

University of Michigan Law School
University of Michigan Law School Scholarship Repository

Res Gestae

Law School History and Publications

1969

Vol. 3, No. 4, September 19, 1969

University of Michigan Law School

Follow this and additional works at: http://repository.law.umich.edu/res_gestae



Part of the [Legal Education Commons](#)

Recommended Citation

University of Michigan Law School, "Vol. 3, No. 4, September 19, 1969" (1969). *Res Gestae*. Paper 766.
http://repository.law.umich.edu/res_gestae/766

This Article is brought to you for free and open access by the Law School History and Publications at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Res Gestae by an authorized administrator of University of Michigan Law School Scholarship Repository. For more information, please contact mlaw.repository@umich.edu.

AN OPEN DOOR APPROACH TO LAW TEACHING

Last week's interview with new teachers in the Quad and their opinions on pedagogy at Michigan Law School might suggest that an interview with an old member of the faculty would be in order. But Professor Whitmore Gray cannot fall into any such category. Firstly, and principally, his mind is searching for new ideas and his method is one of constant experimentation. Secondly, because he is young enough to have been taught law by some of his faculty colleagues.

Professor Gray has given much thought and has many unanswered questions regarding the how's and why's in teaching law. Being active in the Admissions Department, more precisely in creating policy and admitting students in the absence of an official Dean of Admissions, which up until this year the Law School had not had. As a result, he has been able to see or attempt to see many of the problems in what a Law School should be and has actively pursued a working definition. When one has to select students, he has to try to fit the student with the school, not just taking the highest academic personages, which demands know-how of how the school functions.

A "serious pedagogical argument" has been raised in Professor Gray's mind, then, as to what the Law School's function is. On the one hand, students want a practical education in the fundamentals of law and on the other hand, they want training in becoming a "legal mind", which places more emphasis on an academic orientation. Professor Gray feels that the great failing in our law school and the other national law schools is that the latter philosophy has subsumed the practical application of law "as it is." He reaffirmed this conclusion this summer by teaching at an institute in North Carolina for new law teachers. There he experienced widespread sentiment that these schools were giving too much emphasis to the academic orientation, than the training of the average practitioner. He feels that Michigan has failed to determine what is best for the students, as to what the student actually does after graduation.

He mentioned that perhaps a greater balance could be reached with the possibility of a two-year program of basics and a third year of choice where the student could then continue on for a year with his future in mind taking a clinical law tack or perhaps more of a societal law approach, depending on the individual student's desires. In the context of the present three-year system, he feels that a law teacher should balance the philosophies equally.

He is the only freshman contracts teacher without a standard casebook. Professor Gray believes in teaching contract law by using the "real thing." He gives the students first hand experience in the field, with minimal emphasis on what an ideal contracts system would look like, but rather emphasizing what actual contracts do in fact look like and, more importantly, why they look like they do. The importance of academic training in the legal process has not been overlooked, but his students will quickly point out that his course is different and they feel that difference will probably

be the confidence of knowing what to look for in a contract.

Professor Gray is also amazed at the lack of personal knowledge the average teacher has about his class and what the class as a whole looks like. He finds teaching easier with a knowledge of what experience Mr. Jones or Miss Smith has had so that there can be a student teaching process taking place. He finds that it is irresponsible for a teacher not to know of the classes' needs and gear a course around the class, as well as the teacher's expertise.

In this regard, Professor Gray is representing our Law School in a Ford Foundation funded study of what kind of student a law school person really is. The study of a random sampling of first-year students at Yale, Iowa, Stanford, Connecticut and Boston College, as well as our own Law School, will try to give a picture of the backgrounds and aspirations of the average law student and/or see if there is indeed an average law student at all. The results should have a large impact on how and what law school teaching should look like.

As to the innovations of having students participate on faculty committees, he was understandably optimistic about the effects this would have in the channeling of both groups' desires into a communication process. It is understandable because Professor Gray has taught from this philosophy for many years.

Roger Tilles

GOODBYE GENERAL HERSHEY

General Hershey to be fired? Impossible.

