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Equitas, vol XII, no. 2, September 1980

New York Law School

AQUITAS

New York Law School

Volume XII, Number 2

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September 1980

Student Groups Recruit Members at SBA Bash



Fourteen student organizations participated in the "Organization Day" party sponsored by the SBA on Thursday, September 4th. The purpose of the bash was to gather students together in an informal manner and, particularly, to give new students the opportunity to speak with representatives of various organizations. Student groups represented at the party were: Aequitas, BALLSA/Indian Law Society, Center for Law and Pacifism, Consumer Center, Environmental Law Society, International Law Society, Journal of International and Comparative Law, Labor

Law Association, Law Review, Legal Association for Women, Moot Court Association, National Lawyers Guild, Phi Delta Phi/Supreme Court Historical Society, and SBA.

Chris Johnson, SBA President and organizer of the party, indicated that the event was only the first of numerous festivities planned for the upcoming year. Also on the SBA calendar is a vote on a new constitution for the organization. Last year's proposed amendments failed to win the requisite 50% student approval.

New Arrivals

by RISA COHEN

New York Law School has added many new professors to the teaching staff this semester. Three of these new arrivals are B.J. George, Jr., Richard Baxter, and Kristin Glen.

Professor George attended the University of Michigan, where he received his B.A. and J.D. degrees. He was a recipient of the prestigious Order of the Coif, and an Associate Editor of the Michigan Law Review.

Upon graduation, Prof. George was a Special Investigator in Richmond County, and later went on to serve as Assistant Prosecuting Attorney in Michigan. He has taught at University of Michigan Law School, NYU Law School, and Wayne State University Law School. Most recently, he was President of Southwestern Legal Foundation in Texas.

Professor George has written over 20 books dealing with various phases of criminal prosecution and over 60 major articles, some of which have appeared in Japanese and French legal publications. He has also worked on two legal films entitled *The Adversaries*, a training film for the U.S. Department of Justice, and *And Justice For All*, a juror orientation film. This semester he is teaching Evidence here at NYLS.

Professor Baxter is a graduate of American University's School of Govern-

ment and Public Administration, where he received his B.A. He received his professional training at Columbia Business School, where he obtained an M.B.A. and at Columbia Law School. Professor Baxter was an associate in the Tax Department of LeBouef, Lamb, Leiby, and MacRae, and is presently Tax Counsel of Rudin, Barnett, McClosky, Schuster and Russel of Fort Lauderdale.

He is experienced in a wide range of corporate and individual tax considerations, partnerships, international taxation, employee benefit plans, ruling requests for the IRS, and problems concerning sales and real property taxes. His non-tax experience includes corporate documents, private placement offerings, mergers, and environmental law. This semester, Prof. Baxter is holding classes in Corporation Law.

Professor Glen received her undergraduate education at Stanford University and her L.L.B. at Columbia Law School. Upon graduation, Prof. Glen was a law clerk for the court of appeals, Second Circuit. For the last 9 years she has been in private practice and was involved in litigation in various fields, including constitutional and criminal law, sex and race discrimination law, and communications and domestic relations law.

Law Review Welcomes New Candidates

by LAWRENCE GELBER

The New York Law School Law Review recently invited 59 students to become candidates for membership. Invitations were extended to 38 day division students and 16 evening division students, and were based on the completion of 1 year of law school with a cumulative grade point average of 3.0 or above. The remaining five invitations went to students selected on the basis of entries submitted in the writing competition. A total of 59 students met the deadline of September 2, 1980; 141 students had entered the competition. Managing Editor Richard Giles explained that "excellence is our criteria" for extending invitations based on the competition.

The Law Review is a scholarly publication that reports on recent or significant changes and trends in the law. The new candidates are required to submit case comments, which are thoroughly researched analyses of significant judicial decisions. If the candidate is successful in writing a case comment that meets the Editorial Board's standards of publishability, and he or she has also performed satisfactory work on a "cite and substance" team, the candidate will be promoted to staff status.

In addition to the time spent on researching and writing their case comments, the candidates are required to devote 15 hours per week (8 hours for evening students) to their cite and substance teams and office work.

The invitees to candidacy are: Day Division; Estelle Alpert, Carol M. Bast, Michael B. Buckley, Richard R. Byrne, Cindy Byrnes, Susan Colatsky, Joseph A. D'Avanzo, Loretta Davis, George DeLuca, Andrew Drogen, Donna Ferrara, Howard Fifer, Ivy Fischer, Paul V. Geoghan, Claire Hancock, Deborah M. Jordan, Randi G. Kapelman, Robert Kiedaisch, Annette Koch, Theresa Koncelik, Christine Lepera, Mary Libassi, Matt Mason, Eiré Michaels, Fay Ng, Bruce E. Pulver, Joanne Redden, David Richman, Stefanie Roth, Michael Schwartz, Jeffrey Seymour, Diane Silvergleid, Howard Stern, Gale Stoppert, David W. Thompson, Honey Waldman, Harry Wallace; Evening Division candidates are: Moses Apsan, William Betz, John Carberry, John Clancy, John Edelen, Ralph T. Gazzillo, Karen Honycutt, George Klein, Marilyn Levine, Michael O'Connor, Ellen Perle, Martha R. Rix, Eric Ross, Martin J. Silverman, Ellen Wagner and Claire A. Zimmerman.

Writing competition winners are: Henry Cornell, Gail D'Italia, Sarah Jeffords, Lea Hixson, Deborah Sperling.

Toxic Waste to be Discussed

by HOFMANN & BARNHARD

The spreading problem of disposal of society's toxic discards is the first topic in a series of discussions to be presented this year by the Environmental Law Society. On September 30, 1980, at 5:00 P.M., Bruce Adler, an attorney with the U.S. Environmental Protection Agency, and Jay Lipner, an Assistant Attorney General in the New York State Department of Law, will address this problem from the perspectives of their agencies.

Mr. Adler, a NYLS graduate, will provide a national overview to the complexity of the abandoned waste site issue. He will discuss the federal legislative and regulatory response to the problem, including the difficulties of program implementation.

