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Report to the President for the Year, 1972-73

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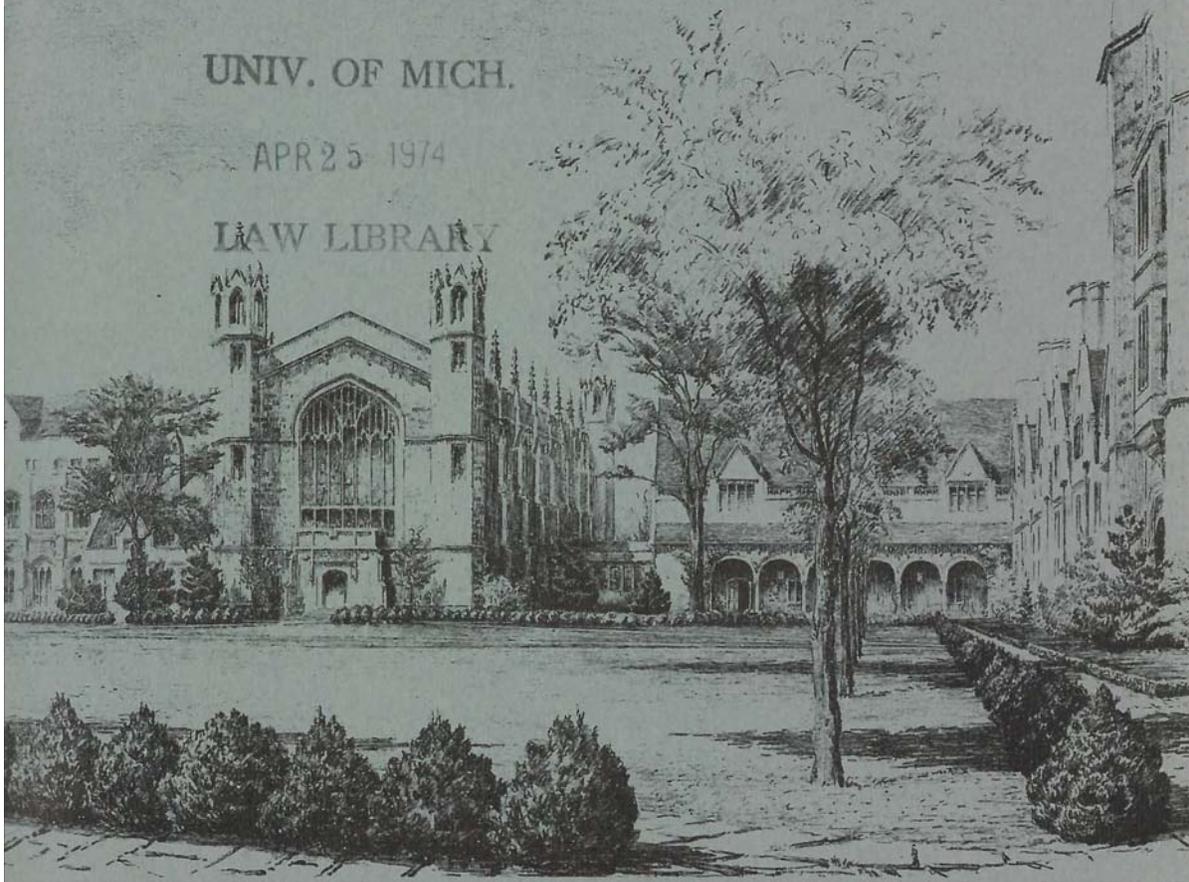
Michigan University Law School

Report to the President
of the University
for the Year 1972-73

UNIV. OF MICH.

APR 25 1974

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THE UNIVERSITY OF MICHIGAN LAW SCHOOL



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Report to the President of the University for the Year 1972-73

President Robben W. Fleming
Ann Arbor, Michigan

Mr. President:

Over the next decade or so, I expect to see higher education, including legal education, become increasingly humane and value-conscious, increasingly discontinuous, and increasingly concerned with reconciling the competing claims of elitism and egalitarianism. Before reaching the more formal portions of my third annual report to you, I should like to elaborate a bit on these points, and on their implications for the Law School.

People and values in legal education. The law is a demanding and competitive profession, and it should not be surprising that the preparatory training is demanding and competitive, too. Yet in recent years the law schools, along with other educational institutions, have been sharply criticized by many students on the ground that the intensity of the competition, and the impersonality of the atmosphere, are demeaning and inhuman. Much of the debate has focused (too narrowly, I believe) on the almost symbolic issue of grading.

In the eyes of critics, the traditional letter grades and numerical averages exaggerate differences among students of equivalent capabilities, fail entirely to take account of the many personal qualities essential for success in practice, and distort the educational process by placing the emphasis on standardized testing rather than on individual learning and development. Defenders argue that graded examinations are often a necessary spur to mastering the subject matter of a course, that it is better for employers to base selections at least in part on reasonably objective academic records instead of on superficial appearances, and that

careful (and comparative) grading helps fulfill one of the most vital purposes of all education: self-knowledge on the part of the student, a sense of who one is and where one stands in relation to one's fellows. I shall not enter this debate, except to suggest that the force of the arguments on either side indicates some compromises may be in order. Indeed, our faculty moved in that direction during the past year, by giving upperclass students the option of taking about a quarter of their courses on a pass-fail basis.

My concern is not so much with the grading controversy, however, as with the malaise it reflects. The more derogatory statements about the rigor of law school instruction and evaluation may be quite wrong, but I sympathize with what I see as the fundamental complaint behind all the rhetoric. We have come perilously close to transforming that most noble of human endeavors, the pursuit of knowledge, into an intellectual track meet. We have almost made the laurel wreath more important than the runners in the race.

