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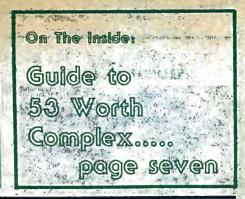
NYLS Publications Student Newspapers

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## Equitas, vol XI, no. 1, September 1979

New York Law School

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Volume XI, Number 1

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September 1979

## Israeli Ambassador Addresses **International Law Seminar**

#### Terrorists Phone Bomb Threat



Rosen, Maudsley and students discuss Nautical Law. by Frank Sheehan by Chris Goban

Mr. Shabtai Rosen, the Israeli Ambassador to the United Nations, spoke at a recent symposium sponsored by the International Law Society. The theme of the event, which occurred in the Moot Court Room, was "The Law of the Sea."

Ambassador Rosen, who was the Legal Advisor of Israeli Foreign Offices and also served on the International Law Commission from 1962 to 1971, conducted this symposium to the benefit of all who attended. The history of "The Law Of The Sea" was presented, revealing a diverse and influential background to the discussion, Mr. Rosen discussed the major reason for the conceptualization and establishment of these Laws, which were: to establish the powers and jurisdiction of belligerent and neutral nations during wartime; and, the question of how to maintain the freedom of maritime commerce was also

This very knowledgeable and insightful speaker also delved into the tremendous importance of the sea and its ramifications concerning areas of world significance. The laws and regulations of the sea play a vital role in a nation's defense and its economic situation. The sea bottom is rapidly becoming an area for scarce natural resources such as oil, copper, cobalt, nickel, manganese, and possibly in the future, gold and diamonds. The Ambassador explained new legislation concerning an innovation of a 200 nautical mile "Exclusive Economic Zone" which would establish restricted resource or sovereign jurisdiction.

There was a wine and cheese reception at the conclusion in order to spur informal discussion.

It is still a mystery as to whether the recent speaking engagement of a career Israeli ambassador prompted a bomb scare which resulted in the evacuation of the Froessel Library and the cancellation of Sept. 5 night classes.

The call came through the school switchboard at approximately 5:30 p.m., said Dean Arnold Graham, allegedly from someone claiming membership in an organization with either the initials SLO or PLO. The threat occurred on the same day that former Israeli ambassador to the United Nations Hon. Shabtai Rosen was speaking to New York Law School's International Law Society. The caller claimed there was a bomb in the basement of 57 Worth St., and it would detonate at 7:15, according to Graham. But, Graham explained, the detonation time was inconsistent with any theory connecting the two events, as Rosen's speech was scheduled to end at 5:45

Nevertheless, according to Graham, in the interest of safety the building was evacuated and evening classes cancelled. Graham said he called the police. After police arrived, school officials searched the basement. They found no bomb.

According to Graham, this is the first incident of this type to occur at New York Law School. But, he explained, in no way would this type of incident result in a cancellation of future events of a political nature and he expects no problems when the International Law Society hosts another discussion in October entitled "Foreign Investment in the U.S."

# NYLS Fills Bldg Gap

by James Gelb

With the completion of the renovation of 53 Worth Street into classrooms and offices, NYLS has dramatically increased both its physical plant and its esthetic appearance. The new building, originally expected to be finished in time for the Spring, 1979 semester, was having finishing touches completed only days before classes began for the Fall semester.

· According to Dean Bearn, the long delay was a result of slow moving city agencies who had to approve renovation plans, and the unexpected length of time to clear the building of its tenants.

Originally the school planned to renovate only the bottom floors and to permit the commercial tenants to remain-on the upper floors, however, it soon became apparent that those plans were not feasible, and plans were redrawn to enable renova-

tion of the entire structure. It then became necessary to gain approval of the new plans by the city agencies, and to allow the tenants sufficient time to remove themselves, before work could begin.

The acquisition and renovation of this new building is expected to be of a lasting nature and not the stop-gap effort originally envisioned. The Administration originally planned to replace all the present buildings with a new ten million dollar facility. The school still intends to build a new structure, but the present three buildings will be kept and integrated with the new facility. There are no predictions as to when a new facility would be built and the school has not yet hired an architectural firm to design a structure which would include this latest change of plans. Dean Bearn has indicated that a search is now being made for a firm.

## Faculty Gains More Variety

by Mark Conrad

NYLS has hired several full-time faculty members for the 1979-80 academic year. The new professors have varied backgrounds and specialties ranging from Legal Aid to Real Estate to International

Lisa H. Blitman received her LL.B. from Catholic University Law School, and has worked for the Parole Defense Unit of the Legal Aid Society since 1973. She trained other attorneys there in court procedure and legal strategy as well as assisting them with administrative hearings, court appearances and appeals. Before she worked for the Legal Aid Society, she was a staff attorney for the New York City Human Rights Commission, and represented complainants in housing and employment discrimination cases. Professor Blitman has also been active in civil rights actions dealing with children's rights, handling two successful appeals decided by the US Court of Appeals for the Second Circuit. Professor Blitman offers Civil

**Prof. Garretson** 

(photo/E. Badler

Trial Clinic and Municipal Law this

Albert H. Garretson is Professor Emeritus from NYU School of Law and has a vast background in International Law, specializing in Law of the Seas and in Diplomatic and Consular Law. Professor Garretson received his J.D. from Syracuse University Law School (1942), and has served in the Justice Department as Assistant Legal Advisor to the State Department and as Chief of the Intelligence unit of the American Embassy in London. He has been an honorary Professor at Kings College University in London, and a member. of the Council for Foreign Relations, the American Society of International Law, and the Chairman of the Diplomatic and Consular Law Division of the ABA. Professor Garretson teaches Torts I and Law of the Seas this semester.

Gerald Korngold received his B.A. from the University of Pennsylvania and went to that institution's Law Schoolwhere he obtained his J.D. in May, 1977. At the University of Pennsylvania Law School, Professor Korngold was the Editor of the Law Review and received dis-(please turn to page three)



**Prof. Blitman** 

## NEWS IN BRIEF

#### Alumni Note



**Judith Waldman** 

Judith A. Waldman, '79, former Alumni Editor of EQUITAS, has been appointed Assistant District Attorney for Richmond County.

#### Women's Coordinator

Carol Schlein, '80, has been selected as this year's Women's Coordinator for the Second Circuit of the Law Student Division of the ABA. Ms. Schlein, who is also the head of the Legal Association for Women (LAW), was chosen because of her active support of women's legal issues. As the new Women's Coordinator, Ms. Sch- consumer complaints. The Center needs lein stressed the need for NYLS students to join the ABA student division. She noted that ABA grants are available for student activities if the student enrollment in the ABA is over 30%. At present NYLS has third floor of 47 Worth Street less than the percentage needed.

#### On-the-Job Training at Consumer Center

Free on-the-job training is available at the Consumer Center of Lower Manhattan. The Center, located at 47 Worth Street, is a student-operated consumer referral and intervention service that provides NYLS students with the opportunity to gain practical experience in interviewing and counseling clients and in resolving their clients' problems.

