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Res Gestae

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# RES GESTAE

Volume 4, No. 15

"Exhaust all legal remedies."

October 2, 1970

## TIGAR!!

Michael Tigar, Professor of Law—UCLA, and nationally known expert on draft law will speak on Monday, October 5, at 4:15 in the Lawyers Club Lounge. The topic will be "Representation of Political Criminals." Tigar is only four years out of Boalt Hall, where he was Editor-in-Chief of the California Law Review. He was refused a clerkship for a justice of the Supreme Court when he declined to sign an unusual loyalty oath written just for him. The past editor of the Selective Service Law Reporter, he argued the Gutknecht case before the Supreme Court. Don't miss him!

## POLITICAL LICENSE

On September 18 the law school faculty responded to a resolution of the Board of Directors relating to student campaign activities. This response, buried discreetly among the debris of the bulletin boards of Hutchins Hall and printed in today's RG, represents both recognition by a majority of the faculty of the importance of law student participation in the national election, and also a reasonable accommodation of those students who choose to participate actively.

Though laid out in the faculty's best legal-eze, several aspects of the faculty resolution bear emphasis. First, for the stipulated 11 day period, students will not be penalized for absences caused by

campaign-related activities. Second, (in part #1) there is a provision that would allow students to deal with professors on an individual basis, i.e., discuss possible extension of the period. Third, all members of the faculty are officially "encouraged" to aid students in acquiring the substantive material of the classes they have missed. Tapes, "certified" notes, and general review or question sessions are among the possible means suggested. Finally, however, it must be cautioned that though these students will be absent with impunity, the cumulative work-load of such students is in no way lessened.

In net effect the resolution, though in no way lessening the burden of a given student, allows him or her to take time off for campaigning without the fear either of a lower grade due to his absence, or of missing important class material.

This is certainly not a strong faculty stance in support of student campaign activity, but perhaps a majority of law students would not support such a stance and the sacrifices involved therewith. It does, however, substantially enact what the Board felt would serve to accommodate those students whose desire to participate is sincere enough to overcome the burden of re-allocation of regular course work, while not involving a major sacrifice on the part of those students who want, and are entitled to, execution of the academic calendar as scheduled.

It is hoped by the Board of Directors that law students will feel no reluctance in availing themselves of what was a prompt and not unsympathetic response by the

faculty to the considerations surrounding student involvement in campaign activities.

—David LeFevre

## text of resolution:

Because of the importance of the biennial national election, the law faculty desires to accommodate those law students who plan extensive campaign activities for that election, provided that 1) such accommodation does not infringe unduly on the rights and plans of others who are not disposed towards this activity; 2) that academic standards are in no way compromised by such accommodation, and 3) that those who plan extensive campaign activity shoulder the primary responsibility for making up the work missed. Since the regular school calendar does not now provide for a recess just prior to the election, certain measures are deemed appropriate this year, on an experimental basis, as follows:

1) It is recognized that each faculty member normally has some discretion to accommodate students who may be absent for good reason, provided all work missed is made up.

2) During the 11-day period from October 24 (Saturday) through election day November 3 (Tuesday), members of the law faculty agree to avoid assignments such as exams or papers which would be impossible for a student to make up at a later date and agree that absences as such for campaign activities shall not detract from a student's overall grade for the course provided the work is made up;

3) Those members of the law faculty who desire to do so are encouraged to assist students who are absent during this period in their make-up work. This could be done in a variety of ways, and the nature of such assistance will be left to each faculty member's discretion.

4) In some cases, depending on the discretion of individual faculty members, it may be preferable to reschedule a class or seminar if such rescheduling can be accomplished without inconvenience to students in the course who have been relying on the regular schedule and would object to a rescheduling, and without undue inconvenience on the law school administration or professors concerned. This option is recommended primarily for small seminars which meet once a week.

## KUNSTLER (according to matthew)

"Think not I come to destroy the law, rather to fulfill it." Thus did William Kunstler invoke the words of Matthew to describe just what he and other movement lawyers are doing in our country. Speaking Sunday Afternoon in Room 100 to an overflow crowd, Kunstler used a mild mannered adversary's approach in explaining the "new law".

