3-1979

Equitas, vol. X, no. 5, March 1979

New York Law School

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Harbus Contract Renewed for Two Years

by Jonah Triebwasser

The New York Law School Board of Trustees, in a stunning reversal, has voted unanimously to extend the contract of Richard Harbus by two academic years.

Harbus, who was originally denied tenure by the Board after the Faculty Rank and Tenure Committee recommended rejection, will be offered what Associate Dean William Bruce termed a “fair” contract.

According to Bruce, the contract will provide for Harbus’s normal salary, with a normal teaching load that will take into account his need for research time. Harbus will also be offered the opportunity to teach during the coming summer term.

The two-year extension granted Harbus was one of the recommendations of two academic investigators sent to NYLS by the Association of American Law Schools. Bruce said that the recommendants of Dean N. William Hines and Prof. John A. Bauman were “given a great deal of weight” by the Board of Trustees. Bruce said that the appointment of two distinguished administrators was very helpful.

Bruce felt that the Board voted to reverse its previous position “because of the desire of everyone to resolve the problem and to get on with the business of first class legal education.”

Prof. Richard Harbus
Lippman, Erickson — No Change
Dean Bruce told EQUITAS that the Board of Trustees had made no changes in its stance on former Assistant Dean Marshall Lippman or Prof. Nancy Erickson.

Bruce said that “in view of the fact that Prof. Lippman has entered the private practice of law, the Board felt that his case presented different considerations. The Board was not prepared to change its position under the circumstances.”

Lippman disagreed with Bruce’s interpretation of the facts in his particular case. “My decision to return to practice was hardly voluntary, and rather was the result of an improper determination by the Board of Trustees and in light of that it comes with poor grace for the Board to exercise its judgment in connection with my career objective.”

Lippman, who acts as this newspaper’s attorney, said he would like to come back to teach full-time, but said that “in all fairness to my current employer” he could not accept an appointment for the September semester.

As far as Prof. Erickson was concerned, Bruce said that “The Dean (E. Donald Shapiro) reported to Professors Hines and Bauman that Prof. Erickson will be considered for tenure in the 1979-1980 academic year, in the semester of her choice.”

Prof. Erickson could not be reached for comment.

Financial Aid and Placement Directors Depart Abruptly

by James Gelb

Vera Sullivan, Director of Placement and Counseling at NYLS, has announced her resignation, giving only two weeks notice. Kulka Broekman has been promoted to the new post of Assistant Director of Placement.

Asked to comment on her reasons for leaving so abruptly in mid-semester, Mrs. Sullivan said she had “fulfilled all my career goals here” and that “it was time to move on to other things.” When pressed to define

NYLS Ranked in Top Half

by Leonardo Ross

In a study released in 1977, NYLS was found to be rated 78 among 190 law schools in the United States. The highly critical Gourmet Report, published by National Education Standards, is the product of research by Prof. Jack Gourmet regarding the ranking of American universities. A separate rating of law schools produced the NYLS rank; Harvard topped the list.

Gourmet, a professor of Political Science at California State University at Northridge, maintains that the report is accurate. The ratings were achieved, he says, by research into each school “on a multiple criteria basis.” At law schools Gourmet considered the faculty, library, curriculum and administration with regard to their overall effectiveness in teaching the law. He said the curriculum, for example, was examined for its flexibility in meeting current needs; the library was examined as to its competency in providing information necessary for effective research and teaching. Gourmet deemed it critical for administrative administration to be

(Note: The text continues on page fourteen.)
Expert Checkmates 19 at Once

Michael Bast, second year NYLS student and President of the NYLS Chess Club, played against twenty-one competitors in a simultaneous exhibition held in the 47 Lounge. There were over seventy-five spectators, making this interesting exhibition a pronounced success.

Out of 21 games he played against formidable players, including Prof. Joseph Koffler, Mr. Bast won 19, lost one to Howard Backman, and drew one with Priscilla Marcus.

Although Mr. Bast has played chess since he was "knee-high to a hoppy toad," he said he went "hard-core" when he was in tenth grade and "discovered there's a system." That is when he began playing rated tournaments.

At the University of Florida, he was Southeastern Conference Champion and taught a chess class for two years. Since arriving at NYLS, he has achieved the status of an "Expert."

Mr. Bast would like to encourage membership in the Chess Club and points out that everyone who joins becomes a Vice President.

When asked to comment on the hardest part of the three and a half hour long exhibition, Mr. Bast said, "My feet got tired!"

Cecilia Blau

Ethics Prof Helps Settle Rothko Estate

NYLS Prof. Gustave Harrow has made news once again as part of the extensive litigation over the estate of artist Mark Rothko.

In the latest development in this nine-year court battle, Harrow, representing the office of the New York State Attorney General, objected to the award of $8 million in attorney’s fees to various firms by Surrogate Millard Midnicke of Manhattan, quoted in The New York Times. Harrow said that he withdrew his objections to the legal fees, which he considered "excessive," in order to facilitate distribution of the estate to Rothko’s children and to the Mark Rothko Foundation.

The Attorney General’s office was involved in the case to safeguard the interests of the foundation.

-Jenah Triebwasser

81.6% Pass Bar

by Martha Suhayda

The passing rate of New York Law School students on the New York State Bar Exam for July, 1979 was 81.6%. No comment was available from the Administration. The passing rate at Brooklyn Law School was 90% and Columbia claimed they kept no statistics.

Media Law Association

A new student organization, the Media Law Association, has recently been added to the NYLS community. Initiated at the suggestion of Professors Samuel, Botein and Rice, presently serving as the group’s unofficial advisors, the Association has an unusually large turnout for its first meeting. Twenty-eight students were present, and President Bob Melson had collected many more signatures of interested students who were unable to attend.

The Association will try to encompass the areas of entertainment, communication, copyright and patent law. The Association has a number of ambitious projects on its agenda. Later this semester, the Association will begin a conference in New York. Speakers will be invited to discuss various aspects of media law. Invitations will be extended to all attorneys and law schools in the area with the intention of making the event into a fundraising affair as well as good publicity for New York Law School.

The publication about media law is also in the planning stage. Speakers will be asked to come to the school and address the group a few times per semester.

The Association has been officially recognized by Dean Shapiro and will receive some funding from the SBA and an office in 47 Worth.

The Media Law Project is sponsoring a lecture to be given by Melvin Simensky, Esq., on the nature of “entertainment law” and employment opportunities in the entertainment industry. Simensky is Adjunct Professor of Entertainment Law at New York University Law School and a partner in the firm of Gersten and Tisch.

The lecture will be held on Wednesday, May 3 at 5:00 P.M. in the 5th floor conference room, 47 Worth St. A wine and cheese reception will follow.

—Martha Suhayda

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March 1979
Placement Director Resigns, Assistant Promoted

I’ll file your resume with the others not in the top 10%.

Though Ken Roden’s view of Sullivan’s performance was shared by many other students, Sullivan claims that the top ten percentism was not her idea but that of the hiring law firms.

Kubla Broekman, Sullivan’s assistant and the new Assistant Placement Director, had a very close working relationship with Sullivan. Commenting on Sullivan’s departure, “I’m really sorry to see her go,” she said when interviewed. “I plan to keep in touch with her. She helped me grow professionally. Her presence breathed life into this office.”

Broekman will be in charge of the placement office until a new director is chosen. Broekman herself was approached for the job but, for personal reasons, turned it down. Broekman feels confident that she can handle her new job and the temporary directorship. Vera Sullivan, too, had high praise for Broekman’s skills and pointed to Broekman’s excellent relations with students. However, Broekman warned that in the future she may be less accessible as her duties increase.

In the meantime, the Administration is acting quickly to fill the vacant position. Advertisements have been taken out in professional magazines. Dean Beamer is optimistic that a new placement director will be hired this month, but added, “It’s better to get the right person than get someone fast.” When asked what qualifications were necessary, Dean Beamer replied that the school is looking for someone with experience in counseling and placement. Beamer feels the new placement officer should have a thorough familiarity with the legal profession. Vera Sullivan had to learn about the special requirements of the legal field while on the job.

Scansion: The last thing I want is student frustration. Students will not assist in the selection of the new placement director. However, (Please turn to page fourteen)

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Students to Get Paper or Test Option in Future

by Jerome Lee

“Standards are high and regular advisory meetings will be held between professors and students,” explains Prof. Edward Samuels in describing a new examination/paper option.

While the student members of the NYLS community were busy taking last semester’s final exams, the faculty was approving the elimination of the absolute requirement of a final exam in elective coursework. The faculty has overwhelmingly passed a resolution allowing individual professors to offer selective students a choice of a standard final exam or an extensive, originally researched piece of writing.

When queried as to reasons why this motion passed, Dean William Bruce said that it gives faculty members a choice in testing techniques as well as allows students to fulfill the newly instituted writing requirement. Professor Samuels goes further, saying that it will allow students to write in a particular area of interest without taking an extra course simply to satisfy a requirement.

Stressing that it will only mean an elimination of the strict exam requirement, Prof. Samuels echoes the Dean’s comments: “It allows professors to give a class by class option.” Previously professors were only permitted to give the entire class a final or a paper. Under the new rules, professors have a choice of an entire final paper, b) a final and a paper, c) a final or a paper, or d) any combination thereof.

“Prof. Bruce feels that one of the greatest benefits of this new option is that students can now be examined in a more practical medium. And indeed, this concept in itself appears to be a more professional approach to the educational process in courses such as Copyright and Advanced International Law. Prof. Samuels emphasizes that only certain elective courses are capable of sustaining a successful application of the option. “You should have some basic course work in the area. Advanced International Law is an ideal example of a course in which students have some basic knowledge of the field.” In fact, Samuels suggests that students take course work in a particular subject area, then an independent study during the next semester as a way to write and not have to participate in class simultaneously.