Marc Kramer, Executive Director of the Consumer Center, believes that working at the Center is valuable experience for a legal career. Students volunteer one or two hours a week to answer telephones and follow up on consumer complaints. The work enables students to learn the craft of lawyering by developing practical skills to supplement casebook learning.

The Center's caseload is at a high point this year. Local television stations are referring many of their consumer complaints to the center. The center handles a wide range of problems; it is therefore possible for students to choose the types of problems they prefer to work on. Many of the consumer complaints involve matters worth several thousand dollars.

Work at the center is rewarding. Students, as third parties to disputes, are often able to bring about rapid resolution of more students able to work an hour or two. every week. Students wishing to volunteer should leave their names and class schedules at the Consumer Center office on the

by Thomas Lynch

#### **Human Rights Sets Sights**



Prof. Chen and the Human Rights staff

The Human Rights Law Review will soon post the requirements for its annual writing competition this month. Students interested in entering should watch the bulletin boards for further information.

Human Rights is the official publication of the American Bar Association's section on Individual Rights and Responsibilities. Its student staff is selected through the writing competition. Human Rights also considers articles of relevance and interest on a significant legal or social issue that are submitted to it for publication by students, professors and other writers.

Copies of the Summer issue are now available in the library and in the Human

Rights office. It contains articles by Deputy Attorney General Benjamin R. Civiletti on prosecution and defense, John K. Ebiasah on the new Africa, and Martin Gallin and Philip Newman on the legal aspect of human artificial insemination. Tw NYLS students are also included among the Summer issue contributors: Joan Als ter contributed an article on juvenile offenders and this reporter wrote on the search and seizure of motorists. one who would like to know more about Human Rights may inquire of Professor Lung-chu Chen, Editor, and Vincent Alfieri, Student Managing Editor.

by Celia Bla

#### Students: Visit Financial Aid!

All students are encouraged to stop by the Financial Aid Office with questions and for advice about New York Law School Financial Aid programs, student budgets and outside sources of aid. We have compiled a file of outside sources of grant and loan aid available in Room 106.

cial Aid Bulletin Boards for announce ments. Locations: 1) Main Board at 4 Worth St. outside Room 104, 2) Second Board in Lobby of 57 Worth St. just insid the front doors. Tentatively, Financial Aid Office Hours are as follows: Mon 9:30-6:30 Tue. 9:30-6:30, Wed. 9:30-5:00, Thur. 9:30 5:00. Fri. 9:30-5:00. Please feel free to call

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## Library Stiffens Security

by James Gelb

Returning students this semester may have been startled by the polite request of library staff for students to show their I.D.s. Although requiring presentation of I.D.s has been library policy for some time, it is only since the beginning of this semester that the rule has been consistently enforced. The hope is to reduce the number of books which disappear for good, or more frequently, are removed for an inordinate amount of time.

"Removal of books is always a problem, and is not unique to NYLS," Professor Simak recently said in his ninth floor office. Professor Simak called such conduct by students "unconscionably, grossly unfair" to everyone who uses the library. Simak strongly questions the morals of a person who could vandalize, steal, or purposely misplace books which so many need.

dents, Simak pointed out the illegality of such behavior. "Students should remember that it is a crime," and should they be library's receipt is found

caught, "their professional careers are at stake." In the past, students apprehended vandalizing books have been quietly but effectively dealt with.

#### **Book Checkout**

The new library facilities in 53 Worth. Street have been designed to allow only one point of entry. This will allow a check point to be set up, staffed by library personnel. Students may be required to submit to searches of their book bags. Professor Simak admits that he would like to have a similar set-up on the eighth and ninth floors of the present library, but that is impossible due to the many points of access to those floors.

Professor Simak also promises a stronger response to those who check books out, but fail to return them on time. Any student with books outstanding at the end of the semester will not receive his or her grades until the book is either returned or paid for. Therefore, it is urged that when you do return books, you are sure that the library's receipt is found

## NYLS Re-educates Attorneys

by James Gelb

This fall NYLS will co-sponsor with the American Management Association five continuing legal education programs aimed at helping the practitioner of law. Three of these programs will deal with the efficient running of a law office and practice, and two programs, hosted by NYLS professors, will deal with substantive areas of the law.

On October 19, Professor Meyer Scheps and six noted real estate attorneys will discuss, among other topics, mortgage foreclosure; enforcement of money judgments against real property; actions to bar claims; summary proceedings; landlord and tenant; and mechanics' liens.

Professors Norman Sheresky and Henry Foster of NYLS will be seminar leaders for the program entitled "How to Try a Matrimonial Case", which will take place October 26. This course will look at the practical skills needed to successfully handle a matrimonial trial. Topics include choosing a court, use of discovery proceedings, preparing the client and witnesses as well as preparation and presentation of evidence. The discussion will examine meetings with the judge, the jury, direct and cross-examinations and problems with proof.

The three additional programs slated for this fall are "Time Management for Busy

Attorneys" (October 18-19); "Self-Improvement & Interpersonal Skills Development for Legal Secretaries" (October 25-26), and finally, "Profitable Law Office Management", on November 2, 1979. These programs are designed to aid in the managing of a law practice for "greater efficiency and profits" and should be very helpful to attoneys who need to make the most of their energies. All the programs will provide continuing legal education credits.

Those interested in registering for these continuing legal education programs should contact John Gregory at AMA Headquarters, NYC (212) 586-8100, or call NYLS at 966-3500 ext. 859.

## Faculty Variety (continued from page one)

tinguished grades in his Property and Landlord-Tenant courses. Since September, 1977, he has been associated with the law firm of Wolf, Block, Schorr and Solis-Cohen in Philadelphia. There, he works in the Real Estate Department, and deals with mortgage financing, sales, shopping center development and management, and tax free loans. Professor Korngold has represented financial institutions, developers, commercial enterprises and brokers. He instructs Property I and advanced Real Estate Practice this semester.

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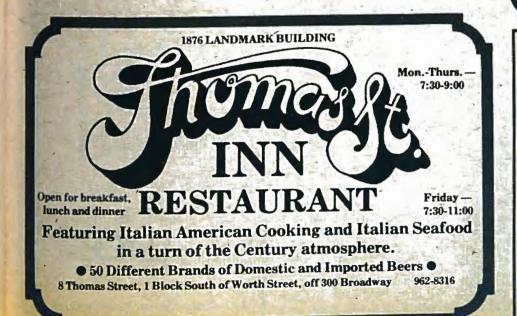
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September 19, 1979 3:00 p.m. to 7:00 p.m.

All students interested in joining their school paper and the entire NYLS community are invited to visit us.

We are now located in 53-BB5.

#### ABA News

## Legal Education Morals? Where In Law School?

Chicago: In 1974, in the wake of the Watergate scandal, the American Bar Association mandated professional responsibility instruction for all law students. While this rule did not ascribe a new role for legal education, it has focused attention on law school's ability to shape professional moral character.

