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University of Michigan Law School

res gestae

FACULTY

CARSWELL

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Vol. 4 No. 6 "Exhaust all legal remedies." February 27, 1970

conference

Hollenshead's Magical Revival Conference is coming to town March 5---a turned on, two day new look at legal education. The emphasis is on participation. The Conference begins Thursday morning at 10:00 with a number (15-20) of small (max. 15 participants) discussion groups. Each will be led by faculty members and will last from one to two hours. Each group will have a student clerk who will collect interesting results and publish them in a conference paper. The topics, which will be aimed at all phases of legal education, include the following.

1. CAN THE OXFORD SYSTEM WORK? This concerns a proposal of the Curriculum Committee---one of the many fruits of that distinguished body---to divide the freshman class among five colleges. Each college would adopt a distinct social policy and adapt the freshman courses to that end. Thus, there might be a business oriented college which could take an hour each off torts and criminal law and add an hour each to contract and property. And the courses of each college would be integrated among themselves. Freshmen might be allowed to select their college. This idea needs a lot of work. If You have some ideas come and talk with Professor Jackson about them.

2. FROM BEDSIDE TO BENCHSIDE---the apprentice system. The sub-title is, "Does the Clinical System Have Something to Offer?" The lawschool already makes some gestures in this direction. ---caseclub (a conditioning session to teach freshmen to act like upper-class men), problems and research (which is about as clinical as law review) Legal Aid and the Milan Prison Program (these are good but don't involve enough students) and a brand new organization called The Research Group which just hit campus and could be kind of exciting. But clearly, much more needs to be done here. Professor White will lead this group.

3. HARVARD'S 1894/MICHIGAN'S 1970 It turns out that Michigan's first year curriculum now is the same as Harvard's in 1894. One way of looking at this is that Harvard was 75 years ahead of its time. It is conceivable that nothing relevant to legal education has happened in the last 75 years. But if you feel that society has new needs for legal talent, and that the lawschool curriculum ought to be responsive to these needs, come and talk with Professor Chambers about it.

4. IS THE CLASSROOM WHERE IT'S AT? "They'd rather fight than switch." Of course, they have all of the power here. So if you can think of some nice way of telling them that you don't like pop quizzes, or random calling for recitation or the authoritarian way they structure our learning experience, come and talk with whoever of them dares show up. There might be very different ways of structuring the encounter between the master and his student. We need some good new ideas in this area.

5. HOW TO GET RID OF AN AFTERBIRTH (--"What can be done for the Second and Third Year?") After the mind

expanding experience of case club, we are ready for the second and third year. These years ought to be exciting. After the shock of the first year, we are into things. We pick the courses and professors we want. How come its such a drag? We need a major overhall of the last two years---any ideas?

6. BEYOND THE PALE OF ELITISM; Michigan is one of tht top law schools in the country. We take 450 out of more than 3000 applicants. The best law firms compete for our graduates. There are more senior partners and judges among our graduates than any school except Harvard. We have the fourth best law library in the world. If you believe all of this stuff, that is, if you believe in this stuff, come and let Dean McCauley and Professor Pierce straighten you out.

7. FROM PRIVATE TO PUBLIC POLICY "Can lawyers be expected to solve the world's problems?" The Med. School is dedicated to the fight against cancer. The Ag. School is producing new hybrids. Physics builds bigger bombs. The law school has potent resources. Why aren't these being committed to major social problems. There are vast areas crying for work---the legal rights of students, prisoners, servicemen, the legal fight against pollution, the legal needs of the black community. If you are mad about the lawschool's blissful neutrality in these matters, come and speak up.

8. SHADES OF BLACK AND WHITE The topic and discussion format will be determined by the BLSA. If you come you get to talk to black students.

9. IS THE PLACEMENT GAME A STACKED DECK? If you're black or a woman, or if you have less than a 3.3 gradepoint, then it is for you. But color and sex and gradepoint averages don't tell how good a lawyer you will be. How can we get the firms to look beyond these factors? How can we get more firms to come to Michigan? This is an important area of student interest. If you have some new ideas come and talk with Professors Gray and Julin.

