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University of Michigan Law School, "October 30, 1970" (1970). *Res Gestae*. Paper 747.
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RES GESTAE

"There are no trials inside the Gates of Eden."

--Bob Dylan

Volume 4, No. 21

"Exhaust all legal remedies".

October 30, 1970

MOVIE

The Speakers Committee is trying something new on an experimental basis: Movies. "Key Largo", starring Humphrey Bogart, Lauren Bacall, Edward G. Robinson, and Claire Trevor will be shown at 8 P.M. on Friday, November 6 in Room 100. Admission is 50 cents.

This 1948 drama involves a gang of hoods who take over a hotel in the Florida Keys and intimidate the residents and proprietor. John Huston directed this movie and Claire Trevor won the Academy Award as best supporting actress.

-- Ken Siegel

SILENT MAJORITY

It's one thing to write a letter to the R.G. or take some other positive action opposing the composition of the Dean Selection Committee. Action shows awareness, concern and commitment to a position. It is admirable in itself.

It is a different thing to take no position, make no action, show no concern. For students who conscientiously feel the Committee is not representative of their interests, it is sensible to boycott the selection process as a positive form of protest.

But for students who feel the committee may have some representative value and who care a little about the law school's future, "boycotting" the selection process through inaction is unjustifiable.

The poor response to the Committee's hearing and questionnaires reflects apathy more than opposition. Or does it show that most law students are happy to leave the question of the Dean and their destiny to the faculty?

Except for those who have consciously delegated the selection process to the faculty or those who have consciously rejected the process as hopelessly unrepresentative, it is wrong to camouflage the indifferent non-participation with a claim of "boycott." That's too much like the "Silent Majority."

For anyone who claims he or she does care, the Committee (or the R.G.) would probably still like a letter.

Mike Hall

LONELY HEARTS

COMPANION WANTED: for dew-fresh, bright-eyed, forever-affectionate, gorgeous grey punnycat. Sprightly and pensive, ingenuous and gracious, independent and endearing--she won't let you be lonely. She'll warm your heart and make your house a home. Call Mike Hall at 662-2951.

Letters

To the Editor:

There is an acute shortage of available darkroom facilities for students on the University of Michigan campus. While trying to locate a darkroom for my personal use and use of the Codocil (the law school yearbook), I found out that there are really only two darkrooms available that students may use, and both of these are overcrowded. The facilities available are in South Quadrangle (which is mainly for the use of South Quad residents, and always crowded); the SAB (a one-man darkroom with lousy equipment, run by the University Photo Club which has 40 members trying to use it); and the University Photo Services (which is only available to classes, or others at fairly exorbitant rates). After this brief survey, I decided that the only solution would be to build a darkroom in the Law Quadrangle. I approached Max Smith, the Director of the Law Quadrangle, and he was quite enthusiastic about the project, as were several other people that I approached.

On Monday, November 2, 1970, I intend to submit a proposal to the Law Club Council to build a darkroom for members of the Law School. In order to convince them that a darkroom is really needed, I will have to show them that there is interest in this activity. I would appreciate it if all persons interested in using such facilities would let me know of their interest by either: 1. Signing up on the sheet at the Law Club desk; or 2. Calling me at 764-8993 and leaving your name. Please notify me prior to Monday.

The darkroom will be set up to do black-and-white processing and printing. The amount of equipment will probably be dependent upon how much interest there is in the darkroom. Details of how the

darkroom will be run will be made after approval, but it will be open to all interested members of the Law School. Assistance in the use of the equipment will be provided. Members using the darkroom will supply their own photographic paper and contribute a small fee for chemicals. Further details announcing the success or failure of the proposal will be submitted to RES GESTAE.

-- Harold R. Oseff

To Res Gestae, wherever you are!

The supposition advanced by your "Board of Editors" last week, of a furtive, last-minute scramble by the faculty to get a clinical program on the books before the Visitors arrived, is hilarious. The account on page 2 of the same issue, while it does not have the palpitating drama of the editorial page, is more factual. When the clinical law proposal was first presented this Fall, the faculty desired, before passing on it, to have the reaction of the standing curriculum committee, whose responsibility is broader than that of the ad-hoc group that drafted the proposal. Accordingly it was referred to that committee for consideration and prompt report back. That committee's report was made to a specialy called faculty meeting because the next regularly scheduled faculty meeting (Nov. 6) would have occurred after the deadline (Nov. 1) for submission of an application for funding to the national foundation which offers such support. As for the "very suspicious circumstances" implied by the editors' query "Where were the 'no' votes that kept similar proposals from getting out of the curriculum committee in years past?": I do hate to be a pooper, but the fact is there have been no such "no" votes, because there have been no such proposals.