In his article, "Law School Instruction in Professional Responsibility: A Curricular Paradox," soon to be published in 1979 American Bar Foundation Research Journal (no.1), Ronald M. Pipkin of the University of Massachusetts-Amherst, and Visiting Scholar at the American Bar Foundation, reveals that although professional responsibility training is now required in legal education, such courses are held in low esteem by law students. A survey of 1,370 law students at seven diverse law schools disclosed that most students are socialized into regarding professional ethics as peripheral to their legal educations. The neglect of this subject is reinforced by the strong emphasis in law school on doctrinal education. Courses on professional responsibility are distinguished from core courses by their underdeveloped legal doctrine, non-traditional teaching materials (e.g., historical and social science) and a diffused regard for personal moral values, which has the consequence that they are routinely dismissed as less important learning.

The author asserts that these courses also suffer devaluation because of the prevalence of ambivalent attitudes concerning the purpose of the instruction, and discusses three views of socialization which have particular implications for courses on legal

ethics. The first is that childhood is the only stage at which value learning is effectivelaw school is too late. A second is that law school it too early: it is the practice context which determines whether people will obey ethical norms. In the third view, law school could provide this education; ethical judgment is seen as a function of individual life cycle growth. However, successful professional responsibility training requires a substantial departure from the usual methods of classroom instruction. Pipkin feels that an effective educational program in ethical judgment would be difficult to implement because of vested interests associated with traditional instruction.

#### Data clear

Data from his survey clearly indicate that current modes of instruction are failing; when asked to indicate their fellow students' degree of concern with issues of professional ethics, 42% of all students responding and 54% of those currently enrolled in professional responsibility courses believed that other students were "not very" or "not at all" concerned, whereas 94% characterized their fellow students as 'concerned about making money." If the legal profession's concern about ethics is serious, the author believes it must be recognized that instruction in professional responsibility "cannot simply be another topic in the course array."

Pipkin's study does not attempt to

provide a panacea for the ethical instruction in law schools. It attempts to focus attention on the unexamined influences of the dominant law school curriculum, and opens the door to further inquiry into socialization in law school and the ethical education of law students.

## Bar Association Donates Collection

by Joyce Meisner

New York Law School will soon receive a rare collection of books on permanent loan from the Association of the Bar of the City of New York. The books, which are of great historical value, are bound form and hard cover volumes of early Records and Briefs of the New York Court of Appeals from 1852-1930. In the near future the library will also receive early volumes of Records and Briefs for the Federal Court of Appeals and the U.S. Supreme

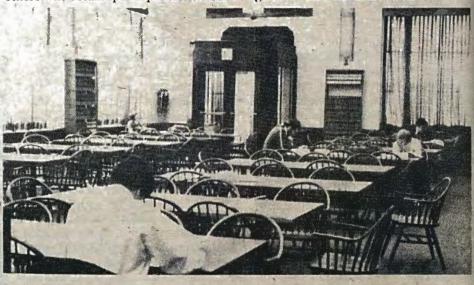
This collection is unique for there are few comparable collections of this material within the State and, as Professor Simak pointed out, New York Law School is now among a handful of institutions that have records of the Court of Appeals going back to the middle of the 1850's.

These volumes will be available in the new library sometime before the end of October. Their use is restricted to members of the Association of the Bar of the City of New York, NYLS students and others who obtain special permission from

Professor Simak. Ultimately, if the fund become available, these records and brief will be reproduced in micro-film.

A gain in stature
The new library at 53 Worth Street will certainly gain in stature as well as size for the Law School has also agreed to serve as a depository library for Government Publications. The increase in the schools's resources of this type for scholarly research was helped along by passage of Pub lic Law 95-261 on April 17, 1978, which amended Title 44 of the U.S. Code. Before the new law was passed, only three depository libraries per congressional district were allowed. The new law now permits nationally accredited law schools to serve as depositories. NYLS did not take advant tage of the new law sooner because of the lack of physical facilities.

Law library depositories are not required to receive all publications made available. The Law School will be very selective about what they accept, materials of which will include agency reports and legislative materials and reports.



## Court's Public Disregard & Cohabitation May Cost

by Theodore Hecht By What Right? Louis Lusky (The Michie Company, Charlottesville, Va. 446 pages.)

In the 175 years since Chief Justice John Marshall authored the decision in Marbury v. Madison, professorial observers of the United States Supreme Court have criticized the extent to which the Court has utilized its self-created power of judicial review. Yet among the popular electorate, the power of the Court to veto the acts of the rest of government has largely remained unquestioned and very few Americans today would deny the Court's right to be the ultimate authority to say what the law is. Yet, Louis Lusky in his book By What Right? attempts to demonstrate that this popular acquiescence to the Court's oligarchic authority will not endure unless the Supreme Court sharply curtails its use of judicial review. If the Court issues many more quasi-legislative decisions on abortion, privacy, expression, or race, the American people will start asking the question, "By what right do the Justices on the Court continually amend the Constitution to conform to their personal view of what national policy should be?" Professor Lusky believes that there presently exists a mounting dissatisfaction with the Court's use of its judicial powers and this dissatisfaction will eventually translate into massive disobedience of Court ruling. While By What Right? ultimately fails to convince the reader of this apocalyptic future, it pro-

vides unusual insight into the recent expansion of the doctrine of judicial review.

The Court, according to Lusky, has gone beyond the traditional scope of judicial review and has assumed a new basis to render decisions, i.e., "implied judicial power." This concept differs from the doctrine of judicial review in that it holds that not all legitimate constitutional rules are rooted in the text of the Constitution. Therefore, the Court's function goes beyond mere interpretation of the Constitution, but includes the power to initiate changes in the law and even require creation of administrative structures to implement such changes. As the Court refines its use of implied judicial power, it ultimately succeeds in amending the Constitution by fiat. For example, Lusky astutely observes that every time the Court holds that its ruling is to be given prospective application, it is in effect telling the American people that it has just amended the Constitution.

The basic thesis of By What Right? is one that should not only be debated in law school classrooms, but one that should be thrown into the political arena as well. Unfortunately, due to the long-winded nature of the book, most readers may respond with a "But Who Cares?"

#### by Gary Reiner OH PROMISE ME BUT PUT IT IN WRITING Paul P. Ashley. 140 pages.

There's an old cliche, "you can't judge a book by its cover." This old chestnut

quickly came to mind while reading this work. The whimsical cartoon caricatures of various living-together arrangements call to mind another book, The Lion's Share by J. Alan Orenstein, which was some of the lightest and most enjoyable legal prose that this writer has read. But there the similarity ends.

Now don't get me wrong, I like this book. Mr. Ashley, a Seattle attorney, set out to write a layman's handbook of contract law as it concerns cohabitation. He does this successfully. Oh Promise Me is not a humorless book. It just does not rely on humor for its strength.

The premise of this book is simple: all the "I love you's" that one hears in courtship do not mean a thing when it comes down to dividing up the property after a separation. Any cohabitation situation must be approached, to the extent possible, with a clear, businesslike mind. He proposes different contracts for different milieus; without, before, during, and after marriage. He is clear and concise.