Stating that the first objective is to win, the Chicago 7 lawyer added that a high priority secondary objective is to make the case one that will make the movement work. Law provides a form and a method for political cases and therefore fulfills its social purpose. The only way to achieve the court's fulfillment is to make all out war in the court rooms for these courts have been destroying men and women. "They must be stripped of their sanctity and recognized for what they are. The courts are used to destroy in too many cases."

Putting this theory into practice, Kunstler has represented political clients around the country, using legal tools to win movement battles. He is, at present, beginning a major trial in Detroit, defending Pam Plamondon, Ann Arbor White Panther Leader,

from charges of conspiracy and actual bombing of a CIA office here in 1968. Other lawyers in the case are Lennie Weinglass, also of the Chicago trial who will defend John Sinclair, and Buck Davis of Detroit.

Speaking of this trial, Kunstler emphasized the importance of a union of student and lawyer and client and cause in courtroom battles. He is hoping that a large coalition of area law students will play a large role in the preparation of the defense, as was done by Chicago area students last year. There is much crucial work to do and all students will be very busy. Students in our law school who wish to help should call Buck Davis in Detroit (871-1251). Kunstler also asked students to volunteer for jury duty to take the decision-making power away from the solely middle-aged, middle-class people presently making up juries who cannot understand what the movement is about. This is probably the best way to make the courts responsive to social needs of all the people.

"The court system has been a true enemy of the people," said Kunstler. But by waging a strong fight in the courts to bring them back to the people for which they were created, the ultimate purpose of the courts can be fulfilled—justice to the people.

--Roger Tilles

## Another View - -

Like almost anyone who speaks at the Law School, William Kunstler didn't satisfy everybody.

Many, it appears, who expected Kunstler to be a fire and brimstone speaker a la Jerry Rubin were surprised at his un-hysterical delivery. Whether one's politics or lack thereof had any effect on the impression of the delivery is even questionable. Radicals who expected him

to "stir up" mass support for the people he is defending or for the "movement" were most certainly disappointed. Those of a more traditional stripe who expected his histrionics to "turn-off" a sophisticated audience were also disappointed.

Mr. Kunstler's approach might be termed, in law school jargon, a lot of substance without much procedure. He pointed out many of the apparent contradictions in the American legal system, including the right to bail, freedom of speech and due process. He didn't even attempt the approach (of many of the firms that interview at the law school) of offering a well-paying, high status job with an opportunity for 'pro bono publico' work.

His approach was not overtly active, but deep emotion and a strong belief in what he is doing were nonetheless very strongly communicated to the audience. This approach is very different than the usual speaker, and in a way very refreshing. How many of the usual law-school type speakers even care enough about what they say to really believe it.

Kunstler quotes the New Testament ("Think not I come to destroy the law, but fulfill it." Matt. 5:17) and compares the trial of Christ to that of John Sinclair. He often uses historical analogs. His speech used examples of the trials of John Peter Zenger and William Penn.

He is a political man, a fact he kept returning to in his presentation. This, it becomes apparent very early, is more important to Kunstler than the money and status usually associated with a career in the law.

Never explicitly stated in the speech, but nevertheless there, is something not often seen in the hallowed halls of the law school - a concern for people. The closest he came was to say (something stated in the ABA Code of Ethics) that he hopes "the future will provide enough lawyers for every poor bastard caught up in the toils of the law."

A good picture of the man can be gotten from his answer to a question asking what  
(continued on p. 7)

# Beating the Draft

For students with an understanding of the real world outside the walls of this zoo and an interest in doing something about it for credit--we've got a deal for you.

The Center for Law and Social Policy, located in overrated Washington, D.C., is a public interest law firm funded by schizophrenic foundations that is using the law in creative ways to attack problems of environment, consumer protection, mental health, corporate responsibility, housing and hospital care for the poor. Several law students each from Michigan, Yale, Penn, Stanford and UCLA spend six months at the Center and receive full law school credit for the time they would have been in law school (i.e. one semester). The program is unusually exciting, and as an educational experience is above the pedantic jibberish most frequently dispensed in pre-packaged daily doses here.

