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Bar Review Part II

Description of the Courses

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Second Annual Women's Law Day at NYLS

March 31st

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Tuesday, March 25, 1975

Admission Standards Toughen; '74 Graduates Answer Job Survey; Only 1 of 10 Admitted by Seven Member Committee

by Bill Sterns

New York Law School will receive over 4,000 applications for admission to next fall's entering class. Combining its day and night divisions, there are only 400 places to be filled. The task of deciding which applicants will be offered these places falls to a seven member committee on admissions, headed by Dean Margaret Bearn. Based on two interviews I conducted with Dean Bearn, this article will explore the workings of the admissions committee at NYLS as well as some of the problems it encounters.

The committee's membership represents all three elements of the NYLS community. From the administration there are Dean Bearn, Dean Anthony Davis, and Anthony Scanlon, assistant to the Dean. From the faculty are Professors Goldberg and Harbus. Student members are Benjamin DeCosta and Art Fisch. Each member has full decision-making powers and for this fact the committee is unique among New York City law schools. No other City law school has students sitting on its admissions committee in a full decision-making capacity. (Students at Brooklyn, Fordham, and St. John's University are not even allowed to sit on the admissions committee in an advisory capacity.) Students on the admissions committee at NYLS are chosen by Dean Shapiro from a list of recommended students submitted to him by the SBA.

In addition to these members Ms. Audrey Corke, Admissions Assistant, coordinates the filing and completion of applications throughout the year.

To begin the job of sorting through thousands of pages of applications, the committee establishes some rough mathematical criteria by which to evaluate initially the applications. This year the committee is looking generally for a minimum of a 3.0 GPA and a 600 LSAT. Naturally, variations of these two scores will come before the committee for decision. For instance, a student presenting a 3.5 GPA but only a 570 LSAT would be given full consideration by the committee, though in the opposite case

this might not be true. For instance, if an applicant presented to the committee a 650 LSAT and a 2.5 GPA, (s)he would face the problem that the committee believes that the GPA seems to be a better indicator of future achievement in law studies at NYLS than the LSAT. The writing score is weighed carefully also.



Dean Margaret Bearn

To these three numbers is added a fourth, again supplied by Educational Testing Service of Princeton. This number is a "predictor" number designed to predict an applicant's grade average at a particular law school, based on his/her LSAT score and undergraduate GPA. The predicted average for a given applicant is based on past performance of others at that same law school whose GPA and LSAT scores were roughly comparable to those of the applicant in question. And so we find this year that an applicant with an A- GPA and low-to-mid 700's LSAT score is predicted to obtain a B/B+ average at NYLS.

Dean Bearn states that the committee does not rely on this predictor to any degree.

While numbers are not the sole determinant of the success of a particular applicant to NYLS, it is obvious, as with other schools, that the numbers are extremely important. And while there does not seem to be an express cut-off point in terms of a GPA or an LSAT below which an application will not be considered, it seems statistically clear that once below a 3.0 or a 600 LSAT, an

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by Elliot Horowitz

There was a time, it is said, not so very long ago, when law students did not aggravate themselves about employment after graduation. The halcyon contentment of that utopian area when disciples of law scholars were free to indulge in legal lubrication without economic apprehension, however, seems to have been replaced by a subtle but pervasive paranoia that ushering in America's Bicentennial will be a considerable amount of unemployed lawyers (along with, it should be added, a considerably greater number of other unemployed people).

Women's Law Day, March 31

On Monday, March 31, the Women's Caucus of NYLS will hold its second annual Women's Law Day. The program for women who have applied to NYLS will also have speakers in the late afternoon for the entire NYLS community. The day's schedule includes rap groups and informal discussions on several areas of interest to prospective students: women with children, working women, married women, law school work load, survival in the legal system, women faculty, financial aid. Literature relating to law school will be available and representatives of student groups have been invited to meet the new students. Congresswoman Bella Abzug will speak at 5:30. She will be preceded at 4:30 by a panel discussion of "The Judge's View of the Woman Attorney." Judge Bruce Wright, a graduate of NYLS, will appear on the panel with other jurists from the N.Y.C. area.

Since the new building opened the Women's Caucus has been assigned room 308 as an office. Anyone interested in participating in the "rapgroups" and discussions for Women's Law Day, or interested in any other possible program for the Caucus, can leave a note under the office door, or in the Women's Caucus mail box on the second floor at 57 Worth.

How, in fact, does the NYLS graduate fare in the competitive job jungle of the real world, outside the sheltering, hallowed halls of 57 Worth? To answer this question a survey of the 241 day and evening school graduates of June 1974 was conducted by Dean Bearn. The bad news first: of the 134 alumni who have responded to date 25 (18.7%) indicated that they are still actively seeking employment. Even assuming that the 107 who did not respond are satisfactorily employed (a presumption that the administration, interestingly enough, chooses to make), it would still mean that more than 10% of last year's grads are looking for jobs. Not a very pleasant picture, especially considering that the national unemployment rate in February was 8.2%.

The 109 alumni who responded in the affirmative concerning their occupational status are the good news of this article. Their positions run the diversified gamut of the field of Law. Six are

serving in judicial clerkships — 2 Federal, 4 State (1-N.Y.; 3-N. Jersey). Thirty-seven — by far the largest segment — are employed by law firms ranging from large prestigious ones (e.g. Bortin, Hays, Sklar & Herzberg; Parker, Chapin, & Flatteau; etc.) to small partnerships. Seven illustrious alumni are working in the District Attorney's office Bronx, Brooklyn, and Manhattan, and an equal number have been engaged by the N. Y. City Corporation Counsel.

Although the geographic orientation of most NYLS grads is toward New York and environs, four of the class of '74 are now based in Washington, D.C., working for the Justice Dept. One graduate, in pursuit of a higher degree in law (undoubtedly inspired by his Worth St. mentors), has relocated to Dallas, where he is working as an instructor/research assistant at Southern Methodist Law School.

The remainder of the respondents (Continued on Page 2)

Fraternity Selects Simak Professor of the Year

Dwight Inn has elected Andrew Simak as NYLS Professor of the Year. The award will be presented at the Spring Phi Delta Phi Dinner Dance on April 19.

A graduate of St. John's Law School, Professor Simak has been



Professor Andrew Simak

Librarian and Professor of Law at NYLS since 1965. This year he supervised expansion of the NYLS library, and deserves credit for the approval of the library by the AALS inspectors, an essential criterion for admission.

Professor Simak supervises the legal research, brief writing, and oral argument courses offered to all first-year students. He is available to students who take the trouble to seek him out, and is very helpful with particular research problems.

Outside NYLS, Professor Simak renders community service as a Small Claims Arbitrator in the Civil Court of the City of New York. Inside NYLS he is involved, again by choice, in several student activities. He is faculty advisor to the Moot Court Board. Additionally, he handles arrangements for orientation and commencement exercises.

For his work on behalf of NYLS and particularly on behalf of its students, Dwight Inn honors Professor Andrew Simak as 1975 Professor of the Year.

Are the Equal Educational Opportunity Laws Unfair?

DeFunis or De Minimis?

by Mark D. Offen

The volatile issue of reverse discrimination was brought dramatically to the public's attention by the DeFunis case. DeFunis was denied admission to the University of Washington Law School, while 36 minority students with lower grades and LSAT scores were accepted. DeFunis felt that he was thus denied his 14th Amendment right to equal protection. The case finally reached the Supreme Court last year, but in the interim DeFunis had been admitted to the school by court order, and was about to graduate. As a result, the Court was able to duck the issue by declaring the case to be moot, relegating this controversy to the back-burner of popular debate.