There may be some other study groups during the morning session. Information will be posted by the main bulletin boards. If you want to come to any of these, or the afternoon ones for that matter, you have to sign up at the discussion section lists. These too will be posted.

At noon, all are invited to lunch at the Lawyers Club. Each faculty member will be assigned a table. But now the students will be on trial. If you show up you'd better be prepared to explain to the faculty why you are such an interesting and rewarding student. Maybe the faculty isn't completely satisfied with us.

The afternoon study groups begin at 1:00.

10. WHO SAYS THE LAWYERS SHOULD KNOW HOW TO WRITE? Professors Dawson and Cramton will have something to say here. If you think that lawyers should be writers, ask yourself what the law school should do about it.

11. CAN THERE BE A LEGAL CONSCIENCE? There are all kinds of problems here. What social obligations do lawyers have? And more particularly, if you think that lawyers should have social consciences, what role should the law school play in developing it? Should we give courses in how to conduct political trials? If you go this group you'll probably see Jim Graham. This is kind of his thing. Professor Israel will lead the discussion.

12. SHOULD THE STUDENT HAVE A ROLE IN SHAPING HIS LEGAL EDUCATION? The hard line is that the ones who know what they are doing (i.e., the faculty) should run the show. Why don't you come and ask Professors Chambers, Pierce or Browder if they know what they are doing? Students can offer a lot to improve the process of education, and there ought to be ways of making the system more responsive to them. There might be student evaluations of professors, a petition process

for new courses, and the college system for freshmen. We need reform in this area. If you come to this group you'll probably see me.

13. THE LAW SCHOOL AND THE SOCIAL SCIENCES: DOES SHE OR DOESN'T SHE? We are beginning to see that some legal problems cannot be solved outside their social settings, and to do this we must have extensive sociological knowledge. How much should the law student dip into the social sciences? Professor Lempert wants to talk about this problem.

14. GRADES AND EXAMINATIONS: WHO'S PERPETRATING THE FRAUD UPON WHOM? There may be a discussion group in the morning session on this topic also. So many of the faculty wants to talk about this topic that they may not let students in. If you want to talk about pass/fail, this is the place.

There will be other groups meeting in the afternoon session. The success of these groups depends on how we prepare for them. So check the board, sign up for the topics which interest you and come ready to think and talk.

After the discussion groups, the Conference swings into its second main phase, the speaker phase. At 2:30 Fredrick Will will speak on the law, social institutions and philosophy. Mr. Will is President of the American Philosophical Association and a senior Professor of Philosophy at the University of Illinois. He will articulate his view of the role that law should play in a democratic society. Whereas in a totalitarian society, the law is an instrument for keeping the people in line, in a democratic society, it should be responsive to the people---responsive, but not at the mercy of the people. This view has implications for legal education. The sub title of Professor Will's talk is "The Care and Feeding of fledgling lawyers." He will suggest to us changes we can make in our institution so that its products can better play the role he sees for lawyers in our society. Professor Miller and Jim Graham will comment on this talk.

At 4:00 Professor Pedrick from Arizona State will talk to us. Professor Pedrick has designed an interesting new approach to legal education which he has implemented at Arizona State and he will tell us about their experience. He is an exciting speaker and should bring us some new ideas. Again, there will be faculty and student reactors.

Friday night we borrow Ralph Nader from the Advocacy Institute program who, judging from his article several weeks ago in the New Republic will have lots to say about legal education. He will be joined by Arthur Kinoy, a law professor from Rutgers.

The program for Thursday night is still to be nailed down, but it could be one of the most interesting features. It is currently hoped that the Committee can present a trial-type debate on the question of whether the law school is alive (turned on, exciting). Ron Keller, an attorney from Cleveland who was graduated from Michigan Law School seven years ago will take the negative side while Professor White will take the affirmative. Each would present witnesses and cross examine those of the other. In any event there will be a faculty student beer party.

The Committee has put together a challenging program. The question of whether we can generate meaningful legal reform at Michigan depends now on whether the law school community will involve itself in the project.

Steve Keller

Ralph Nader, the nation's leading advocate of consumer protection will speak on "Courts and Cars" at the 21st Annual Advocacy Institute, March 6 and 7, at The University of Michigan in Ann Arbor.