In his novel, *The Inheritors*, William Golding tells how the Neanderthals, whom he depicts as a gentle, fun-loving race, succumbed to a cunning, aggressive, and more "advanced" species—our own. The author's heart plainly lies with the more primitive victims, but the lesson is that the building of civilization required the skills and drive of their successors. So too, a gracious lifestyle may have characterized the liberal arts colleges of an earlier day, but the conquest of a vast continent and the exploitation of its resources called for the technical and administrative know-how that perhaps only our modern, service-oriented multiversities could impart. Nonetheless, we have paid a price for our achievements, and it may be time to rechart our course.

Today, in the wake of a world population explosion, massive environmental problems, and a deepening energy crisis, there are signs of a profound shift in attitudes about societal goals and the nature of professional success. We hear less about conquering distant frontiers and more about restoring our own communities, less about amassing material goods and more about improving the quality of life. Universities establish residential colleges and small-group instructional programs to break down the barriers of numbers and to integrate learning and living. Medical schools emphasize the need for treating the patient, and not merely treating the disease. The law schools have not remained aloof from these developments. More and more, the aim is not only to teach "the law," but also to teach "lawyering"—not only to produce well-trained legal technicians, but to imbue our students with a sense of

what it means, to their clients, to society, and to themselves, to be practicing attorneys. New courses like clinical law, with its stress on live client contact, and new methods in old courses, like the melding of law and psychiatry in family law, are employed to enlarge the students' understanding of the lawyering process as a humane as well as an intellectual art.

Any effort to deal fully with the law and legal practice must eventually face up to the sensitive question of values. The law schools, at least in recent decades, have approached this problem rather warily. Good teachers will force their students to press a legal analysis to the point where all logical fallacies are uncovered, competing policies are identified, and perhaps even a sophisticated cost-benefit appraisal is made. Then the teacher usually stops, possibly with the wry remark, "Well, the choice here is a political question," or "What's left is a value judgment." To halt at this stage is surely the safest course. Most of us are rightly uneasy about the risk of sliding from teaching into indoctrination; we are all too aware of our deficiencies as political or moral philosophers; and we do not relish exposing ourselves to our students as something quite different from coolly commanding craftsmen of the law.

Yet throughout the world of education there are murmurings these days about the adverse consequences of neglecting the consideration of values, and harbingers of change are appearing. In the secondary schools, one finds a renewed interest in a systematic study of the subject of values, although steps are being taken gingerly for obvious reasons, and the approach is termed "value clarification" in order to stress the absence of indoctrination. In the colleges, many students have grown restive at the increasingly quantitative orientation of much of social science. In the legal field, our own Paul Kauper has been calling attention to the vital function of the undergraduate schools in helping to refine the values of the young men and women who are destined to go on to law school and become tomorrow's lawyers.

While family, church, and earlier general education may be the major influences on a law student's values, I have increasingly come to believe that the law schools cannot escape all responsibility. The meaning of a value, like the meaning of any other concept, must necessarily be sharpened, and perhaps modified, by each particular context in which it is encountered. Until a law student sees one or more values put to the test in the setting of a particular legal issue, he or she cannot fully comprehend that value or group of values. Only then can the student assess those values insofar as they bear upon the resolution of the given legal question. I find it hard to

imagine that the student would not be helped in that assessment by the inquiries and comments of a thoughtful teacher.

I of course do not mean to say that the law professor should abuse his position by proselytizing, subtly or otherwise. But it is one thing for a conscientious teacher to refrain from making a student's ultimate value choice for him, and quite another to refuse so totally to come to grips with these fundamental issues that the student is left to infer that value judgments are no significant part of a lawyer's function. I am enough opposed to this notion of the lawyer as moral cipher that, in order to combat it, I would be prepared to accept the possibility of an occasional misstep by an overzealous faculty member.

These musings lead naturally into the melancholy subject of Watergate, which this year produced more mail for me from judges and lawyers than any other topic. Many letters decried the affair for bringing the legal profession into disrepute with the American public, and suggested that the law schools should take preventive action by requiring all students to pursue an extensive course in legal ethics. Now, I would not wish to underestimate the unfavorable repercussions of Watergate for the organized bar, and I take considerable pride in the excellent semester-long elective course in professional responsibility that has been offered at this Law School for the past several years. But I still think this whole matter must be kept in proper perspective.

First, although I concede that the public has linked the bar with Watergate, almost none of the lawyers implicated in the affair were practicing attorneys. Most were politicians or administrators who happened to hold law degrees. Furthermore, an energetic, flinty set of lawyers can be credited with key roles in bringing the wrongdoers to justice. Second, I cannot believe that any of the culprits needed a course in legal ethics to know that they should not engage in burglary or perjury or the obstruction of justice. While I have already expressed my support of the law schools' paying more attention to the place of value judgments in the development of substantive law, and while I would be happy to see this effort extended to questions concerning standards of professional conduct, I am speaking here about the subtler, knottier aspects of legal rule-making. On basic questions of moral right and wrong, I feel that most persons will come to law school with their values already formed, and our capacity to affect their thinking, even if we wished, is probably marginal.

Having said all this, I nonetheless agree that the law schools bear a substantial part of the responsibility for the ethical standards of

the profession. In a host of small but revealing ways, implicitly and explicitly, a law teacher in every conventional course conveys to the students a sense of their calling, whether shabby or exalted. Moreover, I feel that the law schools, through their courses in professional responsibility and legal ethics, face a problem about the raising of lawyers' standards that has nothing to do with sermonizing, and is every bit as challenging intellectually as the problems to be encountered in any other course.

I start with the premise that most of us make our moral choices within relatively narrow limits. Those limits are largely set for us by the role we play, by the societal function we have assumed or have been assigned. We may have greater or lesser freedom in selecting our role, but once in it, we tend to conform generally to the norms of behavior established by our peers. The Thomas Mores who will risk their heads by going counter to the tide are few and far between. The lesson, as I see it (and I should hope this would be deemed an attempt at constructive analysis, not cynicism), is that ensuring right conduct on the part of lawyers is more a problem in the structuring of the profession than in the reforming of its members.