SHEETS AND TUBES

Unhappily, not all NYLS students have succeeded in grasping the elements and issues of this case. Oddly enough, a surprising number of students expressed the belief that DeFunis was an abortion decision. (One student was certain that the Child Labor Case was an early abortion ruling, while Youngstown Sheet and Tube involved some fuss over birth-control devices.)

Fortunately, a new reverse discrimination episode involving a law school has surfaced which may serve as a means of acquainting our students with this pressing Constitutional question. Unlike DeFunis, whose charges rested upon almost metaphysical abstractions of right and wrong, C. Murphy Archibald's difficulties seem almost uncomfortably familiar.

BIRMINGHAM SOUTHERN

Murph emerged from Birmingham Southern College in Alabama seven years ago with a C average. Since then he has served as an officer in the Army, gone to graduate school in England, worked for a law firm, then for Vista. He scored 650 on the LSAT. Thus emboldened, he applied for admission to (among others) the Villanova University School of Law.

The Villanova admissions office, in its wisdom, apparently operates on the assumption that anyone graduating from something called Birmingham Southern must be black. At any-rate, without any misrepresentation on Archibald's part, they processed him as a minority applicant.

(Masters of subtlety, they marked the cover of Archibald's admissions folder with a large "B.")

ACCEPTANCE

Murph received a letter of acceptance from Villanova, as well as the offer of a full tuition scholarship. Elated, he decided to travel to the school's Pennsylvania campus to personally pay the \$75 entrance fee, arriving at Dean of Admissions J. Edward Collins' office on May 20, 1974. After locating his file in a section marked "minorities students accepted," a nervous secretary ushered Archibald in to the Dean.

At first, Dean Collins made a determined attempt to convince our hero that he wasn't really C. Murphy Archibald. After the failure of this Kafkaesque effort, having satisfied himself that there were no inaccuracies in the information supplied by the applicant, Collins reached a decision worthy of a Solomon (the King, that is): he would take it up with the Dean.

CONFIDENTIALITY

Enter J. Willard O'Brien, Dean of the law school. After a polite period of nitpicking, an a series of telephone inquiries by Archibald, the Dean decided on June 4 to honor the acceptance and terminate the scholarship. The Dean has since refused to discuss his decision with the press because of the "student's right of confidentiality," a right vigorously but unsuccessfully waived by this particular student.

The legal aspects of this situation are interesting. To be sure, it could prove difficult to raise Constitutional issues since Villanova is a private Catholic institution. A stronger case could be built on Pennsylvania statutes forbidding racial discrimination in higher education. The law specifies that "a religious or denominational educational institution shall not be exempt from the provisions of the Pennsylvania Human Relations Act and the Pennsylvania Fair Educational Opportunities Act."

I am, however, particularly intrigued by the possibility of Archibald's developing a cause of action in contract or tort based upon principles of justifiable reliance and misrepresentation. You see, Dean Collins is Murphy's contracts professor, and Dean O'Brien teaches torts.

Tully NYLS '59 Named New Taxation Commis.

James Tully Jr., NYLS '59 has been nominated for the position as New York State's new Commissioner of Taxation and Finance. His nomination requires State Senate confirmation. Mr. Tully, an estate-tax specialist, is a partner in the New York City firm of Manning, Carey, Redmond and Tully. An old friend and neighbor of the governor, Mr. Tully was chairman of the Citizen's for Carey, active

in the recent gubernatorial campaign. Mr. Tully and his family reside in the Park Slope section of Brooklyn. He will be replacing Mario A. Procaccino in this \$47,800-a-year position. The Department of Taxation and Finance is the state's tax collector as well as the dispenser of unemployment checks, workman's compensation checks and aid to localities.

— Jim Tricarico

Admission is Tougher...

(Continued from Page 2)
applicant's chances for admission drop considerably.

The subjective criteria, as compiled from letters of recommendation, descriptions of work experience, and personal essays, are all considered and these factors may outweigh a below standard GPA or LSAT. In the end, it appears that the numbers themselves are not sufficient to automatically place one into NYLS. On the other hand, without the minimum scores sought by the committee, the admissions road is a tough one.

When asked what type of student or what type of class the committee was seeking, Dean Bearn asserted that the committee was simply interested in admitting the most highly qualified class possible. No particular consideration is given to geographic location, age, or sex. To this last point, Dean Bearn pointed out that last year the percentage of males accepted from the total of male applicants was about the same as for female applicants accepted. Moreover, the

proportion of women to men actually admitted was found to be about the same as that of women initially accepted. Women comprise approximately 23% of this year's entering class.

As for minority admissions at NYLS, the school's present inability to provide substantial scholarship aid makes it difficult for NYLS to compete with other schools in attracting prospective minority applicants. Dean Bearn said that a capacity to provide scholarship aid is essential if NYLS is to compete successfully with other schools in this respect. Well qualified minority candidates are before the committee now, but a problem may arise later in the spring if other schools offer these people large scholarships. Dean Bearn noted that while the school's present scholarship funds are limited, efforts are being made to increase these funds for all students.

When the entering class is accepted for next fall, enrollment at NYLS will be about 900 students overall. There is no projected increase beyond this point.

'No Jobs'

(Continued from Page 1)

ents to the survey are for the most part working in various federal agencies — I.R.S., Navy Dept., Customs Court, Dept. of Housing and Urban Development, etc. — or are engaged in law related fields (most probably doing so by drawing on previous vocational experience) such as insurance (9 grads), accounting (6), and banking. Others have been engaged by the Sheriff's office, Health Dept., Port Authority, Special Prosecutor's office (Nadjari), private corporations, and the list goes on. One grad is working in pharmaceuticals in preference to law, and one is on a federally funded project to give legal aid to retarded children.

While the survey taken by Dean Bearn is obviously limited in scope (how many questions can one fit on a post card?), it is clearly a step in the right direction. Although it cannot create new jobs, it can at least, if done yearly, give the school some idea of the success (or failure) of its alumni. So far as future employment opportunities are concerned, the law of supply and demand governs. With that in mind, NYLS undergrads should take Shakespeare's advice in *Henry IV, Part II* expressed through the person of an apparently job-anxious law student living in economic times undoubtedly similar to our own: "The first thing we do, let's kill all the lawyers." (act IV, scene 2).

tear here

tear here

EQUITAS SHOPPER'S GUIDE

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Offset Printing & Xeroxing

Philpson Press, 21 Warren Street &
12 John Street; 732-8746, 47

Restaurants

Delphi, 109 West Broadway (corner
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The Grape Vine, 229 West Broadway
(Corner White Street) 925-1495; Greek

Square Diner, 33 Leonard Street
(across from gas station on W. B'way)

Call for delivery, WA 5-7188; American

Thomas St. Inn, 8 Thomas Street,
(bet. B'way and Church) 962-8316; American

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NYLS Enters the Consumer Fight

NY Consumer Law A Potent Weapon

by Jim Pagano

Consumer Law affects everyone in our society. Rich or poor, young or old, educated or not, we are all consumers, cast daily into the marketplace in search of goods and services. With the growth and development of technology and population, has come the erosion of the time honored doctrine known as *caveat emptor* — let the buyer beware! No longer must the buyer be at the mercy of a ruthless merchant. Now, the seller is required to meet certain standards in his dealings with the consumer, in the marketplace, as well as in the consumer's home.