Of course, like any legal author, he encounters those stumbling blocks which naturally derive from the highly technical and intricate field of law. There is a tendency to be too professional in style; that is, to allow the techniques of lawyering to come through too strongly in his writing. For example, Ashley tends to cite many cases. These cites do not really assist the layman and should be eliminated completely, or at least relegated to the footnotes.

These flaws are typical of many legal writers, and Ashley cannot be severely criticized for being what his training dictates that he be. On the whole, the book is a worthwhile primer, which should be consulted by any person considering life together with another person.

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# LS-Bologna Program Enjoys Second Success

For thirty young and talented law students, July 1979 proved to be an enriching and thought-provoking chapter in their law school careers. This disparate group, which consisted primarily of NYLS students, but also represented law schools from Illinois, Arkansas, New Hampshire, and upstate New York, participated in the second New York Law School — University of Bologna Center for Legal Studies summer program in Bologna, Italy.

Courses were offered on the European Economic Community, Comparative Antitrust Law, Comparative Labor Law, and the Philosophy of Law and Federalism. All of the classes were conducted by outstanding Italian professors of the University of Bologna Faculty of Law, including Giorgio Bernini, Marco Biagi, Franco Carinci, Paolo Mengozzi, and Federico Mancini. It was a unique and rewarding experience just to meet these men and observe how law is taught in Europe.

While most students in the program found their own way to Bologna (some came from Paris, southern France and Germany), several students started their trip with a three-day visit to Rome. As he did for last year's group, Assistant Dean Anthony Scanlon acted as the official tour guide par excellence. The antique grandeur of Rome, and its impressive monuments to civilization acted as a preparation for three weeks of study at the University of Bologna, the oldest established law school in the western

On July 8th, the entire group met at the Collegio Universitario San Tomasso D'Aquino, where most of the students resided during their stay in Bologna. Professors Mengozzi, Mancini, and Biaggi welcomed the American students on behalf of the program's entire faculty.

Those students who stayed at the Collegio enjoyed the warm hospitality of Father Alfons D'Amato, the director, and the Italian students. Stories told by students from the program's first year of Father D'Amato's friendliness were amply confirmed. The food, too, was even better than expected. One could judge how good the food was by umber of people who swore they would go on diets hen they returned home. The stay at the Collegio, thanks



to Father and his staff, made the studying and visit to Bologna that much more pleasant.

The classes themselves dealt primarily with the various fields of international and comparative law as found in Europe. The professors' presentations offered unique views of the European legal mind. They were also extremely interested in hearing and exchanging ideas about the American legal system with their students. They were particularly impressed by the quality of class participation by the American students and their excellent classroom attendance, which they described as unusual in Italian schools. The Italian professors voiced their appreciation for the degree of respect accorded to them by

Students and professors also exchanged views at several social events sponsored by the program and social gatherings given by individual professors. At these functions the group took the opportunity to learn about the

The NYLS — University of Bologna summer program was inaugurated in 1978 after years of cooperative planning. The program became a reality through the efforts of Dean E. Donald Shapiro, and Professor Giorgio Bernini, and also through the generosity of Mr. Joseph Solomon, NYLS class of 1927. One of the principal reasons for this program is the belief that "although once it may have been sufficient for those studying law to understand the foundations of only their own systems of law, this insularity, with a cursory knowledge of foreign legal systems, is no longer a proper method of training lawyers."

Plans for next year have not yet been completed. EQUITAS urges the continuation of this worthwhile and highly prestigious program. Any interested student should keep their eyes open for information about the summer 1980 program. This year's program was an experience its participants will never forget.

# DIRECTOR, BAR/BRI

will be here to discuss the

# **New York** Bar Exam

and the

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Alumni Correspondent

# **NYLS** in Italy

**EQUITAS** wants to make a short comment about one of the more worthwhile programs at NYLS, namely the New York Law School/ University of Bologna Center for Legal Studeis summer program. Having completed its second year in July, this program has certainly proven its merit and importance. Because the program is in its infancy several organizational problems still need to be resolved.

NYLS appreciates the active interest and generosity which Mr. Joseph Solomon, class of 1927, has shown for this program. Mr. Solomon provided many full and part scholarships to students, some of whom would not have been able to participate without such assistance. It is this type of alumni support that provides the backbone of NYLS.

## 53 Renovated

This semester NYLS has taken a giant step forward in its continuing effort to become one of the major urban law centers in the United States today. 53 Worth, newly renovated, has arrived!!!

Let us hope that this physical facelift will be a harbinger of even greater things to come for us. If NYLS needed anything to improve its availability to the legal community it needed a whole and unified physical complex. 53 is clearly the beginning. The space allotted to the clinical offices is evidence of the law school's commitment to the community.

The entire NYLS community can be proud of the finished product. Special thanks are extended to Dean E. Donald Shapiro for his untiring efforts in this project. A great debt is also owed to Mr. Phillip King, without whom the project could never have been completed in time for the fall semester. Mr. King is 53 Worth's unsung hero.

Everyone at NYLS hopes that all the alumni and friends will come and visit our new home.

## **Registration Mishap**

The above editorials present a rosy picture of NYLS. However, there exist some serious communication problems between the Administration and the students, namely the never ending conflict over the examination schedule.

After spring registration had begun, a tentative exam schedule was posted with no notice to students that they could not register for courses whose exams conflicted. In the fall, students with conflicting exams were informed that theymust reregister for non-conflicting courses. This resulted in several students having to pay the course change fee.

The crux of the matter is that students at the time were not informed that they should only schedule classes which did not have conflicting exam schedules. This problem was inexcusable. Dean Bruce has asked for suggestions and assistance from students to solve this problem. **EQUITAS** urges all students to present possible alternatives directly to Dean Bruce.

## ANSWERS & Countercloims

To the Editor

I just wanted to let you and the rest of the *EQUITAS* team know how pleased and proud I am of the superb job you all did in putting out your first "solo" issue.

It is a longstanding **EQUITAS** tradition that each new board of editors publishes a better newspaper than previous editorial boards. Your Summer issue shows that you are going to keep up that tradition of excellence.

All the best, Jonah Triebwasser Class of 1979

To: The NYLS Community

In a memorandum, Acting Dean Bruce informed the students that the posted "Final Examination Schedule" is final and therefore students who have examinations that conflict (i.e., courses whose examinations are scheduled for the same day and time) must change their course schedule to eliminate the examination conflict by dropping one of the involved courses. No option is being given to the students or faculty to allow students who have a conflict to retain both courses and be sequestered to take two examinations in succession.

The following facts demonstrate the Administration's lack of concern for the students' welfare.

(1) The Administration had what I consider to be an affirmative duty to inform the students during the registration period of its new policy on final examinations. The students were never informed of the Administration's intention of inflexibility and therefore many students did not plan their schedules with the Administration's new policy in mind.

(2) A "Tentative Final Examination Schedule" was posted a few days after the registration materials were distributed. Copies of the tentative schedule were not included in the individual registration packets. To the best of my knowledge, the tentative schedule was posted after some students had submitted their registration forms. By simple implication the heading "Tentative" implied that this schedule was not final and was merely for the student's convenience.

(3) A statement of the Administration's new policy was not included in the "Fall 1979 Confirmation" of courses mailed to the students during the summer.