The two-day conference will feature symposiums, trial demonstrations, and lectures on automobile product liability before an expected audience of 2,000 lawyers from across the country.

Joining Mr. Nader in the Friday afternoon symposium are men in the fields of automotive safety, engineering, economics, and law: Roy C. Haeusler, Chief Engineer, Automotive Safety and Security, Chrysler Corporation, Detroit; Kermit K. Mead, Instructor, Division of Labor Education and Services, Wayne State University; Peter O. Steiner, Professor of Economics and Law, The University of Michigan; and Henry H. Wakeland, Director, Bureau of Surface Transportation Safety, National Transportation Safety Board, Washington, D.C. Registration for the Conference can be made in Room 417 Hutchins Hall.

The use of trial demonstrations with comparative cross examinations was first devised by The Institute of Continuing Legal Education for use at the Annual Advocacy Institute and is now the hallmark of these yearly conferences.

This now familiar teaching technique, designed to help attorneys improve their skills of advocacy, is a key factor in making the Annual Advocacy Institute the nation's leading trial institute.

Maintaining the tradition of excellence both in providing an expert faculty and a topic of vital interest to participants, this year's Institute will feature three trial demonstrations with comparative cross examinations.

Leading trial attorneys and experienced engineering and medical witnesses will, by lecture, demonstration, and illustration, probe the problems of discovery and proof in personal injury cases. The skill and insights developed in litigation automobile manufacturers opens new avenues of proof in ordinary automobile injury.

CROCKETT SPEAKS OUT

Judge George W. Crockett, Jr., came to Michigan Law School last Friday and presided over a two hour "session," the first of four visits he will make to speak to and answer questions of students. An overflow audience squeezed into Room 100 to hear this controversial Detroit Recorder's Court Judge speak of his "Reflections on American Criminal Justice." After an hour of rambling thoughts, Crockett addressed himself to students' questions on the convictions and contempt sentences in Chicago.

Crockett himself was, in the early 1950's, involved as defense counsel in a political trial, defending Sacher from a Smith Act-Communist registration prosecution. He was awarded a four month contempt sentence, at the time

an unusually long sentence for a lawyer, for what he called "necessary" behavior for the type of trial. He understood well the problems of defending a political case, where the press is hostile "in the public interest," the judge, as an example of public opinion, will almost always be hostile, and the defendants themselves will not trust a lawyer, part of the "establishment" that they mistrust.

In other areas, Crockett was outspokenly critical of the present system of justice that he works with daily.

---In the area of drunkenness and prostitution, which takes up much of a judge's bench time -- Drunkenness should be treated as a disease, just as insanity is and addiction should be. The "irresistable impulse" defense for committing a crime should also apply to the irresistable impulse to drink or supply a drug need. Prostitution should be taken out of criminal courts and given to an administrative agency to treat as a social malfunction.

---In the area of Poverty Law -- Since most of the arrested poor throw themselves at the mercy of the court, pleading guilty and hoping for a break, because they have no idea of their rights, he hoped that more students would participate to help indigents in Recorder's Court. (Wayne State will participate in such a program starting next semester.) A combination of overworked judges (there are nineteen judges to serve all criminal and traffic offenses in Detroit) and bad treatment by police is producing a complete disenchantment by these poor with the judicial system, a dangerous proposition.

---In the area of Search and Seizure laws -- He found himself as Recorder's Court Judge overturning fellow judges, serving as magistrates, because they did not believe that Mapp v. Ohio applied to Detroit. He would try to have prosecutors appeal his decision and write a strong brief to the Supreme Court of Michigan, which would then have to make up its mind on the issue. (The Court did vote last month to become the fiftieth state to apply this Federal doctrine.)

---On detainer laws -- Crockett has recently returned from a visit to the Soviet Union to observe their legal system. There, by law, a suspect can be held up to 72 hours before arraignment. Apparently, said Crockett, Detroit policemen and magistrates have been using Soviet law without knowing it. Also, he commented that having a lawyer at arraignment and bail setting is a most important factor for the outcome of the trial. The police have past records and the prosecutor is there explaining the "difficulty that the police had in apprehending the suspect." To balance these, a lawyer must be present with the defendant. The plea bargaining session only limits the judge in the punishment he gives out. For example, a plea of guilty to a lesser offense will be bargained for to replace an innocent defendant's not guilty plea to a more serious offense.