New York State, which has led the field in promulgating changes in the law, was one of the first states to recognize the problem. As a result, New York has enacted some of the most comprehensive consumer protection laws.

False advertising is the basis of a majority of consumer frauds. The consumer, a layperson in a sea of experts, relies on representations of the seller that a product or service has certain characteristics. When it turns out that the quality of the product is far below the representation of the seller, the consumer has been defrauded.

Common law fraud is often hard to prove. New York has therefore codified the definition. New York's statutory definition of fraud is contained in the Executive Law.¹ This empowers the Attorney General to (a.) seek an order enjoining the continuation of a defined business activity, (b.) direct restitution, and, (c.) cancel any certificate that the seller has filed under.

In this same regard, the Attorney General is empowered to initiate a proceeding in cases of false advertising. The statute defines the term and sets a maximum civil penalty of \$500.²

A common example of this type of consumer fraud is known as "bait and switch" advertising. Here, the seller advertises a product for an attractively low price. With this bait, the seller lures the buyer to the marketplace, where the consumer is trapped in the proverbial spider's web. The seller now tries to induce the buyer to purchase a higher priced

item on the premise that the supply of the lower priced is exhausted or the sale item is not of the best quality. Frequently, the seller never possessed nor intended to sell the advertised item.

Effective September 1, 1970, the Attorney General is empowered to enjoin "deceptive acts and practices."³

New York realized that although the law described above was a major step in the right direction, the law was very broad. So, New York enacted legislation against specific acts of consumer fraud. These are collectively known as "consumer protection laws."

One major problem area was home solicitation sales, the proverbial traveling salesperson. Consumers constantly complained of being high pressured into signing a contract in order to be rid of the badgering salesperson who was offering a "chance in a lifetime" deal. The consumer inevitably found out that the deal was too good to be true. This has been remedied by Article 10 of the Personal Property Law,⁴ which provides that a consumer has a three-day cooling off period in which to cancel the contract. In addition, the seller must provide a tear card, attached to the contract, by which the buyer may avail himself of this right. Finally, the statute prescribes the necessary provisions which a retail installment contract must have. The purpose of the statute is meaningful disclosure.⁵

One favorite scheme of unscrupulous sellers was to mail products to people who had not ordered them and then to demand payment. To combat this, New York has enacted Sec. 396(2) of the General Business Law⁶, the intent of which is unmistakable. The consumer who receives such unordered merchandise in the mail has the right to keep it as a gift, and is under no obligation to return or pay for the unordered merchandise.

Another common scheme was the chain distributorship scheme. Although such schemes take many different forms, they share one common element, the sale of an undefined distributorship, and not the sale of products. The most popular in New

York were "Koscot Interplanetary," "Dare to be Great," "Best-line" and "Holiday Magic." Such schemes have been declared illegal in New York.⁷

Two areas which caused consumers much embarrassment and the loss of substantial sums of money were 1.) computer dating services and 2.) health or dance studios. Computer dating contracts or "social referral services" as they are called in polite society are now covered by statute.⁸ The price of said contract shall not exceed \$250; the time is limited to two (2) years. The agencies must disclose the number of referrals per month. The statute covering health and dance studios⁹ prohibits lifetime contracts and regulates installment payments in contracts exceeding \$50.

The field of consumer credit posed long range problems because of its effect on the consumer's credit rating. If the creditor or the computer made an error on the consumer's statement, it was an insurmountable task to rectify the problem. Everyone knows that computers do not make mistakes! When this was not corrected, the credit rating was adversely affected. A statute now provides charge account and credit holders with an orderly procedure for resolving such errors. Also, while the matter is pending, the statute provides that the company may not disclose information concerning the consumer or the account. Finally, where the information is incorrect, credit reporting agencies must allow a person, upon request, to correct the information

obtained by the agency.

An area which was a major irritant to the consumer was the field of debt collection. Once a consumer had entered into a contract and could not or would not pay, the seller would refer the account to an agency for collection. This area was fraught with abuses. Harassment, threatening phone calls at late hours, obscenity, "interrogation" of neighbors and unfounded threats of deportation were not uncommon. This area is now regulated by a statute,¹² which requires such agencies to employ fair and equitable debt collection practices.

Although much has been done in New York to topple the citadel of *Caveat Emptor* and insure fair dealing in the marketplace,

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NYLS' Consumer Center of Lower Manhattan: Recruiting an Army To Fight the Consumer's Battle

by Kay Marcus

Maybe you never did clean the oven during the three years that you lived in apt. 4-H but is that any reason for the landlord to keep your security deposit!

The shirt looked great when it was new but after the first washing one sleeve was three inches shorter than the other . . . and the salesman just laughed and said that maybe you'd be lucky and the style would catch on someday!

While these may be common problems the solutions are not always easily found and at times it may even appear as though there are no solutions. Well, the solutions now can be found at NYLS . . . in room 405 of 47 Worth Street at the Consumer Center of Lower Manhattan . . . or by dialing 226-7113 or 226-7114.

The originators of the Center, Michael Grossman (3rd year night), Larry Hirst (2nd year day), and John Marshall (2nd year day), along with the aid of Gene Pudberry (2nd year day) and Billy Apfel (2nd year day) have been working with their faculty advisor Professor Steve Newman since the fall, inspired by the success experienced by Channel 13's *Consumer Help*. They have spent these months

collecting resource materials, raising funds, and compiling a data bank that will assure immediate access to that information.

The Consumer Center, like the NYU Law student staffed "Consumer Help" project, is a telephone complaint service that will handle all varieties of consumer complaints ranging from, but not limited to, landlord-tenant, credit and financing, and breach of warranty problems. The center will be staffed by NYLS volunteers and members of Prof. Newman's Consumer Clinic who will receive course credit for their work. Volunteers will go through a short training session in which they will become familiar with the resource materials and the "intervention" method.

Intervention and referral are the two primary functions of the center. A staff member will receive an incoming call and will record all pertinent information on one of the specially prepared complaint forms. Once the call is completed, the staff member will analyze the facts, determine the issue, and begin resolving the problem in one of two ways: first, if the problem is one that is more appropriately within the purview of some government or private agency, the staff member will consult the data bank and resource materials and then "refer" the problem to that office or agency. However, if the problem is one that requires direct "intervention," the staff member will then attempt to resolve it by contacting the adverse party on behalf of the complainant. Most of this type of action will be by telephone, although letter writing and personal contact will undoubtedly be involved. In addition, for those complaints that may require some form of litigation, the Center will either refer the complainant to Legal Aid or Legal Services offices, or private counsel acting *pro bono*, or in special cases, the Center members may research and prepare the case themselves with Prof. Newman and other NYLS faculty acting as counsel for the complainant.

Professor Newman, a member of the New York State Bar, is a 1967 graduate of the University

of Pennsylvania and a 1970 graduate of Columbia University Law School. He was a staff attorney and Deputy Consumer Advocate for the New York City Department of Consumer Affairs from 1970-1973 and as Acting Consumer Advocate with the Chief Law Enforcement Division from 1973-1974. This is Prof. Newman's first year at NYLS.

There is no question that the Consumer Center of Lower Manhattan is desperately needed. The Center plans to focus its attention on the communities of Soho, the Housing Projects, Little Italy, Chinatown, Pace University, and the financial district. There are plans for geographical expansion once the Center is firmly established and has stable and adequate funding.