There are a number of courses that lend themselves quite naturally to the option. Prof. Samuels found, during last year, that Copyright Law is one of those courses. “I like to get students to write and I find that most classes are too large. Too large only because Professor Samuels expects a paper to be a more extensive test of the student’s understanding of a particular field. “There is much more work in a paper. It is not an easy way out.” He expects to meet with writing students on a periodic basis throughout the semester.

A hallmark of the present testing system is the objectivity engendered by anonymity: Anonymity is of course non-existent in a course where students are allowed to complete a paper instead of a final examination. Faculty members that this writer has talked to do not see this as a major problem at all. Prof. Samuels, for example, reiterates that the average faculty member will remain objective, adding that “quality is clearly distinguishable, as a rule.”

Keith Fell, SBA President, agrees. “Oh, I don’t think that objectivity will be a problem.” In fact. Mr. Fell points out, “there is some subjectivity inherent in the present system anyway. If students are actually willing to do the work involved in a paper then I think that’s great. And contact with the faculty is good.”

Dean Bruce believes that all testing methods have a subjective component that is unavoidable. “However it is clear that all professors can distinguish between an A, B, or C performance.” He also feels that students wanting the exam-responsibility option will be diligent students committed to the area chosen.

The Dean did express concern that the option might somehow slow the grade distribution, higher than it ought to be. “It is up to the individual faculty members and students electing the option. We’ll see if it works out, then fine. There’ll be no problems with it.” He added that faculty committees at all AALS schools have a very wide range for pedagogical experimentation. “Faculty staffs that are motivated and innovative will try different techniques all of the time.”

Mr. Fell, expressing a general optimism about the faculty decision said, “Some students write better, others test better. I think it’s good that students will be given a choice of medium.” As a graduating student, Mr. Fell expressed regret that he could not remain an extra semester in order to take advantage of the new option.

Who’s in Who’s Who

by Michael Conney

Each year, New York Law School nominates a representative group of its finest students to appear among the listings in the annual edition of Who’s Who Among Students in American Universities and Colleges. Founded in 1954 by the late H. Pettus Randall, Jr., an attorney, Who’s Who provides recognition for students around the nation whose general achievements merit special mention. The criteria for selection presuppose a certain level of scholastic attainment. Selection is based more on the ingredients of student activity: campus/community involvement, overall leadership abilities and intellectual commitment to progress.

Perhaps the most significant benefit of the award is lifetime use of the Reference/Placement Service. The Who’s Who organization provides numerous useful contacts, and possesses an excellent placement record. Among those students selected for this year’s New York Law School quota are: Scott I. Battersman (Law Review—Notes & Comments Editor), Dean Cyron, John K. Fell (President, SBA), Frederic Foster, Barbara W. Friedman (Law Review—Book Review Editor), William P. Gardella (Law Review—Articles Editor), Maryellen Goble (Chairperson, Most Court Executive Board), D.J. Harrell, Edward Hiroshina (Most Court Executive Board), Martin S. Hyman (Law Review—Editor-in-Chief), Walter A. Kretz, Jr. (Law Review—Articles Editor), Steven Leven (Law Review—Topics Editor), Barbara Levine (Law Review—Managing Editor), John Schwartz (National Most Court Team), Nathan I. Treibwasser (Editor-in-Chief, EQUITAS), Historian, Phi Delta Phi, Amy B. Turner (Law Review—Articles Editor), and Bella L. Weiss-Duckman (EQUITAS reporter; member of the Commencement Committee).

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Editorials

Now Here’s A Switch!

EQUITAS is going to have something nice to say about our school Administration and our Board of Trustees.

After reviewing the Solomon-like recommendations of the AALS investigators (see story on page one) that followed a visit to the school of an inspection team, the Board of Trustees has voted unanimously to reverse itself and grant Prof. Richard Harbus a two-year extension of his contract.

It never is easy to admit you were wrong. The Trustees have taken a step that is clearly in the best interests of New York Law School despite considerations of personal pride.

Thanks to the Board’s action, NYLS continues to receive the services of one of its best teachers and has avoided the potentially dire consequences of further antagonizing the accrediting agency, the AALS. Although the recommendations of the AALS were couched in the most gentlemanly of terms, we are convinced that the velvet glove of conciliation hid an iron fist. We hope that this entire incident is now closed and behind us.

One Way to Avoid This

...would be to have an organized faculty. By “organization” we do not mean that the faculty should unionize. We believe instead that the faculty should band together under the auspices of a recognized group of higher education professionals...the American Association of University Professors (AAUP).

One of the causes of the untenured tenure dispute the school has just weathered was that the faculty has never spoken with a united voice on any issue. Perhaps we can bring the divergent factions of the faculty and administration together under the common banner of the AAUP to work toward the improvement of New York Law School.

Applications for AAUP membership and further information are available from Prof. Jackie Kiefer.

Permit Us a Moment ...

...to brag a bit about how far we have come as a newspaper in the recent past. As EQUITAS enters its tenth year of publication, we are proud to present, in this issue alone, such outstanding features as: an exclusive photographic and documentary report about life and law in mainland China; a biting analysis of the LSA; an exclusive interview with Dean Shapiro about the invitation to the commencement and explained and explained to the Senator that the Senator has been unable to commit himself as yet to be at the commencement.

I trust there has been no misunderstanding.

Sincerely,

Edmund Pinto
(Member of the Senate Staff)

To the Editor: Senator Javits has come a long way from those early days ten years ago when he Delta Phi and the Student Bar Association raised a few hundred dollars to put out our first issue. We are proud of the distance we have come and look forward to a bright and exciting future as we begin our second decade.

One of the causes of the unseemly tenure dispute the school has just weathered was that the Senator has been an outstanding feature, as an exclusive photographic and documentary report about life and law in mainland China; a biting analysis of the LSA; an exclusive interview with Dean Shapiro about the invitation to the commencement and explained and explained to the Senator that the Senator has been unable to commit himself as yet to be at the commencement.

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The Pervasive Power of ETS

by Ralph Nadler

The next time you pick up a well sharpened No. 2 pencil and begin hurriedly to answer a standardized, multiple-choice test, chances are that your test is one of more than eight million given annually by the Educational Testing Service (ETS). You may know ETS manufactures SATs, LSATS, GREs and GMATs. With these tests alone, ETS influences the educational and career opportunities of millions of people. But the power of ETS does not begin or end with these tests. ETS markets 209 different tests. ETS tests are used to determine entrance to over 60 occupations including firefighters, actuaries, policemen, real estate brokers, sailors, teachers, gynecologists, engineers and auto mechanics. ETS test results are used by large numbers of law schools, medical schools, graduate schools of business, and other professional schools, Foreign Service officers, New York stockbrokers, lawyers in over 40 states, CIA agents. Two million elementary students take ETS tests, and ETS is even developing ways to test infants. ETS determines who will be eligible for financial aid and how much they will receive. The financial information ETS obtains on nearly two million families is more detailed than a mortgage application or an IRS return. ETS consultants and trainers help shape education and labor allocation policy in scores of countries, including Singapore, Brazil, and Saudi Arabia. And ETS has test centers in 120 countries.

In thirty years, probably 90 million people have had their schooling, jobs, prospects for advancement, and fate in their own potential directly shaped by the quiet, low key, pervasive power of ETS.

What is the Educational Testing Service? How has it centralized so much power? Is it accountable to anyone, or anything? Should your opportunities be so influenced by ETS's standards of aptitude or intelligence?

A Few Challenge Questions

Despite its massive influence, few people question ETS. Students may want to tear up test forms in moments of frustration, but few of us think of challenging the corporation that makes and sells our LSATs and GMATs, written by Allan Natzler, who I hope will help people understand, and question, the unique and unregulated power of this corporation.

Indeed, ETS, is in terms other than dollar volume, a large corporation. It has more customers per year than GM and Ford combined. It has a non-profit status, i.e., a non-profit corporation, which I hope will help people understand, and question, the unique and unregulated power of this corporation.

The power of ETS is massive, as even one ETS executive conceded. "No matter what they try to tell you here about how we really don't have much power," he said, "we know we do. We know we're the nation's gatekeeper." This gatekeeper can determine who enters college, graduate and professional schools, as well as many occupations and professions. Is that power legitimate?

ETS defends its gatekeeper role by claiming that it has developed the "science of mental measurement," but as our report will argue, the test measures nothing more than how you answered a few multiple-choice questions. The correlation between SAT scores and first-year grades in college, for example, is often lower than the correlation between the test scores and the income of the test takers' parents. At best, standardized tests measure a certain skill of test-taking, but they do not measure such key determinants of success as writing and research skill, ability to make coherent arguments, creativity, motivation, stamina, judgment, experience, or ethics.

ETS not only influences how institutions judge individuals, however, it also influences how individuals judge themselves. As Nairn says, "A false self-estimate or image is instilled in the mind of the individual who receives a standardized test score. For although the scores are significantly determined by social class, he is told they are objective, scientific measures of the individual."

Moreover, test takers are subject to numerous injustices, ranging from incorrect scoring of tests, to late reporting of applicant information, to secret evaluation of grades and test scores, and they have no recourse.

We must begin to examine the examiners.

There is a growing movement to reform and restructure the testing industry. In New York, Ohio, Texas, and other states, student-run Public Interest Research Groups (PIRGs) have introduced "Truth in Testing" legislation in their state legislatures. This legislation would require ETS to disclose test questions and answers, and all studies and data on the tests; it would also require companies to keep information on applicants confidential. Disclosing test questions would enable students to contest disappointed answers, and thus eliminate much of the mystery surrounding the tests. ETS has said it is willing to release 99% of its test data. But, Nairn says, the bulk of this 99% is the test questions generated by the test takers themselves—race, social security number, etc. Nairn says it is crucial to disclose that last one percent, as it includes ETS's extrapolations from the information provided by test-takers—such as predictions of future academic success.