Mr. Lipner is one of several attorneys handling the State of New York's nuisance action against Hooker Chemical Co. for its dumping of toxic chemicals at Love Canal. He will discuss the legal theories and procedures involved in this lawsuit.

All members of the NYLS community are invited to attend. Refreshments will be served after the meeting.

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Professor Wins Nomination

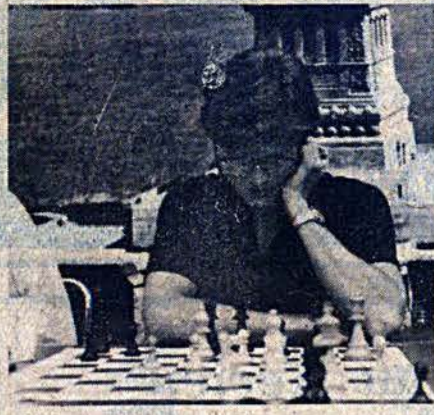
Professor Kristin Booth Glen won the democratic nomination for Manhattan Civil Court judge. She easily defeated her rival, Stanley H. Nason, who was appointed to the Civil Court in March. Professor Glen won with 62% of the vote. She joined the NYLS faculty this semester, and she specializes in litigation involving race and sex discrimination and communications law. She is representing WNCN Listeners' Guild against the Federal Communications Commission in a case that will be decided in the U.S. Supreme Court this term. The case deals with issues of communications and administrative law.

She has recently been involved in the litigation that arose when the classical music format of WNCN-FM was threatened, representing listener/consumer groups.

Professor Glen has also worked with such groups as the N.Y. Women Against Rape, the Health and Abortion Project and Healthrite, Women's Interart Center, and the Coalition for Abortion Reform and Against Sterilization.

She has taught at Hofstra Law School, NYU Law School, and Washington Square College, and is presently teaching Family Law at NYLS. In addition, Prof. Glen is seeking a seat on the Civil Court Bench in New York County.

Chess Club Update



(photo/L. Gelber)

The Chess Club is back at NYLS for the 1980-81 school year. Last year was a very successful one for the club which is hoping to do even better this year. The Chess Club invites all chess players, novices to masters, to join in its Friday afternoon session. There are no dues to pay and everyone becomes a vice-president. So, stop in at Gil's, introduce yourself, take a seat, a push some wood.

Chess Club activities last year included weekly chess sessions, a USCF-rated tournament held at NYLS, and participation in the Metropolitan Chess League. The seven-member team, alternating on four boards, played six matches through April and May at the Jamaica Chess Club in Queens. The NYLS team captured first place with a 4-2 record. In addition, this reporter is in line for a board prize with a 5-0 individual record. The club is optimistic about entering a team in this year's tournament.

In addition to its weekly Friday sessions, the NYLS chess Club has formulated plans for other chess events throughout the school year. The first event will be a

simultaneous chess exhibition given by Michael Bast. Mr. Bast, a third-year student, is a USCF-rated expert who was Southeast Conference Champion when he attended the University of Florida. In a previous exhibit held in March 1979, Mr. Bast compiled a 19-1-1 record. Among his opponents was none other than Professor Joseph Koffler. Perhaps we will see the Professor try his luck again. The exhibition will be held on Thursday, September 18, at 1:30 P.M. in the lounge on the first floor of 47 Worth St. There will be a small charge per game to help the club purchase new chess sets. However, anyone who can checkmate Mr. Bast will certainly be rewarded for his or her efforts.

The chess club is also planning to hold another tournament at NYLS later this year. Further details will be available in future issues of *AEQUITAS* and post in Gil's.

Whether you are an accomplished player looking for a game, or a beginner looking for some tips on how to find a mate, we look forward to seeing you at the exhibit and at the Friday chess sessions.

The Lawyer's Role in the Judicial Process*

by EDWARD D. RE

Much of what is written and said about the American judicial system focuses on the role of the judge to the neglect of that of the lawyer. Too often judges, lawyers and the public, think of the decisional process as the sole responsibility of the judge. Such a thought falls far short of the fact, and does violence to the cooperative effort that must prevail if the adversary system is to succeed.

It must be admitted, however, that there is an explanation, if not justification, for the neglect in the appreciation of the role of the lawyer in the decisional process. Too often, in understanding the judicial process, the concentration of effort has been on the mental process of the judge. The judicial process seemed naturally to imply the judge's mental process. The inquiry seemed to be: How does the judge decide the case presented: What factors does he consider and what are the elements that move him?

All judges and lawyers are familiar with Mr. Justice Cardozo's *The Nature of the Judicial Process*. His incisive and penetrating "introspective searchings of the spirit"¹ have been most helpful. They have offered insight to countless law students, and valuable instruction to many grateful judges. It would be vain or presumptuous to ask for a finer exposition or discussion of "the formula,"² insofar as it may be expressed, according to which American judges decide cases. But here again the analysis and effort center around the role and contribution of the judge.

What remains to be done is to extol and give prominence to the contribution of the lawyer in that process properly called by Mr. Justice Cardozo, the "judicial process."

One aspect of the lawyer's work that demonstrates clearly the lawyer's contribution to the judicial process, is the writing of briefs that are submitted to the court. When the crucial part that a brief plays in the decision of a case is appreciated, briefs will be written with greater care and thoroughness.

Justice Rossman, a former Justice of the Supreme Court of Oregon, noted the relationship between the lawyer's brief and the judicial decision by asserting that: "If better briefs are written, the court will produce better decisions."³

This statement highlights the input or contribution of the lawyer to the end product of the adjudicatory process, i.e. the judicial opinion. It is the lawyer who in the first instance must prepare the case and submit his authorities for adjudication.

Not infrequently lawyers are told that briefs are poorly written and that oral arguments before appellate tribunals are neither helpful nor effective. The criticism of course, is sometimes justified. It is possible, however, that briefs and oral argument are of low caliber because judges often fail to indicate the importance that they attribute to briefs and oral argument. Lawyers will devote valuable time and effort in the preparation of briefs and oral argument only if they believe that their contribution to the decision of a case is necessary and important.