The Consumer Center received a loan from the SBA to cover initial operating expenses. Funds are desperately needed and efforts are being made to solicit contributions from outside groups and individuals. State and Federal funding may be a possibility and contributions from Alumni would be very much appreciated.

The operation of the Consumer Center has been structured to fit the needs of the Lower Manhattan consumer. The Center will be receiving complaints by phone between the hours of 10:00 a.m. to 2:00 p.m. and 6:00 p.m. to 8:00 p.m. Monday through Thursday. All interested NYLS students, both day and evening, are asked to volunteer; the Center asks only that staff members be able to devote a minimum of one morning, afternoon, or evening per week. In addition, the Center is actively seeking volunteers who are fluent in Spanish, Chinese, or Italian.

The time has come for NYLS to become an active participant in the daily affairs of the Lower Manhattan community. According to Hirst, "in harmony with Dean Shapiro's plans to make NYLS a major urban law center, we hope to further that goal by offering the residents of Lower Manhattan free consumer aid with the expectation that this new relationship will benefit all of those involved in the project."



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Equitas Editorials

The Widening Gap

A short time ago EQUITAS asked for the appointment of a Dean of Students to help bridge the growing gap between the expanding administration and the student body. In the ensuing months the gap has continued to grow and now for the first time the administration is faced with a militant student body which is not to be placated with "There is no reason for it, it's just my policy."

Dean Rafalko's hands may have been tied, but his door was open. It wasn't necessary to write a memo to explain why you wanted to see the Dean. As surprising as it may seem to the administration, there are day to day problems which occur in a law student's life for which he or she needs some assistance.

As it now stands one has no idea of where to go. In the "old" days Dr. Weary handled everything, and the Dean rubber-stamped his decisions. In our new enlightened era, no one knows who does what. Ostensibly one goes to see the Administrative Assistant to the Dean — Tony Scanlon. But, if Rafalko's hands were tied, Scanlon's must be fastened behind his back with some space age adhesive. He tries, but his insensitivity to the problems and psychology of a law student seem almost insurmountable obstacles. The students also view him as part of the administration.

What is needed is an ombudsperson. Someone who the students will feel can properly present their case to the faculty and administration. Someone who is in tune with the needs of the students as persons, not as numbers. The appointment of such a person could go far in improving the widening gap between the students and the school.

It would also help if there was a clear delineation of just what the mystical "Board of Trustees" do. Whenever an unpleasant decision is handed down, it is from the Board of Trustees. Whenever a problem exists regarding student funds, it is the Board of Trustees that is to blame. If in fact they have that much to say then it's about time that the students had the right to confront them with the issues. The student body today does not feel that the administration or the faculty is properly presenting its case to the legendary Board.

Two Way Street

Responsibility is a two way street. In other sections of this editorial page we express surprise that the administration isn't willing to treat the students as responsible adults. Maybe one of the reasons for that is the irresponsible conduct one observes.

Going to classes and being prepared are acts which one expects from mature, responsible students. Especially when one is required to sign an affidavit attesting to the required attendance. We don't want to see the return of the attendance taker, but unless some students "get smart" he or she may yet return.

Alumni Awakening

Last week the crocus broke through the ground and its color heralded nature's awakening from winter sleep. We hope that last week's meeting of the new NYLS Development Committee will awaken the Alumni from their too long hibernation.

Whose Politics?

In 1971 the National Lawyers Guild, and the Republican Club were denied official recognition by NYLS. This decision of the Board of Trustees was handed down after the NLG had passed out a brochure listing its, and ostensibly the student body's, grievances against certain school policies. Four years and a new administration later NLG has again been denied official recognition by NYLS.

The Dean has unequivocally said that no political group will receive student funding. We wonder who or what will make the determination as to what is a political organization.

Will SBA become a political organization when it vigorously demands certain student rights? Will the Women's Caucus become a political organization when it demands equal treatment of and representation by women on the faculty? Will EQUITAS become a political organization when it questions arbitrary administration policies and faculty incompetence? Will the ability to arbitrarily cut off student funds give the administration, faculty, and Board of Trustees the ability to only allow such organizations as "toe the line"?

The student activity fee is collected by the school for only one purpose — Student Activities. For many years the funds were not always used for that purpose. The best judges of how their money should be spent are the students who pay the fee.

The student publications and organizations have offered to present a budget based on the present schedule of fees. This will include a charge for overhead, maintenance and a contingency fee. (We wonder what tuition fees are supposed to cover.) The final determination of the allocation of these fees should rest with the students, not with the administration.

The administration has also said that all student organization checking accounts must be abolished. We think this lack of confidence in the ability of the students to manage their funds is shocking. We advocate a system whereby quarterly audits or a countersignature of the bursar would be required on checks issued by the organizations. To return to a system where the school would issue each check on a per item basis, seems a lot like returning to the pre-allowance days when we would ask mommy or daddy for money for the ice cream man. We think that by the time one has reached law school, one should be competent and responsible enough to manage his/her own money.

STUDENT OPINION

The Punctured Balloon

by Robert Marmorstein

For years my two college age sons have been hassling me. Higher education, they insist, is not just useless — it is malignant. Since I am older than both my sons put together, I was not obliged to really listen to them, much less figure out what they were saying.

Then something happened to my classmates.

Here at New York Law School, I had grown fond of them, and proud. They were a bit starry eyed; but they were strong and had no doubts about themselves. They would reform the world. I was struck by their energy and optimism; and the warmth and humor with which they encouraged each other. They were eager to learn, to sop up everything. And best of all, they were moral. Their desire to learn seemed entwined with a desire to help — to do something with the knowledge and tools which would one day be theirs. I looked at my classmates and knew, as certainly as I know my two sons were wrong, that no Watergates would come from this class.

Then in January, examination grades were posted. The spirit went out of this class like air from a punctured balloon. Almost overnight, the buoyancy and confidence was gone. Instead I see suspicion and caution and confusion. They're trying to figure it all out. What did they do wrong? Hard work, attentiveness, and desire were not enough. It's a system, all part of another system; and there's a method, all part of another method — a way to beat the system — a way at least to get by. They're beginning to calculate. Calculate — a word I've always hated, a word I've always associated with shrewd accountants, manipulating lawyers, and self-serving politicians. The humor is still there, but it's no longer expansive and joyful. It is heavier, more directed and defensive. It reminds me somewhat of ghetto humor — humor to sustain the survivors. Maybe it's all part of growing up, part of maturing, part of learning our place in the system of things.

This kind of transformation is nothing new. We used to have college initiations. Some of us even went to military schools. Then there was boot camp. The army. War. All part of life — of corporations and unions and insurance companies and banks and oil companies and slums and disappointments and insults. Life is dehumanizing anyway. Why should law school be unreal? Why shouldn't it reflect what we'll all eventually be a part of?

Like a good citizen, a mature citizen, I should be able to accept all this. But . . . something my two sons said to me keeps ringing in my head. A loud insistent clanging. The sound of an alarm I cannot precisely locate.

I'm afraid my classmates will never be the same. Their openness, their naked thirst for learning, their impulse to reach out to others may be gone forever — as much a part of their past as diapers, and baby rattles, and giggles, and first loves, and untroubled dreams. They are men and women now and they speak seriously of whether it is wiser to sit in the first row, or the second row, or far in back — or to use Gilberts or Universal — or to study all the assignments or to anticipate exam questions — to speak up in

(Continued on Page 5)

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Equitas Feature:

Bar Review-Part II

A Description of the Courses

by JIM TRICARICO and BRUCE TORINO

This is the second and final part of EQUITAS' coverage of the New York State bar review courses. The following is simply a collection of practical facts concerning each course as well as a presentation of some of the courses' claims as contained in their literature.