On Thursday, October 8, at 4:15 p.m. in the Lawyers' Club Lounge, Charlie Halpern, Director of the Center, will be here to talk with students interested in participating in the program for both the winter 1971 semester and the fall 1971 semester. If you will be a second-semester second year student or a first-semester third-year student either of these two semesters and are interested, come. If you are really interested, leave a resume with Professor Sax in his ninth floor mail box. If you have any questions of survivors of the Center's first six months of existence, contact Dub O'Neill or Ken Mogill. If you think that this ought to be a normal rather than exceptional law school experience, contact your nearest faculty member, by whatever means necessary.

- the alleged hole in the wall gang

Although it has been quite a while since our beloved President promised to eliminate the draft, the Selective Service System is still very much with us. For those to whom this is a pressing problem there follows a compilation of sources of information on the draft.

The best place to begin is the Ann Arbor Draft Counseling Center, located at 502 E. Huron (across from the A&P). The Center's hours (unless they have changed recently) are Monday-Thursday, 3:00 to 5:00 p.m. and 7:00 to 9:00 p.m.; Friday, 3:00 to 5:00 p.m. and Saturday, 10:00 to noon. The Center is free.

The Center's staff can give you quite competent advice on your rights (to the extent that you have any) to deferment or exemption, as well as to the techniques for exercising these rights. I am told that the staff is particularly good on claims for conscientious objector and I-Y or (IV-F) status. No, Professor Israel, this is not unauthorized practice of law. See, Informative Opinion A, ABA Committee on Unauthorized Practice (April 1969).

If you have a particularly complicated problem, you may also want to seek advice from one of the several faculty members who have some knowledge in this area. They are busy people, however, and I would go see them only if the Draft Counseling Center is unable to give you complete assistance. In fact, I will leave it to the Center's staff to tell you which faculty types to see.

For anyone who is sufficiently up against the wall that they think they need an attorney, there is a small firm in Detroit which specializes in draft work. Since the firm has already been hassled over an explicit recommendation in the South End (advertising

restrictions and all that), the RG will have to refrain from specifically identifying and recommending the firm. I will say, however, that when I had a draft problem I consulted the firm of Lafferty, Reosti, Jabara, Papakhian, James, Stickgold and Smith. I like to think that I would opt for the best available assistance.

Conceivably one or two of you may be afforded relief from the draft by a recent decision of the District Court for the Eastern District of Michigan, Gregory v. Tarr. If your situation fits the following facts, please call me (662-8447) or leave a note for me in the RG box: (1) you have held a graduate, but not an undergraduate, II-S deferment since July 1967; (2) you have a child with whom you maintain a bona fide family relationship; (3) you requested a III-A fatherhood deferment prior to April 23, 1970, and were denied that deferment because you held a graduate II-S deferment since July 1967.

If you are into self-help, there are a variety of sources which you can consult.

The best general guides to the draft are Tatum and Tuchinsky, Guide to the Draft for non-CO's, and Tatum, Handbook for Conscientious Objectors. Neither is completely up-to-date, but both are far more current than anything else presently available. Centicore occasionally has copies of both works. They can also be ordered from the Mid-West Committee for Draft Counseling, 179 N. Michigan Ave., Chicago 60601.

For more up-to-date information, as well as for additional details, the source to consult is the Selective Service Law Reporter. SSLR reports all Selective Service cases as they are decided and contains current copies of the Selective Service regulations, the Army's medical fitness standards and other useful stuff. Particularly helpful is SSLR's monthly Newsletter which does a fine job of summarizing and explaining recent events.

SSLR is on reserve in the library. (Warning: Unlike the rest of SSLR, the Practice Manual is out of date).

If you are attempting to obtain a deferment on physical or mental grounds, see IV-F: A Guide To Draft Exemption by David Sutter. In using this volume, however, I would check SSLR to make sure that there haven't been any recent changes in the medical fitness standards.

--John Trezise

COMING IN RG: A report on pre-induction physicals at Fort Wayne.

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## what's coming down in the courts

(1) Sierra Club v Hickel (9th Cir. Sept. 16, 1970):

The Sierra Club challenged the Mineral King Valley Project in the Sequoia National Forest, proposed by Disney Productions, which will require 11 miles of road through the Forest to provide access to the huge commercial-recreational complex planned. The court reversed a preliminary injunction against the project, finding Sierra had no standing. Though acknowledging the new liberal standing test of Association of Data Processing Organizations v. Camp, 397 U.S. 150 (1970), which specifically cited conservationist interests as relevant for standing determinations; the court said Sierra itself could not show damage to its property or members.