Next Month

The Editors Last Hurrah

(Also turn to page fifteen)
Simak Sees Microform Growth

by Robert F. Salvia

One of Librarian Andrew Simak's major efforts toward enhancing the quality of the NYLS Library has been the expansion of the library's microform collection. Microform is the generic term for microfilm and microfiche. The collection, located in the Froessel Library, consists of 50,000 volume-equivalents, offering many materials which are either unavailable or prohibitively expensive in bound form. As a result of this expansion and a general upgrading of the library facilities, Simak notes a "diminution in the number of requests to go to other institutions for use of their materials." He considers this an important sign, as it indicates greater convenience for NYLS students doing research and also represents success in organizing a "solid, scholastic-oriented research library."

The collection has not been fully catalogued, hence some care must be exercised in its use. While each of the holdings is listed by title in the general card catalogue, not all of them may be found under subject entries. To facilitate the use of microform collections, a bibliography has been compiled, and is available at all library locations. There are 6 readers (3 film, 3 fiche), and 1 reader/printer (copies cost 10¢ each) in the Froessel Library. Additionally, there is a portable microfiche reader available to faculty members and student organizations for use in their offices. Weekend access to the microform collection is regulated in the same manner as access to the Froessel Library. Simak emphasizes the importance of requesting assistance whenever necessary, as the filing and handling of the materials are especially critical.

A major factor spurring the acquisition of microform materials has been the shortage of shelf space and expense of such space in New York. Although it occupies a relatively small room the collection represents the equivalent of 10,000 linear feet if the volumes were in bound form. Among the more important holdings at NYLS are federal legislative histories, U.S. Supreme Court Records and Briefs, international treaties and tribunal decisions, as well as numerous state documents.

Simak cites the increased use of the microform collection as reflecting the increased exposure of college students to such materials as well as an expanded amount of research being undertaken by NYLS students. He hopes that the trend toward utilization of microform materials will continue as information regarding the collection is further disseminated.

The Dwight Inn Chapter of Phi Delta Phi
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Alumni News
Edited by Marie Richardson

The NYLS Alumni Association has raised in excess of $21,000 in pledges to date, in response to President Carmen Cognetta, Jr., '73, served as chairman. Mr. Cognetta, a former EQUITAS editor, earlier expressed hope of raising $100,000 this year; however, inclement weather conditions lessened alumni participation in the Phonathon.

The Phonathon consisted of members of the Alumni Association, students and Alumni Affairs Office personnel making telephone calls to every graduate of NYLS whose telephone number was available. Calls were made to places as far away as Hawaii and California.

On the evening I assisted in the Phonathon, some of the members of the Alumni Association making telephone calls were: Sylvia Orland, Esq., '60 and former president of the Alumni Association; Carmen Cognetta, Jr., '73 and Chairman of the 1979 Phonathon; and Lorin Duckman, Esq., '73.

The funds raised in the Phonathon will be used to provide scholarships assistance to highly motivated students.

Emanuel L. Keiner, '33, was recently cited by the Cole Buxton Foundation for 29 years of service, both as legal counsel and C.P.A. The Foundation is a charitable organization devoted exclusively to career research.

Mr. Keiner is presently an arbitrator for the New York City Civil Court, Small Claims division.

James Pagono, former editor of EQUITAS and member of the class of 1976, has joined the law firm of Fogelson, Fogelson and Colombo.

ATTENTION ALUMNI: New York Law School keeps professional references in each graduate's file. Since some current professors may not be here in the future, it might be a good idea for students and recent graduates to make sure that they now obtain references from professors, to be included in their files.

Lorrin E. Berney, '75 will present a "Law Forum" with other well known trial lawyers and judges on Thursday, March 29, 1979 at 7:00 P.M. in the Stuyvesant Public School Auditorium, located at 345 East 15th Street in Manhattan. Topics to be discussed include matrimonial and family law, taxes, landlord-tenant law, medical malpractice, negligence, criminal law, and others. Admission is free. The lecture is sponsored by the Stuyvesant Youth and Adult Center.

Mr. Berney is a private practitioner specializing in medical malpractice.

David Scuilli '73, formerly Assistant General Counsel to the New York City Transit Authority has become associated with the firm of Gordon & Siller.

Justice Francis T. Murphy '32 announced an eleven session program in criminal trial advocacy to be sponsored by three bar associations and the Appellate Division, First Department. Justice Ernst Rosenberger '38 is a co-chairperson of the program.

Dean's Day March 10 by Bella Weiss-Duckman
On March 10, 1979 the New York Law School Alumni Association will sponsor the 18th Annual Dean's Day and Symposium. The program will take place at the Waldorf Astoria and will be presided over by Hon. Eli Wager. The occasion honors Dean E. Donald Shapiro, now in his sixth year at NYLS, distinguished alumus Louis Waldman 29 and J. Bruce Linkwetch '90 and provides a program of informative and provocative concepts in continuing legal education.

The morning activities will consist of three concurrent panels: Contented Estates moderated by Prof. Joseph P. Arsenian; Medical Malpractice and Risk Management moderated by Dean Shapiro and Who Turns The Key: A Reappraisal of the Proper Distribution and Exercise of Discretion in the Criminal Justice System, moderated by Lorin Marc Duckman '73.

In the afternoon a luncheon will be held where the Hon. Sol Wachtler, Associate Justice of the Court of Appeals, will speak and the Distinguished Alumnus Awards will be presented. Traditionally this is the time for the Dean to deliver his State of the School address.

The Alumni Association encourages students to attend the program. A special student ticket is available for $10.00. Please contact the Office of Alumni Affairs at 57 Worth Street if you plan to participate.

New Building Progress
With a major Administration announcement on the new NYLS Law Center expected soon, progress towards the new building proceeds at its own steady pace. As reported earlier, (EQUITAS Feb. 79) the Administration is working with Bobrow Fieldman Associates on the specifications report. Dean Bear confirms that Bobrow Fieldman has also been retained to do a survey of the vacant lot adjacent to 47 Worth St. The firm will also be preparing a schematic drawing of present NYLS facilities. This drawing is to indicate the interrelation of all NYLS buildings as well as the vacant lot. —Leonard Ross

CORRECTION
On information received from Administration officials, EQUITAS reported (Feb. 79) that Bobrow-Fieldman Associates had been awarded a $100,000 specifications report contract. According to Dean Margaret Bear, that contract was actually in the amount of $50,000.

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$25 DEPOSIT WILL FREEZE THE PRICE
by Prof. R. Randle Edwards

"With me in charge, you are at ease," said the local Chinese guide who had just helped me make a purchase in a "friendship store" (shops catering only to foreign visitors) last November. To the uninstructed, the remark sounds odd but innocuous. To me, a teacher of Chinese law for ten years and a member of an American Bar Association delegation in China to study the rapidly changing legal process, the remark had the force of a bombshell. For it was apparent to me that the guide was paraphrasing the famous remark Mao Zedong is supposed to have made to current Communist Party Chairman Hua Guo-feng in the spring of 1976 — "With you (Hua) in charge, I (Mao) am at ease." Amidst widespread speculation about a continuing struggle for power between Hua and Teng, the former's strongest claim to legitimacy is that he was designated by Mao himself to be his successor, with the famous quotation the principal evidence of Mao's intent.

The guide's remark, delivered with mock seriousness, symbolized the atmosphere of freer political expression that has emerged in China in the post-Mao era, and particularly in the past year or so. A few years ago, direct making light of a statement of Chairman Mao, particularly addressing the remark to a foreigner, would probably have been regarded as a counter-revolutionary offense, warranting a severe criminal sanction.

It was only a week or two after my experience at the Friendship Store that the world press began reporting the startling news of an outbreak of "wall posters" in Peking, calling for greater democracy and protection of human rights in China. Subsequent reports have noted the formation of several new and larger demonstrations by tens of thousands of people who complained of the violation of their basic rights by local Party and government leaders. The same newspapers bearing these dramatic headlines also brought the shocking news that Coca-Cola had penetrated the bamboo curtain, with McDonald's in hot pursuit.

What mysterious forces produced these strange phenomena in the land where political conformity has long seemed a dominant value and where the name Coca-Cola symbolized the type of consumerism staunchly rejected by the Chinese as bourgeois decadence? And what can any of this possibly have to do with law? I shall attempt to answer these questions in the course of an account of an eighteenth-day visit to China last November by twenty-four members of the Section of International Law of the American Bar Association.

China Travel — Planning a Professional Agenda

As a teacher of Chinese law at Columbia Law School, I had been forced to study my subject at a great distance for many years, and had had only fleeting contact with Chinese legal specialists during my first China trip in May, 1978. Thus I regarded myself as extremely fortunate to be invited to join the second ABA delegation to China. The first, a group of twelve — including the president and two former presidents of the ABA — had visited China in July 1978 as guests of the Chinese Association for Friendship with Foreign Countries. As a result of the official Chinese sponsorship, they had no difficulty arranging visits to courts and other legal institutions.

Nursery school children in Peking

The second ABA delegation in November, however, suffered initially from an identity problem since its nominal host was Luxinghe (the national tourist agency) rather than a professional legal organization. Although the members of the group regarded themselves as an official ABA delegation, our sponsorship by the Chinese tourist agency meant that we were at first seen by them as just another bunch of tourists. If we had not been insistent, Luxinghe would have served us the standard fare of visits to schools, hospitals, communes, and historic sites, whereas our chief interest was to learn about Chinese law, discuss legal exchanges with our Chinese counterparts, and study the legal aspects of the rapidly expanding economic relations between China and the United States. Once we established contact with certain key legal bodies, however, we found a warm reception and managed to arrange a full schedule largely devoted to legal matters.