B.A.R./B.R.I.

The director of this course is Stanley D. Chess Esq. Its lecturers include law professors from many law schools throughout the state, such as: Cornell, Syracuse, Columbia and N.Y.U. The course location in New York is at the Hotel McAlpin, Broadway at 34th Street. The B.A.R. offices are at 401 7th Ave., Suite 110A, New York, N.Y. 10001. There are other course locations throughout the state, including Queens and Westchester Counties. B.A.R. not only deals with the New York State Bar Exam, but has affiliates in other states as well — they also give a course in preparation for the multi-state bar. Those students taking this bar review course are "eligible for discounts in participating B.A.R. and B.R.I. programs throughout the country."

The summer course for the July, 1975 exam begins with course I on May 27th, then course II on June 2, course III on June 9 and course IV on June 16, with each course a part of the overall review. Students have the option of taking live morning lectures weekdays from 10:00 A.M. to 1:00 P.M.; taped afternoon lectures weekdays from 1:45 to 4:45 P.M.; or live evening lectures weekdays from 6:00 to 9:00 P.M. There are also testing sessions on Saturdays from 10:00 A.M. to 1:00 P.M. (The literature warns that the lectures may extend over the three hours allotted.)

The materials used by B.A.R. are claimed to be "comprehensive, concise" summaries prepared by the course lecturers and "totally bar-oriented." They also boast New York Practice and Procedure Materials "specially developed to cope with bar exam requirements . . ."

Tuition is \$200.000 and to receive materials a \$100.00 deposit is required.

Practicing Law Institute

The PLI course director is Benjamin H. Skor, Esq. Its faculty consists of law professors from schools throughout the state — including NYLS' Professor Milton A. Silverman. The PLI summer bar review course will be conducted live at Town Hall, 113 West 43rd Street, New York City. In addition 10 locations will carry taped lectures.

The live sessions begin on Tuesday, May 27 at 6:00 P.M., and include a Saturday morning session which begins at 9:00 A.M. The taped series begins May 31 at 9:00 A.M. There are also replays scheduled on Sundays of the Friday evening and Saturday morning sessions. In addition 18 locations will carry taped lectures. There is also a 1:00 to 4:00 P.M. replay of missed lectures at the Town Hall location, and they are scheduled to begin June 2.

The PLI course covers a broad spectrum of New York Law and

their brochure lists 32 topics. The PLI course material includes ten volumes of "the Compendium of New York Law," "offering comprehensive outlines of all required subjects," two volumes of questions "similar" to those on the bar exam, and New York Law of Evidence, presented in compact form by Dean Joseph M. McLaughlin of Fordham Law School, a member of the PLI faculty.

Tuition for the PLI course is \$150.00. If someone who takes the course does not pass the bar he may attend the lectures again for a \$100.00 fee. Enrollment requires a \$50.00 deposit.

THE MARINO BAR REVIEW COURSE

The director of this course is its founder Joseph L. Marino Esq. Unlike both PLI and B.A.R. its lecturers are not law school professors; they are practicing N.Y. attorneys. The Marino course office is at 53 Hilton Ave., Garden City, N.Y. 11530. The course for the July exam will be given at the Statler Hilton Hotel, 7th Ave., at 33rd Street, beginning May 27th.

The course is conducted from 6:00 to 9:15 P.M. live and from 12:00 noon to 3:15 P.M. on tape weekdays and from 12:30 to 4:00 P.M. on Saturday. It lasts for seven weeks.

"Approximately 45 minutes per day is devoted to the Yes-No and Multiple Choice Bar-type questions." The rest of the time is spent in lecture covering specific subjects along with twelve hours of problem analysis. Two Saturdays will be devoted to the taking of Trial Bar Examinations "approximating the real thing."

The course material consists of volumes claimed to contain 26 major subjects. These are not outlines but "a complete text of the law on that subject . . ." also a model bar examination book with answers as well as a series of cassettes on New York Pleading, Practice and Statutory Rules of Evidence.

The tuition is \$250.00, however, the materials may be purchased separately.

Kass Problem Analysis Clinics

The director of this clinic is Louis A. Kass (who is also a member of the faculty of PLI). This course, unlike the three above, deals only with "the proper technique of producing a professional result" on the answers to bar exam question. Mr. Kass claims that "just as important as knowledge of the law is a knowledge of techniques necessary to handle the various types of essays and yes/no's which appear."

Since it is not a general overview of the law, the course meets only once a week, on Sunday afternoons from 1:00 to 4:00 P.M. (therefore it does not conflict with any of the other courses and may be taken concurrently.) The tuition fee for the course is \$70.00. The course is given for six Sundays in a row beginning on June 8th, in preparation for the July exam. This course is given at the Hotel McAlpin, 34th St. and Broadway in Manhattan. This year the first clinic (Sunday, June 8th) is given "without charge or obligation."

PHI DELTA PHI SCHOLARSHIPS

Dwight Inn of Phi Delta Phi has awarded four scholarships to NYLS students for the current year. The names of the recipients were announced at a meeting of the Inn on February 19. They are: Ben DeCosta — '75, Frances Brown Salten — '75, Olinda Simon — '76, and Jack Slepian — '76.

Plans for the Phi Delta Phi Spring Dance were also discussed at the meeting. The date for the Dinner Dance is April 19. New members will be inducted into Phi Delta Phi at that time. Dwight Inn will also make its annual award to the NYLS Professor of the Year. A Professor of the Year committee was designated at the February 19 meeting.

NYLS AT WOMEN'S CONF.

NYLS was well represented at the Sixth Annual National Conference on Women and Law which was held at Stanford University March 21-23. During the three days over seventy-five workshops were given covering wide areas of law and the legal profession as they relate to women. NYLS provided transportation for three representatives who paid their own food and lodging expenses. A fourth woman attended the conference at her own expense.

SHOW YOUR TALENT

GIL'S TO DISPLAY ART

Gil's Coffee Shop in the basement of 47 Worth Street will give wall space to any NYLS student who wished to display — not for selling purposes — a personal work of art. The works include but are not limited to sketches, paintings or photography. The tentative policy is to limit the display to three items per student to be displayed no longer than one semester.

Grades . . .

(Continued from Page 4)

class or to keep still — to brief cases or work from cans — to come to class or not to come to class — to participate or to hide.

The examinations and the grades have jolted my classmates. What do the grades mean? What have we learned from them? Was there something wrong with the admissions committee? Was the teaching that poor? Is the class that stupid?

Where is it written in the heavens that 10 to 15% of the class must get Fs? And that the rest must be confounded and forever kept in the dark? We will never see those examinations. We will never know where we went astray. Those papers will remain, like the mystery of life itself, an enigma, a Chinese puzzle, a riddle never to be answered. Two months after the completion of examinations 95% of us would answer 95% of the questions in exactly the same way. So what have we learned? Or more perplexing, what has anyone learned about us? And how? And will they ever share that knowledge with us?

Of course we all believe we deserve As and Bs; and of course most of us are disappointed and believe the grades must be insane. But the most pixedated are those of us who received an A or B in one course and then (with the same amount of effort) a D or F in another course. What's the magic formula? Why is it all such a big secret? Did I mispell? Was my grammar poor? Did I misstate the restatement? Misapply a rule? Forget an exception? Was I too imaginative? Too simple? Too much humor? Too bland? Maybe it was my handwriting.