But that's what Dan Rather told me over the radio the other morning. The Nixon Administration, he said, was planning to ease the General out of his position as Director of the Selective Service System as part of a campaign to mollify student militants. The Administration promptly denied the story, of course. Still it would be heresy to disbelieve Dan Rather and CBS News. And Administrations always deny everything anyway.

If the story is true, it's quite a development. The old General, after all, is the Selective Service, much in the same way that J. Edgar Hoover is the FBI. Hershey became Director in 1941. With the exception of a brief period in 1948 when the draft was temporarily allowed to expire -- a period which he sat out as Director of the Office of Selective Service Records -- he has held the post ever since. In those three decades he has had numerous opportunities -- which he has never failed to seize -- to shape the draft to meet his image of an ideal conscription system.

It is a mark of Hershey's status as an institution, that, like Hoover, many of his more moderate critics feel compelled to temper their criticism with token words of praise. "Lewis B. Hershey," the New York Times said a few years ago, "represents much of vanished rural America ... a tough, direct, honest and combative man who does not shirk a fight ... An hour with him convinces most visitors that with Lewis Hershey in charge, not one Indian would have ever made it alive over the stockade wall."

Whether General Hershey would have routed the Indians is, as the Washington Post pointed out in rejoinder to the Times, academic. It is academic because the Indian Wars are over and because the General has apparently never heard a shot fired in anger. His 58 or so years of "military" service have been spent largely behind a succession of desks -- though he is reputed to have been a fair polo player at one time.

Even more dubious is the proposition that Hershey is representative of a vanished rural America. The philosophy which seems to have guided Hershey's tenure with the Selective Service is anything but that of an unregimented society of independent yeomen farmers. Rather he appears dedicated to the view that the citizen should serve the interests of the state. At one time he favored -- and may still favor -- a universal military training plan which involved conscription of nearly everyone in the country. "It's a breath-taking idea," he said, "we have no experience in trying to control everybody."

Failing in his efforts to control everybody, Hershey has done the best he could with what he has. His somewhat notorious channelling scheme is perhaps the prime example. The idea behind channelling is to direct those subject to the draft into "endeavors, occupations and activities that are in the national interest." By the selective use of deferments and other subtle pressures, Hershey feels, a draft registrant can be compelled to do as a civilian "what will help his country most." Very simply, a man "complies with the needs of the national health, safety, or interest -- or is denied a deferment." Guess who defines national interest?

Hershey's authoritarian ethic permeates his whole attitude toward the Selective Service. He will truck no opposition. If draft opponents have the temerity to sit-in at draft boards -- or engage in other protest activity -- the solution is simple -- draft them. If the draft is unfair, too bad. "It doesn't make any difference how fair it is or how national it is or how anything it is if you don't get the men ... and this method has gotten men."

And, as one can well imagine, General Hershey's attitude toward the Selective Service has an awful lot to do with how it runs.

But will it be any different once the General is off the scene?

Probably not. President Nixon could possibly appoint some pseudo-bright young man to take his place and that would surely result in a change in tone. Eliminating Hershey, however, is not likely to touch the fundamental unfairness of the draft system. Nor, for that matter, are some of the other cosmetic changes -- drafting 19 year olds first -- which the press says Nixon is soon to institute likely to help much either.

General Hershey and some of his friends in the Congress, L. Mendel Rivers and, before him, Carl Vinson, have managed to create a conscription system so rife with unfairness that only a major overhaul can correct it. The draft law denies registrants even a crumb of procedural fairness in Selective Service proceedings and purports to make judicial review of draft board actions almost impossible. The law also creates a confusing and complex web of deferments and exemptions which have little touch with reality

And no effort has ever been made to provide the System with a rational or up-to-date administrative structure.

Worst of all is the local board system. There is much to be said for local control of government institutions, but in the case of the draft, local control has been grossly perverted. Ultimately a registrant's eligibility for a deferment or exemption can depend solely on the whims of the three or five men who constitute his local board. Local boards are not representative of the communities they are supposed to serve. In racial and economic terms, as well as sexual composition, they are blatantly unrepresentative. And because of the secrecy in which they operate they are almost immune from any kind of rational oversight. The result is that where one's local board is -- rather than any sort of objective standards -- largely determines how he will fair with the draft.