The decision seems contrary to other environmental suits, e.g., Scenic Hudson Preservation Conference v. F.P.C., 354 F. 2d 608 (2d Cir. 1965), where conservation groups had standing. The Court implies that local residents and users of the area must be included as plaintiffs to allow standing for Sierra Club. This analysis appears to be clearly wrong since standing is a test of the personal stake of

a party in a suit and Sierra should have it with or without local plaintiffs. In Citizens Committee for Hudson Valley v. Volpe, 425 F. 2d 97 (2d Cir. 1970) The Sierra Club had standing to assert the public's environmental interests. The case is a step backward from recent liberalization of standing requirements-- It will be appealed by the Sierra Club, and the Supreme Court should reverse.

(2) Williams v. McNair, 39 LW 2142 (D. South Carolina, 28 Aug. 1970): A three judge court held that South Carolina's female-only admissions policy for state-supported Winthrop College does not violate the Equal Protection clause. The court found that the differences in males' and females' rights created by limiting one of eight state schools to women only were not "arbitrary" nor were the differences "wholly wanting in reason." The court also emphasized that Winthrop was merely a part of an entire system of state-supported higher-education--a system which provided overall equal educational opportunities for males. Part of that state system is the Citadel--apparently destined to remain all male, possible assaults by Professor Prosser notwithstanding.

(3) Caterpillar Tractor Co. v. Grabiec, 39 LW 2152 (SD Ill. 9 September 1970): An Illinois statute barring females from working more than eight hours per day or forty-eight hours per week was declared void. The statute was found to be in conflict with Title VII of the Federal Civil Rights Act of 1964 which bans sex discrimination in employment. Chicago "sweat shop" law firms take note.

(4) Palmigiano v. Travisono, 39 LW 2150 (DC Rd Island): In a civil rights class action brought by six prison inmates, Judge Pettine ordered Rhode Island prison officials to stop opening or otherwise inspecting inmates outgoing mail to any lawyer, judge, or high public official. The mail censorship imposed by prison

officials (which included screening out and suppressing any letters critical of the prison or its personnel) was held violative of the plaintiffs' First Amendment rights to free speech and to petition for redress of grievances. The judge further held that the reading of any outgoing mail from inmates would be in violation of their First Amendment rights unless a search warrant were obtained and he forbade opening, reading, or inspecting their mail in the absence of such a warrant. The opinion could have a large impact in Michigan, where the screening process is widespread. Genie Plumundon, alleged conspirator, litterer, and White Panther Pun Plumundon's wife, recently stated in a press conference that she had been unable to receive any mail from Pun since he was busted last July.

(5) Church v. Board of Education of the Saline Area School District (ED Mich, 29 September, 1970):

On this past Tuesday Judge Damon Kieth issued a preliminary injunction ordering the Saline School District to admit two students who had been suspended because they wore long hair. The students may keep their hair pending trial. During a lengthy direct examination of one of the plaintiffs and his father, his attorneys were able to build a record establishing conclusively that the student wore his long hair as a means of expression of his opposition to the war and the basically conservative values of Saline. Building on Tinker v. Board, plaintiffs successfully argued that once they showed that the hair regulation violated a First Amendment right, the Board had to prove a substantial state interest in the regulation (at least if the right is one derived from the penumbra). Further, plaintiffs were able to counter successfully assertions that Federal Courts should abstain and that administrative remedies had not been exhausted--defendants' arguments successfully invoked in a hair case before another judge in the district. On the case for plaintiffs are local attorney Ray Cloevinger and law professors Bo Burt and Paul Carrington.

--compiled by errant members  
of the Michigan Law Review

## Florida Lures Julin

Associate Dean Joseph R. Julin of the University of Michigan Law School will become dean of the University of Florida College of Law on January 1, 1971.

The appointment was announced Friday, September 18, 1970, by University of Florida President Stephen C. O'Connell.