There seems to be no rhyme or reason for the grades. Good students get Ds. Poor students get As. But that's only my opinion. After all, what is a good student? How is this decided? Would someone let us in on the secret? Or is that part of a law school education — forcing us to figure it out — guess it, stumble upon it — for ourselves.

Asking ourselves what is a good student according to NYLS standards brings up to a fundamental question. Exactly what are the goals of NYLS in relation to its students? What kind of attorneys does NYLS wish to produce? The same breed as presently practicing attorneys? We have been given every indication that the progressive minded NYLS administration has a better model in mind. If so, isn't it time we examined the methods used to produce those attorneys?

If we are reordering our goals, isn't it time to objectively question our procedures?

Although there are respected educators who believe grades (especially for graduate students) are unnecessary, most of us can accept grades and examinations as a valuable stimulus to the educational process. But just how are they to be utilized at NYLS? As a threat? As a re-evaluation of a student's work? As a test of the teacher? As a means of simple classification for prospective employees? As a review? To encourage? To discourage? To guide? To bludgeon?

I wonder if the administration knows what effect the examination grades have had on the first year class. If so, was this effect intended? If so, why?

I cannot believe that the mutilation of so many hopes will not give birth to some hopeful reformation. I'd hate to have to admit that my two sons put together were more than twice as smart as I.

LETTERS TO THE EDITOR

Employment Picture Not So Rosy

Dear Editor:

I was greatly disturbed by your edition of February 25, 1975. The front page article announcing the prestigious clerkships obtained by NYLS students seems to be extremely misleading. The article implies that NYLS students are having little, if any difficulty in obtaining employment. This is certainly not true. Most students have found the job market to be virtually non-existent, especially for students of NYLS.

In an editorial you appealed to alumni to donate to NYLS. If the placement facilities of the school were as effective in the past as they are today the alumni will be certain to ignore this plea. Why should they assist a school that educated them and did nothing to help them find a place to put that education to use?

I believe that an appeal to the alumni to hire NYLS graduates would be much more in order. As the alumni of tomorrow, we will hardly be in a position to assist the school from the unemployment office.

Paul Korman
3d Year Day

Sex Symbol

Dear Editor:

Last issue, Frances Salten attacked having no pictures of women professors, and the inclusion of two pictures of Professor Silverman, in our new catalog. I whole heartedly concur.

Our school has many other good features that could have been shown to the prospective applicant without demeaning Professor Silverman. NYLS should stop trying to recruit students by showing them "a pretty face." I only hope that the Old Professor can tolerate being treated as a sex object.

Joe Latwin
2d Year Day

THE STAFF OF EQUITAS JOINS THE REST OF THE STUDENT BODY OF NYLS IN WISHING THIS YEAR'S GRADUATES GREAT SUCCESS NOT ONLY ON THE BAR EXAM BUT IN THEIR FUTURE PROFESSION.

A Need for Precision In Legal Writing

by Professor ELLIOT L. BISKIND

Precision in legal writing means close attention to, and awareness of, the practical and legal import of each sentence so that its meaning conforms precisely to a client's instructions or to the writer's intention, and so that it cannot be misunderstood even deliberately.

A coherent sentence alone will not do this, for it may contain a time bomb, sometimes concealed but often in plain view as we shall see later. It matters little if the bomb is real or a "dud," for a client should not be put to the trouble and expense of litigating the meaning of a sentence or phrase that could have been written with the precision lawyers are supposed to be capable of. If the bomb explodes in the form of an adverse decision, the client suffer damage. If the decision is favorable, the client has been put to unnecessary expense. But either way, the draftsman has been negligent, and generally, negligence spawns a law suit.

Here is a case of careless drafting; it contains precise writing without precise thinking. A twenty-two year commercial lease with a graduated rental contained an option for a twenty-one year renewal. The rent for the renewal period was five percent of the value of the property at the time of exercise of the option or \$18,000, whichever was higher. The landlord's intention was to permit exercise of the option at the end of the twenty-first year of the original term. But this is how the option read:

The tenant shall have the option of a renewal . . . for a . . . term of twenty-one years . . . by giving . . . notice . . . not later than one year prior to the expiration [of the first term]. . . .

During the . . . renewal term the rental shall be . . . five . . . percent of the value of the . . . premises as of the date of exercise of such option . . . in no event, less than the rent paid during the last period of the original term of the lease (\$18,000).

The tenant exercised the option six months after execution of the lease, and the landlord challenged its timeliness. The court held the renewal provision to be, "completely unambiguous and authorizes tenant to exercise his . . . option any time prior to June, 1982 [one year prior to expiration of the first term]."

There were two options, one clearly expressed, the other implicit. The landlord's implicit option was based upon a not unreasonable expectation (hedged by the "not less than" clause) that twenty-one years later the value of the property would have increased; the tenant's was based upon the same expectation, but because of negligent drafting occasioned by negligent thinking, the landlord's option turned out to be a self-imposed deception.

Here is another example of negligence. An option to purchase clause in a lease read:

The option may be exercised by the service of a notice in

writing of its intention to exercise the option upon the landlord.

During the prescribed option period the tenant's attorney sent a registered - return - receipt - requested letter, as the lease required, stating:

It is our intention to exercise our right and option given to us under . . . said Agreement and Lease, at some time during the term of said lease, namely any time between July, 1973 and June 30, 1978.

The letter then asked that receipt of an "enclosed" rent check (required to accompany the exercise of the option) be acknowledged and acknowledgement made of the tenant's notification of its "intention to exercise its purchase option."

When the landlord treated the letter as an exercise of the option, a law suit resulted, the tenant claiming that its then attorney had not been authorized in writing to exercise the option as required by New York's General Obligations Law.

The court held for the tenant. Had the landlord's attorney thought through the problem, he would have realized that the written exercise might come from the tenant's attorney who had participated actively in drafting the lease. The law suit could have been avoided by a not infrequently used clause permitting exercise of an option in a real estate transaction by an agent without written authorization.

Herein

Use of herein in phrases like, "except as herein provided" and "anything to the contrary herein notwithstanding" is a prolific source of litigation. To determine whether herein means "in this paragraph," in this section" or "in this statute or agreement,"

requires a law suit and judicial guesswork. A litigant is put to unnecessary trouble and expense to defend his attorney's use of the word. If a court finds that herein does not have the meaning his attorney assured him it had, he may be faced with substantial loss. If he is lucky enough to win, he may still suffer loss if, as is frequently the case, time was of the essence, or, because of heavy attorney's fees. Whichever way the case goes, a client, whether he wins or losses, suffers loss because of carelessness, i.e. creating an ambiguity when it would have been simple and easy to be precise.

That this is a real danger is attested by *Owen v. Off*, 227 P2d 457, where the phrase, "except as herein expressly provided," in a California statute, was the subject of litigation. The trial court held that it referred to the entire statute; the intermediate appellate court held by a divided (three to two) vote that it referred only to the section where it appeared; the Supreme Court of California held, also by a divided vote (four to three) that it referred to the entire statute. Thirteen judges could not agree on its meaning.

I am not suggesting that every case involving language construction results from a draftsman's negligence, for apart from that, there is an appalling lack of precision writing in the legal profession. Most of it is avoidable, and sooner or later the draftsman who remains addicted to ambiguous writing, is likely to find himself defending a malpractice suit brought by a disillusioned client.

