EQUITAS Wins Journalism Award
By Jonah Triebwasser
Columbia University's Scholastic Press Association awarded EQUITAS its 1978 First Place Medalist Award for outstanding student journalism. The award, considered the most prestigious in the field of university newspapers, was received at last semester.

The Medalist ranking, according to the Association, is granted to publications selected from the Columbia competition's first place rating. This honor, the Association's highest ranking, is based on "those intangible qualities which become evident to the judges which could be characterized as the 'personality' of the entry."

EQUITAS achieved First Place ranking by earning 900 quality points out of a possible perfect score of 1,000. News and feature content and coverage garnered 225 points out of 250; writing and editing 350 out of 400 and graphic design 325 out of 350.

News Briefs, Spraggins Interview Applauded

In the news and feature area, Columbia labeled the EQUITAS "News in Brief" section as "noteworthy" and "a service to the entire school."

Feature articles, such as the Legal Art series by Copy Editor Emeritus Rob Fraser and the Rosenberg Atomic Spy series by Alan Rosenberg, were cited as examples of "penetrating pieces" of law school journalism. Single out for particular praise was the faculty profile of NYLS Alumna Prof. Marianne Spraggins by EQUITAS Copy Editor Linda Rawson.

Editorials: "Let Reader Beware!"

EQUITAS editorials, according to Columbia, follow a good argumentative line, "just as any lawyer would present." Cited as an example of the excellence of the substantive arguments EQUITAS presented was the "Money Blackout" editorial appearing in the October, 1977 issue.

Columbia said that "very little is not covered in those editorials. Let the Reader beware!" They went on to say that the thematic thread in the editorials of "reader services" was "very little is not covered in those editorials. Let the Reader beware!" They went on to say that the thematic thread in the editorials of "reader services" was "very little is not covered in those editorials. Let the Reader beware!" They went on to say that the thematic thread in the editorials of "reader services" was "very little is not covered in those editorials. Let the Reader beware!"

Editor Jonah Triebwasser with award.

Profs Denied Tenure
by Linda Rawson

Editors Nancy Erickson, Richard Harbus and Dean Marshall Lippman have been denied tenure by the Board of Trustees after a recommendation of tenure by the faculty.

As defined by the "Principles of Rank and Tenure", tenure is "the right to hold one's teaching position and not to suffer loss of such position." The "Principles" further state NYLS grants tenure to those faculty members "who, in the judgment of the Dean and the Board of Trustees, have proved their competency in teaching and who show continued promise of growth in learning or research." These criteria are outlined in the "Principles of Rank and Tenure." The Committee on Tenure was composed of all professors who had been at NYLS for a period of five years or more. The "Principles" have been revised several times since then, the most major revision occurring in 1969. The "Principles" were effectively rewritten to comply with the ABA and AALS accreditation standards. The AALS assisted the school in reformatting its tenure system. The effect of the changes was to give a greater role to tenure recommendations to the Dean and the Faculty. The AALS bylaws state, "experience in the law school world has shown that a competent faculty is best assured by the faculty's exercise of a substantial degree of control over decanal and faculty appointments or changes in faculty status" and the ABA standards echo these guidelines. As a result of the increased role of the Dean and faculty some members of the Board of Trustees resigned in 1976.

(Continued on page 8)

EQUITAS Wins Journalism Award
By Jonah Triebwasser
Columbia University's Scholastic Press Association awarded EQUITAS its 1978 First Place Medalist Award for outstanding student journalism. The award, considered the most prestigious in the field of university newspapers, was received at last semester.

The Medalist ranking, according to the Association, is granted to publications selected from the Columbia competition's first place rating. This honor, the Association's highest ranking, is based on "those intangible qualities which become evident to the judges which could be characterized as the 'personality' of the entry."

EQUITAS achieved First Place ranking by earning 900 quality points out of a possible perfect score of 1,000. News and feature content and coverage garnered 225 points out of 250; writing and editing 350 out of 400 and graphic design 325 out of 350.

News Briefs, Spraggins Interview Applauded

In the news and feature area, Columbia labeled the EQUITAS "News in Brief" section as "noteworthy" and "a service to the entire school."

Feature articles, such as the Legal Art series by Copy Editor Emeritus Rob Fraser and the Rosenberg Atomic Spy series by Alan Rosenberg, were cited as examples of "penetrating pieces" of law school journalism. Single out for particular praise was the faculty profile of NYLS Alumna Prof. Marianne Spraggins by EQUITAS Copy Editor Linda Rawson.

Editorials: "Let Reader Beware!"

EQUITAS editorials, according to Columbia, follow a good argumentative line, "just as any lawyer would present." Cited as an example of the excellence of the substantive arguments EQUITAS presented was the "Money Blackout" editorial appearing in the October, 1977 issue.

Columbia said that "very little is not covered in those editorials. Let the Reader beware!" They went on to say that the thematic thread in the editorials of "reader services" was "very little is not covered in those editorials. Let the Reader beware!" They went on to say that the thematic thread in the editorials of "reader services" was "very little is not covered in those editorials. Let the Reader beware!"

Editor Jonah Triebwasser with award.

Profs Denied Tenure
by Linda Rawson

Editors Nancy Erickson, Richard Harbus and Dean Marshall Lippman have been denied tenure by the Board of Trustees after a recommendation of tenure by the faculty.

As defined by the "Principles of Rank and Tenure", tenure is "the right to hold one's teaching position and not to suffer loss of such position." The "Principles" further state NYLS grants tenure to those faculty members "who, in the judgment of the Dean and the Board of Trustees, have proved their competency in teaching and who show continued promise of growth in learning or research." These criteria are outlined in the "Principles of Rank and Tenure." The Committee on Tenure was composed of all professors who had been at NYLS for a period of five years or more. The "Principles" have been revised several times since then, the most major revision occurring in 1969. The "Principles" were effectively rewritten to comply with the ABA and AALS accreditation standards. The AALS assisted the school in reformatting its tenure system. The effect of the changes was to give a greater role to tenure recommendations to the Dean and the Faculty. The AALS bylaws state, "experience in the law school world has shown that a competent faculty is best assured by the faculty's exercise of a substantial degree of control over decanal and faculty appointments or changes in faculty status" and the ABA standards echo these guidelines. As a result of the increased role of the Dean and faculty some members of the Board of Trustees resigned in 1976.

(Continued on page 8)
LAW SCHOOL OFFERS WORKSHOP ON NEW MEDIA DEVELOPMENTS

At the close of the Spring Semester the Communications Media Center at the Law School played host to a workshop on "Emerging Issues in the Law of Mass Communications." This brought together speakers from the Federal Communications Commission, the Copyright Office, the Federal Trade Commission and private practice. Their presentations dealt with a number of recent developments in the regulation and judicial doctrines affecting radio, television, cable television, and satellites.

According to Professor Michael Bo­tein, "This was a very intimate kind of operation, since, as a workshop, it was designed for only a couple of a dozen partici­pants. Things seemed to go very well, and by the end of the first day it was hard to tell the difference between the speakers and the participants. All of us ate together, spoke together and caucused together for two days in a row; by the end of it, we were all pretty well exhausted, but we all had learned some new things."

Under discussion was the law's effects on such diverse topics as radio, television, cable television, multipoint distribution systems, private microwave carriers, pri­vate line carriers, interconnection, domes­tic satellites, ground stations, and fiber­optics.

Dean appointed to Education Committees

NYLS Dean E. Donald Shapiro has been appointed Chairman of two com­mittees engaged in evaluating educational institutions.

At the request of the University of Florida's Dean Joseph R. Julin, Chairman of the Council of the Section of Legal Edu­cation and Admissions to the Bar of the American Bar Association, the Dean has been asked to chair a committee which will be reviewing the structure and organization of law schools approved by the ABA which are not affiliated with a college or university. "I think I was picked," sug­gested Dean Shapiro, "because I am Dean of one of the few law schools that is non­affiliated but has all the accreditations."

Dean Shapiro has also been asked by the New Jersey Board of Higher Educa­tion to serve on their Executive Committee of the Commission to Study the Mission, Financing, and Governance of the County Colleges. In addition, he has been asked to act as Chairman of the Commission's Task Force on Finance.

Dean Shapiro told EQUITAS that he has "been involved in similar educational evaluations for the ABA and the AALS (American Association of Law Schools)."

In dealing with these tasks, he remarked that, "My basic philosophy is to see that whatever is done, is done with quality. I feel there is an equality of labor - a lawyer should be a good lawyer, and a plumber should be a good plumber."

"I think," he continued, "in our so­ciety, too often, we tend to stratify labor."

Regional Client Counseling at NYLS

The annual LSD/ABA Regional Client Counseling Competition was held at NYLS this spring. The Client Counseling Compe­tition is a unique event, one of the few times during law school that students are ex­posed to the lawyer-client relationship and given some practical experience hand­ling a client who walks into the office.

Eight New York law schools com­peted in the Regionals each represented by a team of two. Mary Di Cicco and Shelly Keltz represented NYLS with Judith Waldman as team alternate. There were four teams competing on each panel. Each team met with a pair of clients for a half hour interview-counseling session, fol­lowed by a 15 minute wrap up between the student lawyers after the clients left. The teams were judged on the basis of how well they handled their clients in terms of elicit­ting information, handling surprise situa­tions, ethical considerations, and generally advising them on what their options were, given their particular set of problems. The winning teams in the morning rounds com­peted in the afternoon finals. Hofstra, the winning team, went on to the National Competition.

The competition judges were Bernard R. Selkow, a single practitioner with a matrimonial practice, Elaine Rudnick Selkow, a partner in the firm of Kronish, Lieb, Shays & Hart, matrimonial practitioners, and Rosina Abramson, Counsel to Carol Bellamy and wife of NYLS Professor Jeffrey Glen. Clients were handled by Debbie Medina, Phyllis Harbus, Elaine Rudnick Selkow, Ernst F. Marmorek, NYLS '67, Associate with the firm of Wallman & Kramer, a prominent member of the mat­rimonial bar, Iona Shays, a partner in the firm of Rosenthal & Shays, matrimonial attorneys, Harvey Lippman, senior as­sociate with the firm of Kohnst, Lieb, Shainwilt, Weiner & Hellman, general practitioners, and Rosina Abramson, counsel to Carol Bellamy and wife of NYLS Professor Jeffrey Glen. Clients were handled by Debbie Medina, Phyllis Harbus, Judy Goldenberg and several acting stu­dents. Rae Baskin was Team Coach.