The provision of a worth-while clinical

(continued on page 4)

what's coming down in the courts

A really fascinating publication that too few people know about or read is The Clearinghouse Review, published by the National Institute for Education in Law and Poverty. The August-September 1970 issue has a number of articles which should prove extremely interesting. The lead piece is called "New Cars and UCC Section 2-608: Your Client Isn't Stuck with a Lemon." It's an incredible description by a Deputy Assistant Attorney General in Massachusetts of how he purchased a totally messed up new Buick Skylark and finally got out of the deal through revocation of acceptance, UCC Section 2-608. It's an archtypal case study--applied law analysis, written with understandable anger. Also in the issue is an article by Louise Lander, a staff attorney with the Center on Social Welfare Policy and Law at Columbia and a 1969 graduate of Michigan Law School. It's called "AFDC Eligibility Under the Social Security Act: Reaping the Harvest of King v. Smith." Observing that Dandridge has "cramped the style" of the welfare bar, she argues for a more forceful implementation of King Social Security Act analysis to strike down non-conforming state welfare practices: "like a Mozart quartet, Chief Justice Warren's opinion invalidating Alabama's 'substitute father' rule reveals additional nuances with repeated exposure."

The October issue of The Clearinghouse Review also includes some fascinating articles. In "Litigation and the Right To an Education," David Kirp, Director of the Center for Law and Education, outlines "a shopping list of the kinds of legal challenges to harmful educational policy decisions a legal services project can undertake." And one small Note indicated that even Trusts and Estates might have some fleeting relevance to social change. Snell v. Wyman, 393 U.S. 323 (1969) upheld a

New York law allowing the state to "recoup" welfare benefits from recipients who later receive tort recoveries or inheritances. To protect against such action, the Center on Social Welfare Policy and Law suggests that trust funds be set up to protect later income. The Center is now working on a "model trust fund". Far out!

Both issues of the Review also include lengthy Poverty Law Developments, well worth reading. Now for some cases:

1. Lang v. Briggs, Ill. Supreme Court, 9/26/70 (8 Cr L 2033). Defendant Lang was indicted for murder in 1965. At a jury hearing on competency to stand trial a directed verdict of incompetency was returned on the grounds that Lang was a deaf mute who was unable or unwilling to communicate with his attorney, a man with 30 years experience in dealing with deaf mutes. Lang has been committed with the Department of Mental Health ever since, and has evidently refused to learn to communicate. Last March, his attorney presented motions aimed at getting a trial despite any findings of incompetency to stand. The motions were denied.

In this action for habeas corpus, the Illinois Court held that Lang has a right to stand trial. Citing Regina v. Roberts, 2 All England Reports 340 (1953), the Court reasoned that if, as in Lang's case, the defendant's counsel believed he could obtain a verdict of not guilty, then he should be able to proceed with both the general issue and competency to stand. Any other course "might result in the grave injustice of detaining as a criminal lunatic a man who was innocent."

The Lang case may prove extremely useful in the developing legal struggle to bring the Constitution into mental hospitals. Certainly a defendant who is committed for reasons other than any supposed dangerousness to society should be given the option to prove his innocence and get the hell out.

2. U.S. v. Simpson (D.C. Cir. Oct. 1, 1970). Petitioner Simpson sought to collaterally challenge his plea of guilty in an armed robbery charge through the use of 28 U.S.C. § 2255. Although he had told the judge that he had been made no promises, he now alleged that his court appointed counsel had told him that he had "made arrangements" for a sentence under the Youth Authority Act and that the petitioner should give the judge the "appropriate answers" to his questions on promises.