(4) A statement of the Administration's new policy was not made known to the students or the faculty until four days after classes began. Acting Dean Bruce's memorandum notifying the students of the Administration's new policy was the result of my inquiry - and not of his own initiative.

In view of the above facts, the Administration's inflexible position is outrageous. (The Administration is making an exception for students graduating in January, 1980.)

Furthermore, consider the possibilities that: (1) students who have to drop courses now might not be able to enroll in these courses next semester (where next semester will be their final semester) because the courses are not offered or the course which was dropped this semester conflicts with another course they had planned or are required to take next semester; (2) a student could have six examinations scheduled in two consecutive days without conflicts (examinations are scheduled for 9 a.m., 1 p.m. and 6 p.m.), thus are still the state of the seminations are scheduled for 9 a.m., 1 p.m. and 6 p.m.), thus

student.

The Administration's failure to infor the students of its new final examination policy during the registration period, an having failed to do so, its uncompromising position that it is now taking in not allowing the schedule to be adjusted (as the schedule has been adjusted in the past) demonstrates its lack of concern for the student welfare.

The Administration owes the NYI community an explanation.

Sincerely Brian Kawakan Class of 198

To the Editor:

New York Law School people oughts be aware that they now have the bes dean, best faculty, and best student bod in the history of the school. What was proably the best law school in the nation early in this century now again is a great institution, after suffering severe decline in the thirties and forties and fifties.

As a work-my-way graduate of NYIS during the penniless thirties depression and as first a staff member and then a faculty member in the painful re-opening after WWII and the re-founding of the nex few years, I speak from long and gruelling experience.

The best thing that happened to the school since then was and is the deanship of E. Donald Shapiro. He is a builder and a doer — which the school desperately needed. The faculty that he added vastly expanded the hardworking oldtimers group in numbers and variety of resource and talents.

"Unaffiliated" law schools usuall must tend to be a bit autocratic, becaus government by committee always seems talk a lot and accomplish little. They have no resources but the law school's. Facult participation in governance of the school desirable, of course; but cannot replace administration by able administrators. Ultimately, university affiliation (governance works best.

So, I wish good success to all a NYLS, and urge all to work together amic ably for the continued re-uplifting of the school.

Sincerely Howard L. Olecl Class of 1935

Editor's note: Mr. Oleck is presently Professor of Law at Stetson University College of law.

#### To the Editor:

Since EQUITAS saw fit to publish a Marc Mogil's article "Will American Survive? An Opinion"\* and welcomed comments, I offer mine gratis and uncopyrighted.

I've never read such pseudo-intelle tual, cliched, patronizing, and reactionar garbage since I wrote my jurisprudent final exam

I suggest that Mr. Mogil has a brigh future in politics turning out press release for the public relations team that tries to persuade us that those who govern an actually capable of getting us (America) of of the mess we're in.

If you believe this pap, we lose all hop of survival.

Sincerely Martin Brandfor Class of 198

creating an intolerable burden on that \*(EQUITAS), Summer 1979

# 53 Worth: Grand Opening!

By James Gelb

After months of anticipation and frustrating delays, the renovation of 53 Worth Street has been completed. According to Dean Bearn, the entire cost, including acquisition of the building, renovation, and purchase of new furniture was a relatively inexpensive \$850,000. This is money well spent because it seems everyone is plesed with the beauty and comfort of the new facility. However, the professor, clinics, student groups, library and placement office, all anxious to move to their new quarters, before too much of the semester moves inexorably on will have to wait until at least the end of September when all phones and other necessary equipment shall be installed.

The library is waiting for the delivery of new shelving, first promised for August 20th, but now expected any day. Once the shelving arrives and is installed, there remains the difficult logistical problem of moving the thousands of volumes from the ninth floor of 57 to the first and second floors of 53 Worth Street.

As an aid to students and faculty, **EQUITAS** has prepared an up-to-date listing of offices in the new building.

#### Basement: Access through 47 basement

- **B1** Clinic Interview Room
- B2 Observation Room (equipped with a one way mirror to B1)
- **B3** Clinic Library
- **B4** Prof. Blitman
- B5 EQUITAS Office
- **B6** Seminar Room
- B7 Public Telephones
  B8 Thru B 10 Will be clinic offices.
- B11 Clinic Secretary (Pam Goldberg).



53 Before Facelift

#### First Floor:

Access only thru Froessel Library

(1st floor 57)

Jurisdictional Reporters photocopying machines Seating for 80

#### Second Floor: Access only from first floor (staircase).

Professor Simak plans to use this area for the new material acquired as part of the Government Depository. There will be seating for an additional 80.



53 After renovation

#### Third Floor:

Access from 3rd floor 47

4th and 5th floors 53.

- 301 Prof. Sullivan
- 302 Prof. Foster
- 303 Prof. Cerruti
- 304 Prof. Chen
- 305 Classroom (Seats 90)
- 306 Prof. Scherer
- 307 Still unassigned
- 308 Prof. Garritson
- 09 Prof. Dugan



**NYLS Complex** 

#### Fourth Floor: Access from 4th floor 47 and 3rd and 5th floors 53.

- 401 Prof Tracy
- 402 Communication Clinic Secretary (Janet Radke)
- 403 Seminar Room
- 404 Classroom (32 seats)
- 405 Classroom (32 seats)
- 406 Communications Seminar Room
- 407 Prof. Rice
- 408 Prof. Botein

#### Fifth Floor: Access from 5th floor 47 and 3rd and 4th floors 53.

- 501 Placement Office Secretary (Rae Flamholtz)
- 502 Placement Assistant Director (Kukla Broekman)
- 503 Placement Director (Lynn Strudler)
- 504 Placement Interview Room
- 505 Seminar Room
  - 506 Human Rights Office
  - 507 Seminar Room
  - 508 Classroom (50 seats)
  - 509 Seminar Room

# Life at the White House

People in the White House summer internship program are technically known as "observers" within the Executive Office of the President. Of all our Presidents, only George Washington did not live in the official residence at 1600 Pennsylvania Avenue. Although few people may call the roomy mansion home, several hundred others work around the clock at specialized tasks in the cramped quarters which surround the Oval Office. Many of these men and women are career Civil Service employees of the Executive Branch. For these individuals there are no Republicans or Democrats; there is simply service to The President.

Within the network of sub-offices which compose the White House, I worked in the Appointments Office on the preparation of the President's daily schedule. A staff of 17 people and a data processing tracking system plan and manage Mr. Carter's time with devastating precision. Following the President's wake-up call at 5:30 AM, the day's events procede at a quick pace with some appointments lasting only 2 minutes! Even lunch with the First Lady is planned. Certainly, the most thankless job in Washington is the Apointments Secretary, who opens the door to the Oval Office and announces, "I'm sorry Mr. President, the time for this appointment has elapsed." Computer programmers plot the whereabouts of nearly 100 people whose schedules are coordinated with the President's, i.e., Mrs. Carter, the Cabinet, the White House senior staff, etc. This data is updated weekly in five different formats and distributed throughout the staff, since some commitments are made over a year in advance.