This is a wrong thing to do. All labor has dignity."

In particular, he remarked that he especially deplores "ripping off the stu­dents’ time and money. What I call ‘hold­ing’, just having them in an institution for two or four years and giving them nothing. Like saying you’re in favor of open admis­sions, but doing nothing about giving them a quality education."

Student Wins Award

Second-year student Ariita Dichter sub­mitted a research paper on animal rights in a writing competition for the Boston Col­lege Environmental Law Review. The paper won its author $100.00 and an addi­tional $300.00 was donated to the Animal Fund on her behalf.
The framers of our constitutional form of government undertook to create a government predicated upon a dual and, often, contradictory balance between the safety of the State, on the one hand, and the security of the individual citizen on the other.

U.S. history may be indexed by citing differing instances of conflict between State "safety" and individual security, dating as far back as the American Revolution through the Civil Rights Movement of the 1960's and the abuse of government powers of the 70's.

In each case, when an apparent polarization became evident, a responsible Congress, possessing perfectly laudable legislative intents, initiated what it perceived to be corrective remedial measures. New laws were established by men and women of good conscience, and yesterday's conflicts miraculously disappeared. Or did they?

Was it not the intention and philosophy of the 14th Amendment to the Constitution to remove, over one-hundred years ago, all illegal deprivations of civil rights from minorities in this nation? Was it not the intention and philosophy of the Social Security Act to guarantee a secured and dignified retirement to the U.S. worker?

And, in more recent history, was it not the intention of the Privacy Act to protect informational privacy and to ensure to each individual a measure of control over the dissemination of information directly affecting his life? And, was it not the intention of the Freedom of Information Act to ensure the development of an informed public by mandating that government shall always remain accountable to the people?

Of these latter two, the Freedom of Information Act and the Privacy Act, I can speak with some authority, having served as Vice-President and Chairman of the Domestic Council Committee on the Right of Privacy. I took that task seriously.

Among the first things we learned was that, just eight years following the passage of the Freedom of Information Act, the Federal Government, itself, was one of the worst invaders of individual's right to privacy.

Our Commission recommended passage of a privacy act, which I was later privileged to sign into law in September, 1974.

Unfortunately, for varying reasons, economic, political and others, too often laudable legislative enactments have suffered perfectly horrible consequences. It is not a source of pleasure for me to report to you at this time, that I have concluded such adverse consequences have befallen the Freedom of Information Act and the Privacy Act.

Prior to the enactment of the Privacy Act in 1975, individuals could gain access to government files via the Freedom of Information Act, provided the records sought did not fall within one of the Information Act's exemptions. These exemptions were broadly drafted and reposed the agencies with wide discretionary powers.

First, an agency could refuse to release information deemed to be part of the "internal deliberative processes of government." Second, an agency could refuse to release any information, the disclosure of which the agency believed would constitute a "clearly unwarranted invasion of personal privacy."

This provision led to the nonsensical result of agencies refusing to disclose personnel and medical files to an individual employed or formerly employed by the agency on the tenuous grounds that disclosure to the individual would constitute a clearly unwarranted invasion of the very same individual's right to privacy.

Third, the disclosure exemptions of the Freedom of Information Act were entirely permissive, allowing agencies the option to release the data sought by simply ignoring the statute's non-mandatory exemptions.

The operable words within the Act granting this discretionary power to the agencies are, "An agency could refuse to release the information." and the statutory exemption required a finding of a, "clearly unwarranted invasion of personal privacy."

A "clearly unwarranted invasion of personal privacy is, I suppose, something like "gross negligence." Back at Yale, we were taught that all human acts were either intentional or negligent. No doctrine of "gross intentional acts" exists, similarly "gross negligence" was considered an academic misnomer.

Conversely, a mere unwarranted invasion of personal privacy seems to me to be of equal constitutional invalidity as a "clearly" unwarranted invasion. The subjective presence (or absence) of the adjective, clearly, cannot form the basis for the deprivation of a right to privacy.

One of the greatest weaknesses of the Freedom of Information Act was that it failed to provide an adequate incentive to government agencies to argue for the private interest. The Act's other exemptions, generally help the agency.

For example, the exemption against disclosure protecting agency memorandum containing discussion of policy matters yet to be decided, is likely to be of great comfort to government agencies. But in the case of discretionary privacy exemptions, agencies lack any personal selfish reason to deny disclosure.

The real-party-at-interest, the individual about whom the disclosures were being made, has no statutory standing to challenge these agency decisions affecting his personal privacy. And even if standing was available, Federal courts, as you know, are required to give great deference to agency rulings...in this case whether an unwarranted invasion of personal privacy was (or was not) "clearly" unwarranted.

The Privacy Act of 1975 was intended to remedy these, and other problems inherent in the Freedom of Information Act. The Privacy Act, as originally drafted, imposed cost, attorney fees and damages, upon an agency if it released files exempted under the Freedom of Information Act.

Unlike the Freedom of Information Act's non-mandatory privacy exemptions, the Privacy Act, as originally drafted, prohibited governmental disclosure of any kind of retrievable information about an individual without first obtaining prior consent.

The Privacy Act was calculated to remove agency discretion to deny disclosure of data that only the agency deemed to be a "clearly unwarranted invasion of personal property." So far, so good; but for varying reasons, laudable legislative enactments suffer perfectly horrible consequences.

The original House of Representatives version of the Privacy Act contained no reference to the Freedom of Information Act.

The Committee Report on the bill indicates that this silence on the Information Act was deliberately intended to alter the Information Act's privacy exemption, by the elimination of the "clearly unwarranted" standard and by replacing it with complete protection for any kind of retrievable information about an individual without first obtaining prior consent.

The Privacy Act was calculated to remove agency discretion to deny disclosure of data that only the agency deemed to be a "clearly unwarranted invasion of personal property." So far, so good; but for varying reasons, laudable legislative enactments suffer perfectly horrible consequences.

The original House of Representatives version of the Privacy Act contained no reference to the Freedom of Information Act.

The Committee Report on the bill indicates that this silence on the Information Act was deliberately intended to alter the Information Act's privacy exemption, by the elimination of the "clearly unwarranted" standard and by replacing it with complete protection for any kind of retrievable information about an individual without first obtaining prior consent.

The Privacy Act was calculated to remove agency discretion to deny disclosure of data that only the agency deemed to be a "clearly unwarranted invasion of personal property." So far, so good; but for varying reasons, laudable legislative enactments suffer perfectly horrible consequences.

The original House of Representatives version of the Privacy Act contained no reference to the Freedom of Information Act.

The Committee Report on the bill indicates that this silence on the Information Act was deliberately intended to alter the Information Act's privacy exemption, by the elimination of the "clearly unwarranted" standard and by replacing it with complete protection for any kind of retrievable information about an individual without first obtaining prior consent.

The Privacy Act was calculated to remove agency discretion to deny disclosure of data that only the agency deemed to be a "clearly unwarranted invasion of personal property." So far, so good; but for varying reasons, laudable legislative enactments suffer perfectly horrible consequences.

The original House of Representatives version of the Privacy Act contained no reference to the Freedom of Information Act.
Commission, a far greater number of personal governmental files would have been protected from disclosure. However, Privacy Act exemptions were legislated to be subservient to Freedom of Information Act disclosures.

The “clearly unwarranted invasion of personal privacy” standard continued, with the added force of its statutory position of primacy over individual claims of invasion.

Congress chose to subordinate the Privacy Act to the Freedom of Information Act whenever it perceived a potential conflict between the two. Congress may have assumed that the Information Act struck the appropriate balance between personal privacy and the public’s right to know.

A review of recent history since the passage of the two acts reveals that the supremacy posture of the Freedom of Information Act, as presently interpreted, cannot and does not protect individual privacy.

Fundamental privacy problems are inherent in exposing the Freedom of Information Act as the guardian of privacy. Among others, they are:

- The Freedom of Information Act is a disclosure statute...disclosure is never prohibited. Neither the Freedom of Information Act nor the Privacy Act requires an agency to notify parties that information about him has been requested under Freedom of Information.

- Courts interpreting the Freedom of Information Act exemptions have almost completely ignored privacy interests. The Act places the responsibility of protecting individual privacy in the wrong hands — with the government agency rather than the individual.

- Governmental information collection procedures, contemplated to be massively reduced after the passage of the Privacy Act, have remained constant and/or have increased during the past four years. The Privacy Act required that agencies collect information, “to the greatest extent practicable,” directly from the subject individual and further required agencies to give to each subject individual a “Privacy Act statement.”

These written statements would serve to apprise the individuals of (a) their right to request corrections to any portions of the collected data; (b) the agency’s presently intended use of the collected data; and (c) of the agency’s decision to adopt (or refuse) the individual’s requested corrections.

Certain federal agencies have interpreted the requirement to submit Privacy Act statements to be inapplicable when collecting information from third parties, rather than from the subject individual. Consequently the bureaucracist has succeeded in reducing his own level of paperwork at the expense of Congressional intent, of the Privacy Commission’s intent and has consciously compromised qualitative information gathering technique.

- Agency handling of personal information.

Neither the Privacy Act nor the amended Freedom of Information Act has induced agencies to purge their record systems to any great extent. Although the Privacy Act offered incentives to agencies to reduce the vast amounts of personal data, hearsay and just plain gossip contained within government files, the natural bureaucratic instinct to retain information has apparently won the day.

- Some agencies have gone so far as to reorganize their files in an effort to subvert or avoid Privacy Act requirements. It has been reported that certain agencies no longer file sensitive information in “record systems” which are identifiable by individual’s names or social security numbers.

- Record systems, which are not so identifiable, are not covered by the Privacy Act. Congress allowed the Privacy Act to be publicly turned on and off, like a light switch, by the agency’s selection of internal filing systems. This “loophole” in the law, large enough to drive a Michigan fullback through, has not gone unnoticed by the American bureaucrat.

- Another device used by agencies to avoid Privacy Act requirements is the creation of temporary or informal files. Certain materials that had normally been placed in permanent files are now maintained “informally” and/or “temporarily” in an effort to avoid the creation of files subject to Privacy Act regulations. Commentators report that, for example, the Department of Justice no longer maintains permanent files for attorney job applicants.

Instead, resumes and related correspondence are processed in an informal manner, shuffled from desk to desk and then destroyed when no longer needed.

- The Freedom of Information Act is only applicable to the Executive Branch of government. Congress excluded itself and its governmental arms...such as the General Accounting Office (GAO).