Noting that petitioner's allegations reached the requisite specificity and that on their face constituted an involuntary plea and ineffective assistance of counsel, the Court of Appeals reversed the District Court's denial of a hearing. Judge Leventhal went on to engage in an extended discussion of the problems involved in 28 U.S.C. § 2255 actions. He noted that District Court judges are often faced with a multitude of actions, some of which are "frivolous, incoherent, and false." Leventhal argues that the source of the problem is the lack of decent legal counsel for prisoners, and suggests that "use of law students to counsel and advise with prisoners may well provide the key toward serving a need without excessive drain on community resources." Citing Jacob and Sharme, Justice After Trial: Prisoners' Need for Legal Services in the Criminal-Correctional Process, 18 Kan.L.Rev. 493 (1970), Leventhal observes that programs utilizing law students both cut down on frivolous complaints and "lead to the uncovering of more meritorious petitions." Twelve law schools, including Michigan with the Milan Prison Program, provide assistance to prisoners at Federal institutions. Leventhal's opinion may lead to even more active involvement.

3. Calahan v. United Artists Theatre Circuit Inc., Wayne Cty. Mich. Cir. Ct.,

Oct. 6, 1970 (8 Cr.L. 2036). In an action by the Wayne County Prosecutor to enjoin the showing of "He and She" under Mich. Comp. Laws Ann. § 600. 2938 (1961), the statute was struck down as unconstitutional. The statute authorized legal officers of municipalities to sue to enjoin distribution or possession of any "obscene, lewd, lascivious, filthy, indecent or disgusting" publication and to seize and destroy the matter upon issuance of the injunction. The court found that outlawing possession was in violation of Stanley v. Georgia, 394 U.S. 557, and that the statute was not subject to severability. Evidently, this was the same law used to shut down "I am Curious, Yellow" at the Fifth Forum last year.

--Compiled by errant members of Mich. L. Rev.

(continued from page 2 --Letters)

experience to a law student body as large as this one, situated as it is at an inconvenient distance from the principal sources of clinical material and supervisory assistance, is just not quite so simple a problem as some would believe. As the student members of the ad-hoc committee and the curriculum committee who were present at the faculty discussion of the proposal are aware, there are important problems in connection with such a program which cannot be resolved by simply decreeing--"there shall be a clinical program." After a couple of hours of thoughtful discussion, these questions were answered in this instance to the faculty's satisfaction, with results of which you are aware. But that idea that there was a Potemkin at work setting the stage for the big boy's arrival--Wow! The lad who hatched that one has missed his calling.

-- Luke K. Cooperrider

AN OPEN LETTER TO THE LAW SCHOOL COMMUNITY

The so-called women's issue in the law school or anywhere else isn't that at all. The issue is men, women, and the patterns, forms and consequences of their personal, "professional" and institutional relationships. The American society on paper is committed to "equality", but this notion has meaning only when individual human beings can relate to each other in ways that respect and support each other's--and their own--individual dignity and creative potential; their essential human qualities.

This society in practice has never sought to come to terms with that concept of equality. Rather, with respect to relations between and among men and women, whites and blacks, and managerial and working classes, this society has fostered fears, norms, customs, institutions, law and lies that have dehumanized and exploited the unfavored and unpowerful. The law school community is no exception. With respect to relations between women and men we see in the law school:

1. a handful of women students;
2. no women faculty members;
3. recruiting and placement policies that perpetuate and reinforce male control of the legal "profession";
4. placement policies that permit interviewing by firms that expressly or implicitly discriminate against women;
5. professor-secretary relationships based on the refusal by professors to relate to their secretaries as equal human beings, with the consequent expropriation by the professor of the secretary's work product;
6. secretarial and administrative positions being filled by persons whose capacities are equal to those of their bosses but whose opportunities are limited by role-slavery based on sex;
7. wives of law students compelled by the "custom" of male dominance to come to Ann Arbor and to cease or curtail their own education because of their husband's primary status;

8. social norms that first place all day-time responsibility on women for raising children and then refuse to provide free day care centers for the children of those women interested in pursuing their educational or work desires;
9. personal relations in the law school that value aggressive, competitive behavior over compassion and the sharing of knowledge and experience.

We feel that these relations are intolerable. They are a part of the same pattern of relations that enslave and dehumanize blacks and browns and workers, and that dehumanize the oppressors as well. They are antithetical to a human notion of equality and insensitive to and exploitative of the human qualities of both women and men. If these relations are to be replaced with new forms of relations that do not suppress but rather support the human qualities of women and men, then we must expect to see over time:

1. equality in student enrollment for women and men;
2. equality in faculty positions for men and women;
3. equality in secretarial and administrative positions for men and women;
4. free day care facilities for law students and their spouses, faculty members and their spouses, and secretarial and administrative workers and their spouses;
5. personal and institutional relations between men and women, women and women, and men and men that are based on equality and respect for the other individual and self.