Many specific examples can be given of the contribution of the Lawyer's brief to the judicial opinion. Some reveal the authorship of certain passages and phrases that are well known to historians and lawyers. Their origin is often attributed to the judge who authored the opinion. Research, however, will reveal that many famous phrases represent the skill and handiwork of counsel who submitted the case of adjudication. One example is the well-known utterance of chief Justice Marshall who, in the famous case of *McCullough v. Maryland*,⁴ Wheat 316 (1819), wrote: "The power to tax is the power to destroy." A reading of the brief submitted by Daniel Webster in that case will show that the words were inspired and borrowed from the brief of that great lawyer.

An appreciation of the role of the lawyer in the judicial process adds a new dimension to the indispensable requirements of thorough preparation and competent presentation of a case. In discharging his professional responsibility, the lawyer fulfills his duty to his client, renders valuable assistance to the court, and performs a vital public function in shaping, developing and improving the law itself.

The adversary system will work well only when lawyers appreciate the important contribution that they make to the judicial process. It will be truly worthy of preservation, and the confidence of the people when those most responsible for the administration of justice perform their duties in accordance with the tradition and ideals of both bench and bar.

As Chief Justice Vanderbilt aptly indicated: "The process of deciding cases. . . involves the joint efforts of counsel and the court. It is only when each branch of the profession performs its functions properly that justice can be administered to the satisfaction of both the litigants and society and a body of decisions developed that will be a credit to the bar, the courts and the state."⁴

¹Cardozo, *The Nature of the Judicial Process*, in *Selected Readings of Benjamin Nathan Cardozo* 110 (M. Hall ed. 1947).

²*Id.*

³Rossman, *Appellate Practice and Advocacy*, 34 Ore. L. Rev. 73 (1955).

⁴*In re Greenberg*, 15 N.J. 132, 137-38, 104 A. 2d 46, 49 (1954).

*From *CASE & COMMENT*, Vol. 83, No. 2, March-April 1978.

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The following events/activities have been tentatively scheduled by the Student Bar Association:

The following events/activities have been tentatively scheduled by the Student Bar Association:		Student Bar Association meetings will be held on the following dates during the Fall Semester:	
Mini Marathon	A Saturday in mid to late October	Tuesday	September 2
		Monday	September 15
		Wednesday	October 29
XMAS Party	December 2, 1980	Tuesday	November 11
		Monday	November 24
Welcome MYA	February 5, 1981		
Bermuda Party	April 9, 1981		
End of Year Party	April 23, 1981		

All meetings will be held from 5:00 P.M. to 6:00 P.M. Room locations will be posted prior to each meeting.

Thucydides Adler Speaks:**THE TENURE WARS**

Fall came early this year to Harvard-on-the-Hudson. On August 18th, to be exact. The ivy covering 57 Worth, were there any, would have been full and lush, and the neat rows of nonexistent stately elms criss-crossing the nonexistent academic quadrangle showed not a hint of autumn color.

As the continuing students gathered in Gil's over murky coffee, a nickel dearer than what they recalled from May, one could easily sort out the bronzed minions returning from Amagansett or New Mexico (sullenly mourning a promising summer cut down in its prime) from the sallow-cheeked Summer Associates (cheerfully returning to the world of 14-hour weeks where the moment of truth comes only once in four months.)

From table to table, snatches of conversation were heard with monotonous regularity:

"Would you believe he made Law Review? Christ! I had to explain McDougal to him, and he got an A and I got a C."

"I heard she got an offer from Proskauer. If she takes it, that's one less name on the sign-up sheets."

"It's in 12 Southern . . . called Lason . . . just drop the book on the floor and it will open to the right page."

And inevitably,

"Did you hear the bastards denied him tenure? Figures. He probably didn't sink enough students to please them."

While talking through one's hat is a vice not unknown to lawyers and law students, there is probably no subject more discussed and less understood than tenure. More likely than not, this is because the world of lawyers is one in which you are only as good as your last memo or most recent courtroom presentation. Rewards are given for current performance, and billings justified on a "What have you done for me lately?" basis, and not on long years of faithful service.

Yet the law schools belong more to the world of academia than of law. While successful motions are perfected within days, works of scholarship may gestate for years. The success record of a litigator can be accurately expressed over a period of months, or an associate's billable hours by the week. A professor's "worth" can be measured, if at all, only over a period of years, and then only by his peers.

It is for these reasons that the "Community of Scholars" notion grew up around universities in the Middle Ages and has survived relatively intact to this day. Simply put, the institution of higher learning is envisioned as a self-perpetuating, communal think-farm whose main crop is knowledge measured in terms of ideas expressed in scholarly papers and publications. Students and academic degrees have nothing to do with this primary purpose, and are most emphatically not an important product, any more than winemaking is the *raison d'être* of the Christian Brothers religious order.

Since even scholars are mortal and eventually die, an important (though secondary) purpose of the community is self-replenishment through teaching, testing, certifying, and admitting new members. Academic degrees identify and certify the practical competence of trainees who will enter the ranks of secular practitioners, but for admission to membership in the "Scholarly Community" an entirely separate and distinct procedure evolved. Thus, the mysteries of tenure.

Would-be novitiates are admitted to the scholarly ranks on an extended probationary basis. Denominated "Lecturers" or "Assistant Professors," they are assigned to the lowliest of tasks: the teaching of tuition-paying, degree-seeking students. They are expected to bear the burden of day-to-day classroom teaching stoically, while simultaneously working to satisfy their senior colleagues that permanent admission to the Community is warranted. The relevant criterion is scholarship.

In theory (and according to the American Association of University Professors' "Statement on Faculty Governance"), the faculty are viewed as the custodians of the intellectual legacy of the institution and the trustees the guardians of the physical and legal entity. The corporate form insures the continuity of the trustees and tenure gives the faculty body its immortality.