Industrially clever bureaucrats did not fail to note that disclosure could be avoided by the establishment of “data havens” for agency information in a filing system maintained within the Legislative Branch. In his treatise at Volume 18 of the John Marshall Journal of Procedure and Practice, titled, “Agency Implementation of the Privacy Act and the Freedom of Information Act” at page 490, Professor Belair noted: “...It is reported that HEW personnel no longer accept possession of copies of General Accounting Office audits, but instead travel to the Offices of General Accounting Office (an arm of the Congress not covered by the Acts) to look at information. HEW normally would have maintained in house.

- The vast majority of Freedom of Information Act requests and Privacy Act litigation has involved government employees, who are familiar with the governmental structure. After all, how many individuals, outside of the government and industry, routinely peruse the three thousand two hundred pages of small print appearing annually in the Federal Register advising of each agency’s filing system designations?

The Acts have produced a new breed of capitalist for our society, one affectionately referred to as an “information entrepreneur.” A highly advertised company named Freedom of Information Services, Inc., will, for the small charge of $15.00, file an access request and follow-up request with a dozen federal agencies.

Agency assistance upon form, rather than the substance of a request, has promoted restrictive use of the Acts to only government employees and the informed, non-indigent citizenry. Such minimal usage was, of course, neither contemplated nor intended by the Congress.

According to published figures, when I left office in January 1977, the Executive Branch of the Federal Government maintained four billion, eight hundred million dollars on individual citizens of the United States. These files were scattered among numerous Federal agencies at a tremendous monetary cost to the Federal Government. Compliance requirements for the two Acts alone were estimated by OMB, for 1977-78, to be between one hundred to three hundred million dollars.

Yet, notwithstanding that large outlay of government revenues to administer two Acts of Congress, involving the disclosure and retention of a staggering number of government files, the tax paying citizen remains justifiably uncertain as to whether his informational request to government will be satisfied.

The only real certainty surrounding the Freedom of Information Act and the Privacy Act is a guarantee of uncertainty of compliance from one agency to another. Each Federal agency establishes and maintains a unique and different internal filing system. Each designates which of its documents will be retained in a centralized retrievable Information System and which will be segregated among diverse non-disclosable files.

No conformity of compliance results. Too often the answer to the question, “Will I successfully gain access to information contained in government files?” is dependent upon which Federal agency houses the information.

Unless and until, the citizens of this nation feel secure that an administrative consistency is practiced among all levels of the Federal Government, the spirit and philosophy of the Privacy Act and the Freedom of Information Act will remain hopelessly eroded.

An updated review by Congress of the two statutes, their interrelationship and the judicial and administrative decisions thereunder seems most appropriate. The sponsors of both legislative proposals had admirable motives but oftentimes even the best of intentions create more problems than they solve. Admittedly, Congress today is bogged down with major national problems such as energy, tax policy, budget matters, national defense and foreign policy.

Nevertheless, Congress having created the serious conflicts between the right of privacy and the right to information, Congress now has the responsibility to find better answers and the sooner the better.
Academic Status: What To Do If The Mailgram Comes

by Scott Batterman

It begins with a mailgram from the school: "Dear (Student)"

"It is my unpleasant duty to inform you that your average for the fall 1977 semester was below the 2.0 required for you to be retained at New York Law School."

The Academic Status Committee will meet to decide your case on Monday March 29, 1978. If you feel you have truly extraordinary circumstances that should be brought to the attention of the Committee you may submit a statement to the Registrar's office on Monday March 20, 1978 and make an appointment to make a 5 minute presentation to the committee...

Of course, if you are getting this particular mailgram, it probably isn't a complete surprise; you have to have been on academic probation before the mailgram — sometimes the past, and were probably aware of another poor performance in your last semester.

"No Idea What They're Looking For"

Still, it would not be unusual to experience what one student who went through the process described as "shock...just numb frustration." What might be even worse, though, is the realization that you know nothing of the procedures, expectations, or requirements of the Academic Status Committee. As the one student put it, "I had no idea what they were looking for. I didn't know if I could have someone go in with me, whether they wanted letters from a doctor showing you were sick, whether they wanted affidavits from employers or such. You didn't know what evidence they were looking for, and what they would accept on good faith from your testimony. You didn't know if the decision would be reviewed by anyone. You didn't know if they wanted a full statement, explaining your deficiencies, or just a note stating that you wished to have an opportunity to speak with the Committee. You didn't know if two students will be handled differently, due to affidavits or physical appearance — a suit and tie or blue jeans — to explanations.

When asked whether there was anyone available to answer these questions, the student said he could not find anyone. As another student put it, "I got no help from anybody in officialdom. All you get is what is in the mailgram.

In order to provide answers to these questions, EQUITAS interviewed several members of the Academic Status Committee. The process begins, as Dean Marshall Lippman informed us, the first time a student's average falls below the 2.0 requirement. At this time he/she is placed on warning. Lippman informed us that "it's called something different (from probation) to protect the student's right to financial aid.

"Both Averages Important"

The second time a student has problems, he receives the mailgram reproduced above, "which is an invitation to a hearing," according to Dean Lippman. This notice is sent out whether the student goes under a 2.0 cumulative for the semester or cumulatively, over their entire tenure at NYLS. "This may be very harsh," Lippman suggested. "If we consider the most absurd case, that of a student who gets straight A's his first semester...then has trouble the next semester, he would receive a letter of warning. Now suppose he continues to do well, and has around a B average. If he should have trouble again, in any semester, he could be dropped from the school according to the rules, even though his curm is well above 2.0. Of course this is an absurd case, but possible." The Chairwoman of the Committee, Dean Margaret S. Bearn, defended the rule, saying, "Both averages are important, cumulative and semester. Theoretically, if a student gets all A's in one semester, they would not have to come to classes the next semester.

At the hearing, according to Lippman, "the Committee looks at the entire record first. If they see the student has a reasonably good record and has just had a dip in his grades this semester, they normally assume there has been a problem that semester. They look at the LSAT to see what the student's potential was when he was admitted. They look at what college he came from, any letters from the faculty, medical excuses or any other explanation. The student is given a full opportunity to explain."

As Prof. James Brooks, a faculty member on the Committee stated it, "The Committee is open to any reason to think that what has happened to the student does not reflect his actual abilities...What is happening is that the student has not met the criteria set by the school, and is being allowed to come in and be viewed as an individual. Other schools just drop them. I think it is rare indeed, deciding as we do."

Extraordinary Circumstances

He continued, "What we're interested in is, were there any extraordinary circumstances we should be aware of?" He cited the case where a student gets all C's and one F, due to one "torturous experience the night before the exam. This shouldn't control (the student's future). What it often involves is an illness in the family, a problem which continued over the whole year. If something is happening, perhaps they should start thinking about taking off the whole semester. They'll be held responsible for the decision they made to take exams, knowing they were in a position not to do good work."

When asked whether such matters as death or appearance had any effect on the Committee, Brooks said "I'm sure we'll get affected by it. I think we're going to be influenced," although Prof. Joseph Koffler, a long-time member of the Committee disagreed. He stated, "We all are in a school environment, and expect people to be and act as they do in the school. The student is respected as a student."

When questioned as to the procedure involved in making its determinations, Dean Lippman admitted they were "kind of ad hoc. The Committee deliberates after each individual case, and makes a tentative determination."

After all the hearings are completed, they then "look at all the decisions in an attempt to harmonize." This procedure was put forward as working to a student's advantage, most commonly in the case where two students had very similar academic records, but one had made a very good explanation. In this instance, Lippman suggested, "The Committee might reconsider the case of the other student."

When asked whether the Committee had any basic overriding philosophy, Lippman said, "The view of the

EQUITAS Wins Award

(Continued from page 1)

for criticism for too many "poised" shots and too many photos of large groups of people.

Administration Hails Award

Members of the NYLS administration were generous in their praise of EQUITAS upon learning of the Columbia award.

Dean E. Donald Shapiro called the award "a well-merited recognition" and praised EQUITAS as "a well-balanced and responsible newspaper."

Assistant Dean Arnold Graham said the Columbia award was a "signal honor and we are all proud."

The NYLS Alumni Association cordially invites

The Class of 1978
to the annual Bar Exam Blast!

Thursday, July 27 6:00-8:00 p.m.
Room 401 — 57 Worth Street
RSVP Lucille Hillman at (212) 966-4500 ext. 735

MINI-MARATHON BEING ORGANIZED by Kenneth Small NYLS joggers start training! The running craze has hit NYLS as the administration, based on an idea of Gill Holland, is in the process of organizing a mini-marathon.

Plans to date call for the race to be held in late September or early October of this year. It will be 10 kilometers long (6.2 miles) and will be open to all area law school students and faculty. Trophies will be awarded to the winners of the various categories and, after the race, food and drinks will be available to all contesters.

Further information will be forthcoming in the next EQUITAS.

EQUITAS

New York Law School


JONAH TIREBWASSER
Editor-in-Chief

SCOTT BATTERMAN
News Editor

DENNIS STUKENBROEKER
Feature Editor

LEONARD ROSS
Production Editor

JERRY WEISS
Advertising Manager

PETER SCHOECHL
Business Manager

LINDA RAWSON and CECILIA BLAU
Copy Editors

DENNIS GAGNON
Photography Editor

REPORTERS: Tony Belkowski, John Durst, Ronny Green, Sam Himmelstein, Bill O'Brien, Gary Reiner, Marie Richardson, Kenneth Small, Betty Walrond, Susan Werther, Richard Zemek.

EQUITAS is printed monthly during the school year 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 EQUITAS strives to have a policy of responsible advertising, we do not vet for the accuracy of our advertisers.

Letters and other correspondence should be addressed to: The Editor, EQUITAS, 57 Worth Street, New York, N.Y. 10013. Telephone: (212) 966-5030, ext. 747 or 546. EQUITAS reserves the right to edit letters to the editor for space requirements.

Entire contents © 1978 by EQUITAS. All rights of reproduction reserved. For reprint permission, write to the editor of the above address.
To the Editor:

Your April issue contained the Gold Report II, with Mr. Leonard Ross's commentary. I think Mr. Ross — and if he, then doubtless others — misunderstood two things.

First, Dr. Gold's reports are designed to stimulate thought among all parts of the Law School community — everyone who must teach, learn, study in the place. Dr. Gold, and the Trustees who retained his services, hoped for thoughtful comment — criticism in the broad sense — in the belief that the building which emerged from such a process would meet many more needs, as well as present the School to the outside world in the quality way it merits. In brief, the Gold Reports, which we think are thoughtful documents, are intended to stimulate further thought, not be considered as the last word.