An alumnus who is a highly successful partner in one of the nation's leading law firms has written me suggesting that a central vice of the profession may be the lawyer's right to form a full-time, permanent relationship with a single client. His fear is that financial dependence could lead to a loss of professional independence. Now, I am not at all persuaded that we should take such a drastic step as forbidding institutional law departments. They clearly promote the efficient delivery of legal services, and my hunch is that many institutional counsel are actually more secure and independent than some private practitioners, who may be much too concerned about getting and retaining clients. Nonetheless, I sympathize greatly with the basic approach of this alumnus. Instead of relying on preaching to improve conduct, he wants to build safeguards into the system itself, which will make it more likely that lawyers will act in an honorable and responsible fashion.

Whether one thinks in terms of modest but perhaps critical modifications in the machinery of the bar, such as making the chairmanship of a state grievance committee a normal stepping stone to the presidency of the bar association, or in terms of such fundamental changes as revising the qualifications for practicing law, I am convinced that it is through the careful consideration of these and other possible institutional adjustments that a law school (or the practicing bar) can contribute the most toward improving

the ethical performance of the profession. And that brings me to the second of my preliminary topics.

Discontinuity in legal education. George Bernard Shaw thought youth too precious to waste on the young; I have become reconciled to this squandering of youth, but not to the parallel squandering of education. In an age when the half-life of knowledge is a decade or less, it is anomalous that a youngster might enter nursery school at the age of four or five, move in lockstep through graduate or professional school until the age of twenty-five, and then never reenter a formal educational program during the remaining half-century of his or her existence. For a lawyer in the last third of the twentieth century, it would be professional suicide. Yet as I talk to judges around this progressive State of Michigan, it becomes clear that nothing is more distressing to them than the deficiencies of knowledge and technique on the part of many lawyers who appear in their courts. Simple (or gross) incompetence must, in my opinion, be considered a far graver problem for the bar than the aberrational behavior of Watergate.

At the very core of professionalism is the capacity for disinterested judgment. This, too, is jeopardized when a lawyer realizes that a proposed legal reform may threaten a skill or a specialty he has become dependent upon during his career. To minimize this danger, and to ensure society of an adequate supply of capable, "obsolescence-proof" lawyers, we must have an extensive, effective program of post-degree legal education.

Michigan is already blessed with one of the country's best post-degree programs, operated through the Institute of Continuing Legal Education. Under the direction in recent years of our faculty's John Reed, ICLE has presented a wide range of excellent conferences and short courses for practitioners in this and other states. Typically, however, an ICLE program will run no longer than a day or two. Even with highly qualified personnel and the most careful preparation, this format is inherently limited. All too often, as the critics have charged, it will partake more of "continuing legal information" than of "continuing legal education."

What is needed, I believe, are intensive programs of a month or so, which practitioners would undertake periodically throughout their careers. This would offer a far more realistic prospect of keeping the mass of the bar abreast of the latest developments in their profession. Perhaps even more, it would afford an opportunity for some quiet, concentrated thinking about the underlying problems of the law, or of a person's particular area of law. Out of such unhurried reflection, away from the rush of day-to-day practice, might

emerge a far deeper appreciation of just what it means to be a professional.

Since lawyers, like most persons, tend to follow the path of least resistance, I do not expect to see large numbers of practitioners rushing off of their own accord to pursue such a regimen. Ultimately, I think extended post-degree studies, or some equivalent mode of self-qualification, will have to be mandated by the appropriate authorities in the various states as a condition of continuing licensure. The first step may well be to recognize formally the existence of specialization in the law, and to authorize lawyers acquiring expertise through prescribed courses, or otherwise, to hold themselves out to the public as specialists. The president of the American Bar Association sees this coming in the next half decade.

I do not know exactly what role the law schools will play in all this. But we can be sure that in some way they, or their individual faculty members, will be deeply involved.

A postscript on elitism and egalitarianism. Nothing I have said in these annual reports has provoked so much reaction as my comments last year on elitism and egalitarianism. While I concluded with the pious hope that there could be a "proper accommodation of competing values," I discovered that I still had managed to be too elitist for some, and too egalitarian for others. At least I was confirmed in my view that reconciling these conflicting claims is one of the persistent problems of higher education.

A favorite target was my suggestion that, starting with a pool of "qualified" law school applicants, "we might seriously consider reserving, at least experimentally, a certain number of places in each beginning class for selection on a random or other nonquantitative basis." The notion of random selection received such a buffeting that I am ready to concede it is an idea whose time has not yet come. I remain convinced, however, that we should not turn entirely over to the computer the determination of the future composition of the legal profession. Room is left for an intelligent exercise of discretion in selecting applicants at least in part on the basis of nonquantitative data.

While there are powerful reasons for promoting excellence and insisting on high standards, some persons bring an almost passionate fervor to their defense of admission on a straight "merit" basis. Surely there is an unexamined premise here. Is it self-evident that places in the major law schools must be handed out to individuals like so many achievement awards? Could a rational argument not be made that a healthy sense of distributive justice might call for admitting those with the greatest potential for im-

provement, rather than those with the greatest record of success? Or, more seriously, are the law schools not under an obligation to give some thought in setting admissions policy to the kind of legal profession that will best meet the future needs of society? Since I touched on such questions in last year's report, I shall not repeat myself here.

FACULTY

Professorial appointments in the Law School were held by fifty-six persons during the University year of 1972-73. This total includes five visiting or part-time faculty members and three with full-time University administrative positions. Not included are four professors emeritus, and several professors from other departments in the University who taught courses in the Law School.

