

ARTHUR GARFIELD HAYS CIVIL LIBERTIES PROGRAM
ANNUAL REPORT

1974-1975 (re-created)

This year the Hays Fellows were Joan Gerrity (Robert Marshall Fellow), Jill Laurie Goodman, Mark S. Landau, Joseph A. Moniz and Judith Resnik. Norman's letter of April 6, 1977, to Howard Dressner, Secretary and General Counsel of the Ford Foundation, reporting on the work of the Hays Program from October 1, 1973, to March 31, 1976, also includes activities of the Fellows during the 1974-1975 year.

Joan Gerrity engaged in the following activities, as summarized in Norman's letter of January 12, 1976, to James Marshall reporting on the work of the Robert Marshall Fellows:

She wrote a memorandum on the procedural alternatives available on appeal from a federal district court judgment holding a state obscenity law unconstitutional, and she researched the question of whether the substance of a district court judgment holding a federal law unconstitutional can stand when Congress repeals the law during the pendency of an appeal.

Joan also wrote a memorandum of law regarding the jurisdictional and standing problems of a proposed suit against the Blue Cross Association and at least one of its local affiliates alleging improper utilization of public and private monies for advertising campaigns. She also did preliminary work on a suit to challenge the use of federal funds for Blue Cross public relations work.

Jill Goodman wrote us, "The work I recall most vividly was a case of Nadine Taub's at Rutgers Law School's Women's Right's Clinic that was one of the earliest cases arguing that sexual harassment was a form of sex discrimination. The plaintiff had lost her job for resisting the sexual overtures of her supervisor, who took her out to lunch to discuss a promotion, propositioned her, and, when she turned him down, threatened and physically restrained her. It was all pretty ugly and blatant, but at the time not even quid pro quo harassment had been established as a form of sex discrimination under Title VII. The case was in its early stages, and it was very exciting. After I graduated, the district court found that Title VII did not provide a cause of action (*Tomkins v. Public Service Electric & Gas Co.*, 422 F. Supp. 553, (D.N.J. 1976)), but the Third Circuit reversed, 568 F. 2d 1044 (3d Cir. 1977). A decade and a half later, when I became counsel to the New York State Judicial Committee on Women in the Courts and wrote a sexual harassment policy for the New York State court system (with its 14,000 employees), I was gratified to see how much had changed.

"I also worked on another case with Nadine (the details are eluding me), and I may have done some preliminary work with Sylvia on challenges to restrictions on

Medicaid payments for abortions as well as on a supplement to political and civil rights in the U.S.”

Mark Landau wrote us, “I have fond memories of my year as a Hays Fellow. In particular, I remember working on a very interesting project with the First Amendment Committee of the NYCLU concerning Seventh Day Adventists’ employment rights. I also worked on updating a section of Political and Civil Rights in the United States which concerned prisoner rights in the aftermath of the Attica riots a few years earlier. I recall struggling for the right word to describe those who had died at Attica – were they ‘prisoners’ or ‘inmates’ or were they mostly ‘minorities’. I finally fixed on the word ‘citizen,’ which for me focused the rest of the work.

“Finally, at the Hays Fellow dinner I attended at the end of April, 1975 with Sylvia Law, Judy Resnik and others, we discussed the Fellows’ projects. I remember it was the night Saigon fell to the North Vietnamese, and our last get together as Hays Fellows before graduation. The coincidence of the dates brought together for me the strands and conflicts that had influenced the political and social outlook of so many of us — the patriotism which imbued our early schooling and upbringing in the fifties and sixties; the war and how it had both shaken and in some ways reinforced those beliefs; and the idea and ideal of civil liberties which incorporated and transcended both patriotism and protest.”

Joseph Moniz wrote, “I worked on *New York v. Joe Little* with Alan Levine of the NYCLU. It included a visit to Greenhaven prison and a mental rehabilitation center to interview possible witnesses. Because of the developments in the Attica trials, Joe’s case did not go to trial.

“I helped Marilyn Haft of the ACLU draft a complaint claiming that the Department of Defense had terminated the security clearance of a homosexual in violation of his constitutional rights.

“I also wrote a paper on the captive audience issue for the ACLU’S Free Speech and Association Committee. I worked with Ann Prichard on this project and appeared before the Committee to present the paper. I also worked on the employment chapter for the next edition of Norman’s book.”

Judith Resnik wrote, “I worked at length with Burt Neuborne and Alan Levine at the NYCLU on a case against a school board in Fargo, North Dakota brought by a teacher, Bruce Severy. After he assigned his class *Slaughterhouse Five* and *Deliverance*, Severy was fired and the books banned. Kurt Vonnegut got interested, and we have a wonderful photo that Jill Kremetz took of Vonnegut, Burt, Alan, Bruce and myself. The case was eventually settled.

“I also worked on the chapter on education for Political and Civil Rights (thereafter, I did the 1977 supplement).”