In Peking, aside from visiting the Great Wall and other scenic "musts," we had meetings with the Peking Law Faculty, the staff of the National Law Institute, and the legal department of the China Council for the Promotion of International Trade. In addition, both in Peking and in Shanghai, members of our group had numerous individual or small group meetings with Chinese financial and foreign trade organs to discuss the prospects and mode of contracting for transfer of technology or the exchange of goods between the United States and China. In Shanghai, we also held discussions with judges and visited the Shanghai prison and neighborhood mediation committees.

Even the visits to communes and factories were professionally instructive, for we found at every stop confirmation of the commitment of the Chinese leadership to bring about unprecedented changes in the Chinese legal process. They have announced plans to "strengthen socialist legality" by engaging in comprehensive codification and in the progressive formalization and legalization of legal proceedings. Law schools closed a decade ago during the upheaval of the Cultural Revolution are being reopened and new ones established. The new state constitution promulgated in 1975 calls for public criminal trials and the official press has also urged the populace to resort to the courts even in the case of civil disputes.

Other significant issues include the restoration of monthly stipends to former capitalists, and the political rehabilitation of disgraced "Rightist" intellectuals and previously disenchanted former landlords. All these steps are being pursued under the rubric of "equality before the law." This is quite heady stuff, indeed, for a country that a short time ago was periodically con- vulsed by campaigns to identify and "struggle" against class enemies. What has brought about this drastic reorienting of the Chinese legal process? What are the chances that the newly planted seeds of a "rule of law" system will take firm root, and what implications does this development have for the future of U.S.-Chinese relations?

Two Motives, Three Fronts, and the "Four Modernizations"

From our delegation's discussions with the Peking agencies charged with major responsibility in the current law reform campaign, we received the impression that the campaign is powered by two principal concerns, that it involves the drafting of major legislation on three fronts, and that it is a key element in the all-important "Four Modernizations" program (in agriculture, industry, national defense, and in science and technology). A brief explanation of this "two, three, four" punch may help the reader understand why a fundamental reshaping of the Chinese legal process is deemed by China's present leaders to be such a pressing need.

Chinese governmental institutions, as well as major state policies and procedures, have been radically revamped in the post-Mao era to speed achievement of the goal of "Four Modernizations." To achieve the aim of rapid economic development, China has abandoned the Maoist policy of self-reliance and refusal to accept foreign loans; instead, it has moved aggressively to conclude contracts for the import of advanced Western technology, and has indicated its willingness to consider various forms of credit. China's current leaders also hope to tap every ounce of energy and every bit of creative potential of their vast and populous, which for more than decade had been cowed by political struggle and made lazy by excessive egalitarianism in the wage policy.

According to our hosts at the CCPI, the Law Institute, and the Peking Law Faculty, China's three chief legislative priorities now are to produce: 1. a code of substantive criminal law and a code of criminal procedure; 2. "comprehensive economic law"; and 3. laws to protect the technology and other contractual interests of foreign enterprises trading with or investing in China. We concluded that the codes of criminal law and criminal procedure, and the laws to protect foreign patents would be
Virginia, There Is Law in China

As for the two principal motives for these decisive breaks with China's recent — and distant — past legal traditions, they are: one, a popular demand for fixed and uniform rules for conduct and reliable legal protections for tangible and intangible interests of individuals; two, the need for legal standards to guide and enforce the all-important economic plan, and to attract the foreign technology and capital necessary to achieve the "Four Modernizations." Although the Communist Party still plays a pervasive role in the Chinese legal process, its top leaders seem committed to moving toward greater clarity and specificity in the standards of the criminal law and greater openness, regularity and professionalism in the application of the law. The distance to be travelled is still great but the direction and the stated intent are laudable.

As the Chinese emerge from the nadir of the Cultural Revolution, the call is associated with an admission of widespread violation of the property rights of individuals and agricultural production teams, and with a confession of equally common non-performance of contractual obligations in both the collective and state-owned sectors of the industrial economy. The former type of violations result in low morale and productivity in agriculture and the latter leads to non-performance of vital planned production goals.

Peking day care center

For the past two decades, "law" in China has usually meant whatever interpretation the local Party leader chose to give to pertinent Party policies. The few existing legal enactments were largely ignored and the formal legal organs — courts, procuracies, and the police — were paralyzed by the Cultural Revolution. In the past decade, residential "mass organizations" or the Party-dominated work units assumed the leading role in handling criminal as well as civil disputes. Although this "mass line" approach led to some abuses, it has been inexpensive and has also given at least some of the "masses" a genuine role in the legal process. Replacing this decentralized, cheap, and informal legal process with a professional and codified system will be expensive, time-consuming and disruptive of the present, largely volunteer, legal process. Clearly this is not a transition likely to be completed overnight. As for the establishment of comprehensive economic laws and special economic courts, this is even more ambitious, as China has never before attempted to closely regulate all economic relations with strict legal enactments. So, here again, the goal may be highly desirable, but its attainment will take time, patience, and money.

United States-China Relations

Recent developments in Chinese law have both immediate and long-term implications for U.S.-Chinese relations. In the former category, we can expect that Chinese steps to establish a legal infrastructure to attract and protect foreign trade and investment will encourage the sale of U.S. technology to China and will generally enhance the prospects for friendly and mutually beneficial relations between the two countries. And for those American lawyers with Chinese language and cultural training, the sudden boom in U.S. business opportunities in China has resulted in many of them being asked to put Maoist jurisprudence on the shelf and serve as counselors to U.S.-Chinese commercial transactions. To be realistic, it will probably be some time before U.S.-Chinese disputes are resolved in accordance with Chinese commercial law or before a Chinese court. Nevertheless, bilingual lawyers with some understanding of People's Republic of China politics and legal institutions can no doubt facilitate the process of negotiation of contracts and the friendly resolution of disputes.

As for the long-term implications for U.S.-China relations, the movement toward a more formal model of law with guarantees of greater personal freedom for Chinese citizens is conducive to smoother movement of ideas and people between the two countries. It also makes it easier for our two governments to cooperate in the search for ways to achieve world peace and equitable economic relationships.

Editor's note: Professor Edwards is an Associate Professor of Columbia Law School, where he has been teaching for the past 6 years. He is also on the faculty of the East Asian Institute of Columbia University. Professor Edwards has written numerous scholarly articles on Chinese law, and has recently returned from his second trip to the People's Republic of China.

Our photographer, Virginia Feury-Gagnon, is the wife of EQUITAS' Managing Editor. She has an MA in Education and East Asian Studies and is presently working for Columbia's East Asian Institute. She is also teaching Chinese History at Brooklyn Friends School. Mrs. Feury-Gagnon has also been to China as part of an educational study tour.
Through the Wine Cork

Down the Rhine

by Leon Yankwich

After three weeks of gorging by day and gallivanting by night, it took you a while to get back into the formal German environment of Gil's. Yet, now your concentration has returned to the point where you can think about buying the books and looking over those first three assignments. You've been hanging out in all your old haunts, talking to your old friends, and making the same old comments in class. Everything seems to be back normal, but you can't shake the feeling that something is missing suddenly, one afternoon in the library, it hits you: your new friend, the Disarming Stranger who has been your primary thrall for two years, is gone. How can this be? Could there have been an early graduation? How can you study, knowing that there will be no more of the enchanting interpolations the Stranger used to cause by passing through the room? And what about the seedling of a friendship that had sprouted during the column on Italian wines (EQUITAS, November, 1978)? Is it blighted by the January graduation?

In despair you slogger over to Gil's for a steady cup of his (in famous coffee. You order your coffee, but there is no place to sit (another Gil's hallmark), so you hunker right there at the counter, lost in your growing depression.

Grasfisch
Wolfgangwolf
Mittelrhein, Stiersheim

1976
Niersteiner Klostergarten Kabinett
Quabladwein mit Prädikat - Anfärliche Prüfungnummer 422.215.77-77
ERZEUGER-ABGELLEH
Mitglied im Verband Deutscher Prädikatsweinzeuger

RHEINHESSEN

Being the crossroads that it is, Gil's counter buzzes with activity which your presence hinderers. Presently someone you are blocking from scurrying down a valley you in the ribs and asks, “What the hell is wrong with you? You turn to behold the Alluring New Student whom you have only seen around for a semester but have noted for those dark, mysterious eyes and the incandescent smile. Mistakenly (assuming that Alluring is trying to sympathize with your apparent grief, you begin to pour out the saga of Disarming Stranger.

The line stacking up behind you begins to rumble with impatience, and Alluring, though not wanting to incite a riot, has the compassion not to stop a person in mid-fantasy; so, deciding to sacrifice a pleasing stomach for your breakfast, a consoling arm is wound around you and you are pushed off to a nearby watering hole to drown your sorrows.

By way of illustration, you order the same Italian wine that you and Disarming shared. You start tossing in those Italian phrases that seemed to charm your old flame, and presently receive a whole segment of the puzzle in Italian. It is of course faulty Chinese. Somewhat humiliated, you ask for the Alluring New Student. Alluring realizes you are nearly raving and knows that you must be cooled back to reality. Your companion gracefully signals the bartender and, offering back the bottle, asks in a gentle voice, “Können Sie uns bitte Riesling Spätlese bringen? Mit diesem Wein duen es sich andernfalls auch italienischen Frauen/Freund/Frau.” (Would you please bring us some Riesling Spätlese? This wine makes him/her think I'm his/her Italian girlfriend/boyfriend.)