Dean Frans de Pauw of the Law Faculty of Brussels Free University initiated a faculty-student exchange program between his institution and the Law School by visiting in the winter term. He offered a course and a seminar in international organization. Professor Harry M. Cross of Washington taught property and community property in the fall. While Professor Frank R. Kennedy continued on leave as Executive Director of the Commission on the Bankruptcy Laws of the United States, the course in debtors' and creditors' rights was handled by Professor Stefan A. Riesenfeld of Berkeley in the fall and by Professor Melvin G. Shimm of Duke in the winter. Mr. Cyril Moscow of the Detroit bar taught investment securities in the winter term. Ms. Virginia B. Nordby joined us as a lecturer in the winter term to teach a new course in women and the law.

A full complement of young instructors was again taken on to staff various positions. Susan G. Alexander, Joseph P. Bauer, Stephen J. Mills, and Stephen L. Spitz taught the first-year writing and advocacy course. Peter T. Hoffman served in the clinical law program, and Michael C. Moran handled criminal appellate practice.

In the summer term of 1972, visitors included Professors Florian J. Bartosic of Wayne State (labor law), Neil N. Bernstein of Washington University of St. Louis (insurance), Robert A. Bernstein of Southern Methodist (evidence), Edward A. Dauer of Southern California (trusts and estates), Gary T. Schwartz of UCLA (torts), Linda J. Silberman of New York University (conflicts), Christopher D. Stone of Southern California (legal philosophy), and Thomas R. White of Virginia (estate planning).

Michigan's faculty contributed its ninth dean in a decade to American legal education when Professor Roger C. Cramton resigned to become dean of Cornell Law School. In addition, Professor Carl S. Hawkins resigned at the end of the year to accept the challenge of helping to start a new law school at Brigham Young University.

An outstanding trio of younger men received appointments to the faculty during the year. All were former Supreme Court law clerks, but otherwise their backgrounds were highly diverse. Assistant Professor Lee C. Bollinger is a graduate of the University of Oregon and Columbia Law School. He clerked for Judge Wilfred Feinberg of the Second Circuit and Chief Justice Warren Burger, as well as for New York and Washington law firms. He will teach contracts and commercial law. Assistant Professor Philip Soper attended Washington University in St. Louis and Harvard Law School. After clerking for Justice Byron R. White, he worked for the Council on Environmental Quality. His teaching duties will include contracts and environmental law. Assistant Professor Peter K. Westen was graduated from Harvard College and the University of California School of Law (Berkeley). Following a clerkship with Justice William O. Douglas, he spent two years studying in Bogotá, Colombia, and two years practicing with a Washington, D. C. law firm. He will teach civil procedure and criminal procedure.

Supplementing the regular offerings of the Law School, the annual Thomas M. Cooley Lectures were presented by Professor Boris I. Bittker of Yale Law School, speaking on "Income Taxation and Political Rhetoric." In place of the usual William W. Cook Lectures, the Cook Committee co-sponsored a public lecture in Hill Auditorium by Justice William O. Douglas.

STUDENT BODY

There were 1,192 students in the Law School during the 1972-73 regular session. Of this total, 149 were women and 123 were members of minority groups. Represented in the student body were 219 colleges and universities and 62 states, territories, and foreign countries.

Guiding the Law School Student Senate through another productive year was President Frank W. Jackson, a rare blend of energy, judgment, and affability. Among the other student leaders who stand out in my memory are Ronald M. Gould, editor-in-chief of the *Michigan Law Review*; William A. Newman, editor-in-chief of the *Journal of Law Reform*; Ned L. Fisher, presiding judge of the Case Clubs; John T. Meredith, chairman of the Campbell Competi-

tion; Gail Powell, president of the Black Law Students' Alliance; and Kathy Gerstenberger of the Legal Aid Society.

Chief Judge John R. Brown of the Fifth Circuit graciously stepped in at the last minute to preside over the final round of the Campbell Competition when Justice William H. Rehnquist was prevented by the weather from landing at Detroit. The Competition was won by Forrest Hainline and Ronald Van Buskirk, with James Maiwurm and Alan Miller the runners-up.

STUDENT FINANCIAL ASSISTANCE

During the financial aid year, running from February 16, 1972, to February 15, 1973, the Law School provided 358 students with scholarships and loans in the amount of \$709,705. Most of this aid was furnished in the form of half-grant, half-loan. The modest increase over the \$693,338 supplied in 1971-72 underscores the need to seek outside sources of financial assistance, as the Law School's funds reach the point of full utilization.

Outside sources of funds include state and federally guaranteed student loans from hometown banks, private foundations, the work-study program, and the "G.I. Bill." All told, internal and external sources of aid provided a total of \$1,729,459 to 664 students. Impressive as this figure was, it represented only a 6 per cent increase over the previous year's \$1,626,871.

PLACEMENT

The Law School graduated the largest class in its history, 448 (including August graduates), and by May 31, 1973, 323 of them had found employment. The placement figure of 72 per cent represented a slight decline from the 75 per cent of the year before, but then the class was significantly larger this year. Well over half the students getting jobs secured them through the Placement Office.

The largest single group, 187, went into private law firms. Corporate legal departments, banks, and CPA firms took 23. Thirty-five chose government positions and 34 had judicial clerkships. Legal aid, public defenders, prosecutors, and VISTA got 17, and JAG 11. Other plans included foreign fellowships, graduate study, and teaching. The range of starting salaries in law firms was from \$8,500 to \$17,500, with the average being \$15,197 (up from \$14,454 a year ago). The average salary paid by corporations, banks, and CPA firms was \$14,971 (up from \$13,852).

LIBRARY AND LAWYERS CLUB

Preliminary planning continued for the capital fund-raising campaign that the Law School and the Board of Governors of the

Lawyers Club hope can be launched shortly to meet the urgent needs of the Law Library and the Club. A faculty building committee completed an extensive study and concluded that the School needs a new facility to provide extra offices, seminar rooms, and storage space for about half a million additional volumes.

During the 1972-73 fiscal year, the Library added 13,043 volumes, bringing its total holdings to 436,100 volumes. The number of items accessioned reversed the downward trend of recent years, and, while the absolute figure could stand improvement, the change in direction is heartening.