Tenure is the process by which the current full (tenured) members of the faculty admit new members to their ranks. Newly hired faculty are brought in to the institution on yearly contracts, with the stipulated understanding that as they go about the business

of research and teaching they are being observed by the tenured members as candidates for permanent places in the Community. Contracts of employment are renewed on an annual basis for the first 5 years while the tenured faculty have an opportunity to gauge the competence and assess the intellectual growth of their younger colleagues. Unless the new faculty member asks for an earlier decision (makes an application for early tenure) the tenure decision is made in the sixth year of employment.

On paper, the process is not very complicated. The Faculty Rank and Tenure Committee, consisting of all tenured faculty, has the first move. It considers the applicant's personal and scholarly qualities, assesses the needs and direction of growth of the institution, and makes a recommendation that the applicant should or should not be invited to become a permanent member of the Community. The applicant's popularity among students is a relatively minor consideration since students, although they are fair judges of an individual's ability to communicate subject matter, are no judges at all of his/her scholarship; students will be long gone in a year or two, and the applicant's colleagues will have to live with him/her for many years to come.

The recommendation of the Rank and Tenure Committee is forwarded to the Dean (the senior member or chairperson of the faculty) who appends his/her recommendation and forwards both to the trustees for action.

If the faculty and Dean have agreed, the trustees are expected to grant tenure in the absence of what the AAUP Statement calls "compelling" reasons. To be clear, where the faculty and Dean have made a determination, the trustees are expected to perform the executive function of actual appointment subject only to their responsibility, inherent in the fiduciary relationship to the institution, to decline to act if they have a good faith belief that in so doing they would cause actual harm.

Once granted tenure, the new member joins the Rank and Tenure Committee and is removable from his/her place in the Community only for good cause.

It is the years between first hiring and tenure decision that create all the fireworks, since anyone who believes that the candidate is only being observed by the tenured faculty and only for scholarly growth has been living on a steady diet of Easter-bunny eggs.

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NEW YORK COUNTY LAWYERS' ASSOCIATION

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FORUM EVENING

Sponsored by the Forum Committee

Thursday, October 9, 1980

5:30 P.M.

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Moderator:

JOSEPH KELNER, ESQ.
Member, the Forum Committee

Speakers:

HON. EDWARD J. GREENFIELD, New York Supreme Court Justice
HON. SHANLEY EGETH, Acting Supreme Court Justice
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Questions from the audience will be received following the speakers.
Light refreshments will be served before the program. Admission is free.

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New York Law School

Winner 1979 and 1980 First Place — 1978 Medalist Awards
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Photographers: Lawrence Gelber, Howard Schwartz.

AEQUITAS is printed monthly during the school year by and for the students, faculty and alumni of New York Law School. Signed articles represent the views of the authors. Unsigned articles represent the views of the editorial board. Although AEQUITAS strives to have a policy of responsible advertising we do not vouch for the accuracy of our advertisements.

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Editorial:

"Money makes the world go 'round," or so the song says, but life around NYLS is frequently anything but a cabaret. This is especially true for those students who recently received their official heart attack in the mail—notification that their request for financial aid had been turned down.

The criteria by which these decisions are made are nebulous at best. Are grants made on the basis of need? Academic performance? Both? Neither? Why is a request for aid granted one year and denied the next, when the student's income remains the same and prices increase relentlessly? How can someone who spends 50% or more of their income on rent alone, with no savings, and faced with increased tuition costs for themselves (and often their spouses or children as well), increased food prices, commuter fare increases, and the like, be told that they are "not in need?" Contrary to popular belief, most applications are not models of creative accounting; students are led to believe that such efforts are not really necessary, having been told that once a student is given a grant, it is more or less automatically renewed each subsequent year. Obviously, this is not the case, nor should it be. But students *do* have a right to know by what criteria their applications will be judged so that they can plan accordingly.

Why is it that students in the Urban Legal Studies program don't seem to get grants? Is there a bias against students belonging to certain organizations? And why does it take so long for decisions to be made? Some of us filed our applications at the beginning of the Spring semester, only to have to wait until late August or early September to hear whether or not our grants have been renewed—when it is often too late to make alternative arrangements.

These and other questions we've been hearing from students deserve clear, unambiguous answers. Attending this school is a tremendous financial hardship for many students. State loans, especially those for evening and part-time day students, don't even cover school-related costs, let alone living expenses. Students in this situation need help from the school, and when it is not forthcoming, they are left angry and confused. Is it any wonder that so many recent alumni are so bitter toward the school? If the administration expects to get "financial aid" from the alumni, they would do well to extend a helping hand to them while they are still students.

Along these same lines, it has come to our attention recently that the Aequitas budget is being cut this year. The exact extent of the cutback is not known, but whatever it is, it is more than we—or you—can afford. The money allotted us has not even covered our printing costs for some time now, and still we are being told that we will be receiving even less from now on. Meanwhile, money continues to flow to the Law Review, Human Rights, the ILJ, and alumni publication. Aequitas is the *student's* opportunity to be heard, and if we are to continue in that function, we need your support now more than ever before.

Answers and Counterclaims ...

To the Editor:

As aspirants to a profession in which honesty, integrity, and the objective value of one's work are said to be the controlling elements of success, law students have a particularly high stake in their school's assessment of their suitability to practice in the profession. The primary manifestations of this suitability, or lack thereof, are their grades in law school. Grades are the most important factor in any law student's initial foray into the legal profession. They open and close doors. In recognizing this, most law schools, NYLS among them, have implemented anonymous grading procedures.

Theoretically, anonymous grading will assure the most objective evaluation of students' work, eliminating both personal preferences and dislikes that will inevitably arise for certain students on the part of professors during the course of a semester or two. Professors' personal feelings are generally based on class participation but, as is the case with all human beings, they are sometimes based on other factors as well, such as perceptions of animosity, (real or imagined) and identification with others' perspectives. So anonymous grading is theoretically a fine idea. Unfortunately, at NYLS it does not work—if in fact it exists.