The flawless German dissipates your psychosis, and you gratefully accept the proffered glass of new wine. Alluring explains that you have been conditioned by past wine columns to associate wine with social failures. This response can be extinguished by learning about wine in a relaxed, less “snotty” manner, and in a soothing, magical voice Alluring goes on to teach you about German wines.

Compared to German wines, the informed selection of a French or Italian wine is about as difficult as choosing what TV show to watch at 4:00 in the morning. There are nearly 100,000 wine growers in Germany, and the average plot is only two and a half acres. Mercifully only a fifth of these viticulteurs maintain their own little vineyards; the rest are willing to contribute their grapes to the world’s most efficient winemaking cooperatives and thereby help produce wines in sufficient quantities to market and export. Even with this cull and blending, however, a multiplicity of factors peculiar to the type of wine produced (Riesling, Spätburgunder, etc.), the grape variety, the soil and climate where it is grown, making very different wines from district to district. The Riesling grape makes a soft wine that matures quickly, has a delicate, fruity bouquet and low acidity. The Müller-Thurgau is a Silvaner-Riesling hybrid which captures Silvaner’s softness and Riesling’s flowery bouquet, and ripens faster than both. For the name of a grape to appear on the label, 80% of the wine must be made from only that type of grape.

Isolating the area of growth and variety of grape are great indications of quality, but in Germany it is only the beginning of the story. Except for the Soviet Union and Canada, Germany is the northernmost wine-producing country in the world. Where French growers watch the vines very carefully and with the precise moment to pick all their grapes in one day, German growers are lucky if their grapes ripen at all, and for some wines they pick the grapes individually as they get to the right stage. Because the grapes must mature just to survive, they send their roots very deep and pick up minerals with them. Some grapes ripen late due to the unusually elongated growing season. With the growing season is quite long, leading to their fruity or grapey flavor, German grapes never produce a lot of sugar, so the wines are typically low in alcohol content. If the grapes produce a statutory minimum of natural sugar, the laws allow wine makers to add more sugar before fermentation to boost the alcohol content. Wine makers who choose not to add sugar will usually have the word “Naturwein” printed on their labels.

German wines are divided by law into three quality levels. The lowest is Tafelwein (“table wine”), and little of this is exported. Qualitätswein (“Quality Wine”) must be grown in a specified district and contain a minimum amount of natural sugar. The designation is often shortened to Q.b.A. (“Qualitätsboden-Anbaugebiet”), and must win the approval of an official tasting panel. The letters A.P., short for Amtliche Prüfungsmänner (“official approval number”), followed by a ten-digit code and year of approval, will appear on Qualitätswein labels.

The highest level of quality is Qualitätswein mit Prädikat (“Quality Wine with Special Attributes”). These wines may not use added sugar, and so are made from varieties carefully selected grapes which are allowed to overripen before harvest. Because a small difference in ripeness makes a great difference in the wine, the Germans have created sub-designations to indicate the natural sugar content of the grapes when harvested.

The first subdivision is Kabinett, or special reserve, and is usually the driest category. Spätlese means “late-harvested” and will be slightly sweeter than Q.b.A. or Kabinett wines. Auslese means “selectively harvested.” The grapes are allowed to reach a very ripe stage and the wine produced is definitely sweet. Beerenauslese and Trockenbeerenauslese are made from grapes well on their way to becoming raisins, and they designate very nectar-like dessert wines. These are very extravagant wines, but there is still some debate over the distinction: is it merely the use of the grapes that was caught by an unexpected frost, then harvested and pressed immediately, the wine deserves the extra distinction Einzeig (“ice wine”)? These are, and they are a rare product indeed.

With this, you and Alluring finish off the last of the delicious Riesling, and you float back to NYLS relaxed and at peace with the world. Life is good.

Well, Alluring’s knowledge of German wines is very good, but the psychodiagnostics is absurd. How could I possibly condition you with my simple, entertaining articles? You should therefore ignore the Alluring New Student who gives nothing but misleading advice. And by the way, I haven’t yet received your check for our last wine-psychiatry session.

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Mon. 11:30A.-3P.M.
QUINTET an Exercise in Boredom

by Dennis Stukinbrocker

Quintet, starring Paul Newman, Bibi Andersen and Vittorio Gassman, is an allegory set in the next Ice Age. It is not the sort of thing to see on a cold winter evening.

Directed by veteran Robert Altman, the whole picture looks like the inside of a freezer before defrosting. The movie revolves around a boring board game, called Quintet, which the last remnants of the human race play while waiting to freeze to death and be eaten by dogs.

Paul Newman, in the two or three lines that give him any character, merely seems out of place. The rest of the cast ranges from half thawed to frozen solid. The ever-present ice and snow make the whole movie bleak and stiff.

The international cast also includes Fernando Rey as the medieval-garbed referee, Rey has starred in several of Luis Bunuel’s films of intricate, deep and subtle allusions. There is very little subtle allusion in Altman’s film. Nothing is intricate except the ice crystals. Only the snow is deep.

Cast of Quintet shivers in new ice age

Dance Theatre of Harlem: Dazzling

by Jerome Lee

Originally billed as an opening night salute to George Balanchine and Lincoln Kirstein, the Dance Theatre of Harlem has just presented New York audiences with a dazzling display of their virtuosity.

With music by the gifted Toshiro Mayuzumi and choreography by George Balanchine, a piece entitled Agon opened on center stage. It was a delicately fashioned prologue to an evening of dance masterfully done.

"Strength," an approving critic in front of me whispered as the curtain rose for the second performance piece, entitled Agon (The Contest). And she spoke aptly as this piece succeeded in replacing the grace of Agon with the beauty of a French dance combined with exquisitely formed physiques. Agon, with music by Igor Stravinsky, was conceptualized as a stylistic interpretation of the venerable dances found in a mid-seventeenth century French dance manual. It is a portrayal of human agility without a choreographic subject. "It was conceived without provision for scenery, and was independent of decor, period and style in Stravinsky's mind."

Beginning with Lydia Abarca, Mel Thomas, Virginia Johnson, and Eddie Shelton, this piece wound its way through a number of practiced and refined duets allowing ensemble members a chance to display their skills to an admiring audience.

The words color, form and classical agility are inadequate to describe the inconceivable beauty of Allegro Brillante, the third piece.

This piece has been described as "a concentrated essay in the extended classical vocabulary, in which a maximum amount of choreographic development, contained in a rather restricted area of time and space, accompanies the full resources of the orchestra conducted by Hugo Friedhofer and the piano solo of Zenaida Manzuk." With Virginia Johnson and Ronald Perry on center stage, Allegro Brillante embodies happiness and blissful contentment. Madame Karinska’s hardwork was evident, as the dancers were clothed in flowing dreamlike garments designed to make the audience an integral part of a sensuously performed dance.

The combination of all who participated afforded the onlookers a breathtaking display of the versatility of this company.

The Four Temperaments, the final piece, was initially performed on November 20, 1946 to open the first performance of the New York Ballet Society. In a rather physical portrayal of the Temperaments, the entire cast came on stage for this last effort. In a sense this exercise was a low-keyed epilogue to a beautiful performance. Although not as fluid and elegantly executed as the previous steps, it did allow the entire cast to work together for the first time in the evening.

After this performance a bouquet of flowers was handed to each female performer as all hands came on stage to a crescendo of applause from the audience. It was a well-paced arrangement totally worth seeing. And as a result this writer left the City Center feeling that it was in fact a fitting tribute to George Balanchine and Lincoln Kirstein.

School Hosts Jessup Moot Court

by Cecilia Blau

New York Law School was the host law school this weekend of the March 3-4 for the Eastern Regional Round of the 1979 Philip C. Jessup International Law Moot Court Competition.

This regional event was organized by the NYLS International Law Society which also entered a team consisting of Robert J. Conroy, William Holm, John P. Spathis, Kent T. Terchunian and Sally J. Utley.

Other law schools vying teams were: Brooklyn College, Fordham, New York University, Pace, Rutgers-Camden, Temple and University of Pennsylvania.

Judges will come from top international legal firms and the Office of the Legal Council of the United Nations, and will also include international law professors.

Brooklyn Law School was the Eastern Regional Winner of the 1979 Jessup International Law Moot Court Competition. NYLS placed fourth in the Competition. Judith Miles of Brooklyn Law School submitted the winning brief.

The NYLS International Law Society had a large turnout for this competition. According to Charles Sturcken, Treasurer, "International Law has become a major field of study at NYLS due to the diverse international legal background of its faculty, and the growing number of interested students."

Crim Book a Lot to Digest


This retrospective digest puts together 684 cases and 17 years of the Supreme Court in perspective. The intention behind the work was apparently to assess the place of each of these cases in the context of a judicial revolution as seen in hindsight.

If one reads the text, case after case, one does get the overall impression of the forces at work. However, as with all digests, the problem is that to "digest" a case one has to distinguish between what is essential and what is not. This is only possible to a limited extent, because a case decided by the Warren Court, for example, may well acquire an opposite meaning in the hands of the Burger Court. Thus, to the extent that cases are rationalizations, rather than rationalizations, they are on the whole inessential. What is essential in such situations is not the things spoken of, but the policies and values judgments that the words in cases conceal. This tends to make the whole concept of a digest problematic, especially because one of the main advantages of the law of precedent is precisely that what is essential and what is not is determined by criteria settled upon well in advance of the decision at hand.

In this case, The Criminal Law Revolution and its Aftermath (the word "aftermath" here is a euphemism for counter-revolution), things are interpreted as if they are the last word of an event that radical changes have happened in criminal procedure. If the intent of the publisher was to enable the reader to have an overall view of these occurrences, the intent was accomplished.

Unfortunately, the "aftermath" is not yet over.

— Prof. Bostjan Zupancic

by Cecilia Blau

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NYLS Ranked in Top Half...

(Continued from page one) willing to spend money to upgrade library facilities and attract more qualified professors.