PRIVATE GIFTS AND CONTRIBUTIONS

Thomas E. Sunderland completed his second year as National Chairman of the Law School Fund in record-shattering style. The total amount contributed, \$416,022.43, and the total number of contributors, 4,284, both set new highs.

Chairman Sunderland included in his report to me on the financial success of the 1972 campaign some thoughtful words about the Law School: "You and the faculty have expressed your determination to keep in personal touch with our Law School alumni throughout the country—actually visiting cities and towns whenever possible. These efforts will build an even stronger 'family spirit' among our alumni and will increase their collective desire to provide in the Law School Fund the 'extra margin' so necessary to keep our Law School in the front ranks."

My response to Chairman Sunderland set forth some of the highlights of the first dozen years of the fund:

"The grand total collected exceeds 2 ½ million dollars—\$2,576,615.40, to be exact. Over half, approximately \$1,300,000, has gone to one form or other of student financial aid. Almost \$250,000 has been used to promote legal research, especially by augmenting secretarial services, and close to another \$100,000 has been used to supplement the Law Library's regular book purchases. Over \$150,000 was earmarked for an endowed chair. Air conditioning of certain classrooms and offices, the improvement of faculty, student, and staff lounges, partial renovation of the Lawyers Club, and miscellaneous construction work accounted for more than \$200,000. Office expenses incurred in operating the Fund were about \$280,000—a low eleven per cent of income.

"The remaining \$300,000 or so covers moneys spent for a wide range of special projects, some to enhance the educational program of the Law School, and some to add a touch of graciousness to life at Michigan. These include closed circuit television, audio-visual

equipment for the practice courtroom, faculty and student social activities, alumni surveys, and bringing distinguished visitors to the Law Quadrangle.

“You have spoken most aptly on several occasions of the ‘margin of excellence’ that sets Michigan apart from other law schools. I hope the figures I have cited give you and the other alumni and friends of the Law School some sense of just how much their generosity has meant in maintaining that margin of excellence.”

Respectfully submitted,

A handwritten signature in cursive script that reads "Theodore J. St. Antoine". The signature is written in black ink and is positioned to the left of the typed name.

Theodore J. St. Antoine
Dean

December 31, 1973





Faculty Publications, 1972-73

INSTRUCTOR SUSAN ALEXANDER

"The Captive Patient: The Treatment of Health Problems in American Prisons," 6 Clearinghouse Rev. 16 (1972).

PROFESSOR FRANCIS A. ALLEN

The Borderland of Criminal Justice, excerpts reprinted in Fox, ed., *Modern Juvenile Justice* 167-73 (West Pub. Co., St. Paul, 1972).

"Criminal Justice, Legal Values, and the Rehabilitative Ideal," excerpts reprinted in 2 L. Radzinowicz & M. Wolfgang, eds., *Crime and Justice* 65-73 (Basic Books, New York, 1971); Orland, ed., *Justice, Punishment, Treatment* 193-96 (The Free Press, New York, 1973); J. Murphy, ed., *Punishment and Rehabilitation* 172-85 (Wadsworth, Belmont, Calif., 1973).

"The Crimes of Politics: Political Dimensions of Criminal Justice," 17 Law Quad. Notes 19-24 (Spring 1973).

"The Values of History and the Perils of Pluralism," in Gerard, ed., *One Hundred Years of the Fourteenth Amendment: Implications for the Future* 121-26 (Dennis & Co., Buffalo, 1973).

INSTRUCTOR JOSEPH P. BAUER

"Corporate Antitrust Audit" (with S. Toll), 19 Prac. Law. 15-28 (May 1973).

PROFESSOR WILLIAM W. BISHOP, JR.

Review: F. Deák, *American International Law Cases, 1783-1968*, 67 Am. J. Intl. Law 156 (1973).

PROFESSOR VINCE BLASI

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Statement, Hearings before the Senate Committee on the Judiciary, 93d Cong., 1st Sess. (Feb. 21, 1973). Also in Hearings before Subcommittee No. 3 of the House Committee on the Judiciary, 93d Cong., 1st Sess. (Feb. 5, 1973).

RESEARCH ASSOCIATE DR. VERA BOLGAR

"Equity in Judicial Interpretation: A Comparative Essay," 34 *Revista del Colegio de Abogados de Puerto Rico* No. 2 (1973).

PROFESSOR OLIN L. BROWDER, JR.

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PROFESSOR ROBERT A. BURT

"A Proposal for the Abolition of the Incompetency Plea" (with N. Morris), 40 U. Chi. L. Rev. 66 (1972).

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PROFESSOR PAUL D. CARRINGTON

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Statement on Commission on Organization of Federal Appellate Courts, Hearings on S.J. 122 before Subcommittee on Judicial Machinery, Senate Committee on the Judiciary. Statement on Equal Educational Opportunities Act of 1972, Hearings on H.R. 13915 before House Committee on Education and Labor, 92d Cong., 2d Sess. (1972). Reprinted as "Some Brickbats for the Proposed Equal Educational Opportunities Act of 1972," 17 Law Quad. Notes 18-20 (Fall 1972).

LECTURER ROBERT A. CHOATE

Cases and Materials on Patent Law. West Pub. Co., St. Paul, 1973. Pp. xxxi, 1060.

PROFESSOR ALFRED F. CONARD

"Fundamental Changes in Marketable Share Companies," in *Business and Private Organizations* ch. 6, 13 Intl. Ency. Comp. Law (1972).

"A Behavioral Analysis of Directors' Liability for Negligence," 1972 Duke L. J. 895.

"An Overview of the Laws of Corporations," 71 Mich. L. Rev. 621-90 (1973).

"Company Laws of the European Communities from an American Viewpoint," in C. Schmitthoff, ed., *The Harmonization of European Company Law* 45-65, 207-18 (London, 1973).