Simply appointing a new Director will not cure these problems. Even General Hershey himself has occasionally had difficulty controlling his local boards. If President Nixon is serious about draft reform, he will not only have to fire Hershey and make what changes he can by administrative action. He will also have to make good on his promise to press Congress into eliminating the local board system. And he will also have to do something about procedural unfairness.

JUSTICE DEPARTMENT FORUM SOUGHT

Because of recent policy changes and the resultant turmoil within the Justice Department I, and at least several other students, have serious doubts about the desirability of employment there. Because we consider these problems to be of concern to all attorneys as well as to prospective Justice Department employees, we have resolved to invite Attorney General Mitchell, or his delegate, to address a law student forum here.

Dean Allen has indicated his willingness to cooperate in this matter, and Professor Kamisar has tentatively agreed to serve as a panel member to discuss criminal procedure policy. At least one other faculty panel member would be added with the specific responsibility of discussing civil rights questions.

As an indication of interest and concern, and to urge the Justice Department to participate, please sign the statement of concern posted beside the main bulletin board in Hutchins Hall.

There will be another announcement as soon as the Justice Department responds to our request.

Darryl Anderson

CITY ATTORNEY REQUESTS LSCRRRC AID

At the LSCRRRC meeting Wednesday night, Jerry Lax, Ann Arbor City Attorney, requested the assistance of the Law Students Civil Rights Research Council in several projects pending before City Council. Mr. Lax explained that law students can assist in the general areas of housing ordinances, job discrimination, and police

community relations by researching the issues in order to resolve such concerns as the legality of the city moving against discriminating employers or the possible composition of a citizens' appeal board. While the response of those present was enthusiastic, more aid is needed. If you are interested in reform of the legal system and want to see your efforts come to fruition in your time, come to Room 132 Hutchins Hall at 7 p.m. on Wednesday, October 1 for the next LSCRRRC meeting, or contact David Alexander, 449-2364; Perry Bullard, 764-1103; or Joel Newman, 764-8984. Time used for research is at the discretion of the individual.

Joel Newman

BOOK STORE REFORM

Tired of being gouged on books every semester? Do something about it! Volunteer to work on the proposal for the set up of a Law School Bookstore, run for the profit of you the student. Current ideas include a used book system whereby the student lists his own resale price with a commission going to the store for operating costs. The new book trade is also to be a goal of any new store. If you have ideas and would like to help with a proposal for submission to the Board of Directors, contact Tom Sampliner at 764-9086, Room K-41 Lawyers Club.

RIPON SOCIETY

Since 1963, the Ripon Society has been a strong and persuasive voice of young and progressive Republicans. The voice has been a challenge to Republicans, calling on them to rise above a narrow and outmoded rightist conservatism. They have challenged all parties daring them to move beyond politics as usual, away from the cliches and categories of all parties into the realities of the decades to come.

The Society is not composed of lawyers exclusively, indeed it is mainly composed of young members of the business, professional and academic communities. Aside from research and policy, the Society seeks to generate creative discussion, prepare studies, and aid creative and dynamic Republicanism. It has national headquarters in Cambridge, Massachusetts, chapters in seven cities, and several affiliated groups of sub-chapter status. It publishes a monthly provocative magazine expressing a great deal of independent thinking with articles such as that proposing a negative income tax, some four years ago as an alternative to the welfare system, and in recent months articles on "Community Self-Determination," "The Non-Galbraithian State," "The Mexican-Americans -- an Examination," and "Sad Story of Biafra."

There has been some expression of forming an affiliate chapter in the Ann Arbor area. A basis for such activity is the philosophy that for the next few years at least a progressive Republican can outdo his equally progressive Democrat where it counts -- as a key influence on the party in power. Any faculty members or students interested in the Ripon Society should call Roger Tilles at 769-2792 for further information.

The Society has published their "First Imperative of Political Vitality": "Thou shalt urge fellow Republicans to act wisely, and when they don't, thou shalt tell them so."

