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## Criminal Law—Per Curiam

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terms were construed to insure that the prisoner received at least the equal of his New York sentence before the agreement was fulfilled. However, the Court agreed the prisoner was entitled to have the time spent in the Pennsylvania prison credited against his New York sentence.

Thus, New York has insured against another state's indiscriminate release preventing vindication of New York Law.

**Per Curiam**

*Right To Appeal* — In *People v. Kalan*,<sup>81</sup> the Court of Appeals held, per curiam, that when a defendant is penniless and unable to employ counsel or pay for a transcript of the trial minutes, and further when he is in prison and physically unable to inspect such trial minutes filed in Clerk's office, the refusal to assign counsel upon his request effectively deprives him of his use of the right to appeal.

*Coram Nobis* — In *People v. Farina*,<sup>82</sup> the Court set aside a conviction on grounds that not only had the defendant not received the sentence promised him by the trial court to induce a plea of guilt, but that he had actually been coerced by the judge into entering the plea.

**DECEDENT'S ESTATES**

**Improper Delegation Of Judicial Authority—Waiver**

The Court in, *In Re Nowakowski's Estate*,<sup>1</sup> determined that there was a basis for the Surrogate's finding that the appellant was not fraudulently induced into waiving and releasing his right of election against his wife's will.<sup>2</sup> Another problem with which the Court was faced was the propriety of the Surrogate's clerk taking and reporting testimony, that is, whether this was an improper delegation of judicial authority.<sup>3</sup> On this point the majority felt it was not necessary to reach a conclusion for it found that the appellant waived any right to a particular mode of trial by participating in the proceedings before the clerk without raising any objection. In fact there was no objection until rehearing before the Appellate Division. The dissenter was of the opinion that before you can find a waiver there must be a finding of a right subject to be waived. Accordingly he found that the clerk exceeded his powers which are limited by section 32 of the Surrogate Court Act.

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81. 2 N.Y.2d 278, 159 N.Y.S.2d 480 (1957).

82. 2 N.Y.2d 454, 161 N.Y.S.2d 88 (1957).

1. 2 N.Y.2d 618, 162 N.Y.S.2d 19, (1957).

2. N.Y. DECEDENT ESTATE LAW §18(1) provides for spouse's right of election against the will and §18(9) provides for waiver and release of this right.

3. N.Y. CONST. art. VI, §13; N.Y. SURROGATE'S COURT ACT §32(10).