AALS Blasts Ranking

When reached for comment on the Gournan Report, Millard H. Rusk, Executive Director of the AALS, was strongly opposed to such reports. It is Rusk's position that of the AALS Executive Committee that efforts to rate law schools are not very helpful. "It simply can't be done," maintained Rusk. He questioned the rating and artes him on the basis of the criteria used; all students have different interests, accordingly a factor of little significance to one may greatly affect another. In the Gournan report the details are lost in the ranking, Rusk believes the AALS publication the Pre-law Handbook, which provides information on law schools without any ranking, is much more helpful to the student in his choice of a law school.

The Gournan Report was strongly criticized in a May 1978 issue of The Chronicle of Higher Education. Staff reporter Ellen K. Coughlin uncovered substantial questions about the validity of the Gournan Report, particularly as to how the information within the report was obtained. According to Coughlin too much of Gournan's data was "volunteered by family members and officials, many of whom were reluctant to give their names." In a telephone interview, Coughlin suggested that Gournan's own highly subjective and arbitrary opinion of American schools lies at the heart of his report, tempered by popular beliefs as to which schools should be considered top, without any meaning or inquiry into the realities of American education.

Gournan indicated that his research is an ongoing process; he continues to compile and update his information, suggesting the release of another report.

U.S. LAW SCHOOLS INSTITUTION RANK

| University of Chicago | 4 |
| University of California, Berkeley (Haas Hall) | 4 |
| Stanford University | 7 |
| Columbia University | 7 |
| Cornell University | 9 |
| Duke University | 9 |
| University of Pennsylvania | 11 |
| University of California, Los Angeles | 11 |
| Northwestern University | 12 |
| Vanderbilt University | 14 |
| Boston University | 15 |
| University of Virginia | 15 |
| University of Wisconsin (Madison) | 16 |
| University of California, San Francisco (Regents) | 16 |
| Stanford University (Stanford, Calif.) | 16 |
| University of Washington (Seattle) | 16 |
| University of North Carolina (Chapel Hill) | 18 |
| St. John's University | 18 |
| Columbia University | 20 |
| University of Texas | 20 |
| University of Texas at Austin | 20 |
| University of Chicago, Illinois | 20 |
| University of Illinois (Urban) | 20 |
| George Washington University | 20 |
| University of Washington (Seattle) | 20 |
| University of Iowa (Iowa City) | 20 |
| University of Nebraska | 20 |
| Loyola Law School (Chicago) | 22 |
| University of Southern California | 22 |
| University of Utah | 22 |
| Marquette University | 24 |
| Loyola University (Los Angeles) | 24 |
| University of the Pacific (Calif.) | 24 |
| University of Southern California | 24 |
| Case Western Reserve University | 24 |

... (Continued from page three)

Placement Director...

... (Continued from page one) effective offers she said. "After thoroughly researching the breadth of financial aid sources, I compiled catalogs, forms, and letters. My legacy to NYLS is a slick operation."

"I have been very impressed with Ms. Feinberg's work," Dean Graham said. "We worked closely together. She's a dynamic individual, and we wish her the best."

Although she and others remain here on a part-time basis, Feinberg's study load will make that impossible. She has been available, though, when imperative, to make the transition easier.

Dr. Pamela Lambert, Director of Personnel at NYLS and Dean Anthony Scallon have interviewed nearly fifty applicants for the vacant post. "A potential candidate has been selected," said Dr. Lambert.

EQUITAS Photographers Join Nat'l Photo Assoc.

Members of the EQUITAS photographic staff have been invited to join the National Press Photographers Associa-

tion. The Association, founded in 1946, now has more than 5,000 members, including photojournalists, newspaper and magazine photographers, television news cameramen and newsreel photographers.

Elected to membership in the National Press Photographers Association were: Staff Photographers Gerry Grow and Anthony Bellowald; Business Manager Peter Schescher; Managing Editor Dennis Gagnon; and Editor-in-Chief Jonath Triebwasser.
The meeting began as all those meet- ings held by student government officials were not informed of the agreement or of the manner in which it would be implemented. Some thought they were present to vote for Marshall Lippman’s believing the list of candidates on the “Notice of Annual Meeting” mailed to them on December 1, 1976. A motion was made to disperse with the reading of the minutes of the preceding meeting. The opposition leadership called for a reading of the minutes and the matter was put to a vote. Peter Rose and others ran up the aisles calling for support, as well as urging others to join the ranks. When the chair ruled, those disagreeing shouted and booed. Motions to adjourn as well as other parliamentary plays were used to disrupt business in an attempt to prevent the election. The scene was chaotic, people yelling, people resigning, people asking to continue and people just sitting, wondering what it was all about.

A leader of the opposition called to the podium to inform the group of the agreement. In it, the leaders of those in attendance had agreed to a completed agreement, citing a lack of personal trust in the word of Judge Kapelman that the three vacancies on the Board of Directors would be filled as agreed. All members of the Board entitled to vote who were present asked to be judged by Judge Kapelman to stand and with a show of hands affirm the agreement. Unanimously, the Board members indicated their acceptance of the agreement and to fill the vacancies with the opposition candidates. The opposition leader then reluctantly informed the group that the court action had been withdrawn and no opposition slate was being put forth.

Judge Kapelman was not the presiding officer when the vote was taken. Judge Kapelman was again asked to take the meeting. The picture of Judge Kapelman as an angry, unfairly characterized what was happening at the time. The election was over and the Judge was re-elected. During the meeting, numerous members of the Association had resigned. A plea for unity to all those gathered was made by Judge Kapelman. Some had been resignations were rescinded. The crowd became loud. Judge Kapelman raised his voice to tell of his embarrassment a few years ago when he read an editorial in a newspaper severely critical of the school. At that time he got involved with the school in order to contribute to NYLS and to help to regain its prestige. His voice quivered as he reminded the group he was a proud graduate who had achieved success because of the school and who would like to help other graduates to do likewise. He said he recognized his duty as President of the Association to speak for all graduates and to promote the prosperity and usefulness of the Association. He recounted the contributions over the last year: increased scholarship and loan aid, increased hiring of graduates by alumni, expanded continuing legal education programs and expanded the representation of the student body on the Board of Directors. He became angry while defending himself from an attack which claimed he was acting in his own personal self-interest. He reminded his audience that the time to separate student government from the Board of Directors had passed and that it was time to form the Board of Directors to represent student interests. He got everyone to agree that he did not need the job to promote his career, Judge Kapelman urged everyone to give as generously as he had.

Marshall Lippman appeared and made a joke about the value of a lawyer’s time. He said he was not familiar with the facts of what had previously transpired and refused to comment. A motion was made to have another meeting in January to hear suggestions about how to further promote the welfare of all graduates. Most of those present at the beginning had left by this time.

Not once during this internecine struggle did we hear that the present office holders did not care or did not want to care about the prosperity of the school and its graduates. Not once was there discussion of how the Association’s leadership had failed the membership’s interest. Those were statements made that the election of the opposition slate would provide more contributions to the building fund and more jobs for the graduates. No discussions included what actions the Alumni Association took in the future to improve the quality of legal education at the school. These are the topics that required discussion and heated debate; whether or not to read the minutes of the preceding meeting.

To the Editor:

It is sometimes alleged that the Student Bar Association (SBA) at NYLS is actually the student government. In fact, the SBA is a paper organization possessing neither authority nor control. Whatever it does, governance goes on. It is a myth believed only by those too naive to see or too apathetic to care. Essentially, the problem with the SBA centers upon its structure, mandated by its so-called constitution, which precludes its effectiveness in promoting student resources and which ultimately defeats the good intentions of our student representatives. The SBA is a commuter school where departmental apathy and division existing within which it operates. The present SBA structure, combining the representatives from both sessions in one legislative body, is unwieldy and contributes to the lack of discernible movement in the government. Beside the seemingly insoluble problem of scheduling SBA meetings at a time convenient for both Day and Evening students, there is also the fact that Day and Evening students have different problems and needs. And, frankly, Day session students by definition have the time to develop an interest in intracurricular activities. It is evident, however, that no one’s needs are being served by an SBA which is paralyzed by its own structural contradictions and defects.

One structural contradiction, obviously originally intended to produce a much different result, is the provision that the two executive officers of the SBA (the president or the vice president) must come from the Evening sessions. This is accomplished by taking whoever receives the most votes in the presidential election and installing him (or her) in the president position and, if (he or she) is a Day student, selecting the Evening student with the most votes and making him (or her) vice president.

In the last election for example, Mary Brandon, a Day student, missed the presidential office by one vote. The vice presidency went to Danny Chavez, an Evening student and some 50 votes less than the first runner-up candidate. The obvious intention of the constitution’s authors was to prevent domination of the SBA by Day students and this was accomplished effectively. Unfortunately, for the last two years the vice presidents, both selected only on the basis of their enrollment have transferred into the Day session. The day result has been domination by Day students. The “rotten borough” is alive and functioning at NYLS.