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PROFESSOR ROGER A. CUNNINGHAM

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"Disguised Real Estate Security Transactions as Mortgages in Substance," 26 Rutgers L. Rev. 1-29 (1972).

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ASSOCIATE PROFESSOR CHARLES DONAHUE, JR.

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Book Comment: "Lawyers, Economists and the Regulated Industries: Thoughts on Professional Roles Inspired by Some Recent Economic Literature," 70 Mich. L. Rev. 195-220 (1971), reprinted in 14 Corp. Prac. Commentator App. II, pp. 1-33 (Winter 1973).

ASSOCIATE PROFESSOR HARRY T. EDWARDS

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PROFESSOR SAMUEL D. ESTEP

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PROFESSOR WHITMORE GRAY

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PROFESSOR JOHN H. JACKSON

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Faculty Activities, 1972-73

Professor Francis A. Allen delivered the Oliver Wendell Holmes Lectures at Harvard Law School, speaking on "The Crimes of Politics: Political Dimensions of Criminal Justice." He continued as a Senior Fellow of the Michigan Society of Fellows, and as a member of the Council of the American Law Institute, of the Research Committee of the American Bar Foundation, and of the Executive Committee of the Institute for Public Policy Studies

Professor Layman E. Allen served on HEW Secretary Elliot Richardson's Advisory Committee on Automated Personnel Data Systems. He was also a member of the General Accounting Office Task Group on the Feasibility of Creating a System of Classification Codes for Linking Authorizations, Appropriations, Committee Jurisdictions, and Agency Programs. . . .

Professor William W. Bishop, Jr. spoke on "Aerial Hijacking and International Law" before various student and professional groups in Detroit, Toledo, and Ann Arbor. He lectured on "Maritime Jurisdiction under International Law" at the U. S. Naval War College in Newport, Rhode Island. He continued as Honorary Vice President of the American Society of International Law, as Chairman of the Society's Panel on State Responsibility, and as a member of the Board of Editors of the *American Journal of International Law*. . . .

Professor Vince Blasi testified on the press subpoena problem before committees of both houses of Congress, the American Bar Association, and the Michigan State Legislature. He served as Reporter-Draftsman for the Uniform Reporter's Privilege Law of the National Conference of Commissioners on Uniform State Laws. He participated in the Conference on Free Press held in Cambridge, Massachusetts by the American Trial Lawyers' Association, and spoke on free press issues before numerous student and professional audiences throughout the country. He hosted a weekly radio program, "Law in the News," carried on National Public Radio. . . .

Research Associate Vera Bolgár delivered a lecture to the Toledo Student Bar Association on "Contracts of Adhesion and Standard Contracts: A Comparison of European Practice with Recent United States Developments under the UCC." . . .

Professor Olin L. Browder was named "Alumnus of the Month" at the University of Illinois College of Law. . . .

Research Associate Elizabeth H. G. Brown continued as Secretary of the Building Authority of the City of Ann Arbor. . . .

Professor Robert A. Burt was Co-Reporter, Volume on Child Abuse, Neglect and Dependen-

cy, Project on Standards in Juvenile Justice, ABA-Institute for Judicial Administration. He served on the Committee for the Study of Inborn Errors of Metabolism, National Research Council-National Academy of Sciences. Along with Professor Francis A. Allen, he was appointed by the Wayne County Circuit Court as counsel to John Doe, a potential subject for psychosurgery. . . . *Professor Paul D. Carrington* was a Reporter for, and a member of the Executive Committee of, the Advisory Council on Appellate Justice. He served as Coordinator of Legislative Activity for the ABA's Section of Individual Rights and Responsibilities. He was a trustee of the Ann Arbor Board of Education, and a consultant to the Administrative Conference of the United States, the Federal Judicial Center, and the Alabama Supreme Court. He spoke on appellate court restructuring at the Conference of Chief Justices in Seattle and at the Fourth Circuit Conference in Hot Springs, Virginia; on school financing in Washington, New York, and Atlanta; and on professional education in Cincinnati. . . . *Associate Professor David L. Chambers* was Chairman of the Drafting Committee of the Michigan Supreme Court Committee to Draft and Recommend Commitment Rules. He was a member of the Michigan State Bar Association Committee on Prisons and Corrections, and of the Blue Ribbon Committee on Corrections of the Washtenaw County Board of Commissioners. He served as a director of the Washtenaw County Legal Aid Society. . . . *Lecturer Robert A. Choate* spoke on patent law in Detroit and Toledo, and on arbitration at the 1973 Midwest Meeting of the Licensing Executives Society in Dearborn. . . . *Professor Alfred F. Conard* continued as a member of the Council on Law-Related Studies and of the American Law Institute, as an Associate of the International Academy of Comparative Law, as a trustee of the Law and Society Association, as Consulting Editor of the *American Journal of Comparative Law*, as Chief Editor of Volume 13 of the International Encyclopedia of Comparative Law, and as Chairman of the Editorial Advisory Board of the Bobbs-Merrill Company. He was a member of the Assembly of Behavioral and Social Sciences, and of the University's Long-Range Planning Committee, Henry Russel Award Committee, and Special Committee on Faculty Tenure Procedures. He was a consultant to the National College of the State Judiciary and to the National Science Foundation. He spoke on "The Formation of a New Law School" before the Grand Rapids Bar Association, and on "European Company Laws from an American Viewpoint" at a conference in Leeds, England. . . . *Professor Luke K. Cooperrider* continued as a member of the