The primary evidence that anonymous grading does not work is the general policy of permitting professors to impose a one-third-of-a-point increase or decrease on a student's grade on the basis of "class participation." The adjustment is made by the professors after they receive from the Registrar's Office a list of students' names matched to their grades, after exams have been corrected and identified by means of randomly assigned numbers. However, the adjustment is often made on the basis of the grade matched to the student's name, *not* on grounds of class participation. One professor admitted as much to this writer when he said a grade was raised because he "thought you should have done better."

Most students and professors fail to see that this inequity could easily be remedied. Every professor has a class roll. At the end of the semester, either before or after he grades his papers—and why not before?—the professor, to assure anonymity and to minimize the inequity of raising or lowering a grade because he thinks someone "should do better" (or worse?), could very easily make the adjustment on a copy of the roll and send it to the Registrar's office. There would be no need, then, for a professor ever to see a student's grade matched to his name. And the adjustment would then more likely be made on the basis of participation.

But the weakness of the anonymous grading procedure at NYLS goes beyond the discretionary adjustment. What safeguards are there to assure that professors will not acquire the randomly assigned anonymous grading numbers before grading their exams? Are there any?

One professor in my first year at law school (the same one referred to above) asserted on several occasions during the first semester his willingness to pierce the system and to grade people on the basis of who they were (as if, with his minimal exposure to them, he knew). Indeed his grades were curious when viewed in light of his assertions. During the first semester, he courted sycophants and they, by their nature, courted him. He needed approval, perhaps to compensate for his unconscionable inadequacy as a teacher. They gave it to him. Somehow, they all did

very well, garnering A's and A+'s. Those in what came to be referred to as the "fan club" or the "cheering section" who received only B+'s were plainly disappointed. Or perhaps they were embarrassed that their obsequious investments did not pay off to the extent expected.

Other students received comparatively mediocre grades, even those who said they had the right answer to the single question on which the exam was scored. Remarkably, the professor himself filed a model answer in the library which was logically wrong in view of the semester's course work and totally unsupported by the case he used to back up his major premise.

How this happened can only be guessed at. But perhaps the anonymous grading system is not as anonymous as it pretends to be. There was little pretense in the class after this fiasco that the professor graded his first semester exam anonymously. A pervasive cynicism took hold, especially among those students who remembered what the professor had said about grading on personal preference.

What are the implications of such behavior in a profession where the grasp of facts and issues and excellence in persuasion are of paramount importance? Is a litigating lawyer to spend his time preparing for trial only by analyzing the personal prejudices and dislikes of a judge and tailoring himself to accommodate them, or is he to base his client's case on facts of law and reason and prepare to meet those criteria as thoroughly and forthrightly as possible?

Steps must be taken to assure that anonymous grading is just that. Many students feel that if a professor is determined to identify students' exams before grading them, there are ways he can do this. There should not be. Too much hangs in the balance. An honest investment of time, money, and effort demands an honest return, for law students as much as for anyone else.

Name Withheld

To the Editor:

As you may already be aware as a result of the Placement Office's recent survey, I obtained a position as an associate attorney with the New York firm of Mendes & Mount and commenced employment with them on August 11. I am writing to express my sincerest appreciation to Lynn Strudler and the rest of the staff for all of their considerable assistance in planning and executing my job search.

Despite having been a Law Review editor and ranking within the top 20% of my graduating class, obtaining a position in which I am now happy was no easy task. It came to fruition only after some 11 months of soliciting over 160 potential employers and at least 25 different interviews. Although I secured my present job through my own "leads" and efforts, I can truly thank the Placement Office for aiding me in obtaining numerous interviews over the course of the past year. Also, the background information that they made available on various firms, agencies, and corporations — as well as Ms. Strudler's and Kukla's personal expertise — was invaluable in my plans to direct applications to employers for whom I would be eager to work.

As you know, all too often Placement has been the recipient of harsh and undue criticism from our student body and alumni

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Answers and Counterclaims . . .

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for it "failings" in securing employment for graduates. Unfortunately, many of its detractors have never taken the opportunity to avail themselves of its services, while still others wrongfully view the office as a guarantor of employment. Of course, I too opine that there is room for improvement in Placement services, but it should be conceded that much improvement in areas such as on-campus recruitment will naturally follow upon the growing reputation of NYLS in the legal community.

Nevertheless, I have noted one glaring shortcoming in the Placement program, for which the student body itself must largely bear the onus and which they are in the best position to rectify — i.e., underutilization of the services of the Placement Office. It is a regrettable fact that many students perceive Placement as a "private employment agency", exclusively for the use of Law Review and top 10% students. With an admittedly biased viewpoint, I assert that this is clearly a harmful misperception. If any special attention is afforded these particular students, it must be realized that this is a result of the hiring preferences prevalent in a large number of on-campus recruiters, rather than being due to bias or favoritism on the part of Placement. Yet, there are many employers who are interested in qualifications beyond and in lieu of academic excellence. (I have personally noted this on many of my contacts with so-called "less prestigious" firms.) However, the burden rests upon the student to seek out

these employers while workign with Placement and affording it an opportunity to prove its utility to that student's job search.

Therefore, I advise my fellow graduates and current students to sheathe their critical swords until they have put Placement to a fair test. Obtaining a desirable position in today's legal job market was indeed tough. At times I felt like a child of Israel wandering in the desert in search of that land flowing with milk and honey (money?). Fortunately, the search did not last 40 years.

Joseph P. Monteleone

To the Editor:

We are happy to announce the Seventh Annual Washington International Law Weekend, to be held October 10-11 at the George Washington University and the Georgetown University Law Center. The weekend is an excellent opportunity for students interested in international law to meet with practitioners in both the public and private sectors, and to explore career opportunities in this field. In the past, students from all parts of the nation have participated. Events will include visits to major international law firms, government agencies, and industries concerned with aspects of international law; a reception; a workshop on research in international law; lectures and panel discussions; and a final banquet with a nationally known speaker.