Aside from the prospective concerns of my office, two diarists log an in-depth account of everything the President does each day into another data bank with video display retrieval. It is then instantaneously possible to determine if a certain person has ever met with or spoken to the President, if so, for how long and concerning what matter. The diarists, who are supervised by the Archivist of the United States, were called to testify during the Watergate inquiry. Among other items, their official records note every telephone call the President makes (even if the line is busy), every room he walks into or out of and every time his bedside lamp is switched on in the middle of the night!

The volume of mail arriving each day at the White House fills several trucks. After an initial screening through a bomb detector, our office would receive several hundred letters requesting appointments or inviting the President to a particular event. It astounded me how many birthday parties people believed warranted a presidential visit and how many hundreds of average Americans have devised secret solutions to inflation, unemployment and the energy crisis which they will only communicate in person, directly to Jimmy Carter.

Still, every single letter is read and answered, because there is always one individual who has nowhere else to turn. A Florida man, who had emigrated from Greece as a child, had tried unsuccessfully for 15 years to locate a record of his passage to the U.S. He was being denied admission to college, because he was not a citizen, nor could he apply for citizenship without this document from the Bureau of Immigration. The Bureau is administered by the Department of Justice, and the Attorney General located verification within an hour that the man's mother had entered America carrying an infant in her arms.

Communications networks or systems of information transfer (a term of military origin) are critically important at the White House, which has its own internal television station. Twice a day video compilations of the network news shows are aired. This is supplemented by a printed news summary and the State Department's translations of news articles and broadcasts from every country on earth.

The Commander in Chief's telecommunications systems are maintained by the U.S. Army Signal Corps. When Mr. Carter travels outide Washington or flies aboard Air Force One or Marine One (the helicopter), communication satellites are re-positioned over his ground location, so that his conversations may be beamed back to the White House over encoded microwaves, where they are retransmitted over ground telephone lines.

The phones in the White House ring, clang, buzz or just flash (in various colors), depending on who is calling. And they never stop. I had dreams about the telephones. Everyone has a 50 button call director and it is a major accomplishment to learn to use your "board" adeptly. There are all types of special lines; some require no dialing. You could call Japan or Austria by merely picking up the receiver. Telephone manners were very important and I'll never forget the day that Joan Baez, Rev. Jesse jackson and Louis Nizer all called at once. Of course, like any good law student you know who I didn't put on



## **Kheel on Labor Relations**



Association Officers and Abe Beame at Kheel honorarium

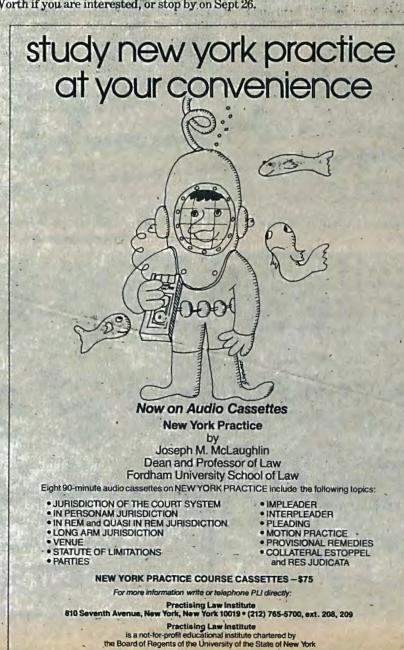
Theodore Kheel, noted labor mediator and arbitrator, will speak at the Labor Law Association's first program on Sept. 26 at 4:30 p.m. in room B508. Mr. Kheel's involvement in New York City labor relations in both the public and private sectors, is well known.

In addition to his work as a labor arbitrator, Mr. Kheel has settled countless labor disputes during his career, including last year's newspaper strike. He also bears impressive academic credentials, having authored a 10-volume treatise on labor law. His speech at NYLS should provide a refreshing mix of the theory and practice of labor relations.

All students, faculty, alumni and administration, particularly those interested in labor law, are welcome to attend the address and the wine-and-cheese hour to be held after the speech.

Mr. Kheel's speech is only the first of many programs that the Labor Law Association will sponsor this year. It plans a program on the J.P. Stevens controversy this October, with union and management representatives presenting each position. A symposium on public sector labor relations is also in the works.

The Association welcomes new members and ideas. It hopes to work with the faculty and administration in making NYLS "the" national labor law school. It is the newest student organization and needs your help. Please drop a note in the Associations's mailbox in 57 Worth if you are interested, or stop by on Sept 26.



ROUTES

L.A.W.

## Metro. Conference on Horizon

by Carol Schlein

Welcome and welcome back! LAW, the legal Association for Women (formerly the Women's Caucus), has been busy planning events and services for the coming year. The purpose of LAW is to provide support for women law students, encourage discussion of legal topics affecting women and to respond to the needs of women in the legal community. In order to deal with these issues more effectively, our structure has been modified. A major change in LAW's policy has been to open up membership to include interested men. Our By-Laws, Conference, Budget and Program Committees will be responsible for specific projects and events.

LAW will coordinate a Metropolitan Conference on Women and the Law. The Student Committee of the New York Women's Bar Association and the Law Student Committee of the ABA shall assist us in the planning. Plans are underway to sell T-shirts to raise money to send representatives to the 11th National Conference on Women and the Law. We are in the process of organizing a one-to-one counseling service for first year students. Anyone who wishes to participate as a tutor or wishes to be tutored, should leave a note at our office in Room 309 of 47 Worth or in our mailbox in the basement of 57

At our first meeting of the year, we presented two speakers, both recent graduates of St. John's School of Law. Ms. Nancy Louden and Ms. Elizabeth Moore spoke to the group about their first year in the real world. We anticipate having many speakers during the upcoming months and hope you will attend.

Dates of interest:

Tuesday, Sept. 18

Student Comittee of NY Women's Bar Association meets at Cardozo 7 p.m.

Wednesday, Sept 19 NY Women's Bar Assoc. meets at NYU at 7 p.m. Signs will provide further information about above meetings.

## True or False? The Polygraph Test Revisited

by Susan Werther Cohen **DECEPTION-THE** AND POLYGRAPH ("LIE-DETECTOR") TECHNIQUE by John E. Reid and Fred E. Inbau, (the Williams and Wilkins Co.,

Truth and Deception is a technicallywritten book concerning Polygraph technique and the use of Polygraph-test results in legal and other proceedings. The Polygraph technique attempts to determine truth and deception by measuring indicative variations in a subject's blood presssure, pulse rate, respiration rate, electrodermal response and muscular pressure while undergoing a prescribed pattern of test-and-control questioning. Of the three sections of the book, test procedure, legal status of polygraph testing, and polygraph research, the section on legal status is most relevant to us as it discusses the basic admissibility of Polygraph-examination results in criminal and civil proceedings. According to the authors, there is a growing tendency for appellate courts to recognize Polygraph results as reliable evidence,

largely due to convincing scientific studies which establish the validity and reliability of Polygraph testing. We are warned, however, that many factors can invalidate results, and that, before a court accepts Polygraph evidence, it must be established that a highly experienced tester administered the exam, that the evidence will be available for cross-examination, and that non-relevant answers elicited by control questions shall not be revealed. The book points out that, even if, as a general policy, the court refuses to accept Polygraph evidence, the attorneys in a specific case may stipulate to its use subject to certain qualifications and conditions.