OVERHEARD

One young Business Associations professor from the Bronx: "The creation of a rock consortium in a Law Quad on a Friday afternoon is an abomination."

OTHER LAW SCHOOLS

The Urban Law Institute of George Washington University, Washington, D. C., will receive a grant of \$318,145 to continue a Master of Laws program in poverty law, it was announced today by the Office of Economic Opportunity.

Seventeen VISTA lawyers, now in the program, will continue their studies and work and seven are expected to join the program in the fall.

While studying toward a Master's degree the VISTA lawyers work in the poverty areas of the District of Columbia and aid the poor in their legal problems. The program cooperates with the Washington, D.C. Neighborhood Legal Services Program.

COMMITTEE APPOINTMENTS

The Board of Directors appointed the following members to committees on Thursday, September 18.

Student Personnel Committee

Greg Curtner
Tom Burns
Mary Berry
Larry Owen
David Spector
Kathy Lewis

Admissions Faculty-Student Committee

Dave LeFevre
Margie Utley
Bob Buechner

Administrative Student-Faculty Committee

Isaac Schultz

Academic Standards and Incentive Faculty-Student Committee

Bill Weiner
Bill Bronner
Jason Horton

Previous to this on Monday, the Board of Directors refused a demand by the Black Law Students Association (BLSA) that the Board select one member of BLSA for the student-faculty committees dealing with Admissions, Curriculum, and Academic Standards and Incentives and the student Personnel Committee.

The BLSA demand was presented on Thursday, September 11 when the black student group returned blank petitions to the Board.

The group told the Board that BLSA would itself interview black students and wanted one place reserved on each committee for its choice.

Board member Ed Fabre moved that the Board delegate its power to BLSA to select one member of the committees, and that BLSA choices be binding on the Board.

Debate centered on both the policy and practicality of such action. Ben Spaulding claimed that the action was necessary to bring blacks into position of responsibility within the Law School. Bob Wefald was against "government by demand", while Frank Eaman brought up the question of whose interest the black students selected by BLSA would represent. Ed Fabre answered that black students would represent all students.

After Board President Neill Hollenshead ruled that such delegation would have to be passed by a two-thirds vote, the motion was defeated with 5 voting for and 3 against, and 2 abstentions. A motion to extend the interviewing so that specific black students could interview for committees then was passed.

BUDGET MEETING

Representatives of the organizations who have requested money from the Board of Directors should attend a special meeting on Monday, September 22 at 6:00 p.m. in the Lawyers Club Lounge.

THE POSTCARD

Ambitious A student having received all his Law School grades except Psychiatry and the Law, sunned himself by the swimming pool waiting for the final postcard. "Ah," he thought, "it has been a fine semester; an 'A' in this one will give me a 3.7. Gee, I wonder if Dr. Intellect gives 'A+'s"; I'm certain I'm a candidate if he does."

Ambitious A student was so anxious to receive the final grade which would all but secure his future legal eminence, that all the way out at the swimming pool he could actually smell the arriving postman.

"Good morning, Mr. Postman. How are you today?"

"Good morning, Ambitious A student. I've a postcard for you."

"Thank you, Mr. Postman. Thank you. I've been so anxious to receive the 'prognosticator of my hereinafter.'"

"Gee, that's beautifully put, Ambitious A student."

"Thank you, Mr. Postman. You're beautiful too."

So, feeling beautiful himself, Ambitious A student intentionally looked only at the front of the postcard as he strolled up the steps from the mailbox. He was postponing the moment when he

would turn over the postcard and find out: did he get an "A" or did he get the "A+." The moment was upon him, and, with a flick of the wrist, his fate greeted him.

D+

Horror. Grief. Rancor. Rage. Disbelief. Fisticuffs. No, tears. No, fisticuffs. He gripped the myth of Sysphus to his tormented suntanned body. "This is absurd!" he bellowed. Then, . . . he laughed. Reason descended upon him. Mistake! It's a mistake, of course. Ambitious D student was also enrolled in the course, and this must be HIS postcard. "I'll go see Dr. Intellect right away and get this mess straightened up."