**Joyce Penn
Publicity Director**

To the Editor:

The inmates of Green Haven Correctional Facility who were shipped out after being falsely accused of being "potentially disruptive" threats to security, ask for your help in investigating and publicizing our plight. We have been working within the system for a long time, trying to remedy some of the worst abuses in the New York prison system. These abuses include the physical brutality (including beatings), denial of medical care, religious persecution of Jews and Muslims, the malicious or careless destruction of our personal property (including legal papers), harassment by guards (e.g., refusing to allow inmates to go to scheduled classes, hospital appointments, etc.), and filing false charges against inmates who complain), harassment of inmates who try to use the law library, ridiculous delays in legal mail and legal copying (both of which we have to pay for), harassment of inmates' programs (such as Alcoholics Anonymous and the Jaycees), and the cutting back on schooling and other programs by which inmates might be able to rehabilitate themselves. In most other states, a prisoner will see the Parole Board for possible release after serving one-half, one-third, or even less of his minimum sentence: New York State, however, requires that every day of the minimum sentence be served in prison, giving New York some of the longest and harshest sentences of any state or country in the world. Those inmates who are willing to work to rehabilitate themselves should be allowed to earn "good time" off their minimum sentences, as was the case only a few years ago.

Many of us have been forced to accept legal counsel for our appeals who do not want to, and refuse to, do a proper job of representing us, in flagrant violation of federal and state law and of the lawyers' own Code of Professional Responsibility.

Many of us have found it difficult or impossible to get our complete trial transcripts for our appeals, again something that is supposedly guaranteed by state and federal law. We urgently request the New York State and American Bar Associations to investigate and remedy these problems.

The Department of Corrections has set up two mechanisms by which we are supposed to get our grievances settled: the Inmate Grievance Committee and the Inmate Liaison Committee. Although these are good for solving some minor problems, they cannot solve serious problems such as denial of medical care or the law library, because the Department of Corrections simply ignores their recommendations, even when those recommendations have gone all the way up through the Commission of Corrections.

As a result of the willful indifference of the prison authorities, many of us have been forced to go to court to get such basic human rights as medical care. This is a long, difficult, and expensive (for the taxpayer) process, and often results in vicious harassment. It is not even unusual for inmates to be maimed or to die as a result of the deliberate denial of medical care by prison authorities (see *Johnson v. Harris*, 479 F. Supp. 333 (19—), for a recent example of a Green Haven case).

On Sunday, July 20, 1980, in order to emphasize their grievances, the inmate population held a 1-day fast. Superintendent Harris immediately called a meeting of some of the inmate leaders to discuss matters. A tape recording was made of the meeting and was broadcast to the inmate population, and included the promise that no reprisals would be made against inmates for their complaints, and no one shipped out. This was a treacherous lie, as was proved by subsequent events.

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Loophole

by hal malchow



Tenure Wars . . .

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In fact, both the Dean and the tenured faculty (who will eventually make a joint decision of sorts) are observing the novice from their own unique perspectives. The senior faculty are seeking a potential colleague who is bright, reasonably deferential to his/her senior, pulls his/her own weight, and has a fairly well-developed sense of class solidarity in faculty-versus-administration matters.

The Dean, who is nominally the most senior member of the faculty but in effect the battlefield commander of the trustees, is seeking someone who fills classrooms, satisfies (but need not thrill) students, publishes sufficiently to maintain good visibility for the school, maintains grading standards, and is moderately cooperative (read "pliant") in dealing with administrators.

The conflict is, of course, inherent, and the junior faculty member is doomed to spend his/her novitiate on a tightrope. Strategically, what is called for is a low profile and a fair amount of gentle hypocrisy. A major offense offered up to either camp is a death warrant, since either can block tenure.

There are three basic types of junior faculty doomed to failure:

The Showboater maintains a brash style and a high profile. S/he courts the attention and admiration of students with a humorous and irreverent classroom style. S/he is outspoken in public support for students in every grievance with the administration, irrespective of the merits, and generally promotes a "we-they" atmosphere pitting him/herself and the students against the Old Guard, composed of faculty and administration. As a consequence, both have a vested interest in unloading him/her as soon as possible. S/he will fight to hold on, citing high student evaluations, and will suggest to students that s/he is being purged for being their champion. S/he is inevitably buried, accompanied by the wails and moans of distraught students in an extra-large casket sufficient to accommodate a corpse with a bloated and gangrenous ego. Occasionally, a public autopsy follows in New York State Supreme Court.

The Bad Boy is usually one of the best and the brightest around. S/he attracts a smaller but more dedicated following among students than the Showboater. His/her disciples are attracted by erudition, scholarship, and dedication, and with their mentor form a close and clannish nucleus that is offensive to faculty, administration, and the remaining students alike. The Bad Boy gets his/her name from a irresistible compulsion to go public with his/her contempt for both colleagues and administrators, and attracts attention with ill-advised public criticism. His/her academic life story follows the plot of "The Emperor's New Clothes," but lacks the happy ending. Funeral services tend to be sparsely attended.

The short, unhappy life of Johnny-or-Janey-One-Note tends to throw off the greatest number of sparks as this exploding star streaks for oblivion. Johnny/Janey is a rebel with a cause, and very little else. Consumed with concern for the Sperm Whale, when Johnny/Janey is assigned to teach a course in Constitutional Law, every illustrative example and every assigned case seems to have something to do with aquatic mammals. The natural criticism this attracts is deflected with the incontrovertible statement the New York Law School is a poisonous seat of whale-haters. Funeral services are held at the South Street Seaport, where all true believers impale themselves on harpoons as a symbolic protest.

New York Law School has had no more than its share of Showboaters, Bad Boys, and Johnny/Janey-One-Notes. What creates the popular impression that battle of the Argonne of the Modern Tenure Wars is being fought on Worth Street is an unfortunate coincidence of timing and events.

When an institution has a relatively small number of tenured faculty (NYLS had seven in 1978) and is undergoing a rapid expansion, two things happen. First, as a result of massive hiring, junior faculty come up for tenure consideration in little groups of three and four rather than singly, and each grant of tenure is capable of tipping or creating a new majority on the Rank and Tenure Committee. Both the Dean and senior faculty are therefore even more prone than usual to scrutinize candidates carefully to determine loyalty and internal political predilections, since control of the rank and tenure process itself is at stake.