University's Senate Assembly, of the Senate Research Policies Committee, and of the Assembly Subcommittee on Tenure. He was elected to the University's Budget Priorities Committee. . . . *Professor Roger C. Cramton* continued on leave to serve as Assistant Attorney General of the United States in charge of the Office of Legal Counsel. He then resigned from the faculty to become Dean of the Cornell Law School. . . . *Professor Roger A. Cunningham* was a member of three different committees of the Highway Research Board of the National Research Council. He continued serving on the Ann Arbor Board of Zoning Appeals. He spoke on "Implications of Comprehensive Land Use Planning for Michigan's Urban Areas" at a conference at Michigan State University. . . . *Associate Professor Charles Donahue, Jr.* was on leave as Academic Visitor at the London School of Economics and Political Science. He read papers on American landlord-tenant law at the University of London, on medieval canon law at the Institute for Advanced Legal Studies in London, and on Alexander III's consent theory of marriage before the Fifth International Congress of Medieval Canon Law in Toronto. Before going on leave, he made a one-hour television film on oral advocacy with Instructor William Gaus. . . . *Associate Professor Harry T. Edwards* was elected to the National Academy of Arbitrators, and received the Distinguished Educator Award from Illinois Benedictine College. He was Co-Chairman of the Subcommittee on Research of New Detroit's Task Force on Courts in the Action Program against Unemployment. He served as Temporary Umpire for the Ford Motor Company and the United Automobile Workers. He was a member of the Editorial Board of the National Bar Association *Bulletin*, and of a Stanford University panel handling the grievances of nonacademic personnel. He spoke on employment discrimination in Miami Beach, Ann Arbor, Detroit, and Eugene, Oregon, and on public sector labor relations in Dallas, Ann Arbor, and Detroit. . . . *Professor Samuel D. Estep* continued to serve as President of the University Club of Ann Arbor. He was a member of the Executive Committee of the Michigan Memorial Phoenix Project and of the Executive Committee of the University's Telecommunications Policies Project. He was also a member of the Atomic Energy and Space Law Committee of the Michigan State Bar Association. He participated in a panel on international telecommunications at a conference in Ottawa, Canada. . . . *Professor Whitmore Gray* lectured in Japanese on "The U.S. Law of Product Liability" at the Japanese Institute of International Business Law in Tokyo. He also spoke on Soviet law at Bowling Green University and on Chinese law and

trade problems in Ann Arbor and Grand Rapids. . . . *Assistant Professor Thomas A. Green* was a commentator on papers dealing with medieval criminal law at the Conference on the English Plea Rolls in Chicago. . . . *Professor Robert J. Harris* completed his service as Mayor of Ann Arbor. He was First Vice Chairman of the Southeast Michigan Council of Governments. He testified on the federal housing moratorium before the Urban Affairs Committee of the Michigan House of Representatives. He spoke at the Annual Meeting of the Michigan Committee on Law and Housing, and discussed the Vietnam Resolution before the National League of Cities. . . . *Professor Carl S. Hawkins* completed his service as Executive Secretary of the Michigan Law Revision Commission and as Reporter for the Michigan Supreme Court Committee on Standard Jury Instructions. . . . *Professor Jerold H. Israel* continued as Co-Reporter for the Committee to Revise the Uniform Rules of Criminal Procedure of the NCCUSL and as Reporter for the Michigan State Bar Committee to Revise the Code of Criminal Procedure. . . . *Professor John H. Jackson* took a leave of absence to become General Counsel of the Office of the Special Representative for International Trade Negotiations. . . . *Professor Douglas A. Kahn* was Chairman of the Subcommittee on Estate and Gift Tax—Lifetime Transfers, ABA Section of Taxation. He spoke on various tax subjects at the Central Illinois Estate Planning Council, the Sixteenth Annual Illinois Estate Planning Short Course, and the Eighteenth Annual Tax Conference of the Marshall-Wythe School of Law, College of William and Mary. . . . *Professor Yale Kamisar* delivered the annual Kenneth J. Hodson Lecture in Criminal Law at the Army Judge Advocate General's School in Charlottesville, Virginia, speaking on "The Burger Court Slides Down the Mountain." He spoke on "The Counterrevolution in American Criminal Procedure" at the annual meeting of the Alaska Bar Association in Fairbanks. He continued to serve as Co-Reporter for the Special Committee on Uniform Rules of Criminal Procedure of the NCCUSL, and as a member of the Advisory Committee of the ALI's Model Code of Pre-Arrestment Procedure. . . . *Professor Paul G. Kauper* received an Honorary Degree as Doctor of Laws from Wittenberg University. He spoke on the Burger Court and on the Law School before alumni groups in Ann Arbor; on the validity of public aid to church-related colleges at St. Olaf College and at Capital University in Columbus, Ohio; and on the constitutionality of capital punishment statutes at the Eighth United States Circuit Court Moot Court Competition in Sioux Falls, South Dakota. He continued to serve on the Advisory

Board of the American Enterprise Institute for Public Policy Research, on the Board of Directors of the University Musical Society, and on the Commission on the Future, appointed by the Lutheran Educational Conference of North America. He was also a member of a Planning Committee established by the University Council on Religious Affairs. . . . *Professor Thomas E. Kauper* continued on leave to serve as Assistant Attorney General of the United States in charge of the Antitrust Division. . . . *Professor Frank R. Kennedy* continued as Executive Director of the Commission on the Bankruptcy Laws of the United States, and as Chairman of the Subcommittee on Secured Transactions of the ABA Section of Corporation, Banking and Business Law. He was Reporter for the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States. He was a member of the Executive and Drafting Committees and the Committee on Arrangements and Reorganization of the National Bankruptcy Conference. He served on the Committee on Accreditation of the Association of American Law Schools. . . . *Associate Professor Richard O. Lempert* served on the Editorial Advisory Board of the *Law and Society Review*. He also spoke on evidentiary problems in congressional hearings over a Detroit television station. . . . *Assistant Professor Richard Mancke* was a consultant to the Federal Trade Commission, and spoke on the energy crisis in Detroit. . . . *Lecturer Virginia B. Nordby* was a member-advisor of the Stanford Law School Board of Visitors Advisory Committee on the Status of Women in the Law. She spoke on women lawyers at a Phi Alpha Delta meeting. . . . *Associate Dean William J. Pierce* continued to serve as Executive Director of the National Conference of Commissioners on Uniform State Laws and as Chairman of the Executive Committee of the Institute of Continuing Legal Education. He was a Fellow of the American Bar Foundation and a member of the American Law Institute. . . . *Professor Marcus L. Plant* was on the faculty of a course in occupational medicine, presented by the American Academy of Occupational Medicine in Madison, Wisconsin. . . . *Professor Alan N. Polasky* was a member of the Editorial Board of the *Real Property, Probate and Trust Journal*, and of several committees of the ABA Section of Real Property, Probate and Trust Law and of the ABA Section of Taxation. He spoke on estate planning, evidence problems, and various tax issues before professional groups in Albany, Kansas City, Denver, Topeka, Detroit, Fredericksburg, Louisville, Colorado Springs, Ann Arbor, and elsewhere throughout the country. . . . *Professor John W. Reed* continued serving as a trustee of Kalamazoo College,