Not only is this book important for those interested in the practice of criminal law, but it should concern all of us now that the use of Polygraph testing has transcended the criminal setting, and is used to resolve civil disputes, investigate thefts in private industry, and screen job applicants for employment in sensitive positions of trust or national security.

**BALSA** 

## **BALSA Goes City-Wide**

by Jerome Lee

On August 11 and 12, a special freshman orientation program was conducted by the organized Black American Law Students Associations of New York area law schools. Planned as a self-help effort by the Metropolitan Coordinating Committee of BALSA, this unique weekend was designed to analyze the legal profession from the minority perspective.

Organizers were representatives of the BALSA chapters of Columbia, Fordham, Hofstra, N.Y.L.S., N.Y.U. and St. John's University law schools. Participants included incoming minority students from metropolitan area law schools as well as practicing attorneys from across the professional spectrum.

During the first day each incoming student attended workshops designed to call attention to the keys of Yaw school success. For example, National Moot Court finalist Richard Jasper conducted a seminar entitled "Research & Writing: the Appellate Brief". On the second day of the orientation, Jasper followed up Saturday's performance with a technical review of the legal library.

George Madison, a third year Columbia student, and classmate Debbie Kingsland reviewed resume preparation, job hunting strategies and legal publications. This placement seminar was specifically designed to provide help in the search for that first clerking position. Madison was able to provide a step-by-step guideline to the job search through the help of a prepared placement package and a review of interviewing techniques.

An alumnus of St. John's Law School attracted a number of second year BALSA members by conducting an "Exam Seminar". "Synthesis, comprehensiveness and planning are the key words for all law school exams," he told his overflow

Celeste Glenn, a second year student at NYLS and a coordinator of the orientation program, taught a class in "Legal Study Aids". She discussed the effective use of Casenotes, Emanuel, and a host of treatises.

The infamous Kirsey v. Kirsey case was chosen by Ms. Nina Shaw for a mock contracts class. Ms. Shaw, a 1979 graduate of Columbia Law school, gave a rendition of the Socratic method. "Although (I'm sure) I wasn't as demanding as some practitioners can be, the main point I wanted to get

across is the ambience of a law class. And hopefully I introduced the basic thought processes they will find in first year classes.'

Toni Jones, second year student at Columbia and orientation coordinator, characterized the second day's events as an attempt to calm the anxieties of incoming students. "We would like our students to see the big picture and realize the need for more black and minority law graduates in all fields," she explained. And indeed speakers at Sunday's forum did introduce anxious first year students to a myriad of professional career opportunities. The corporate career path was outlined by Conrad Harper, a partner with the firm of Simpson & Thatcher. A particularly informative speaker, Mr. Harper discussed the all important career timetable of the aspiring

Edna West, New York City representative of Black Women Attorneys, discussed her experiences as a law professor while stressing the need for all minority



students to make a contribution to public interest law.

International law was covered by Mr. Victor Goode, of the National Conference of Black Lawyers. Mr. Goode is the current director of the NCBL, which holds a nongovernmental observer's seat at the United Nations. Mr. Goode reminded his audience of the NCBL's upcoming human rights presentation to the U.N.'s Human Rights Commission. The report, released in Dec. 1978, contains an array of information discussing the state of human rights in the United States. He continued by outlining the 10 year history of the NCBL and its impressive list of credits: the defense of the Attica Brothers, the Wilmington 10 and Angela Davis to name a few. Mr. Goode concluded by exhorting incoming students to become more aware about the human rights issues they inescapably face. He made it clear that an international perspective is imperative.

#### NOTICE!!!

To all our readers — We have received inquiries concerning the availability of copies of the summer 1979 edition of EQUITAS. For our readers who have not received their copy of this issue, please let us know. There is a limited supply left! First come — first served!

—The Editors

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#### International Law Society

## Foreign Investment Symposium Draws Professionals

by Scott Batterman

New York Law School's International Law Society, in conjunction with Oceana Publications, will sponsor a two-day symposium at the school on Monday and Tuesday, October 8 and 9. The symposium, entitled "Foreign Investment in the United States," will bring together some of the leading scholars and practitioners in this important and rapidly-growing area.

The symposium will be divided into four panels, one each morning and afternoon during the program. In addition, there are plans to schedule two luncheon speakers.

The first panel will be entitled: "How to Advise Your Foreign Client." Participating in the panel, which will begin at 9:30 a.m. will be: Ernst Stifel, counsel to Coudert Brothers, who will speak on advising the European client; Charles R. Stevens, partner in charge of Coudert Brothers' East Asian operations, and a lecturer in Japanese law at Harvard Law School, who will speak on advising the Japanese client; and Zuhayr Moghrabi, Adjunct Professor of Law at NYLS, who will discuss advising the Middle Eastern client. The panel will be moderated by NYLS Professor Peter W. Schroth.

The afternoon panel will be on foreign investment in United States real estate. At this time, only two of the panelists are known: Joseph N. Friedman, vice-president and senior regional counsel of First

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**NYLS** students welcome as always

## THE GALWAY BAY

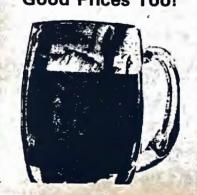
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American Title Insurance Company, who will speak on the problems of investment in United States real estate and some of the remedies; and Arthur F. Adelson, president of Eurostate Properties Consultants, Ltd., who will discuss foreign investment packages in American farm property. Mr. Friedman will also act as moderator.

The discussions on October 9 will revolve around the tax consequences of foreign investment in the United States. The morning panel will be: "United States Tax Law Aspects of Foreign Investment in the United States." Appearing on that panel will be: Harvey P. Dale, Professor at New York University Law School; William L. Bricker, a member of the firm of Curtis, Mallet, Prevost & Mosle, who will discuss the acquisition of U.S. businesses by foreign persons; and Alan Granwell of Cadwalader, Wickersham & Taft, who will speak on the tax consequences of portfolio

The final panel will analyze international taxation. The moderator, Walter H. Diamond, and panelist Dorothy Diamond, of Hauser, O'Connor & Hyland, C. P.A.'s, will discuss United States foreign trade zones. John E. Bishel, Professor of Law at Syracuse Law School, will explain the intricacies of taking advantage of tax treaties to increase your profits. Roy A. Povell, of Cadwalader, Wickersham & Taft, will speak on using tax havens for foreign investment.

In addition to the panel, a multi-media package, consisting, inter alia, of printed materials and cassette tapes, and published by co-host Oceana Publications, will go on sale world-wide. Oceana has numerous subscribers around the globe. As a result of the incorporation of the multi-media package into the symposium, the organizers have expressed hopes that the symposium will have international impact. The package will be edited by Prof. Schroth and the members of the International Law Society.