"For over a decade Dick Julin has made invaluable contributions to the U-M Law School," said Dean Francis A. Allen. "He is a dedicated teacher and scholar, an outstanding lawyer, a devoted public servant, and one of the finest academic administrators it has been my pleasure to know.

"His decision to undertake the Florida deanship involves a very substantial loss to Michigan," Dean Allen continued.

"Nevertheless, it is satisfying to me and to his many other friends that Dean Julin's talents and capacities for distinguished future service are widely recognized."

Julin joined the U-M law faculty in 1959 and became associate dean in 1968. For the last five years he has served as chairman of the executive committee of the Institute of Continuing Legal Education here, one of the most successful programs for lawyers in the country.

His weekly radio program "Law in the News," originating from the U-M Broadcast Service radio stations, is distributed nationally by the National Education Radio Network. "A Quest for Certainty," a 20-program television series on which he served as host, was awarded

the American Bar Association Silver Gavel Award for outstanding public service. The series was produced and distributed by the U-M Television Center. Julin also has appeared nationally on other U-M produced television series.

--U-M News Service

[To the students of Michigan Law Dean Julin's departure means the loss of a truly progressive thinker. For evidence of this up-date trend of thought one need only notice the energetic red head's change from his famous brush-like coiffure to a head of more flowing locks. Upon being questioned about the reasons behind this change "Jumping Joe" replied, "when you go into battle, the first thing you do is put on your helmet."]

(continued from page 3)

should be done if change couldn't be gotten within the system. Kunstler answered, "Overthrow the system." The question was then asked if he was advocating or condoning violence. To this Kunstler answered, "Nobody really condones violence, except fools and madmen."

He is a man who is "looking for the re-birth of a dedicated life."

--Michael D. McGuire

### LEGAL AID

Those who qualify for the work study program are now able to work in Legal Aid as well as research, etc. The first person to request this program since it became available is already working in the Ann Arbor Clinic. See Mr. Battles for further information.

--Joseph Sinclair



# ECO-PORN

Suggestions for the "Eco-pornography of the Week Award", are now being accepted by the Environmental Law Society, Room 234 Hutchins Hall.

This week's award goes to the Consumer's Power Co. for their recent statement that 'a little hot water never hurt anybody.'

## any suggestions?

During the course of the coming week all law students will receive, through the mail, a letter outlining the procedure the Dean Selection Committee will follow to assure the maximum amount of student input in the dean selection process. Included in the letter will be certain materials to which a prompt and thoughtful reply is requested. It is hoped that all students will respond to this process with a high level of seriousness and consideration.

Any student who does not receive a copy of the letter should contact a member of the committee.

-- David LeFevre  
Wayne McCoy

### Lest We Forget:

The RG applauds Dean Kuklin's notice explaining why the elevator in Hutchins Hall should not be used unnecessarily. It is hoped that other members of the administrative staff and faculty might take note.

### RG Absurdity of the week:

The Braille floor numbers on the elevators in the parking structure on E. University and Hill (for the blind drivers ?), while the Law School with a legitimate need for such numbers has none.

### RG Quote of the week:

In the halls of justice the only justice is in the halls.

--Lenny Bruce

### RG Song of the week:

Lola. . .The Kinks. "I'm not the world's most masculine man, but I know what I am, I'm a man and so is Lola."

### Tell it to the Board of Directors:

It sure would be nice to have some firewood in the Lawyers Club lounge on these chilly autumn evenings.

Editor: Roger Tilles  
Associate Editor: Tom Jennings  
Feature Editors: Mike Hall, John Powell,  
Articles Editor: Mike McGuire  
Staff: Joel Newman, Helen Forsyth,  
Connie Gale Richard, Bert Kau, Bob Spielman

## EDITORIAL: WOMEN AND THE LAW SCHOOL

Over the past few years groups such as Women's Liberation and the National Organization of Women have begun to identify and analyze the tremendous oppression of women in America. Slowly we are beginning to realize that the visible instances of institutional discrimination against women merely highlight a societal condition which is designated by some as "sexism". From childhood, women are channelled into "womanly" activities and pursuits. While setting one's goal in life as getting a "good" husband and being a "good" wife and mother is not inherently undesirable, it is when one's other options for seeking development of human potentiality are effectively foreclosed by societal pressures. Even when a woman today is able to break out of the norms, she is faced by oppressive institutional barriers such as the refusal to hire women who "might" become pregnant and the lack of day care centers.