Ambiguities lurk in unlikely places. In another California case, *Pacific Gas & Elec. Co. v. G. W. Thomas etc.*, 442 P2d 641, a contract required Thomas to replace a metal cover on Pacific's turbine and to indemnify Pacific against damage "to property, arising out of or in any way connected with the performance of this contract." In the course of the work the turbine was damaged and Pacific sued Thomas to recover the cost of repairs. Thomas contended that by custom and usage the indemnity clause was intended to cover injury to third party's property only. While acknowledging that the indemnity clause contained "classical language" for a third party indemnity provision, the court held that "injury to property" meant Pacific's.

This is an example of a seemingly unambiguous clause being held to be "reasonably susceptible" to three interpretations of the identity of property, Pacific's, a third party's or both. The court discussed the error of interpreting the meaning of a written instrument in accordance with a judge's linguistic education and experience without regard to the reasonable susceptibility of the language to an opposite meaning. This admonition may be applied to a legal draftsman with equal, if not stronger force. The law suit could have been avoided had the draftsman taken the time to realize the possible interpretations of "property" in the indem-

nity provision, notwithstanding "custom and usage." Had he done so he could have written:

Thomas agrees to indemnify Pacific against all loss, damage, expense and liability resulting from injury to property whether property of Pacific or of a third party arising out of or in any way connected with performance of this contract.

If the terms of a contract appear unambiguous to the draftsman, the possibility is not excluded that another party to the contract may, with equal reason, interpret them differently. The only way to avoid this is to write so clearly that the language cannot, even deliberately, be misunderstood.

The language of the law is not precise. To say that it is, is dogma. While a lawyer should strive for precision, "legal writing" itself will not achieve that end. What can achieve it is conscious precision in the use of words, so that each sentence has an unmistakable meaning without repugnance to the meaning of an earlier sentence.

John Locke reminds us that, "The chief end of language in communication being to be understood, words serve not well for that end when any word does not excite in the hearer the same idea which it stands for in the mind of the speaker."

In an effort to avoid the danger that the words we use will not excite in the reader the "same idea they stand for" in our minds, lawyers have become overprecise to the point where excess of precision frequently produces imprecision. The military calls this "overkill," but it also has meaning as a figure of speech for an excess of precision can and often does result in overkill.

This article first appeared as a column in *The New York Law Journal*. Reprinted by permission of the author.

Prof. Elliot L. Biskind; Adjunct Professor of Law, New York Law School. Publications: *Legal Writing Simplified*; *Law of Real Estate Brokers*; *Harvey, Law of Real Property Title Closing*; *Boardman's New York Family Law*; *Bender's New York Evidence*; *How to Prepare a Case for Trial*; *Real Estate Brokers Portfolio — Text and Brokerage Forms*.

Presently Prof. Biskind is also writing a column in the *New York Law Journal* (Write it Right, since 1969), as well as lecturing (April 5, The Scribes at North Carolina; April 17, Pre-Law at University of Mass.).

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Met. Life Loses Counsel; NYLS Gains Professor

by Glenn von Nostitz

Richard Harbus was tiring of his job with the Metropolitan Life Insurance Company. After spending more than seven years in the general law department he was still looking for a challenge. So last year he left the insurance business and joined the NYLS faculty as professor of Agency-Partnership and Commercial Paper.

Last December, Prof. Harbus made teaching applications through the American Association of Law Schools, and attended an AALS meeting where he met Dean E. Donald Shapiro and several other NYLS professors. Dean Shapiro made Harbus an offer, which he couldn't refuse.

His experience here has so far lived up to, if not surpassed his expectations at the time of the AALS meeting. "I had been a little skeptical about my ability to relate to students," he explains, "but that has not been the case at all." He has been impressed by the intelligence and general ability of the student body, as well as with the dynamism of the administration. "Even though I have been here only a year, I can see that great progress has been made," Harbus says. The professor serves on several student-faculty committees, which he feels have constituted a major step in opening-up decision making and contributing to this progress. He is a member of the Admissions Committee, and says that admissions standards are definitely toughening due to an improvement in

the quality of applications. The professor also serves on the library and student affairs committees.

On most issues of concern to the school community, Prof. Harbus' opinions would be considered "middle of the road." He feels that the few hassles that exist between administration and the rest of the school center around logistical problems, such as grading procedures and the examination set-up. He sees no real need to change the school's governance process at this time. Moreover, he does not believe that students should necessarily be allowed to sit on the faculty committee, although he does say that he sees no reason why they should not be able to at least attend most of the sessions.

Harbus' own grading policy is to allow exams to naturally curve themselves. "A bell curve usually develops around the C+," he explains. There have been rumors of an alleged administrative memo which purportedly offered some "guidelines" for the use of the faculty when evaluating exams, but Prof. Harbus claims that no such memo ever existed, and that there has been "complete freedom" for each professor to grade how he pleases. Harbus does feel, however, that students have been justified in being indignant over the months-long delay before learning their grades.

The whole issue of grades is one that Harbus prefers to avoid. "Students talk about grades too much," he says. "Law

School should be more of an intellectual rather than mechanical experience."

In this vein, he also believes that the "grad school" status of law school should be emphasized more, and that the "professional school" status should be downgraded somewhat. While the introduction of new electives can contribute toward this realignment, Harbus says that even more important would be a new feeling among students that law school should be an intellectually satisfying experience and not a grind.

Amateur Photographer

Before he went to work for Metropolitan Life, Professor Harbus worked for about seven or eight months in a small, prestigious Manhattan law firm. Immediately after graduating from Yale Law School, he went to work as a law clerk in the 2nd circuit, under Judge Kaufman, and terms this "an absolutely fantastic experience." He also worked at one time for Judge Thurgood Marshall.

During the days of Vietnam

War protest, Prof. Harbus headed a draft counseling office on First Avenue, and he presently evidences his interest in political matters by serving occasionally as a legal advisor to the staff of Congresswoman Bella Abzug.

In his spare time, Prof. Harbus is an amateur photographer,

as evidenced by the photographs hanging on his office walls. He is also a "frustrated piano player" who used to hate the piano, but now wishes he had practiced more when he was younger. Finally, he is a good tennis player and offers (tongue firmly planted in cheek) to "play any student for grades."

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Alumni Speak at Estate Seminar

Two recent NYLS alumni, Philip Bekerman, '63 and Peter D. Sereduke, '72, as well as our own Professor Joseph T. Arenson, lectured at an estate planning seminar presented by the Anti-Defamation League of B'nai B'rith,

on March 6.

Professor Arenson co-chaired the program with a third NYLS graduate, Assemblyman Anthony G. DiFalco, '64, who was unable to speak himself because of the press of business in Albany.

Students Responsible For Own Attendance

by diane iushewitz

Classroom attendance at NYLS is supposed to be the responsibility of the individual student. Despite the fact that no one is actually taking attendance, students are experiencing problems over absences. Professors often notice who is absent and they can notify the attendance committee about students who miss too many classes.

Most of us haven't given much thought to attendance since the elevator operators stopped coming to class to check on us. According to school rules, we are responsible for regular attendance, and for keeping accurate records of classes missed. This information is required on the attendance affidavits we sign at the end of each semester. If a student is caught falsifying the affidavit serious problems with both graduation and admittance

to the bar could result.

Last year several graduating students experienced such problems. They were asked to either document their attendance or explain their absences. Fortunately for them, the committee accepted their replies and recommended they be allowed to graduate. This year, others are already undergoing the same ordeal.