The fee for the symposium for nonstudents will be \$275, or \$150 without the publication package. Students will be admitted for \$20; however, the fee does not include the package, although plans are being made to make the package available to students at a reduced price. Some of the moneys collected will be turned over to the International Law Society to fund a new scholarly publication.

Anyone desiring more information is advised to contact the International Law

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Legal Writing, Part One:

# Creativity a Virtue, Imprecision a Deadly Sin

Writing is an independent profession, although it is used as an adjunct in virtually all professions. In law probably more than in any other profession, writing briefs, drafting contracts and wills require that a lawyer be meticulous in his choice of words and, in communicating with a clarity and precision that permits of only one interpretation. Legal writing must be so clear and unequivocal that it cannot be deliberately or even unintention-

Legal writing is creative writing. Its basic purpose is to communicate. If your thinking is clear and imaginative and if you have and can acquire a vocabulary that will permit you to say with unmistakable clarity and precision what you intend to say you cannot be asked to do more.

It is fashionable to say that law is precise. Whether it is or not is immaterial. What is material is the requirement that those working in the legal profession not be imprecise for imprecision in legal writing, especially in contracts and wills, often is an invitation to a lawsuit over the meaning of a word or phrase. In a brief, imprecision is also a deadly sin for it means that the judge who reads your brief may interpret a phrase or sentence in a way you did not intend.

A remarkable example of precision writing is found in a non-legal book called All The President's Men written by two newspaper men turned investigative reporters, Woodward and Bernstein, who, while writing in the third person, demonstrate their meticulous insistence upon clarity of expression in this passage:

The two fought, often openly. Sometimes they battled fifteen minutes over a single word or sentence. Nuances were critically important; the emphasis had to be just right.

Consequently, the authors' style is concise and vigorous; it captures and holds the reader's attention. There is neither exaggeration nor overstatement, and qualifying adjectives and adverbs are employed sparingly, as are superlatives. They teach us that a fact embroidered with unnecessary words loses its impact. Writing, then, should be like a piece of machinery with no unnecessary parts to interfere with its function.

Mr. Justice Brandeis has reminded us, "there is no such thing as good writing. There is only good rewriting. Professor Mina Shaughnessy of the City University of New York tells us:

There's no way of learning to write unless you write,...and since high schools don't require a good deal of writing, there's no particular reason why we should expect students to be able to write.

These students have access to images and feelings that we missed among freshmen before them...But they suffer because of the influence of some other language patterns — whether dialect or language — and because of the influence of people who are much more at home talking than reading.

When you are asked to write a brief or a point in a brief, think through your problem, and make an outline of the points or issues which you will treat together with your supporting cases, if any. Do all this before you even attempt to write a first draft.

Throughout your career you will be writing, and you will not stop writing unless you leave the law. This means

that you must continue to develop your vocabulary and to become attuned to established word-meanings and shades of meaning. More will be said about this later.

Style is the method of expressing thought orally or in writing. Webster defines it as the "mode of expressing thought in writing or orally ...; appropriate use of language; suitable choice and arrangement of words."

This definition should not trap you into becoming style-conscious to the point where form supersedes substance. Specifically, style means only that your writing should not be misunderstood because of poor sentence structure but that it should be cogent with no overstatement. To write so that your meaning is clear requires that related words in a sentence be kept together. If this is not done your sentence may become ambiguous and permit two or more interpretations. The following sentence illustrates this fault: "The Chinese Communists spelled out the kind of relationship they want in a joint communique." The phrase "in a joint communique" is related in thought to "the Chinese Communists spelled out." Therefore, the sentence should read: "In a joint communique the Chinese Communists spelled out the kind of relationship they

"There is no such thing as good writing. There is only good rewriting."

#### Mr. Justice Brandeis

An excellent definition of style was formulated by Barrett Wendell in his 1891 English Composition:

But the ideal style is a style that is clear, that cannot be misunderstood; that is forcible, that holds the attention; and that is elegant, that is so exquisitely adapted to its purpose that you are conscious of its elegance only by subtilely feeling the wonderful ease of habitual mastery. (Subtilely is the archaic spelling of subtly; the punctuation is also archaic.)

There is one more point to add in this discussion of style and that is the problem of brevity. Effective legal writing requires that when you make your point - stop. This involves a real danger that you are likely to regard brevity for its own sake. Actually it is the antithesis of clarity and precision, just as is prolixity. While brevity for its own sake frequently leaves important things unsaid or. unclear, prolixity belabors a topic or argument with irritating exhaustiveness. When either happens, there is an absence of communication.

Even though legal writing may be factual or simply expository, it can be literature. In a sardonic vein, Judge Cardozo wrote, "I am told at times by friends that a judicial opinion has no business to be literature. The idol must be ugly, or he may be taken for a common man.' 

This comment applies equally to legal writing other than judicial opinions. The development of writing style requires that words be chosen to fit the precise thought or shade of thought. It requires reviewing over-and-over what is written to clarify and simplify so that each sentence conveys in an active voice - not passive - the writer's precise meaning. This takes time, effort and concentra-

Quantity is no substitute for quality. Logical development of a theme-needs mental discipline to know what to say, how to say it and when to stop. To continue after that point is reached creates the risk of losing the reader's interest; for inevitably, minutiae is a diluting agent.

#### COGENCY

Cogency is obtained by not overstating your case and by exercising a high degree of stinginess in the use of qualifying adjectives and adverbs and by forgetting, in most instances, that there are superlatives in our lan-

#### WRITE, EDIT AND REWRITE

Because the ability to write clearly and cogently is no less important that is knowledge of substantive and procedural law, ability to use the written word with telling effect is the mark of the complete lawyer. But it is the rare writer who can do this in a first draft, for those of us who strive to be effective in our written communications must edit, edit more, and often rewrite.

Editing should be done as the writing proceeds. As each sentence is written, review it to make sure that it follows logically from your preceding sentence. You will never — almost never — produce a finished product if you ignore these reminders, for you are likely to have flaws in arrangement of thoughts, overemphasis or underemphasis, colorless words that create no image, ambiguities or

Editing done immediately after writing will not disclose all these faults. Many will escape your consciousness. The cure is to lay the writing aside for as long as possible a few days or a few weeks while you occupy yourself with other chores. If you do this you will return to your draft as an objective copy-editor, editing your work as though it were that of another. Only then will the flaws that escaped earlier attention be laid bare.

#### IMAGERY

Creating mental images by the use of the right word in the right place is, particularly in briefs, effective in impressing your argument upon the reader.

Imagery is also created by a figure of speech, a play on words or by a descriptive representation of ideas that bears a close analogy to the subject being discussed. But care should be taken in using metaphors not to mix them.

Some time ago the then education editor of the New York Times criticized Columbia University for reducing the budget of its linguistics department. He did so with the following play upo: words, "It is almost beyond belief that while linguistics is booming, Columbia should be prepared to lower the boom on the linguistics department.

The mental image created was the indifference of an institution of higher learning to the constantly increasing popularity of the study of linguistics.

Editor's note: Part two in October issue.

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