A faculty on the brink of unionization, generally underpaid, and powerless in the face of a strong, ambitious, and dynamic Dean with de facto carte blanche from the trustees is prone to favor activists for tenure and likely to overlook the more traditional considerations. An administration seeking to build a national reputation is more concerned with strong, publicly visible scholars who are team players.

The storm broke at NYLS in 1978 when the first crop of new blood faced the Rank and Tenure Committee. Professors Lippman, Erickson, and Harbus came up for tenure, and the Committee voted affirmatively on all three (6-1, 5-2, and 7-0). Officially, Dean Shapiro concurred in the recommendations, but all were rejected by the trustees. Many observers suspected that the death warrants had been signed on the second floor of 57 Worth and that the trustees had merely been designated to take the inevitable heat.

Whatever the motivating force, countermoves by those directly affected were to be

expected. What apparently came as a surprise was the reaction of faculty (tenured and untenured) whose jobs were not on the line. Sensing that the very integrity of the faculty governance system was being challenged, Professors Brook, Zupancic, Schroth, and Cerruti joined the aggrieved Lippman, Erickson, and Harbus in filing a complaint with the American Association of Law Schools.

Caught red-handed, the response of the administration has been to engage in an orderly, tactical retreat—cajoling, persuading, and offering cash settlements to the dissident and disaffected in return for quiet resignations. For one caught in the tenure battle, the combination of cash and a good recommendation is an offer not to be refused lightly. The alternative, fighting it out, is a no-win proposition, which at best leaves the young faculty member with tenure, a hostile administration, and no prospects. At worst, it leaves him/her out of work and with a reputation in the national Dean's Old Boy Network that virtually guarantees a lifetime reserved spot on the unemployment line.

If there is any lesson at all for students in all of this, it is that involving oneself in a tenure struggle is tantamount to interceding in the marital disputes of strangers: by the time the conflict has surfaced, the first casualties—truth and principle—have long since been carried off the battlefield. The student's input, if it is to weigh at all in the balance, must be felt at a much earlier stage. The student who keeps in mind that he/she pays \$6.55 for each clock hour spent in the classroom will be heard where it matters—on the registration form.

Labor Law Association

New York Law School has strong points as well as weak ones, and one of its greatest strengths is its labor relations curriculum. A number of fine courses are offered, including Basic Labor Law, Advanced Labor Law, Public Sector Labor Relations, Collective Bargaining, Labor Arbitration, National Labor Relations Board Practice and Procedure, Title VII Discrimination, and Administrative Law. Students wishing to specialize in labor relations will be well-prepared for the real world if they take all or most of these courses.

The Labor Law Association, a student organization, conducts programs and discussions, and brings prominent union, management, and neutral speakers to the school. Although not all of this year's events have been finalized, the association is planning a very active schedule. Upcoming events include guest speaker William Winpisinger, the charismatic and controversial President of the International Association of Machinists (Oct. 16), and a program on women in labor law (date to be announced).

The Wagner Moot Court competition, hosted annually by NYLS, is another labor law-related activity. The competition focuses national attention on our school; student teams from law schools all over the United States are involved as are prominent representatives of the labor relations community, who serve as judges. The recent addition of a full-time Labor Law instructor, Professor Lowery, reaffirms NYLS's continuing commitment to the labor relations area.

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Wagner Board Announced

It is with great pleasure that the Moot Court Executive Board announces the selection of the 1981 Robert F. Wagner Moot Court Committee of the Moot Court Association: Chairwoman: Maria Helhoski; Members, Administrative Subcommittee: Robert Byrne, Cheryl Joy Kent, and Alfred A. Pierri; Chairman, Fact Pattern Subcommittee: James Morganteen; Members, Fact Pattern Subcommittee: Mark Brylski, Richard Walsh, and Richard Zeff. The Executive board is most confident that the committee will conduct a well-planned and challenging competition that will be to the credit of the entire Law School Community.

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Answers and Counterclaims . . .

continued from page 7

On the following Tuesday, all inmates were locked in their cells, while the Emergency Response Team did a complete search of the facility and the inmates. The Department of Corrections was even forced to admit publicly that no unusual amount of contraband or weapons were found. Then the guards began selecting certain inmates, dragging them out of their cells without warning, strip searching them and handcuffing and taking them away. Contrary to normal procedures, their personal property was "packed up" by the guards, with many items being lost, stolen, or destroyed in the process. These inmates were quickly shipped out to Downstate Correctional Facility in Fishkill.

Because of the vicious lies spread about us in the media by the Department of Corrections, the inmates were falsely considered dangerous and were harassed and verbally abused by the officers in a deliberate attempt to provoke us to violence. These provocations failed, and the harassment eased up when the guards realized that they had been lied to and were being used to provoke an incident. Certain people in the Department of Corrections have been trying to provoke violence for a while, in order to generate public sympathy and get more money for more guards and more overtime. This whole situation was also very conveniently timed to distract public attention from the McGibney scandal (where Green Haven prison guards were accused of allowing a prisoner to escape while running a "pay for sex" racket).

In Downstate, we instituted a federal

court action to get federal protection; 30 of the original 40 inmates were shipped out again before the federal court could hear our petition. Arriving at Great Meadow Correctional Facility in Comstock, we met a really vicious reception. We were abused, threatened, and beaten. With every inmate shackled together with another inmate with leg irons, we were pushed, shoved, tripped, and forced to run up a narrow flight of stairs and down a hallway. We all suffered some injuries, but the worst was one inmate who was crippled, who was dragged and thrown up the stairs.

At Great Meadow, the harassment continues, with us being put in "reception" status (which is for new prisoners) instead of "transit" status (for prisoners being transferred from one prison to another). As a result, much of our personal property has been taken away, some of which we will not be allowed to have back, even though prisoners in the normal population are allowed to have such things (tape players, radios, etc.). While the Department of Corrections continues its vicious campaign of slander against us in the news media, we have repeatedly been told that there are no charges against any of us, and our "transfer" was not done for disciplinary reasons.

