/55, 6/18/53)
• In 1955 when Morton Sobell made a motion for a new trial, Judge Kaufman held ex-parte conferences with the prosecution and decided prior to argument of the motion that he would deny it without a hearing. (Memos, 5/5/66 and 5/16/66). The motion was in fact denied without a hearing.
• When Sobell appealed a motion to the Supreme Court in 1957 regarding alleged prejudicial error committed by the trial judge, the FBI was informed that "Irving is afraid the court might upset the case unless the [Justice] Department vigorously defends it." Judge Kaufman's concern was then passed on to the Attorney General. (memo, 9/5/57)
• When, in response to a question by then Circuit Judge Thurgood Marshall, an assistant U.S. Attorney acknowledged that judicial error "probably had been committed on a certain point of law at the Rosenberg-Sobell trial, Judge Kaufman "raised hell" with Marshall and asked the FBI to convey his concern to the Attorney General that this would "break the case's back and as a result obtain Sobell's freedom." (Memos, 12/21/62 and 12/20/62)
• Over the years and continuing to the present, Judge Kaufman has tried to use government agencies to suppress and deter criticism of the case in the media, to resist public demands for disclosure of facts about the case and to disseminate statements favorable to himself and to the prosecution. (Memos, 6/15/55, 10/15/57, 6/16/65, 4/11/65, 4/14/65, 5/9/69, 5/19/69, 2/24/70, 5/6/70, 3/12/74, and 5/4/75.)

At the time of the publication of "The Kaufman Papers," former judge Rifkind issued a statement describing the documents as hearsay. In response to this, Marshall Perlin recently observed that, "while we do not vouch for the authenticity of the documents, we do emphasize that if the documents are true, that is, if Judge Kaufman actually engaged in the conduct suggested in them, then he repeatedly violated the Canons of Judicial Ethics and also committed criminal acts." Perlin further pointed out that though some are hearsay, they were made and kept by the FBI in the regular course of business and, as such, would be admissible in evidence.

Since the release of "The Kaufman Papers," over 120 law professors have signed a letter written by Prof. Vern Countryman of the Harvard Law School, calling for a Congressional inquiry into Judge Kaufman's actions.

On October 19, 1977 Representative John Conyers (D.-Mich.) invited all members of Congress and their aides to a briefing on the subject of judicial ex-parte communications with prosecutors. The purpose was to discuss the possible need for legislation in this area and the briefing focused on the ex-parte communications revealed by "The Kaufman Papers" as an example.

The Meeropols have called on Judge Kaufman to make public his own files on the case to refute, correct or add to "The Kaufman Papers." They have thus far received no response. The FOIA lawsuit continues.

Photo by - Barry Rosenberg
and author of the school's amicus curiae brief in Bakke; NYLS Professor Douglas Scherer; and Victor Goode, who filled in for Oliver Quinn, Associate Dean of Rutgers Law School, who was unable to attend.

Ms. Shepherd noted the failure of strictly numerical (GPA and Board Scores) criteria to account for other qualities essential to the professions, such as motivation and "guts." She summarized the position taken in the Rutgers brief which relied on the Thirteenth Amendment, the purpose of which was to remove the vestiges of slavery. She analyzed the present period to the post-Civil War era, during which, under the mandate of the Thirteenth, Fourteenth, and Fifteenth Amendments, many affirmative steps were taken to ensure black participation in the political process.

The lights went out after the decision in Brown v. Board of Education began to tear down the wall. The civil rights legislation of the 1960's began to effectuate this tearing down of the wall." She urged the audience not to let the lights go out again.

Professor Scherer first summarized the various arguments on both sides of the controversy. He then noted that GPAs and Board scores have been conclusively shown to be poor predictors of professional ability and emphasized that professional schools are actually "screening programs for highly regulated fields." He compared these tests to employment tests which, according to Griggs v. Duke Power, are invalid where they have a racially disparate impact and no demonstrable connection to job performance. He felt that society must adopt three programs for redress: 1) substantial increase in educational opportunity; 2) public policy that would either reverse the decision of the Warren Court, (whose record on racial discrimination, he feels, is superior to that of the Burger Court), under the "intent to discriminate" test of Washington v. Davis, and because of the lack of invidious discrimination against whites, would either reverse the California Supreme Court or vacate and remand because of the lack of an adequate record or on Title VII grounds.
Artist Displays New Works

By Amie Riedhart

A reception for Augustus Goertz was held November 16, in the faculty dining room. Mr. Goertz’s bright acrylic abstracts now adorn the walls of the 5th floor of 47 Worth. The paintings are in pastel colors and portray changing spatial relationships. They are painted backgrounds with a layer of color on top, and designs are cut out of the top layer to allow the background to show through.

Todd Capp, whose brainchild the exhibit is, is a former student who is currently on leave from the school.

Mr. Capp wanted to find a way to combine his two major interests, art and law, and came up with the idea of bringing the painting of his friend, Augustus Goertz, to the Law School.

Mr. Capp took Mr. Scanlon and Dean Bears to see Mr. Goertz’s loft and, “They liked what they saw.”

His hopes in setting up the exhibit were to, “improve the atmosphere of the school and to get a tie with the artistic community.”

Dean Bears feels that the acquisition is important because the school, “is in an area which is becoming a Soho. We should take advantage of that fact.”

The paintings are for sale and a percentage of the intake will be given back to the law school.

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