---On penal reform -- Because there is a presumption of innocence of a prisoner, Crockett found that he could not send them to as dangerous and unsanitary a place as a local prison. He was highly critical of these penal institutions and says he tries almost anything to keep a person out of prison. (Crockett has refused to send an adjudged criminal to prison when he learned that police had used brutality on the accused, saying the convicted person had already served his punishment, his debt to society. He was highly criticized by the press and other judges for this move, but was applauded by civil libertarians around the state for his moves to keep the police within the confines of law and order.)

Judge Crockett has indicated that he would like written questions for his next sessions at the Law School. This newspaper will forward any questions received by it to the Judge.

off we go R.O.T.C.

ANN ARBOR--Two University of Michigan Air Force ROTC cadets have recently put their fellow cadets through a court-martial. And everyone found the experience so enjoyable and valuable that it soon will be tried by all 168 Air Force ROTC detachments throughout the country.

The mock trial was part of a new instructional program in military justice developed by Richard J. Erickson, a third-year law student, and James R. Mimikos, a senior business major who plans to study law.

The program, in a marked departure from conventional classroom instruction, integrates briefings, guest lectures, and a mock trial in which each member of the class can play a role. It is designed to cover six hours of course work.

The basic concepts of the U-M program are being adopted in the Instructor's Handbook to give the innovation wide distribution among Air Force ROTC instructors.

Erickson and Mimikos have been commended by Air Force ROTC Headquarters "for successfully developing and implementing the student-centered approach to military justice instruction." Their class instructor, Maj. Thomas R. Bevivino, praised their teamwork and said, "This effort is indicative of the superior accomplishments of cadets at U-M."

"Both of us are interested in law and we wanted to do something constructive," Erickson and Mimikos said. "So we decided to see if we could make the course work in military justice more effective, more interesting to learn."

The mock trial, perhaps the most dramatic feature of the new program, was developed for several reasons, the U-M students explained. By "going through the motions" of an actual trial, they said, the student can more effectively familiarize himself with the general court-martial procedures.

His knowledge can be tested by whether he can identify certain procedural errors built into the trial, Erickson and Mimikos pointed out. The mock trial also serves to communicate to the student "the seriousness of a court-martial and to give him a 'feel,' as he undergoes a personal struggle to deal with the case, of what the process is like."

Members of the class are assigned to various roles, ranging from military judges to witnesses, and they must be able to discuss and perform their assigned parts, Erickson and Mimikos said. The number of roles can be changed according to the class size.

Conducted in a realistic setting of a military courtroom, the trial goes through all the standard procedures, from formal convening of court-martial to appeal on sentence.

In preparation for the trial, the students are given a series of briefings, or lectures, covering basic aspects of the military justice system. Erickson and Mimikos presented these lectures "in a Huntley-Brinkley style." These were supplemented by a guest speaker, an Army legal officer, who discussed the new Uniform Code of Military Justice.

"The program really got the students interested," Erickson and Mimikos recalled. "One major advantage was that they were personally involved, not just reading books or listening to lectures. Their direct involvement motivated them to learn and to do research." Both students will be commissioned second lieutenants this Spring.

-- U. of M. press release --

REFLECTIONS ON AN INTERVIEW

Way down past the bend of Route 43, one hundred twenty-five miles west of Ann Arbor, lies the town of Hastings, Michigan. I was in Hastings last week to talk to Judge Phil Mitchell.

Judge Mitchell is probate judge of Barry County. Each county in Michigan has a probate judge, whose jurisdiction covers decedents' estates, juvenile offenders, and a mixed bag of less important types of cases. In recent years, the probate process has come under severe attack for tying up estates too long, and draining money from them in order to pay for unnecessary "services." Two articles in Reader's Digest, and Dacey's book How to Avoid Probate are manifestations of this continuing controversy. Professor Richard Wellman of this law school has been instrumental in drafting a Uniform Probate Code to eliminate some of these problems. It was on the advice of Professor Wellman that I sought out Judge Mitchell, hoping to obtain from the latter a reaction to reform proposals, a feeling for how the probate court operates, and the general benefits of twenty-three years experience on the probate bench.