Only when that is done, and the vital step taken of preparing resultant specifications of what we want, in terms of the site to be used, can we go on to architects, or to stimulate thought among all parts of the Law School community — everyone who must teach, learn, study in the place. Dr. Gold, and the Trustees who retained his services, hoped for thoughtful comment - criticism in the broad sense - in the belief that the building which emerged from such a process would meet many more needs, as well as present the School to the outside world in the quality way it merits. In brief, the Gold Reports, which we think are thoughtful documents, are intended to stimulate further thought, not be considered as the last word.

As to the Administration's making

The Shame of New York Law School

It is that Dean Marshall Lippman, Professors Nancy Erickson and Richard Harbus have been denied tenure by the Board of Trustees after recommendation for tenure by their professional colleagues, the Faculty's Rank and Tenure Committee.

Dean Lippman, besides being, in our opinion, an excellent teacher, is one of the few members of the NYLS administration who does not hide from students behind a barricade of secretaries. A student with a problem in need of administrative mending does not have to fill out a request form and wait days for an appointment to see Marshall Lippman. He has an open door policy. He treats students as his professional equals and not as mere tuition-paying commodities.

Dean Lippman was responsible for the Wagner Labor Moot Court, which gained national prominence for NYLS in every way.

Professors Harbus and Erickson share many of the same qualities as Dean Lippman. All are considered outstanding teachers by the student body. EQUITAS was told that their faculty evaluations were consistently at the top ratings and that their courses were frequently oversubscribed to at registration.

What does that action of the Board of Trustees mean to NYLS students, faculty and alumni?

Are the Trustees telling the student body that our opinion of a teacher's competence and classroom performance is of no consequence?

Are the Trustees telling the faculty that the recommendations of the Rank and Tenure Committee and the opinions of academic colleagues are not to be trusted?

Are the Trustees also telling the faculty that superior classroom performance and maintenance of a friendly relationship with the student body is the surest way to the unemployable line?

Are the Trustees telling the alumni of this school that one of your brightest and best classmates (Marshall Lippman, class of 73) is not fit to teach in your alma mater?

For answers to these questions you might consider writing a letter to the NYLS Board of Trustees in care of its chairman:

Vice-President
New York, NY 10003

If you want to express your feelings about these three fine teachers, a letter to Dr. Thornton is not to much to ask. All we ask is that you send us a copy of your letter.

The Examination Period...

...just past was, as usual, a fiasco.

The examination schedule was published at the eleventh hour; the "secret" examination numbers, in many cases, bore a striking resemblance to those of last semester; students were forced to take two, three or more examinations back to back; exams were held during President Ford's speech, preventing many students from attending; open book exams were given in rooms that could only accommodate the tiny desk/chair combinations that were wholly insufficient for books and impossible to use for left-handed students.

The students who had it the worst, however, were those who had a conflict of two examinations at the same time. After taking the first examination, the student was led to a detention room, subjected to an absolute silence, and was followed everywhere by teracious proctors.

EQUITAS again throws down the gauntlet at the feet of the administration. When will this year's examination schedule be published? When will the school adopt a humane conflict rule? When will the school realize that students resent being treated like children, or worse, like second-class citizens?

We have said it before, but it bears repeating. ..miserable students do not make... 

Et tu New York Times?

President Ford's recent visit to New York Law School brought with it a great deal of favorable publicity. Unfortunately, the favorable publicity all went to the New York University School of Law.

The New York Times, and the Staten Island Advance (and any other papers across the nation that used the Associated Press photo wire) all had Ford speaking at NYU. Only the Daily News and Newsday got the facts straight.

Isn't it time we put a stop to this mix-up? Isn't it time we thought seriously about changing the name of the school?

Dean Donald Shaprio has predicted that ground will be broken for our new law center within a year. Perhaps that would be a fitting time to adopt a new name.

EQUITAS will start the ball rolling by suggesting two names: The John M. Harlan School of Law (for the late Supreme Court Justice and NYLS alumus) or the Woodrow Wilson School of Law (for the former President and NYLS professor). "Harvard-on-the-Hudson" sounds nice too!

We would like to hear from our readers on this. Should we change the name of the school? If yes, what name do you propose?

Or should we convince NYU to change the name of its law school?

Whatever we do, please let's do something! This ridiculous situation can not be tolerated much longer.
Attorney General Griffin Bell's appearance draws Wilmington 10 protest

(Continued from page 1)

Prizes were then awarded. The first, the Walter M. Jeffords Distinguished Writing Award, went to student Bar Association advisor Howard Scherberg; the second, to Elsberg Prize for proficiency in the Law of Contracts to Seth Friedland and Lindsay Rosenberg, the outgoing SBA President; the Phi Delta Phi Award to Linda Freilich for services to Law School Community life; and the Phi Alpha Delta Award for Service to NYLS to Lindsay Rosenberg and Helena Yuhai.

Honorary Degrees Conferred

The Honorary Degrees of Doctor of Law were then awarded, first to Rabbi Emanuel Rackman, President of Israel's Bar-Ilan University and former Adjunct Professor of Jewish Law at NYLS, the first professor to teach such a course at a non-sectarian law school. Rabbi Rackman has served as Provost of Yeshiva University and President of the Rabbinical Council of America also gave the Benediction at the close of the ceremonies.

Upon receiving his honorary degree, Judge Koets, made a few short remarks. He recalled how Dean Shapiro and he had "walked on many picket lines together, fighting for civil rights," and he also thanked the Attorney General for his role in gaining him the nomination to the U.S. Court of Appeals for the Sixth Circuit. He noted humorously, "A man continued to press me to accept the job ... I would like to say he is working the West, and I am working the East. I come to praise lawyers."

He also mentioned the controversy surrounding Chief Justice Burger's remarks on lawyer incompetence, and that "lawyers had fallen behind the journalists in public esteem - just ahead of undertakers and United States Senators." He concluded by reminding the graduates that as lawyers, their duties should not merely be representing clients, but that they should try to be "Ministers of Justice."

Then, those present of the 386 members of the graduating Class of 1978 stepped forward to receive their diplomas. The ceremonies ended on a somber note, as a degree was awarded posthumously to Nelson Pedraza, who died in February, one semester short of graduation.

EQUITAS

Bell's Appearance Draws Wilmington 10 Protest

A small group of protesters picket outside Lincoln Center during graduation.

Attorney General Speaks at Commencement

(Continued from page 15)

The late Nelson Pedraza

speech. He noted the importance of education, and of Law Schools in particular, in training the future leaders of this nation. He also mentioned being upset about "one of my friends who made a speech in the West... I would like to say he is working the West, and I am working the East. I come to praise lawyers."

He also mentioned the controversy surrounding Chief Justice Burger's remarks on lawyer incompetence, and that "lawyers had fallen behind the journalists in public esteem — just ahead of undertakers and United States Senators." He concluded by reminding the graduates that as lawyers, their duties should not merely be representing clients, but that they should try to be "Ministers of Justice."

Then, those present of the 386 members of the graduating Class of 1978 stepped forward to receive their diplomas. The ceremonies ended on a somber note, as a degree was awarded posthumously to Nelson Pedraza, who died in February, one semester short of graduation.

by Scott Batterman

Attorney General Griffin Bell's appearance as Commencement Speaker at New York Law School's graduation ceremony touched off protest activities by the New York chapter of the National Alliance Against Racist and Political Repression, and by a small number of NYLS students.

These protest activities were carried out on behalf of the Wilmington 10, a group of civil rights workers who were arrested and jailed in North Carolina following what the National Alliance describes as a four day siege of a church by the Ku Klux Klan and another group called Rights of White People. During this period one black teenager was killed and 70 people were wounded. In the aftermath, Reverend Benjamin Chavis of the United Church of Christ, eight black high school students and a white housewife were charged with arson and conspiracy, tried, and sentenced to a combined total of 282 years, later reduced to 230 years by Governor Hunt.

NYLS was signed and boycotted by 200 students and faculty, calling for Federal intervention in the case, specifically, the filing of an amicus curiae brief by the Attorney General of the United States supporting habeas corpus petition in the United States District Court in Raleigh, North Carolina.

A small number of faculty members attended the press conference held just prior to the commencement exercises, called by the New York Alliance against Racist and Political Repression, and hosted by the United Church of Christ, Claudia Lottis, NY Alliance Co-Chairperson.

Iris Darvin, a graduating student of NYLS then read a statement, declaring: "When Griffin Bell was selected to be the speaker at our commencement exercises... we felt it incumbent upon us to draw both political and professional attention to the issues involved here," and reiterating the request made in the petition circulated at the school.

The next speaker, New York City Councilwoman Ruth Messinger, said: "The Wilmington 10 are in jail because they organized for equal education in North Carolina. They put themselves on the line for equal rights, and ended up United States political prisoners." She stated they were "victims of Jim Crow justice in the state of North Carolina, and Jim Carter justice in the United States," and that "it is only the ugliest of manipulations and the determined inaction of the United States Government that keeps them in jail." She charged that by interceding, the U.S. Government would "expose judicial corruption in North Carolina, by men who now hold high positions."

Lenos Hind, National Director of the National Conference of Black Lawyers and Vice-Chairperson of the National Alliance Against Racist and Political Repression was very critical of the Press, calling them part of a "conspiracy" which has "reached not only from the highest levels of government, but also from the Press." He stated that the Wilmington 10 case was a "most flagrant violation of human rights, but very few Press are here. If in the Soviet Union one person had chained themselves to a building in protest, it would be front page news all over the country."

He also criticized various government officials, saying that what was involved was a case of "clear official lawlessness and abuse of justice, which Governor Hunt (of North Carolina) felt obliged to uphold." Hind's announcement that a petition would be filed with the United Nations, concerning what he termed "the flagrant violation of human rights in this country, as evidenced by the Wilmington 10" and other cases. He stated that, "Any time Carter, (U.S. Ambassador to the U.N.) Andy Young, (Secretary of State) Vance or (National Security Advisor) Kissinger raise questions of human rights abroad, they will be faced with this petition."