See next week's RES GESTAE for "Children's Psychiatry," the second installment in this real life tragic-comedy. IS the D+ a mistake, or is this for real? Is Dr. Intellect a mistake, or is he for real? And also, is a mistake really reality or is reality really a mistake? Don't miss "Children's Psychiatry" in the next issue.

David A. Goldstein

AN APPROACH TO LAW SCHOOL

We need the help and cooperation of the students and faculty to keep the classrooms, library and study rooms clean and decent. Please observe the following rules:

1. Do not take food or drink (coffee, cokes, milk, etc.) into the classrooms, library reading room or the study areas in Room 200.
2. Do not smoke in these areas.
3. Do not bring dogs or other pets into the school.

One problem with all of these things is that they cause an unsightly mess. In addition, the University spent a great deal of time and money last year resurfacing the desk tops in all of the classrooms. Spilled drinks, or the wet and hot spots under the cups cause permanent stains and spots on these surfaces and cause damage to the varnish. It took 35 years to get them sanded, repaired and resurfaced the first (and last) time, so we have to make it last. A second problem is that the food crumbs and drink cups are attracting mice into the building and even into the classrooms. Third, the problems of keeping these spaces clean is tough at best, impossible without your help and cooperation.

Dogs and pets add something to the preceding situation, but they cause special problems too. Some animals have used various parts of the building as a toilet, some have snapped at people, some have made noise when on a barking jag, and at least one has spread whatever germs dogs carry by licking the various drinking fountains.

This is your building. Will you help?

Roy F. Proffitt

OBITUARY

Hobart Coffey, 73, Professor emeritus of law and director emeritus of the law library at The University of Michigan, died Sunday after a long illness.

Professor Coffey served on the U-M faculty for 43 years until his retirement in 1966, and was prominent in his field both nationally and internationally.

Funeral services and burial were held on Wednesday in Creston, Ohio. A memorial service will be held today at 5:15 p.m. at the Unitarian Church, 1917 Washtenaw Avenue, Ann Arbor, Michigan.

Professor Coffey first came to U-M in 1921 as an instructor in rhetoric, after three years of teaching in Ohio, Illinois, and Pennsylvania. In 1925 he was appointed assistant law librarian and assistant professor of law. He became professor and law librarian in 1926, director of the law library in 1943. He taught domestic relations law and admiralty law.

FOOTBALL CONTEST

Once again it is time for the fearless prognosticators to plunge into the morass of Saturday afternoon bread and circuses. Our good friends at Dominicks, the best place for lunch that's anywhere near the Law School, will provide a free pizza to the best Tiresias in our contest, and it does after all provide something to do in your Friday afternoon classes. Good luck

Circle your choice and pick points below in case of tie.

Vanderbilt	at	MICHIGAN
Tulane	at	GEORGIA
Minnesota	at	ARIZONA STATE
EAST CAROLINA	at	East Tennessee
Air Force	at	MISSOURI
OREGON STATE	at	Iowa
Washington	at	M.S.(Moo)U.
Purdue	at	TEXAS C. U.
INDIANA	at	Kentucky
Northwestern	at	NOTRE DAME
WASHINGTON STATE	at	Illinois
HOWARD PAYNE	at	New Mexico State
OKLAHOMA	at	Wisconsin
Wichita State	at	FLORIDA STATE
Southern Methodist	at	GEORGIA TECH

Tiebreaker

Point total (both teams) Michigan-Vanderbilt game _____.

All entries must be submitted before Saturday at 12:00 noon. Marked entry boxes will be outside Room 100 Hutchins Hall and in the Lawyers Club Lobby.

Vincent Lombardi

Editor: Neal Bush

Associate Editors: Don Tucker, Roges Tilles, Stephen Stitt.

Staff: Dale Berry, Tom Jennings, Walter Sutton, Lyle Stewart, Ken Mogill, Walt Hamilton, Barry George, Janice Siegel, John Trezise, Ralph Suker.

Produced and Collated: Boone's Farm Tribe.