Who speaks for the Evening students? A valid question should be raised about the significance of the entire issue of constitutional reform of the SBA at New York Law School. Who cares? There are some issues involving student affairs which should arouse student interest. There would be yet another tuition increase in August? Are you entirely satisfied by the Administration’s heretofore uninvolved rationalizations? Are you pleased with the probable policies perpetuated by the Administration in the name of academic excellence? And has the library met all of your expectations? Can you accept the hours be open? How long will you accept the service academic position that has been allotted to you? As an individual at New York Law School, and as part of the evening student body, are your needs being served by the SBA?}

Lorin Duckman
Class of 1973

NEWS IN BRIEF

FINANCIAL AID

NEWS IN BRIEF

by Sharon Kelly

Jean Fishman, Financial Aid Assistant, reminds NYLS students who have non-subsidized loans made possible under the recently passed Middle Income Assistance Act. In December, the Financial Aid Office mailed to these students affected by the change the information necessary to convert their loans. To date, though, 25% of the students eligible to take advantage of the interest benefits of the new loans have not yet decided whether or not to convert their loans. To date, though, 25% of the students eligible to take advantage of the interest benefits of the new loans have not yet decided whether or not to convert their loans. To date, though, 25% of the students eligible to take advantage of the interest benefits of the new loans have not yet decided whether or not to convert their loans.
Dean Shapiro Predicts:
Fewer Future Law Students

by Ron Green

In an article that appeared in a recent issue of the National Law Journal, it was reported that the number of registrants for the Law School Admission Test dropped significantly in December, leading some legal educators to predict a decline in the number of law school applicants. According to figures from Educational Testing Service, the number of registrants for the December test dropped by 9.9% from 39,910 to 36,783 between 1977 and 1978.

In the article, NYLS Dean E. Donald Shapiro was quoted as saying that the decrease was probably caused by “some of those stories about there not being enough jobs for lawyers, a drop in the Nader syndrome of enthusiasm for legal careers and the changing demographics in the population.”

Dean Scanlon
Assistant Dean of Admissions Tony Scanlon, in an interview with EQUIPAS, stated his belief that the application rate has dropped due to a decline in the numbers of eligible students. The average age of students entering law school is 23. Mr. Scanlon feels that we are now at a stage where the babies born during the baby boom (after WWII) have surpassed the age of 23, and subsequently, the drop-off in the birth rate after 1966 is now affecting the number of those who would normally now be applying for law school. It is his feeling that many urban law schools throughout the country will no longer be able to sustain themselves, due to the current drop in enrollment. According to his theory, the drop-off will continue at an ever increasing rate during the next few years, and then 17 to 18 years from now law schools will again be swamped with eligible applicants due to the baby boom of the early seventies.

The current drop-off of those taking the LSAT has not yet affected NYLS. The applicant rate for the mid-year admission class reached its highest level and the applicant rate for the class entering in August, 1979 is equal to the high level of last year. However, Mr. Scanlon feels that inevitably, NYLS will experience a decline in applicants. Scanlon maintains that NYLS hasn’t experienced a decline because the school now has a better public rating and a better image than it has ever had. In the past 6 years, NYLS has improved its public image, and understandably, there has been far more interest from eligible students.

Few Job Offers

Another reason for the decline in applicants includes the fact that only a few graduating students are receiving lucrative offers from prospective employers. There are also many less-desirable jobs that pay more than or the same as entry-level legal jobs, and require much less education (i.e. sanitation workers; police officers; median salary). One important factor that was not discussed was the cost of a legal education. Including tuition, the cost of one year of law school averages better than $4,000. Adding this figure to the amount of salary sacrificed while attending law school, and then tripling the figure for the three years of school makes the total cost staggering.

Another significant point is that the American population in general has advanced rapidly and overall, there is less patience in each passing generation to defer the gratification to the money-making years. Finances have dictated to the populace that they must have their cake and eat it now.

Fewer men and women are willing to put off entry into the work force for the three or four years of law school.

Prof. Chen to Lecture at Institute for Human Rights

Dr. Lung-cho Chen, NYLS Professor of Law, has been invited to deliver the opening lectures at the 16th Annual Human Rights Study Session (Summer 1979) sponsored by the International Institute of Human Rights in Strasbourg, France. The International Institute of Human Rights, considered the world’s leading center for the study of human rights for government officials, scholars, students, and human rights activists, was founded in 1956 by Rene Cassin upon his receipt of the Nobel Peace Prize for his contribution to human rights, and is presently headed by Edgar Faure, a former premier of France. The roster of lecturers includes many distinguished figures from all over the world, including Professor Richard Baxter of Harvard Law School (newly elected Judge of the International Court of Justice), Professor C. Dunesh de Abranches (President of the Inter-American Commission of Human Rights), and Dr. T. Y. Chen (Director of the Human Rights Division of the United Nations). Professor Chen will lecture on “Human Rights and World Public Order.”

This invitation suggests a growing international recognition of the human rights studies undertaken by Professor Chen in association with NYLS Professor Myres S. McDougal, and late Professor Harold D. Lassen. Their book, Human Rights and World Public Order: The Basic Policies of an International Law of Human Dignity, is being published by the Yale University Press. With an estimated length of some 1000 printed pages, the book is characterized by a reader for the Yale University Press as “an immense work of scholarly excellence” that “is the most important work on the subject of human rights in the international law literature.”

Recently, Professor Chen has been invited to join the Board of Directors of the International League for Human Rights. He also served as a panelist in the Panel on “The Impact of International Human Rights Norms upon State Responsibility for Injuries to Aliens” at the International Law Weekend in New York (Nov. 3-4), co-sponsored by the American Branch of the International Law Association, American Foreign Law Association, the American Society of International Law, and the Association of the Bar of the City of New York.

In addition to teaching Constitutional Law, Conflict of Laws, and Human Rights in International and Constitutional Law Perspectives, Professor Chen is the editor of Human Rights, published by the Section of Individual Rights and Responsibilities of the American Bar Association edited by the New York Law School. His latest article, “The Moot Shall Inherit a Global Bill of Rights,” has just appeared in the Fall 1978 issue of Human Rights (Volume 7, Number 3). He is also a member of the editorial board of Human Rights and the Board of Editors of the American Journal of Comparative Law.

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LSAT Drawbacks Hurt Minority Candidates

by Aaron Frischberg

I address the question of the validity of standardized admissions tests with a wealth of qualifications for assessing the Law School Admissions Test in particular. The LSAT as is well known, is widely used today as a measure of potential aptitude for legal studies; it is therefore a major factor in the law school admissions process.

In the spring of 1976, I, along with other Urban Legal Studies students, took a course especially designed for us by Mr. Ken Roberts in preparation for the July 1976 LSAT. With the aid of this course, I scored in the 58th percentile on the LSAT that summer. For that reason, I was employed by the Center for Legal Education to tutor other U.L.S. students for 1978 admission. The following summer, I was employed by the John Sexton LSAT Preparation Center as part of a team presenting the Sexton course to City College and to students from the Urban Legal Studies Programs.

For a long time, my experience and understanding of the LSAT led me to two seemingly contradictory positions. In public, I assumed anyone who asked that the LSAT was culturally biased, and therefore a poor predictor of law school performance. In private, however, I assumed students who had scored well on the LSAT but their likely success there, was attested to by a good LSAT score.

What I would like to suggest is a synthesis of these apparently diametrically opposed positions.

I now submit that, while a high LSAT score may be a good predictor of some law school-related skills, a poor score often prejudices the chances of a qualified law school candidate.

Why? First of all, the LSAT is a trial by fire. Students are given 2½ hours to prove their worthiness for law school admission. This may give rise to a "panic-failure" syndrome in many students. Minority students, students from poor backgrounds, and women, in short, those who have been physically and psychologically oppressed, are particularly susceptible.

This syndrome has its psychological origins in the belief of its victims that as human beings they are not quite as worthwhile as the rich white males who wield power in the institutions that affect their lives. But the "panic-failure" syndrome is not exclusively confined to members of the underclasses. It can strike anyone. It begins when a student gets a sinking feeling that a long-feared inadequacy is about to be uncovered by an "objective" test like the LSAT.

Assume that this syndrome is not present, however, or is overcome by an LSAT prep course that leads the student to believe confidently that she or he can "foil" the computer by covering up the inadequacy with right answers. How then does it test law school ability?

The second skill needed to achieve a good LSAT score is the ability to read quickly. Out of the 150 to 150 test questions scored, all but 25 are a test of the ability to read quickly. Why? Because the LSAT is a time-pressured test; hence, slower readers are at a distinct disadvantage. They will need more time to think about their answers and thus will not finish as many. They will never have a chance to give a question a second reading. On one section in particular, "Practical Judgment," slow reading will fail. On recent LSAT examinations, "Practical Judgment" has represented 60 out of 150 to 150 questions, or at least one third of the score. It consists of 2 passages of about 1100 to 1500 words, each describing a decision making process, followed by a series of about 20 sentence fragments which are to be identified as part of that process, such as major factors, major assumptions, and so on. Following these passages are about 5 questions that require reading comprehension and even arithmetical skills. Since the passages are difficult to read, the slow reader will often be caught halfway through them when the 40 minute time period is up. Result? Half the questions are unanswered, and the score is zero.

Remember, we are not talking about a student who is functionally illiterate or semi-literate. Where are we talking about? In broad categories, we are talking about students from poor backgrounds and members of racial and ethnic minorities whose literacy has been more retarded than advanced by their elementary and high school educations because the schools that serve their neighborhoods are typically more concerned with discipline than with education. To complete the profile, these are students who have gained their basic literacy skills as part of their college educations. This does not imply, by any means, that these students would be less able to appreciate the fine points of a difficult law school case, or that they reason less clearly than any other law student. It does mean that it may take them a few minutes more to read each case. But on the LSAT, those few more minutes for each section may cost the slow reader 100 to 200 points.

Again the LSAT does not discriminate exclusively against underclass groups that are given second-class treatment by the school system. Such groups are only over-represented among the group against whom the LSAT discriminated.

The LSAT’s emphasis on mathematical skills puts the final nail in the coffin of the student who has been taught to feel inadequate in this area, or who comes from an educational background advantaged by geography. Now perhaps LSAT does not test mathematical ability. But, the 22 questions allegedly designed to test ingenuity and resourcefulness in fact assume a mathematics vocabulary which is simply absent from the educational background of many students. For other students math was a subject approached with anxiety and avoided after high school. Women are particularly susceptible to a math phobia which feeds on the stereotype of male dominance of the hard sciences. It is not only that the oppressed of this society do poorly on this section of the LSAT, but that they perform even more poorly than average.