The protest which followed the news conference took place across the street from Avery Fisher Hall, and eventually grew to include what appeared to be just over 100 people. The protesters, both young students and senior citizens, marched around a triangular traffic island, carrying signs demanding Federal intervention. With the
Profs Denied Tenure by Board of Trustees

(Continued from page 1)

The procedure at NYLS is as follows. Those professors hired after July 1, 1970 were given five years to achieve the required standards of tenure (Professors hired after September 1, 1976 have seven years). Effectively, these professors are given four years, as they are considered at the end of their fourth year. This is the case with Dean Lippman and Prof. Harbus, who are both completing their fourth year. Professor Erickson is completing her third year before taking a leave of absence as one of ten candidates for Yale's L.L.M. degree. At the end of the fourth year, or in unusual cases such as Professor Erickson's, the faculty Tenure Committee votes upon whether or not to recommend tenure for eligible professors.

According to the "Principles," a decision whether or not to grant tenure or discontinue the services of a faculty member is "ordinarily made by specific act of the Board of Trustees upon recommendation of the Dean, which is in accord with the decision of the Tenure Committee of the Faculty." The current members of the Tenure Committee are Professors Joel Lee (Chairman), Milton Silverman, Joseph Koffler, Andrew Simak, Dean Shapiro, Prof. Cyril Means and Kim Lang. Dean Shapiro has one vote.

The Dean appears at the meeting of the Board of Trustees to give the faculty recommendations. Each member of the Tenure Committee is invited to submit any and all written opinions to each of the Trustees before the final decision is made. Dr. John Thornton, Chairman of the Board of Trustees, has stated that the Board looks for indicia of overall performance, with particular emphasis on exceptional scholarship and teaching. Also important are outstanding contributions to both NYLS and the community, and satisfactory evidence of growth in professional competence.

If a professor is denied tenure, NYLS, in accordance with the guidelines of the American Association of University Professors, offers him or her a one year terminal contract. During this final year professors can be reconsidered both by the faculty Committee and by the Board of Trustees. Dean Shapiro stated that the denial of tenure is normally a final decision, "but it doesn't have to be.

Dr. Thornton believes that the primary objective of the Board of Trustees is to raise the stature of NYLS. "We have come a long way toward achieving the image and reality of a top law school, as evidenced by the prestige of our commencement speakers," he said recently. He amplified the standards of the "Principles" by stating that the tenured faculty should consist of scholars with outstanding credentials or outstanding reputation in government service or practice.

Tenure is Extraordinary

Tenure is an extraordinary situation, since it is a guarantee of employment until the age of sixty-five with removal only for cause. Therefore, standards for this extraordinary status must be the highest. Tenure decisions determine an institution's course not just for the present, but on into the next generation, for the next twenty to thirty years. The Board's decision, for better or for worse, has a widespread impact on all who have attended NYLS, are attending, or will attend at some point in the future. The Board is looking for the same caliber of teachers found at top law schools across the country. Tenured faculty at the leading schools are not just competent teachers, but the great bulk are competent scholars as well. In the last analysis it is up to the Board to set the overall direction of the school and they are committed to the concept of excellence for NYLS. Therefore, they must subject their decisions to a rigorous and thorough process in order to implement their vision of the school.

Both Shapiro and Thornton stated emphatically that the denial of tenure is not in any way a reflection upon the professors themselves. If some candidates do not measure up to the strict standards of a Board which is seeking excellence, this does not mean that they are in any sense

(Continued on page 10)
Awards dinner at Sebastion's Restaurant in Soho at the end of last semester. The follow-

Award Committee Chairman, Don Wilson and Professor Franklyn Seicaro

Kleiner is Prof of the Year

Awards presented Harry Katrichis with the Franklin C. Setaro School Spirit and Ser-

Kleiner has held many offices with the different student organizations at NYLS, as well as taking an active role on the Administrative Committees.

Kleiner was a President of Phi Delta Phi and was active in student govern-

Linda Frielich was awarded "Inn Member of the Year" by Magister Report. Linda

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

during much of the 60's and has held various offices, including the Office of Treasurer.

by Don Wilson

Dwight Inn, Phi Delta Phi International Legal Fraternity held its annual awards dinner at Sebastion's Restaurant in Soho at the end of last semester. The following members were installed as officers for the 1978-79 school year: Gary Reiner, Clerk; and Don Wilson, Historian.

Magister Jerry Weiss, Vice Magister; Lenny Ross, Exchequer; Scott Batten,

Magister Jerry Weiss, Vice Magister; Lenny Ross, Exchequer; Scott Batten,

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!

by Dennis Stukenbrocker

Those of you who belong to the American Bar Association/Law Student Division

Pay till it Hertz!
J. Bruce Llewellyn, NYLS class of ’60, addressed the graduating class of Wagner College at commencement last month at the Grymes Hill, Staten Island campus.

by Judith Waldman

Harold Skovronsky, class of ’74, recently succeeded in obtaining a landmark decision for his client from the New York Court of Appeals relating to union retirement pensions.

The decision in Mitzner v. Jarcho affirmed an Appellate Division 2d Department ruling in favor of Max Mitzner, a plumber since 1922 and a union member since 1939, who was denied a pension by the trustees.

They retroactively applied an amendment which stripped Mitzner of credit for 21 years of service because of a one year break when he did not work as a plumber.

The decision marked the end of a seemingly endless struggle for both Skovronsky and his client, who had been rejected by countless lawyers who called his case hopeless.

Finally, both Dr. Thornton and Dean Shapiro stressed that they are doing what they feel is best for the school community, but “We are not infallible.”

Prof. Albert Kalter, class of ’61, recently presented a series of three lectures at the University of Miami Law School Graduate Program on Estate Planning.

Peter Brickfield, class of ’69, Assistant Director, Federal/Trade Commission, recently chaired a cocktail party for Washington D.C. area alumni at the Bay-Adams Hotel, Washington D.C. held in conjunction with the Law of Mass Communications Workshop.

Jay Benenson, class of ’58, chaired a reception for New Jersey Alumni last month at Great Gorge Hotel. The reception was held in conjunction with the New Jersey State Bar Annual Meeting.

Joseph Solomon, class of 27 and senior partner of the firm of Lehman, Rorhlich & Solomon, has been named the recipient of a 1978 Horatio Alger Award.

Reared in a coldwater tenement in East Harlem, Solomon was forced to interrupt his formal education while in elementary school because of insufficient family income. More than a half century later he became one of the few persons in the history of the U.S. to have two law professorships endowed in his name. The NYLS Joseph Solomon Professorship of Law is named in his honor. NYLS also awards Joseph Solomon Scholarships to applicants with superior qualifications for the NYLS-Bologna Summer Program. Recipients of these tuition scholarships are designated Solomon Scholars in his honor.

Solomon received his first exposure to law as a messenger for the Manhattan law firm that he is now senior partner of. Since joining the firm, his interest in helping individuals has transformed the work of the firm from banking and corporate law to estates and trusts. He enjoys national stature in the field of wills, trusts and estates and is one of our most distinguished alumni.

Dean Marshall Lippman worked for Graubard, Moskovitz, McDowell, Dannett and Horowitz. Hired in the spring of ’74 as an adjunct, Lippman joined the full-time faculty in the fall of ’74 and was offered the position of Assistant Dean for Faculty in 1975. He feels the Board is showing “poor grace” in that he never received any notice or warning that he was being considered for tenure.

In his time performing his full-time administrative duties as well as teaching eleven hours a week, in addition, he has found the time to write significant articles. In 1973, he published his first book, “The Bargain of Professors.” He has also published articles in the alumni newsletter, the alumni magazine, and the alumni bulletin.

Alumnus is a “Horatio Alger”

Joseph Solomon, class of 27 and senior partner of the firm of Lehman, Rorhlich & Solomon, has been named the recipient of a 1978 Horatio Alger Award.

Reared in a coldwater tenement in East Harlem, Solomon was forced to interrupt his formal education while in elementary school because of insufficient family income. More than a half century later he became one of the few persons in the history of the U.S. to have two law professorships endowed in his name. The NYLS Joseph Solomon Professorship of Law is named in his honor. NYLS also awards Joseph Solomon Scholarships to applicants with superior qualifications for the NYLS-Bologna Summer Program. Recipients of these tuition scholarships are designated Solomon Scholars in his honor.

Solomon received his first exposure to law as a messenger for the Manhattan law firm that he is now senior partner of. Since joining the firm, his interest in helping individuals has transformed the work of the firm from banking and corporate law to estates and trusts. He enjoys national stature in the field of wills, trusts and estates and is one of our most distinguished alumni.

The decision in Mitzner v. Jarcho affirmed an Appellate Division 2d Department ruling in favor of Max Mitzner, a plumber since 1922 and a union member since 1939, who was denied a pension by the trustees.

They retroactively applied an amendment which stripped Mitzner of credit for 21 years of service because of a one year break when he did not work as a plumber.

The decision marked the end of a seemingly endless struggle for both Skovronsky and his client, who had been rejected by countless lawyers who called his case hopeless.

Finally, both Dr. Thornton and Dean Shapiro stressed that they are doing what they feel is best for the school community, but “We are not infallible.”

Prof. Albert Kalter, class of ’61, recently presented a series of three lectures at the University of Miami Law School Graduate Program on Estate Planning.

Peter Brickfield, class of ’69, Assistant Director, Federal/Trade Commission, recently chaired a cocktail party for Washington D.C. area alumni at the Bay-Adams Hotel, Washington D.C. held in conjunction with the Law of Mass Communications Workshop.

Jay Benenson, class of ’58, chaired a reception for New Jersey Alumni last month at Great Gorge Hotel. The reception was held in conjunction with the New Jersey State Bar Annual Meeting.

Joseph Solomon, class of 27 and senior partner of the firm of Lehman, Rorhlich & Solomon, has been named the recipient of a 1978 Horatio Alger Award.

Reared in a coldwater tenement in East Harlem, Solomon was forced to interrupt his formal education while in elementary school because of insufficient family income. More than a half century later he became one of the few persons in the history of the U.S. to have two law professorships endowed in his name. The NYLS Joseph Solomon Professorship of Law is named in his honor. NYLS also awards Joseph Solomon Scholarships to applicants with superior qualifications for the NYLS-Bologna Summer Program. Recipients of these tuition scholarships are designated Solomon Scholars in his honor.

Solomon received his first exposure to law as a messenger for the Manhattan law firm that he is now senior partner of. Since joining the firm, his interest in helping individuals has transformed the work of the firm from banking and corporate law to estates and trusts. He enjoys national stature in the field of wills, trusts and estates and is one of our most distinguished alumni.