This institution must respond immediately to the need for greater numbers of women students; women on the faculty; the need for free day care facilities for children of members of the law school community; and the need to refuse the use of law facilities by law firms which are unable to affirmatively demonstrate that they are not sexist.*

The individuals who make up the law school community must examine their interrelations with other members of this community and see how and to what extent they contribute to this problem. They must then act on what they will learn.

Because of the unwillingness of the law school to take adequate actions directed to this end to date, we have begun to act on our own. Our first steps have been aimed at recruiting women undergraduates to apply for admission to law school. We are prepared to take other actions in addition. We invite the law school administration to reply to this statement and then to meet with us and you to discuss and outline specific steps that this institution must take toward this end.

--Ann Arbor Lawyers Guild

*

The same standard must obviously apply with respect to law firms' showings that they are not racist.

THE DEAN SELECTION PROCESS--
WHERE STUDENTS STAND

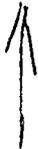
Regents -- choose the Dean, actually rubber stamp Fleming



Fleming -- chooses Dean from name or names submitted by faculty



Law School Faculty -- submits name/names to Fleming--largely a rubber stamp of Dean Selection Advisory Committee.



Dean Selection Advisory Committee -- chose names to be submitted to the faculty from those submitted by "interested persons"



Students -- a single component of the larger group of "interested persons" who are allowed to submit (but the committee is not required to consider) recommendations and names.

M.D.M.

FOOTBALL POLL

In one of the tougher polls of the year, a 75% score by Bill DeWitt of our very own Law Quad was good enough to win. By following the Hammer Twins in all but two picks, Bill was able to make his coup possible. However, surprisingly enough no one out there in Law Land was able to ascertain the existence of Art Ditmar, former pitching great, who now resides in Springfield, Mass. No, he is not a lobsterman. No, he is not a History Professor at Amherst College; he is AIC's most famous baseball coach.

Meanwhile, we must apologize to any of you who may have bested 5 wrong, but some clown made off the our pollbboox once again. Rumors that have floated by seem to point to a disinterested third year law student, who being high on the LAW, thought that the box represented a threat to truth and justice and the American Way. If anyone knows the whereabouts of this joker, please prosecute.

As you may know, this is Gil MacDougall Week in Nutley, New Jersey. Therefore, so as to celebrate this tribute to the former American League Rookie of the Year, we ask you to specify what Gil's first words were to Herb Score after Herb picked his eye off the ground one dismal night in Yankee Stadium. This is the tie breaker, sports fans. Season's percentage 76%.

---The Hammer Twins

1. MICHIGAN vs Wisconsin Badgers bite.
2. American International vs SOUTHERN CONN. Ask ArtDitmar, dummies.
3. AMHERST vs Tufts Beginning of extended winning streak for Jeffs.
4. Army vs BOSTON COLLEGE Cadets bite.
5. CALIFORNIA vs Southern Cal Pacific 8 race a dilly.
6. Colorado vs NEBRASKA Cornhuskers all the way in the Big 8.
7. COLUMBIA vs Cornell Bit Red bite.
8. DARTMOUTH vs Yale Boola, boola,.....might fool ya.
9. Florida vs AUBURN If only it doesn't rain.....
10. Indiana vs MICHIGAN STATE Hoosiers bite.
11. GRAMBLING vs Texas Southern They are realy number 1.
12. Ball State vs. MIDDLE TENN. STATE Hilljacks in midst of Mountain Conference race.
13. NOTRA DAME vs Navy and 40 M,ddies bite.
14. MUHLENBERG vs Swarthmore Loser to be eliminated from NCAA football.
15. Oberlin vs KENYON Even Fox Lane could beat Oberlin. (Maybe Fox Lane, but not Amherst. All power to The Yeomen!!! --ed.)
16. Oregon vs WASHINGTON Ducks bite.
17. PITTSBURGH vs Syracuse Panthers smash the 'Cuse.
18. PURDUE vs Illinois Whoopee!
19. WESLEYAN vs Hamilton Cardinals bite.
20. SPRINGFIELD vs Wagner Victory for the second best college in Springfield, Mass.