Entering the town of Hastings was like going back into time. The town could not have looked much different in the Forties, or in the Twenties. Main Street, the ice-cream parlor, the Ben Franklin 5 & 10... Middle America, yes, but pleasant nonetheless. The rural aspect of Hastings touched off memories of rubber tires hanging from ropes, swimming holes, screened porches on drowsy summer evenings... Ann Arbor, trashing, the Chicago Seven seemed far, far away.

On the square in the center of town stood the courthouse, a red, gingerbready type of structure. Entering, within a few minutes I was in the presence of the Judge. A bare, dingy office, but a vigorous, friendly judge. "How do you do--yes, your name--what nationality is it? Russian? I was right. My secretary thought you were probably Ukrainian. She's from Latvia, by the way--changed her name from Lopatkoff to Patlokoff when she came over. Didn't improve it any, far as I can see."

Despite his long tenure on the bench, Judge Mitchell was surprisingly hospitable to proposals for probate reform. He rated his activities for reform as the most pleasant part of his job, in addition to the enjoyment of decision-making in important matters. Less pleasant were some of his other responsibilities, such as sending boys to reform school.

Probate bonds was one key area where Judge Mitchell stressed the need for reform. The Uniform Probate Code has recommended bond only upon request of a party, rather than, as at present, compelling bond in every case. The theory is that the infrequency of payment on these bonds makes them a waste of money. Judge Mitchell provided dramatic confirmation of this position by pointing out that in his experience of more than 4,000 estates, there had never been a default necessitating payment on a probate bond. The bond companies had not paid out a cent in 23 years, but had profited from every one of those 4,000 estates.

In light of these facts, Judge Mitchell suggested a lowering of premiums as an alternative if abolition of the bond requirement were not feasible. This could be done voluntarily by the bonding companies, in view of their huge profits, or maximum rates could be set by the State Insurance Commissioner, who has been heretofore passive in this area of the insurance business. Certain risks remain--Judge Mitchell would continue to recommend bond for public administrators, whose ties to beneficiaries are weak. Perhaps the bonding could be done on a statewide basis from Lansing, covering public administrators in every county. Bond premiums for private administrators would be lowered or dropped completely.

Judge Mitchell routinely requires bond sufficient to cover the entire estate. However, for judges who require only partial bonding, he suggests setting a higher rate for partially-insured estates, and a lower one for those fully insured. Any loss of assets is likely to be a partial one. Conversion of a few hundred dollars by an administrator is far more likely than total theft of an estate which may be valued above $100,000 and include substantial real property. Bond rates should reflect this reality.

The judge had to depart for a meeting, so I took leave of him. He was in many respects an impressive figure, and I was encouraged by our interview to press further into the tangled thicket of probate matters. Two hours later I was back in Ann Arbor. The headlines screamed of smashed windows, angry crowds, bullets and billyclubs. I though back to the tranquility of Hastings. Two worlds--Which will see my shingle?

-Stephen Polatnick

REPORT OF PERSONNEL COMMITTEE

Since September, the Student Personnel Committee, consisting of Kathy Lewis, Mary Berry, David Spector, Tom Burns, Larry Owen and myself, has functioned in the process of selecting new faculty as a parallel committee to the Faculty Personnel Committee, consisting of Professors St. Antoine, Pierce, Wellman, Siegel, Miller, Cramton and Dean Allen. The operating relationship of the two committees has been, as prescribed by the faculty last year, separate and unequal, but also cordial and productive. We were provided the names and biographical data of those persons being considered for various positions. We suggested additional persons, at least one of which was favorably received. When the Faculty Committee narrowed their search to one or two candidates for a particular position, we would submit a written report containing our evaluation and recommendations based on either an interview with our committee or on a sampling of those students who had taken their course when the person had been a visitor here. On two occasions these reports were supplemented orally in joint meetings. In general, the persons under consideration were not controversial enough for the two committees to disagree, but it became increasingly clear that the two groups emphasized different factors. Our primary concern was in finding good teachers who would motivate, stimulate, and relate to students. The faculty (not to put words in anyone's mouth) seemed more interested in finding intellectual giants who would become, over the long run, recognized authorities in their fields, as well as competent teachers. When the Faculty Committee settled on a particular person, they would recommend his appointment to the faculty as a whole. If the faculty could reach a consensus, as they usually did, the appointment was authorized, and the Dean would make the invitation.