Dean Marshall Lippman worked for Graubard, Moskovitz, McDowell, Dannett and Horowitz. Hired in the spring of ’74 as an adjunct, Lippman joined the full-time faculty in the fall of ’74 and was offered the position of Assistant Dean for Faculty in 1975. He feels the Board is showing “poor grace” in that he never received any notice or warning that he was being considered for tenure.

In his time performing his full-time administrative duties as well as teaching eleven hours a week, in addition, he has found the time to write significant articles. In 1973, he published his first book, “The Bargain of Professors.” He has also published articles in the alumni newsletter, the alumni magazine, and the alumni bulletin.

Alumnus is a “Horatio Alger”

Joseph Solomon, class of 27 and senior partner of the firm of Lehman, Rorhlich & Solomon, has been named the recipient of a 1978 Horatio Alger Award.

Reared in a coldwater tenement in East Harlem, Solomon was forced to interrupt his formal education while in elementary school because of insufficient family income. More than a half century later he became one of the few persons in the history of the U.S. to have two law professorships endowed in his name. The NYLS Joseph Solomon Professorship of Law is named in his honor. NYLS also awards Joseph Solomon Scholarships to applicants with superior qualifications for the NYLS-Bologna Summer Program. Recipients of these tuition scholarships are designated Solomon Scholars in his honor.

Solomon received his first exposure to law as a messenger for the Manhattan law firm that he is now senior partner of. Since joining the firm, his interest in helping individuals has transformed the work of the firm from banking and corporate law to estates and trusts. He enjoys national stature in the field of wills, trusts and estates and is one of our most distinguished alumni.

Dean Marshall Lippman worked for Graubard, Moskovitz, McDowell, Dannett and Horowitz. Hired in the spring of ’74 as an adjunct, Lippman joined the full-time faculty in the fall of ’74 and was offered the position of Assistant Dean for Faculty in 1975. He feels the Board is showing “poor grace” in that he never received any notice or warning that he was being considered for tenure.

In his time performing his full-time administrative duties as well as teaching eleven hours a week, in addition, he has found the time to write significant articles. In 1973, he published his first book, “The Bargain of Professors.” He has also published articles in the alumni newsletter, the alumni magazine, and the alumni bulletin.
Women in the Law
by Betty Walrond

The Ninth National Conference on Women and the Law was held in Atlanta, Georgia, at the end of last semester, with NYLS Prof. Nancy Erickson and me in attendance. The annual Conference is organized by law students to "promote the equality of women" through workshops, development and exchange of technical and litigation skills, and creation of a national support network of practitioners, particularly in the field of discrimination law.

Designed primarily for the benefit of law students, the Conference was nevertheless also attended by attorneys and judges, and people in other professions besides the law. This year more than two thousand people attended.

The Conference was structured around workshops in the areas of victimization of women, employment, affirmative action, health, sexism in the litigation process, professional women and careers, sex discrimination, domestic relations, economies and women, the third world, and lesbian law, and panels dealing with implementation strategies in those areas.

In addition, there was a featured speaker each evening. Shirley Chisholm, Senior Democratic Congresswoman in the U.S. House of Representatives, spoke about the need for common goals and unification of the minority rights movement and the women's movement.

Charlotte Bunch, editor of "Quest: A Feminist Quarterly," founder of the Public Resources Center in Washington, D.C., and director of the National Gay Tax Force, spoke about lesbian rights as an integral part of the feminist movement and in relation to the legal and social structure.

Carol Bellamy, New York City Council President, spoke about alternative means other than litigation for working for women's rights.

One of the issues raised, not only at the Conference, but by the Conference's being held in Georgia, was the economic boycott of those states that have not ratified the Equal Rights Amendment. Georgia, Georgia, a member of the Ninth National Conference and publicly co-ordinator, estimated that five hundred to one thousand people did not attend the Conference because of the boycott. Atlanta had been selected for the Conference site before any call to boycott unratified states. It was not feasible to move the site to a ratified state, and cancelling the conference altogether this year might have jeopardized its future. Many Southern women felt that the South needed to be directly exposed to the women's movement, and that the ERA's failure in the South this year might have jeopardized its future. Many Southern women felt that the South needed to be directly exposed to the women's movement, and that the ERA's failure in the South was even more reason to hold the conference there. According to Ms. Jackel, who is from Georgia, it is not the state legislators from Atlanta who oppose the ERA but rather the legislators in the more rural areas of Georgia, and the boycott would probably not affect them anyway.

Because the boycott was a concern to those who did choose to attend, there was an ERA rally in Central City Park in Atlanta and ERA workshops and implementation panels were set up as part of the Conference program. In addition, the Co-ordinating Committee distributed a list of merchants in Atlanta who had signed a statement supporting the ERA.

Next year the Conference will be held in San Antonio, Texas, and sponsored by the University of Texas at Austin.

BALSA Elects Officers
by Scott Batteman

The Black American Law Students Association of New York Law School has elected as new officers: Chairman Dana John Harrell; Co-Chairs Richard Jasper and Neldi Miller; Vice-Chairmen: Sione Archer and Treasurer Ronny Green.

Co-Chairman Richard Jasper, in an interview with EQUITAS, stated that "the scope of BALSA is national — there are BALSA chapters in most law schools in the country — so that it unites black students all over the country. Basically, BALSA is interested in reflecting the needs and interests of the black community at large. We would like to redress many of the obvious inequities in the legal system; the ability of members of the black community in America to obtain competent legal representation."

"I personally believe there are many questions that are raised by a system that has a lot of poverty, more than any other country in the western world — where it seems that 90% of the lawyers represent 10% of the population. BALSA feels that its role is to secure the needs of the black community and make whatever contributions we can to the black community, and thereby help to create a better society in general. The system makes itself more viable when it addresses itself to the needs of segments of society other than the affluent."

Toward this end, Jasper stated that BALSA would be trying to aid Black students at NYLS. "First of all, we believe that if they couldn't be here, they wouldn't be here," said Jasper. "A specific target of this concern will be first year students: "We want to give them some insight into what skills they should develop — analytical, written and oral — in order to survive the first year experience." He also stressed that students should be made aware of the need for lawyers in society as agents of justice. "The late W.E.B. DuBois, an eminent historian and scholar, in talking about legal education, said 'for what other reason would a young person come to law school, other than to see that Justice is done?' I believe that not only black students, but all students, should remember that at some point in our legal careers, we must concern ourselves with justice."

BALSA Plans for 1978/1979

For next year, he stated that a major concern of BALSA would be "to develop friendly, working, functional relationships with the entire NYLS community. Communication is the key — whatever different student groups think they have, still, we're all part of an intellectual community that binds us together. We can cultivate our legal skill by dealing with people from diverse backgrounds. The groups should get together and work to make New York Law School an exciting place."

New York City Council President Carol Bellamy

School Hosts Law Day
by Betty Walrond

Justice may be a woman, but it is only recently that women in any substantial numbers have been entering the profession she represents. Traditionally, women law students and attorneys have had considerable obstacles to overcome as women, and they have had to overcome them alone. One of the purposes of the third Women's Law Day, sponsored by the Women's Caucus of NYLS and held at the end of last semester, was to assure women who will be entering NYLS in the fall that there are women in the school and in the profession to whom they can turn for support and encouragement. The program was planned, organized, and run by Women's Caucus co-ordinators Iris M. Darvin and Susan Erda, class of '78, and Betty Walrond.

New York City Council President Carol Bellamy, the main speaker at the end of the day-long program, emphasized the importance of women attorneys and law students setting up a support network. She reviewed feminism in this country from an historical perspective, and noted that the ERA was first introduced more than 50 years ago and still has not been ratified. It is time, she also observed, for women to stop giving up on themselves, and to stop allowing fear to stifle their creativity and productivity.

Nearly one hundred women, including a few alumnae, attended Law Day, more than twice as many as attended the previous Law Day two years ago. The activities were also open to currently enrolled students.

Two highlights of the program, one of women judges, and the other of women attorneys practicing in different areas of the law.

Judges Speak

The judges, Hon. Lorraine Miller of the Housing Court of Brooklyn, Hon. Hilda Schwartz, Justice of the Supreme Court of the State of New York, New York County, and Hon. Margaret Taylor of the Civil Court of the City of New York, New York County, emphasized the exciting and rewarding opportunities for women in the field of law, especially in litigation. Justice Schwartz spoke of the dedication that is necessary to succeed in the profession. Judge Miller remarked that, in her experience, women who have appeared before her have often shown their competence by being more extensively prepared than men in the same courtroom situation. Judge Taylor, who wrote the controversial decision declaring the loitering statute unconstitutional as applied to prostitutes, spoke of the difficulties and struggle of women in the law. The panel was moderated by NYLS Prof. Nancy Erickson.

The participants on the noon attorneys panel described their fields of practice and their job and family responsibilities. Anne Sidamon-Eristoff is an Assistant U.S. Attorney and head of the Environmental Division of the U.S. Attorney's Office, Southern District of New York. Marjorie Gross is an associate with Debevoise, Flompton, Lyons, & Gates, doing corporate work. Etheld Landers is a staff attorney for the Legal Aid Society, working with the elderly poor in the Office of the Aging in Brooklyn. Sheryl Schwartz is an Assistant U.S. Attorney in the Eastern District of New York, Fraud Division; she works part-time in an arrangement in which she shares one full-time position with another woman. Paullette Owens, a graduate of NYLS, has an administrative position as chairperson of the Mayor's Task Force on Rape and Director of the Rape Crisis Center. NYLS Professor Kim Meredith Lang who moderated the panel, was the first woman to set up a solo practice in Lake Tahoe Nevada; she rode circuit, receiving help from no one but Reno divorce attorneys. She prefers teaching as a profession because of the scholarship involved and the more flexible hours than in private practice.

The remainder of the day was taken up with discussions with present students about such things as work load in law school, family responsibilities, living in New York City, sex, etc., and with sessions at which the incoming women met with student group representatives and women faculty members.

There was a reception at the end of the day for Carol Bellamy and the judges who had been on the panel.

The response to the Women's Law Day program from those who had attended one or more of the activities was most positive.

Answers and Counterclaims

(Continued from page 6)

evening news shows and two out of three New York newspapers described it as occurring at New York University Law School. One shudders to think how the press will handle the Griffin Bell speech at our commencement. That is, if they were even told he was coming.

It appears that NYLS has two choices to remedy this situation which is rapidly reaching incredible proportions: Either find a PR firm that doesn't think that EQUITAS is the only newspaper in New York or change our name to "New York University Law School — Downtown Campus."