If a student is absent for any length of time for legitimate reasons, such as illness or a death in the family, they can protect themselves by simply letting their professors know. They could also send a note to the attendance committee (Professor Hochberg is Chairman) explaining their situation. While some may consider this procedure silly for law students, it's simple and doesn't take much effort. And if it saves you a lot of trouble, isn't it worth it?

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Reflections...

"My Summer Vacation"

A Novel Approach

by Professor Stuart C. Goldberg

Of all the great characters in the world of fiction, the one I have always held dearest to my heart is Walter Mitty. I suppose there's a little bit of him in each of us, and a lot of him in some of us, invading the pursuit of our daily routine. As we sit through what appear to be interminable classes, we dream of sky diving from great heights with twin oxygen systems and cutaway para-



chutes, with the wind screaming through our helmets as the ground rushes up to meet us. Later on, in long and tedious committee meetings we may look away for but a second, and be lost in the roar of the crowd as we forge ahead in a field of thousands in the Boston Marathon — twenty-six miles on foot to the adulation of hundreds of thousands of spectators anxiously awaiting our triumphal entrance into Boston proper and then on to the Prudential Building, where the wreath of victory or completion awaits us all. Or

there may be those evenings after sixteen hours of arduous work on a new treatise when we close our eyes for a moment and our ears are assaulted by the hollow roar of sixty-eight horse power coming out of a 900cc motorcycle as the machine charges down the Alcan Highway deep in the Yukon wilderness at the start of a six thousand mile run from Circle, Alaska to Tijuana, Mexico.

Daydreams you think? Well, they're all possible. To me, life is an accumulation of experiences; the more challenging the adventures, the more fulfilled the life. There are so many magnificent and wondrous experiences awaiting those who are blessed with the opportunity to participate. What then keeps so many from spreading their wings and reaping the wind? Money? Time? Talent?

Nonsense! It simply does not take that much money to be able to participate in some of the

thoughts came to mind: the signs that I had often seen displayed in our national parks warning motorists to keep their windows shut while photographing the animals; how ridiculous would be the explanation in EQUITAS of my failure to resume teaching in the fall; and finally, the ultimate question: whether or not a grizzly can run faster on gravel than a BMW 900cc motorcycle piloted by a large, anthropomorphic, silver helmeted, chicken.

Upon arriving in Fairbanks, I became the proud owner of the finest built and largest motorcycle of European design — a Bavarian Motor Works (BMW) motorcycle with a cubic capacity of 900cc and a horse power rating of sixty-eight. Never having ridden on anything larger than a 90cc Honda Motorbike, whereon I had the total of an hour and fifteen minutes required in order for me to get my New York State motorcycle license, I spent the first two days touring Fair-



world's great adventures. As far as time is concerned, almost anything can be done in that span of time separating the last final exam of one year from the beginning of classes of the next. As for talent, no special skill is needed — just a real desire to get out and live and a little guts to do it.

Ever since I can remember, I've always dreamed of one day flying to the northern-most part of Alaska and motorcycling down the awesome Alcan Highway. This road, if one can be gracious enough to confer that designation on a fifteen hundred mile stretch of gravel and sand, was built in the early 1940's to provide an access route to American military bases in Alaska (Alcan is an abbreviation for Alaskan-Canadian). The trip through the Yukon is the most rugged of any road to be found in the Northern Hemisphere. It is long — comprising 1523 miles from Fairbanks, Alaska to Dorsons Creek, British Columbia. The wild life along this primitive path is as frightening as it is beautiful. I remember stopping to photograph some magnificent scenery and detecting a very large lumbering figure in my rear view mirror. At first, I mistook the fast approaching creature for the Dean, arriving with some new committee assignment, but then I recognized the beast for what it was — a very large, light brown grizzly bear. Instantly, three

Francisco has to offer. The added feature of a conspicuous absence of guard rails afford the errant rider an opportunity to instantly transform himself into a skydiver sans chute.

The weather was less than cooperative. Even though it was late June when I started the Circle run, the temperature often went into the 20's. At one point, upon traversing a mountain pass I found myself amidst gale force winds and six inches of snow in a full Alaskan blizzard. You'd be surprised how well a motorcycle can track through deep snow. Within two hours the storm had passed, leaving the sun to melt the snow so bike and rider could once again play in the mud.

From Circle, the next order of business was a return to Fairbanks and a thorough servicing of the bike. Equipment was there added to permit the carrying of some two hundred pounds of survival gear for the Alcan trip. Upon leaving Fairbanks, I was joined by two other BMW owners, both students at RPI. Without question their company made the Yukon trip much more enjoyable, providing conversation and a split of the camping and cooking chores. Incidentally, you can't fully appreciate how really good food can taste until you've driven a motorcycle, "on the pegs" as the saying goes, for twelve hours.

Motorcycling through the Yukon wilderness is an experience like no other. It is like being projected back in time — the wilderness is everywhere and every person is your friend. Where nature provides the only obstacles, people naturally must band



together. In another sense, the sheer beauty of the wilderness is enough to create a euphoric state — each turn in the road discloses a picturesque view more breathtaking than the one disappearing. Furthermore, when you can drive for hundreds of miles without seeing another human being, you welcome the opportunity to offer your help to fix a disabled vehicle or of simply sharing a few moments of conversation along the road.

All of us in the legal profession, practitioners, professors, and students alike, work in an arduous and highly pressured environment. This has a tendency to tire us mentally and drain us emotionally. Therefore, if we are fortunate enough to be able to take a month or so off, it is far more rewarding and healthy to go to different places and attempt different conquests. By doing so, we can rest our minds and quiet our emotions in order to better meet the challenges that await our return.

It took but six weeks to complete the entire trip, but it was the most personally satisfying period I have ever spent. During the course of that trek, I had an opportunity to really think things out, to find out who I was, where I wanted to go, and with whom I wished to share these life experiences. Upon arriving in Los Angeles I telephoned Nancy, my girlfriend of some eighteen years, and proposed marriage. In a few days Nancy joined me in Los Angeles where we both took the ride down to Tijuana to complete together what had been a lifelong dream of driving from the northern tip of Alaska to Mexico on a motorcycle.

There will be more summers and more adventures and I only wish that some of you could share them with me. After all, do you really have anything to do this summer that's more important than Prudhoe Bay (Alaskan north slope opened this winter for the pipe line) — Tierradel-Fuego run? For those who don't have the desire to do it on a motorcycle, how about taking a camper? Certainly if you have kids I don't think they'd object. We can all leave for Alaska in mid-July and easily make it to Bolivia by September. Of course, the rest of the trip would have to wait until Christmas season recess when the climate around the South Pole would be more favorable.

P.S. Motorcycles are faster than grizzly bears.

POTENT WEAPON...

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much remains to be done. On the federal level, the Federal Trade Commission has promulgated many regulations, especially in the field of false advertising. On the local level, the New York City Department of Consumer Affairs has required licensing of many businesses, notably, employment agencies, contractors and T.V. repairmen.

As can be seen, much is being done and much more needs doing. Someday, perhaps David will knock Goliath down to his own size!

A discussion of proposed new consumer legislation and some recent laws in the fields of funeral arrangements, and garnishment of wages will appear in the next issue.

Footnotes are available upon request.

THE GALWAY BAY

179 WEST BROADWAY

JUST ROUND
THE CORNER ON
WEST BROADWAY
BETWEEN WORTH
AND LEONARD

Hard Liquor
Hot Sandwiches

Good Prices
Too!



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