as President of the Baptist Ministers and Missionaries Benefit Board, and as a member of the Board of Visitors of the Army JAG School. He was on the Michigan State Bar's Standing Committee on Legal Publications and Legal Education, and on its Special Committees on Annual Meeting Coordination and on Bar Examinations. He was a member of the Association of American Law Schools Committee on the 1973 Annual Meeting Program and its Committee on Continuing Legal Education. He was also a consultant to the National Center for State Courts. He addressed professional groups on evidence and other topics in New York, Las Vegas, Tuscaloosa, Fredericksburg, Phoenix, Scottsdale, Issaquah (Washington), Knoxville, Louisville, and numerous Michigan cities. . . . *Dean Theodore J. St. Antoine* completed his term as Secretary of the ABA Section of Labor Relations Law. He was appointed to the Advisory Employment Relations Committee of the Michigan Civil Service Commission and to the Public Review Board of the United Automobile Workers. He continued serving as a member of the Steering Committee of the University's Office of Budgets and Planning. He spoke at many alumni and professional meetings throughout the country. . . . *Professor Terrance Sandalow* was a Fellow of the Center for Advanced Study in the Behavioral Sciences. He was a member of the AALS Committee on Academic Freedom and Tenure, and a Reporter for the Zoning Digest of the American Society of Planning Officials. . . . *Professor Joseph L. Sax* continued to serve as Chairman of the Editorial Advisory Board of the *Environmental Law Reporter*, and as a member of the Board of Trustees of the Center for Law and Social Policy, of the Advisory Board of the Ford Foundation Energy Society, and of the National Advisory Board of the *Ecology Law Quarterly*. He was a member of the Environmental Studies Board of the National Academies of Science and Engineering, of the National Council of the Federation of American Scientists, of the National Assembly of the Institute of Ecology, and of the International Council of Environmental Law. He spoke on various aspects of environmental protection before student and professional groups at the University of Oklahoma, at the John Muir Institute of California State University, at the Hawaii Bar Association Seminar on Environmental Law in Honolulu, and throughout the State of Michigan. . . . *Professor Stanley Siegel* became Executive Secretary of the Michigan Law Revision Commission. He was a consultant on corporate trusteeship for the Commission on the Bankruptcy Laws of the United States, and a member of the Corporations Council of the State Bar of Michigan. . . . *Professor Eric*

Stein delivered public lectures at the Universities of Bari and Naples, Italy, and participated in a working group at the Center for Interdisciplinary Research, University of Bielefeld, Germany, and in the International Congress on European Law in Luxembourg. He was a resident scholar, Center for Study and Research, Rockefeller Foundation, Bellagio, Italy. He was reelected a member of the Board of Editors of the *American Journal of International Law*, and continued to serve on the Board of Review and Development, American Society of International Law; the Board of Editors of the *Common Market Law Review*; the Advisory Board, Institute for European Studies, Brussels; and the Advisory Board on European Affairs, U.S. Department of State. . . . *Professor Peter O. Steiner* continued as Chairman of the University's Department of Economics and of the AAUP's Committee Z. . . . *Associate Professor G. Joseph Vining* was a visiting member of the Faculty of Law, Cambridge University, and a research associate, Clare Hall, Cambridge, England. He continued as a member of the ABA Standing Committee on the Facilities of the Law Library of the Library of Congress, and as Secretary and Director, American Friends of Cambridge University. He was also a member of the University's Senior Scholarship Committee and Advisory Committee on Academic Affairs. . . . *Dr. Andrew S. Watson* presented a paper, "On Divorce and Other Separations," at the Mackinac Island Symposium on Psychiatry and the Family. He taught at the National College of the State Judiciary, University of Nevada, and lectured at the Southern California Law Center. . . . *Professor Richard V. Wellman* remained a Commissioner on Uniform State Laws from Michigan, and was active in NCCUSL Special Committees on the Uniform Probate Code, the Uniform Management of Institutional Funds Act, and the Uniform Disclaimer of Inheritance and Gifts Act. He also continued as Educational Director for the Joint Editorial Board for the Uniform Probate Code, a member of the American Law Institute, and Rapporteur to the International Will Organization. He was a member of the American College of Probate Counsel and advisor to the Commission on the Bankruptcy Laws of the United States. He spoke on the Uniform Probate Code and other topics in New York, Anchorage, Palm Beach, Norman (Oklahoma), and elsewhere throughout the country. . . . *Professor James J. White* became Executive Director of the National Institute for Consumer Justice. He spoke to Michigan alumni in Minnesota. . . . *Professor L. Hart Wright* delivered a paper on the proposed added value tax at the national meeting of State Councils of Chambers of Commerce in Biloxi,

Mississippi, and on “The Potential Impact of Foreign Tax Patterns on America” before the annual Seminar of Associates, University of Michigan School of Business Administration. He testified on taxpayer assistance and compliance programs before the Subcommittee on the Department of the Treasury of the U.S. Senate Committee on Appropriations.