Sincerely,

James Fishman, '79
Fire Lieutenant Wins Harlan Moot Court

by Cecilia Blau

This year's John M. Harlan Moot Court Competition was won by second year student, John Schwartz, who defeated Ira Padalosky, Edward Hiroshima and Clifford Entes in the final round on April 13th before a packed Moot Court Room.

Sitting on the bench were Judge Jacob Fuchsberg of the New York State Court of Appeals, Judge Vincent Broderick of the Federal District Court, Southern District of New York, and Presiding Justice Francis T. Murphy of the First Department, New York State Appellate Division.

Governor Romita v. Leeds, et al., this year's case, involved the issue of due process in speech issues, had to be argued on both sides by each contestant in earlier rounds.

"I was interested in this problem," said Judge Broderick, "because I have had two cases that involved the reporter's privilege." The fact pattern drawing compliments from the judges was written by Richard Posner and David Polsick.

Of the contestants, Judge Fuchsberg said, "The way they handled themselves was equal to the way many lawyers on a professional basis before my Court comport themselves. And that's not in derogation of the lawyers." He added, "We threw them back on their heels," and commended the "poise" with which they responded.

Judge Broderick commented that it was "hard to make a decision because all were good. I thought they had a very hostile bench — you ask hostile questions just to see how they will react — and they reacted very well."

The Competition was organized by the Moot Court Executive Board. Chairman Samuel W. Croll III said, "1977-78 has been a pivotal year. The quality of student argument has improved one hundred percent."

"The Cardozo School of Law of Yeshiva University has a set of procedures quite similar to NYLS, according to Prof. Hobet, Chairman of their Academic Standards Committee, while at NYU School of Law a student seldom appears in person before their Executive Committee, according to Dean Knapp. At NYU, further, there are no 'averages' merely grades of Honors, Fail, Fail, etc., and an accumulation of low grades determined by a complicated formula of + and - points, sets the process in motion. Further, the only appeal is to the full faculty, although Dean Knapp says 'he can't recall it ever having been done.'"

The distinguished expert on Human Rights told the distinguished expert on Human Rights told the distinguished expert on Human Rights told the Columbia University School of Law has a system similar to that of NYU, with automatic exclusion and a petition for readmission.

Prof. McDougal: "Hard on Students"

The NYLS system, however, does not seem particularly bad, although at least one member of the faculty, Visiting Professor Myres S. McDougall is not in favor of it.

"People should be encouraged to be lawyers, not faced with inhumane difficulties. At NYLS there are at least three hurdles that some people who might make good lawyers might not be able to meet."

"The Cardozo School of Law has a system similar to that of NYU, with automatic exclusion and a petition for readmission."

Prof. McDougal: "Hard on Students"

The NYLS system, however, does not seem particularly bad, although at least one member of the faculty, Visiting Professor Myres S. McDougall is not in favor of it.

"People should be encouraged to be lawyers, not faced with inhumane difficulties. At NYLS there are at least three hurdles that some people who might make good lawyers might not be able to meet."

"The Cardozo School of Law has a system similar to that of NYU, with automatic exclusion and a petition for readmission."

Columbia University School of Law has a system similar to that of NYU, with automatic exclusion and a petition for readmission.
Ingredients for Clarity in Legal Writing

by Prof. Elliott L. Biskind

Lawyers continue to write like writing-illiterates despite Mellinckoff’s The Language of the Law, Weihofen’s Legal Writing Style, Dickerson’s The Fundamentals of Legal Drafting, Dahl & Davis’ Effective Speaking for Lawyers, Rossman’s Advocacy and the King’s English, Biskind’s Simplifying Legal Writing, Stevenson’s Writing Effective Opinions, Dailey’s Legal Drafting, Dahl & Davis’ Primer on Legal Writing, Judge Re’s Brief Writing and Oral Argument and a host of other writers and teachers of legal writing. Even Jefferson could not wrench the pencil from the death of this cause. Why? Why don’t lawyers recognize that they write for their clients, not for their own edification nor to show off their legal erudition? Why do they insist that a phrase having meaning only to the initiated must retain that meaning, because if we lose it, more ever, it had been devoured in the judicial decision?

Why are we lawyers slaves to the dead past? Why do we insist that “what is past is sacred” – what is operation is suspect? How can lawyers believe that, “It will be impossible to advise a client of his rights and obligations pursuant to new language which is untested in our judicial system. This new language may create an abundance of work and expense to the lawyer through the use of language which the consumer whom we will be unable to consult.”

What is this “new language” lawyers are afraid of? Do they fear that they will never be free to tell their clients that the word necessary in a contract is not an absolute until it is preceded by absolutely, very, or indispensibly?

Reason, persuasion and the dreaded prospect of malpractice actions have had minimal effect upon lawyers who persist in writing with a verbosity and circumlocution that befogs meaning. This causes clients to turn to their lawyers for “translation” into common, everyday language so that they may understand their rights and obligations pursuant to new language which is untested in our judicial system. This new language may create an abundance of work and expense to the lawyer through the use of language which the consumer whom we will be unable to consult.

Here is an example of what one lawyer would like to do with the new “plain-English” law. He would “define” non-technical language to mean language having a technical meaning in a statute, regulation or judicial decision unknown to the general public, but provided that the technical meaning “is not inconsistent with the common and everyday meanings of the words used.” A masterpiece of double-talk. (The reference to “technical language” has since been deleted.)

Then we come upon the following attempts to define the kinds and types of agreements the law should not affect. The law includes residential leases and loan agreements, personal, family or household purposes. Here are the suggested amendments:

• A residential lease should not include a proprietary lessor or sublease.
• Transactions in which a consumer is obligated for more than $25,000 in the aggregate. This means a five year lease or a rental of $6,000 per year.
• Transactions for “commercial or business purposes” notwithstanding that the present law limits its coverage to consumer transactions for personal, family or household use.

Lawyers continue to write like writing-illiterates—

• “Transactions by a person not regularly engaged in the business of leasing residential real property or interests therein to consumers, or of handling or otherwise leasing personal, family or household purposes.” Here are the suggested amendments:
  • A residential lease should not include a proprietary lessor or sublease.
  • Transactions in which a consumer is obligated for more than $25,000 in the aggregate. This means a five year lease or a rental of $6,000 per year.
  • Transactions for “commercial or business purposes” notwithstanding that the present law limits its coverage to consumer transactions for personal, family or household use.

Lawyers draft their agreements, wills and briefs in "legalese"—words and phrases with specialized meaning. It is this that is the bane of laymen."

The Lawyers’ Dilemma

Lawyers draft their agreements, wills and briefs in "legalese"—words and phrases with specialized meaning. It is this that is the bane of laymen. Many, many lawyers are uncomfortable with the cliches, the circumlocutions and ambiguities they are comfortable with.

The day has come in which we should recognize that before an applicant is permitted to hang a license upon the walls of his office signifying that he is competent to serve clients, the young man should be required to give evidence of reasonable proficiency in expressing himself with clarity and precision. In 1955, the then Dean of Columbia University Law School observed that, "Any encouragement one might de- serve from the court of public opinion for having received training in writing is shattered when one actually encoun-

In 1817, Thomas Jefferson drafted a statute and sent it to a friend with this plea:

Let Laws be clear and precise, perhaps, for the style of this bill. I dislike the verbose and intricate style of the English statutes and in our revised code I endeavored to restore it to the simple one of the ancient statutes, in such original bills as I drew in that work. I suppose the reformation has not been accepted, as it has been little followed. You, however, should uniformly correct this bill, to the taste of my brother lawyers, by making every other word a “said” or “afore- said,” and saying everything over two or three times, so that nobody but we of the craft can understand it. And yet what it means; and that, too, not so plainly but that we may conscientiously divide one-half on each side. Mend it, therefore, in form and substance, and do not allow it to turn out a mere box-taste, and make it what it should be; or, if you think it radically wrong, try something else, and let us make a beginning in some way. No matter how wrong, experience will amend it as it goes along, and make it effectual in the end.

In his The Story of the English Language, Professor Peets cites a legal report of a killing in a拓peka post office. Sixteen lines were used to identify the post office, “saven adverbs to charge pemeditation, and nine lines to state the victim died.” He concludes:

[There is an Elizabethian flavor, however, about the conclusion of the report, to the effect that the mortally wounded Mr. X thereby did languish, and languishing died.]

But he has more to say:

The language of the bureaucrats and administrators must needs be recognized as an outgrowth of legal parlance. There is no other way to explain its pervading, per- vasive and precious meanderings. Lawyers ensconced in administrative bureaus and feeling secure in their newfound castles were undoubtedly the originators of a linguistic form that threatens our language to the same extent that their activities are alleged by some to threaten our liberties. Proof of this statement may be had in theBeanstalk jocularly issued by a lawyer’s magazine to lampoon the legal language. It begins: "Once on a time, there was a minor named John or Jack (as he will hereafter be designated), other name or names to your relator unknown." The New York statute states simply, "Make it clear in plain English so that a lay person will understand it."

The New York statute states simply, "Make it clear in plain English so that a lay person will understand it." To make this clear, one lawyer used the following commentary. Others rush to explain why it is impossible to obey the new statute that demands clarity and simplicity in designated types of agreements.

The attack on the bill that preceded its enactment into law was the "enactment into law" has been replaced with a not unsuccessful devourn- ing with faint praise. In a proposed practice commentary on the new law that carries the name of its sponsor, As- semblaman Peter Sullivan, (New York has an older Sulli- van Law that prohibits the carrying or possession of con- cealed firearms), one commentator says nine typed
Prof Biskind: Lawyers prefer the opaque to the transparent, legalese to common words...

(Continued from page 13)

single spaced pages to explain when and why it may be impossible for draftsmen to adhere to the admonition to write clearly using words with common and everyday meanings. He writes in part:

The basic principle underlying the new Sullivan law is the common law doctrine that a party cannot be held to contract provisions not likely to have been considered necessary to refer to "particular facts not yet in existence." Few documents, he warns, are "absolutely clear in their application to [those] particular facts.

I may as well tell you up front that we are told that it will be difficult, if not impossible to state with clarity and in everyday words, what either party will or may do, if certain stated incidents or events occur. That should be no more difficult than writing, "Your rent will be $200 per month."

He then discusses situations where only one party to a lease has counsel, and reminds us that courts special care to protect those reckless enough to sign an agreement without making sure they understand what they are getting into, that is affected by the Sullivan law escapes me. Surely, he says, "One is not likely to have been counselled before making a contract that is likely to be affected by a statute."