Again, our situation here has eased as the guards realize that we are not dangerous, as they were told, and as we manage to get outside attention and protection. But our safety and very lives depend on having people outside who will monitor and protest the violence, brutality, and violations of human rights that are a normal part of any prison system that hides behind a veil of secrecy. Every time they move us, we wonder what is going to happen; maybe that will be the time when they "close" all our legal papers, or some such thing.

The United States preaches to the world about the human rights which we have promised to abide by, in our own laws and Constitution, and in the United Nations Charter and the Universal Declaration of Human Rights. If this is to be more than just political rhetoric, we are going to have to give a better example to the world than we are doing now. WE BEG YOU: Please help us to get the legal and human rights that we are entitled to as human beings and citizens of the United States of America.

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Brief Break

by MICHAEL MARINANGELI & PERRY HABIB

The purpose of this duly printed column is to keep you legally inclined students, faculty, and administration aware of various events and opportunities available to you throughout the Big Apple. Hopefully, the information herein contained will grow from month to month until you no longer find yourself scurrying from bulletin board to magazine, searching for needed evidence of upcoming happenings. In time, you will be able to look at this one column and be able to plan your future entertainment breaks. How can we do this? Right now we are relying on our own personal knowledge and tastes, but we hope to get the whole school population involved by submitting revealing and interesting information. Whether this be a hot tip on the third race at Belmont, an empty 4-bedroom apartment overlooking Central Park for \$150/month, or a place to buy law books at half price makes no difference as long as you think another person at NYLS would want the information. This first article is, therefore, a formal invitation for you to donate any information that you would like to share with others at NYLS. Beside handing you a formal invitation we would also like to reveal a pioneered calendar of things to see and do in NYC in October:

MUSIC—POP/JAZZ

The Bottom Line: 15 West 4th St. Shows 8:30 and 11:30 P.M.
Chilies: 142 West 44th St. Chili parlor with entertainment by blues singer.
Jazzmania: 14 East 23rd St. Penthouse jazz, 9-2:00 A.M.
Kenny Castaways: 157 Bleecker St. Pop and jazz, 8:30 and 11:30 P.M.
The Other End: 149 Bleecker St. Various shows, 10:00 P.M.
Tramps: 125 East 15th St. Blues singer, shows at 9:00 and Midnight.
Trax: 100 West 72nd St. Rock and roll parlor, open until 4:00 A.M.

CONCERTS

Madison Square Garden
Sept. 28, 29, 30: QUEEN
Oct. 9: Jethro Tull
Oct. 18: Black Sabbath and Blue Oyster Cult
Capitol Theatre, 326 Monroe St., Passaic, N.J.
Sept. 26: Pretenders
Oct. 10: Pat Benatar
Oct. 11: Joan Armatrading
Oct. 17: America
Oct. 18: Gary Numan
Oct. 28: The Kinks
Oct. 31: Todd Rudgren and Utopia

DANCING/DISCO

Adam's Apple: 1117 1st Ave. Disco with bi-level dance floor, until 4:00 A.M.
High Roller: 617 West 57th St. Roller disco, 8-2:00 A.M.
Regines: 502 Park Ave. Restaurant and disco, open until 4:00 A.M.
Wednesday's: 210 East 86th St. Disco/bar/restaurant in the form of a block-long underground village.

COMEDY/MAGIC

Catch a Rising Star: 1487 1st Ave. Continuous entertainment by comics and singers.
Comic Strip: 1568 2nd Ave. Restaurant/comedy stop with improvisational entertainment.
Magic Towne House: 1026 3rd Ave. Professional magicians perform, from 8:30 P.M.

PHOTOGRAPHY

Popular Photography: 1 Park Ave. Collaged Dreamscapes, through 9/30.

VARIOUS

Bach Festival: Sept. 27, 8:00 P.M. St. Luke's Church, chamber ensemble.
Auction: Tepper Galleries, East 25th St. Sept. 27, 11:00 A.M.
Paperback Exchange (These book stores sell paperback books at 50% off their cover prices and will give you 25% credit for any paperbacks you give them) 343
(1) 343 East 86th St.
(2) 1242 2nd Ave. (between 82nd and 83rd St.)

BARS—INEXPENSIVE WITH ENTERTAINMENT

Puffy's Tavern: 18 Hudson St. Juke-box music.
Arthur's Tavern: Grove St. and 7th Ave. Live entertainment.
The West End: Broadway and 114th St. Live entertainment—jazz.
Grassroots: St. Marks, between 1st and 2nd Ave. Dancing—juke box.
Morgan's Traditional Irish Grill: 134 Reade St. Live Irish music.

ONGOING AND UPCOMING UNIVERSITY EVENTS IN AND AROUND NEW YORK

St. John's University (Jamaica):
Every Thursday night (September-December): Open coffee house—live music

Every Tuesday night (September-December): Film presentation.

*Special Events:

September 25: Lecture by Carl Stokes.

December 10: ESP show—memory retention seminar, given by Ken Weber.

If you happen to look at this entertainment column with a sneer of scholarly disdain, just remember that you will not be able to get a 3.89 index and form a legal partnership upon graduation unless you give your mind and books a brief break whenever possible.

Media Law Project

The Media Law Project has started the 1980-81 school year with the most ambitious agenda its short history. The organization was begun in spring, 1979 in response to student interest in communications, entertainment, patent, and copyright law. The project has sponsored symposia on reporters' privilege and public television, and several legal lifestyles seminars were held last semester, which allowed NYLS students to hear and meet practitioners in the areas of entertainment, publishing, and communications law.

For the coming year, the MLP plans several symposia and legal lifestyles seminars. The symposia will deal with the legal needs and problems of graphic and performing artists; the first symposium will be held in late October. The project will also be working jointly with the NYLS Communications Media Center on a number of programs.

The Media Law Project's office is in C308. Any interested students are urged to drop by there or the Communications Clinic in B406.

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AEQUITAS

New York Law School

Volume XII, Number 2

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September 1980



Photo S. Vaikkattil

Kristin Glen Wins Nomination