The time has come to recognize and acknowledge the fact that Michigan Law School is a sexist institution in a sexist society. Less than 10% of our fellow students are women; there are no women professors. And when women graduate they are ignored by firms that discriminate against them in their hiring policies. Worst of all, perhaps, is the fact that the attitudes toward women, as primarily a sex and homemaking object, which are culturally inculcated into men (members of the RG included) are perpetuated by an environment in which virtually the only women we will encounter in a professional context are secretaries.

This year women in the Law School are challenging the traditional orientation of the law school vis a vis women. It is incumbent on men in the law school community to analyze their attitudes toward women and to lend their support to the challenges. We are told that the reason for the small percentage of women in the law school is that few women apply. While this is partially true, the school must engage in an affirmative practice of encouraging women to apply, in order to break down sexist attitudes towards legal education. The Admissions Office should fund women law students who return to undergraduate campuses to recruit. The addition of day care services for students with children would also make the school more attractive. Law schools such as Duke and Chicago have freshman classes including more than 30% women this year. A comparable figure must be a rock-bottom demand at Michigan.

Further, Michigan Law School must engage in a program seeking out and hiring qualified women law professors. The fact that no women currently serve on the faculty above the level of instructor is necessarily a function of the attitude of the school towards women--there certainly are women available and most other "prestigious" schools have some. While we should not need to justify the hiring of women, two results of their presence are obvious: they would make the environment more conducive to women law students and they would provide a better orientation for male students and faculty, who have difficulty "accepting" the notion of sexual equality.

We live in a community espousing equal rights and equal protection. We've got a long way to go, baby.

--WTJ

## FOOTBALL POLL

Don Bennett, former Wabash student and salesboy in Naptown, used his common sense by following the Hammer Twins' picks game for game on to victory. Mr. Bennett, alias "Wild Man", can be seen lurking nightly in the murky shadows of the Law Quad. Upon receiving his gift certificate from Dominick's, Mr. Bennett was heard to say, "What I need a sanwich in a tube for? Gimme a six-pack." Congratulations, Don.

Meanwhile, the Hammer Twins continue to outstrip all opposition. Despite a host of upsets this week we were correct on an amazing 70% of our picks. Just ask Don.

This week, sports fans, we do not care what you think the score of the Michigan game will be. Instead, we ask you to pick both the winners and the scores of the Baseball Playoff games (#'s 21 and 22).

--The Hammer Twins  
Season Percentage--80%

1. MICHIGAN vs Texas A&M Michigan staggers to another victory.
2. Alabama vs MISSISSIPPI Victory for the Rebels in the Jeb Stuart Memorial Shoot-Out.
3. American International vs AMHERST Lord Jeffs bomb Yellow Jackets.
4. Austin Peay vs EASTERN KENTUCKY The Hilljacks take one.
5. Cincinnati vs TULANE Editor's choice.
6. Columbia vs PRINCETON With Frank Navarro, former Williams mentor, how can you win?
7. CORTLAND STATE vs Ithaca Don't hedge your bets.
8. Duke vs OHIO STATE Crunch!!
9. WEST ORANGE STATE TEACHERS vs Bedford State Cowboys shoot for berth in Salad Bowl.
10. Harvard vs RUTGERS New Jersey's finest in a chuckler.
11. GRAMBLING vs Prarie View The factory rolls.
12. LAMAR TECH vs Southern Illinois Even Walt Frazier couldn't help the Salukis.
13. NOTRE DAME vs Michigan State Ara's Animals tear up State U.
14. Minnesota vs NEBRASKA The Golden Gophers pray for rain.
15. Oberlin vs CARNEGIE MELLON The half-time show promises to be exceptional.
16. Purdue vs STANFORD Where are the Phipps of yore?
17. WAYNE STATE vs South Dakota State Men from Motor City march.
18. WESLEYAN vs Bowdoin Who cares?
19. TEXAS vs University of California, L.A. Hook 'em Horns!
20. Williams vs ROCHESTER Purple Cows on extended losing streak.