I agree. Despite what some draftsmen have been saying, if one party to a transaction has counsel, and the other is not sure about what is being written in the contract, there should be some mechanism to protect the party without a lawyer, which is not provided in the current drafting process. Essentially, the author is saying that the system of legal drafting, as it currently exists, is failing to protect the average consumer, which is a concern that should be addressed.

The Means of "Replace."

The basic principle underlying the new Sullivan law is that a party cannot be held to contract provisions not likely to have been considered necessary to refer to "particular facts not yet in existence." Few documents, he warns, are "absolutely clear in their application to [those] particular facts.

There are many words in our language with everyday meanings. He writes in part:

"Your rent will be no help when it becomes necessary to..." He cites several cases to support his thought that courts will take care of the party bereft of counsel. This "principle" and the ambiguous sentence are "always applicable to some extent because every document is ambiguous some degree. Every document? Methinks he doth overstate the problem.

The basic principle underlying the New York Sullivan law is that lawyers prefer to use a legalistic language that is difficult to understand, instead of using clear and everyday words. This is not unusual, and to the draftsman clear in their own heads and remains an issue. The problem is not with the language, but with the drafting process and the lack of adequate training for lawyers in legal writing.

The Oxford Dictionary defines "replace" in the following fashions:

To restore to a previous place or position; to put back again in a place. To take the place of or become a substitute for a person or thing. To fill the place of (a person or thing) with or by a substitute. To provide or procure a substitute or equivalent in place of a person or thing. (emphasis in original)

The purpose of this semantic discussion is to alert one to the danger of taking the meaning of words for granted, even the everyday words like "replace." We've seen that these words can mean different things. This is unusual, and to draft an agreement that hinges upon a definite meaning of a multiparagraph written without stating the intended meaning, is an invitation to a law suit as in Heyman.

Heyman is a person or thing. (emphasis in original)

The Heyman replacement building was a one story structure with ten thousand square feet fewer than the original building, which was a three story building. Heyman was regarded as having "its plain, ordinary meaning... to supplant with a substitute or equivalent." In Congress, the court adopted the Black definition.

The Oxford Dictionary defines "replace" as follows:

To replace in the following fashions:

To restore to a previous place or position; to put back again in a place. To take the place of or become a substitute for a person or thing. To fill the place of (a person or thing) with or by a substitute. To provide or procure a substitute or equivalent in place of a person or thing. (emphasis in original)

The purpose of this semantic discussion is to alert one to the danger of taking the meaning of words for granted, even the everyday words like "replace." We've seen that these words can mean different things. This is unusual, and to draft an agreement that hinges upon a definite meaning of a multiparagraph written without stating the intended meaning, is an invitation to a law suit as in Heyman. Heyman is a person or thing. (emphasis in original)

The Heyman replacement building was a one story structure with ten thousand square feet fewer than the original building, which was a three story building. Heyman was regarded as having "its plain, ordinary meaning... to supplant with a substitute or equivalent." In Congress, the court adopted the Black definition.

The Realm of Legal Drafting...


The policy contained a "replacement cost" provision. As in the Heyman case, the court relied on the dictionary in favor of Commerce on a summary judgement motion.

Just what does "replace" mean? "Replace" may not be modified by "again" unless it refers to a second replace...

The court relied upon in resolving the ambiguity in favor of Commerce was the Webster dictionary, "To replace again, to restore to a former condition." The second definition is the one the court relied on in favor of Commerce on a summary judgement motion.

In Heyman v. Commerce and Industry Ins. Co.

Olenick, "replace" was regarded as having "its plain, ordinary meaning... to supplant with a substitute or equivalent." In Congress, the court adopted the Black definition.

The Oxford Dictionary defines "replace" as follows:

To restore to a previous place or position; to put back again in a place. To take the place of or become a substitute for a person or thing. To fill the place of (a person or thing) with or by a substitute. To provide or procure a substitute or equivalent in place of a person or thing. (emphasis in original)

The purpose of this semantic discussion is to alert one to the danger of taking the meaning of words for granted, even the everyday words like "replace." We've seen that these words can mean different things. This is unusual, and to draft an agreement that hinges upon a definite meaning of a multiparagraph written without stating the intended meaning, is an invitation to a law suit as in Heyman. Heyman is a person or thing. (emphasis in original)

The Heyman replacement building was a one story structure with ten thousand square feet fewer than the original building, which was a three story building. Heyman was regarded as having "its plain, ordinary meaning... to supplant with a substitute or equivalent." In Congress, the court adopted the Black definition.

The Oxford Dictionary defines "replace" as follows:

To restore to a previous place or position; to put back again in a place. To take the place of or become a substitute for a person or thing. To fill the place of (a person or thing) with or by a substitute. To provide or procure a substitute or equivalent in place of a person or thing. (emphasis in original)

The purpose of this semantic discussion is to alert one to the danger of taking the meaning of words for granted, even the everyday words like "replace." We've seen that these words can mean different things. This is unusual, and to draft an agreement that hinges upon a definite meaning of a multiparagraph written without stating the intended meaning, is an invitation to a law suit as in Heyman. Heyman is a person or thing. (emphasis in original)

The Heyman replacement building was a one story structure with ten thousand square feet fewer than the original building, which was a three story building. Heyman was regarded as having "its plain, ordinary meaning... to supplant with a substitute or equivalent." In Congress, the court adopted the Black definition.

The Oxford Dictionary defines "replace" as follows:

To restore to a previous place or position; to put back again in a place. To take the place of or become a substitute for a person or thing. To fill the place of (a person or thing) with or by a substitute. To provide or procure a substitute or equivalent in place of a person or thing. (emphasis in original)

The purpose of this semantic discussion is to alert one to the danger of taking the meaning of words for granted, even the everyday words like "replace." We've seen that these words can mean different things. This is unusual, and to draft an agreement that hinges upon a definite meaning of a multiparagraph written without stating the intended meaning, is an invitation to a law suit as in Heyman. Heyman is a person or thing. (emphasis in original)

The Heyman replacement building was a one story structure with ten thousand square feet fewer than the original building, which was a three story building. Heyman was regarded as having "its plain, ordinary meaning... to supplant with a substitute or equivalent." In Congress, the court adopted the Black definition.
Bell's Appearance at Commencement Draws Protest

(Continued from page 7)

The protest even made its way into the impression it was written by New York Visigoths. Where do they all come from? Will they every develop a written form of English? It may be assumed that the various correction lawyers, regulation draftsmen and plain letter drafters in the market have taken care of the "typos" and home printing press. We do not know whether the "corrections" are for correct-

(Continued from page 14)

There is no sense of embellishment in this confession. We do not know whether the "corrections" are for correcting typographical errors, or the dictator's errors of English usage, may be assumed that the various correction fluids on the market have taken care of the "typos" and that the errors are those of the dictator. If this be so, the indictment of the rubber stamp is appalling.

We have seen that the use of plain English is not enough for clarity and straight thinking. Abused, it is called clarity, is equally important. Along with clarity goes conciseness, an invaluable ingredient of clarity. The Chemical Card names three types of card holders. Here are the precise language:

In the Agreement certain words are used as follows: the words you, your, and yours refer to whom or one more cards are issued. These words also refer to the members of his or her immediate family, living in the same household, who have been issued a card, and anyone else authorized to use the card by such persons. (Emphasis in original.)

A concise use of plain English would have reduced the meaning of you, your, and yours to, "the person who has applied for the card and to any other authorized by the applicant to be issued a card in that person's name but with the card applicant's serial number.

As a Master Charge Card may be used to obtain cash loans, Chemical has found it necessary to define "cash loan," a phrase seemingly regarded as esoteric. It becomes an "advance." This is a pity because an advance differs materially from a loan. The former may or may not be returnable; the latter must be. Nothing has been gained in elementary education by implying to an adult card holder that the phrase "cash loan" is too difficult for him/her to grasp, therefore, it is not clear.

By the same token a card holder is taught that "card" means the "plastic card." Master Checks, or any other means of accessing your Account. Here we have a so-called "security feature" which clearly needs an elementary definition. Could it be because it is a coined word whose meaning is unknown but it is included in the Agreement?

Under the heading of "Card Use" a card holder may use the card to "purchase or lease goods or services (called "Purchases") wherever the card is honored. Chemical may honor purchases "and/or" advances in excess of one's line of credit, thus retaining the option of honoring excess advances in excess of one's line of credit. Careful reading of the agreement shows this is not a recommended method of expressing plain English. It is a perfect example of befuddling. "And/or" has been called a verbal tautology, as indicative of confused thought and has no place in a statute or legal document, it is a phrase that leads to confusion and is "obnoxious to concise pleadings.» The late John W. Davis labelled it a "bastard."»

Finally, under Purchases, Chemical warns that, "Everyone who uses the card is individually and together liable to pay us in New York..." either a designated in-streaming percent of the funds. Here again, a card holder, according to the Chemical English experts, is not presumed to know or understand that phrase, "joint and several" liability, therefore it must be changed to "individual and together" liability. It would add to clarity if it were stated that "each" means every card issued pursuant to an applicants request, and that all purchases made on the cards so issued are individual liabilities of each holder of that card and joint liabilities of all of them. Supposedly, holding a card pursuant to A's request (A being the applicant for a Master Charge Card) makes no purchases for January, 1975, but others holding similar cards make purchases totaling $150, is it to be held "together" liable? That is how the rules read. Assuming again that D makes only purchases on the card during January, are all the other holders of the card charged to A, liable "together?"

"Default" is a word the Anti-Plain English lawyers insist is too technical for benighted laymen to understand. They feel "default" is too technical for benighted laymen to understand. They feel "default" is a technical word to be eschewed, so are "insane" and do not understand what is at stake. What about "debit and credit?" The Chemical rules appear to regard those words as readily understandable. If so, why not "default?"

The need to write contracts with clarity and coherently takes us back into the hands of those whose understanding of the law is as meager as their understanding of the English language, its syntax and synonyms.

NOTES

1. Letter from Real Estate Committee of Rockland County, N.Y. Bar Association complaining about New York's Plain Language Law.


5. The Story of the English Language, 30, p. 165.


11. 402 Fed. 131.

12. 257 N.Y. 776, 159 N.E. 779.

13. 125 N.Y. 349, 106 N.E. 1238.


17. "meaning of "corrections."


24. 700 Fed. 131.