In summary, the LSAT is only a valid predictor for those of us who already have a strong sense of self-worth, an ability to read rapidly with comprehension, and a working knowledge of English and of the principles of mathematics. While the LSAT does not discriminate deliberately against those people whom society as a whole discriminates against, it does reinforce those patterns of discrimination.

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The 1979-80 Financial Aid Applications are now available on the table outside of the Financial Aid Office. All students applying for financial aid or a Federal Guaranteed Student Loan must file a New York Law School Financial Aid Application. Any student applying for NYLS Grants-in-Aid and/or the College Work-Study Program must also file a GAPSFAS (Graduate and Professional School Financial Aid Services) loan application form with Princeton, NY. All Financial Aid Applications must be submitted by April 10, 1979. Send GAPSFAS to Princeton by March 1, 1979 in order to reach New York Law School by the April 10th deadline.

GUARANTEED STUDENT LOAN PROGRAM
On November 1, 1978 the Middle Income Assistance Act was enacted. The provisions of this law affecting the Guaranteed Student Loan Program became effective on this date.

The income ceiling for determining eligibility for Federal interest benefits has been removed. Therefore, for loans disbursed on or after November 1, 1978, all students automatically qualify for Federal interest benefits, regardless of adjusted family income.

Those students who have non-subsidized loans for this academic year (8/21/78-6/29) with disbursements made before November 1, 1978, may replace these loans with new subsidized loans. Substitute loan applications may be obtained from the lending institutions. Contact the Financial Aid Office for further information.

Loan Applications for the 79-80 academic year will be available at the lending institutions. Students may submit a loan application at any time during the academic year. Total processing time usually takes 6-8 weeks. Therefore, it is advisable that all applicants submit completed loan applications a minimum of two-three months prior to the semester for which the loan is requested.

TUITION ASSISTANCE PROGRAM
Any New York State resident who is enrolled as a full-time student (12 credits or more) and believes he or she is eligible for a Tuition Assistance Program grant may apply until March 31, 1979 for the current academic year (Fall 78, Spring 79). Pick up TAP applications on the table outside of the FAO.

If you change your address anytime during the summer, subsequent to submission of your financial aid application or the end of the semester, please drop us a line with your summer address so we can contact you over the vacation.
National Lawyers Guild

Worthwhile Experience

by Sam Himmelfarb

As this is the last issue of EQUITAS to be published under the current editors, this will be my last column. Starting with the next issue, another Chapter member will be taking over.

In the New York Law School Chapter advertisement in the City Chapter of the National Lawyers Guild dinner journal, it was stated, "The Guild almost makes law school worthwhile." Perhaps this sums up my four years and those of my fellow Guild members when we look back over our three years here.

Born in 1974, the Guild at NYLS has quickly grown into one of the most active and largest student groups on campus. Despite financial difficulties and the pressures of legal studies, we have managed to meet regularly, publish an ever-improving newsletter and orientation booklet, and present a wide range of programs.

Administration response to our Chapter has been schizophrenic. In 1976, shortly after the publication of our first orientation booklet (which was critical of the law school education process in general and at NYLS), there was an attempt to ban the organization from NYLS on the pretext that by supporting a "political group" the school would lose its tax-exempt status. In response, we mobilized overwhelming student support, consulted attorneys, alerted the City Chapter and threatened to sue. Subsequent negotiations with the Administration led to our restoration as a student group. The net result of this foolish and short-sighted attempt by the Administration was to solidify, revitalize and enlarge our Chapter, and to alienate many students from the Administration.

During the 1977-78 academic year, we presented many programs, several of which attracted over 100 persons (the Sobotka debate, the debate on the Nazi march on Skokie and a city-wide "Alternative Forms of Practice" conference). As a result, we were firmly established as a strong and credible organization, as the congratulatory letters we received from various members of the Administration reflected.

In the past three years, through our participation in the City Chapter's Match-up program, we have placed many NYLS students in paid and volunteer jobs with progressive law firms. Our ongoing participation in the Affirmative Action Coalition, along with BALS, the Women's Caucus and students from the Urban Legal Studies Program, has produced two excellent programs and a fact sheet on the Bukke case and affirmative action.

For myself, and I'm sure for most of our members, the Guild's most important function has been a supportive one. During my first year, I was able to turn to other members for encouragement and advice after long hours of study. Legal education tends to make one cynical and skeptical; talking and sharing experiences with others of similar political persuasions helped to provide some focus and reason for this mental malaise. Meeting Guild attorneys and viewing the many ways in which it is possible to practice "people's law" helped us all to keep in mind that there was hope for the future. I hope that in a small way, my classmates and I have been able to do the same for our new members.

In my view, some members of the NYLS community have distinguished themselves so as to deserve a special note of thanks. The remainder of this column is strictly a personal thank-you to:

to Jeff Glen, whose legal expertise, personal friendship and guidance were and are a continuing source of inspiration, and whose leadership of the clinical program at NYLS has made law school a more relevant and worthwhile experience; to Marshall Lippman, whose support and encouragement of our Chapter was crucial to our success. In addition to being an outstanding teacher, Marshall Lippman was always available for personal counseling. When Marshall said, "I'll do what I can," he meant it. The shabby way in which he and other members of our faculty were treated by the Board of Trustees will never be forgotten by me and, I believe, most of my classmates, particularly when it comes time for alumni contributions.

Thank you to other members of the faculty who have offered financial and/or spiritual support to our Chapter, including Professors Nancy Erickson, Haywood Burns, Richard Harbus, Janet Tracy, Douglas Scherer and Gene Cuntap. A special personal thank-you to Prof. Martin Schwartz, whose dedication to and expertise in public interest litigation and poverty law has fueled and clarified my own career goals.

Thank you to Gil Hollander, the nicest capitalist around; to Jonah Triebwasser, who, despite his totally obnoxious and reprehensible political views, made EQUITAS a paper which more accurately reflects life at NYLS.

Thank you to Steve Faganuzzi, whose incredible organizational abilities, energy and dedication have inspired me all. To Jimi Rampton, who made no realization that it's never too late to meet a new "best friend"; to the founding members of the Chapter who made life so much easier for us all; to Laura, Pam, Anita, Ellen and Kirsten, the faculty secretaries, five terrific and same people in a thoroughly insane institution; to the first and second year members of this Chapter whose talents, skills and enthusiasm will undoubtedly cause our Chapter to become stronger and more active in years to come to the members of Section B, who pleasantly shattered the dreadful image I had of typical law students.

Finally, and most importantly, thank you to Mary, without whose love, support and encouragement I could not have come this far...

Guild Notes: Our budget came through! We received $400 plus a speaker's fund of $150, more than any other student group received. Congratulations, SBA, on your astute judgment and for shortening the waiting time ... The NYLS-NGL newsletter has been getting rave reviews from all over the city; contributions now being accepted for the next edition to be published toward the end of March ... David Fyle is our new treasurer.

George Washington and the National Labor Relations Board

by Mike Solitz

Elections to determine whether a group of employees wants to be represented by a union are similar to political elections. Both parties — the "incumbent" employer who wants to retain its employees as they are, and the "challenge" union which doesn't — employ double-barreled campaign tactics. The union tells the voters that its members live a workers' paradise, while at the same time it condemns the employer's oppressive system. The employer, forbidden by law to make promises to discourage union organization, is quick to point out that life in the plant is not as bad as the union makes it out to be. And, the employer continues, it could be much worse and more expensive with a union. Walking a pickle line is neither a picnic nor a money-making proposition.

In both political and representation elections, credibility is important. In fact, it is more important; it is decisive. In a political election, when one candidate makes a statement, two people check it out immediately — the challenger and the newspaper reporter. You can bet that if a candidate says his or her personal worth is $2 million, the accountants for the opponent and the reporter will be scrutinizing his ledgers. And if there is an error, you certainly will read about it in the next day's paper.

The average representation election campaign does not attract much press coverage on a day-to-day basis. Although a newspaper might report the fact that an election will be held, rarely will it report the employer's speeches and the union meetings. There is no reporter that will investigate every word of the employer or the union.

But does it really matter? After all, voters in any election know which way they will vote before the high-pressure campaign begins and no matter what any of the candidates say. Right?

That is what the National Labor Relations Board told the Shopping Kart Food Market a few years ago when the company claimed that a substantial misrepresentation made by the union at a time when the company could not effectively respond infected the "laboratory conditions" which the Board seeks to maintain during the election period. In Shopping Kart, 228 NLRB 1311 (1977), the union claimed that the company had annual profits of $600,000, when the company's profits were actually $50,000.

Very recently, however, the NLRB took another look at the impact of misrepresentations during the election period. The Board in General Knot of California, 229 NLRB No. 101 (1978), specifically overruled Shopping Kart and returned to the rule it had adopted in American Cooking, 140 NLRB 221 (1962). The rule mandates:

An election should be set aside only where there has been a misrepresentation or other similar campaign trickery, which involves a substantial departure from the truth, at a time which prevents the other party or parties from making an effective reply, so that the misrepresentation, whether deliberate or not, may reasonably be expected to have a significant impact on the election.

In General Knot, the misrepresentation was a union statement that the company had a profit of $18.5 million in 1976 whereas the company actually had a loss of $6 million. The Board held that the union's claim may have influenced a few people to vote against the company and thus disrupted the Board's "laboratory conditions".

In the American system of politics, elections are not set aside because of campaign misrepresentations. If they were, we might have to revere George Washington who, as you know, never told a lie.

*Mike Solitz graduated last year from New York Law School. He is an associate at the firm of Jackson, Lewis, Schnitker & Kragman.

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