This process produced some outstanding new faculty members for next year. Harry Edwards, a 1965 graduate of this school, will be leaving private practice to teach in the labor area. Vincent Blasi, a 1967 Chicago Law graduate, taught Constitutional Law here last Summer and is presently at Texas. He has shown great interest in the civil liberties, especially free speech, area. Robert Burt, who is presently at Chicago, taught Family Law here last Summer and has shown interest in the Selective Service and Urban Institutions areas. James Martin, a 1969 graduate of this school, returns after a clerkship with Judge Leventhal to teach Commercial Law. He also is interested in Procedure and Constitutional Law.

These four appointments undoubtedly complete the recruitment for next year; however, the Student Committee intends to present to the Faculty Committee a plan for the elimination of the dual committee structure for next year and

will ask them to recommend that the faculty adopt such a plan in the near future. Our committee feels that the different hiring criteria applied by the faculty and students requires that students be participants in the actual decision-making process, not just another source of information to be considered by the faculty. We welcome the views of the student body on this matter, and encourage you to express your opinions to the faculty.

-Greg Curtner

FROM OTHER LAW SCHOOLS

FROM: **HARVARD LAW RECORD**

"Dean Derek C. Bok addressed himself to the pressing question of the legal education of the future...Bok commented on three widely discussed models for reform of legal education: A reduction of the curriculum from three years to two, more specialization, and the imparting of more new skills.

"The first model, a reduction in curriculum from three years to two, reflects the belief on the part of some educators that the goal of law school - to teach students to think and reason 'like a lawyer' - does not require three years.

"The second model would not be related to the ends it is supposed to serve and runs into the problem that most students do not know the field in which they will specialize.

"The third model involves courses and practical work giving a broader range of the traditional in its basic assumption that it is the transmission of analytic skills that has made law school most interesting, and permanently valuable."

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From Editorial 2/12/70 on Harvard's Second Year Writing Program:

"The problem with these activities may be that they are largely exercises designed to sharpen one's legal skills, rather than projects which apply legal talents towards some concrete goals... Perhaps this attitude is immature; perhaps students ought to spend almost all their energies in law school on developing their skills to use after graduation. On the other hand, a clinical legal program might be an excellent activity which would sharpen legal skills and would in addition point toward socially useful goals. The program seems to have worked with great success at Rutgers, and we don't see why a similar activity could not be as successful here. The important point is that it is no mere exercise; the work is important and it counts for something."

FROM: **CAVEAT**

COLLEGE OF LAW
UNIVERSITY OF ILLINOIS

"Nearly eighty law students are actively involved in four community action programs coordinated by the Legal Action Committee. These eighty students are involved in various phases of the State's Attorney program, the Public Defender program, and Legal Services program, and the Consumer Fraud program....The purpose of the program is two-fold: (1) to promote and develop opportunities for law students to gain practical legal experience and (2) to channel and supervise the activities of law students in the community... Students involved in legal action programs can earn one hour of law school credit per semester provided they work a minimum of eight hours a week in the agency of their choice and attend three required seminar sessions. Additionally, students who work full-time for Vista during the summer months can earn two hours of credit...on a pass/fail basis, if they submit a research paper evaluating their experience."

The Tom Paine Summer Law School in Berkeley, California will offer seven weeks of practical experience in problem solving, guided by draft, civil rights, criminal and labor lawyers in the Bay area and the South. Among the faculty of this practicing law program are: Charles Garry, Chief Counsel, Black Panther Party, San Francisco; Howard Moore, Jr., leading Black Constitutional Lawyer, Atlanta; Malcolm Burnstein, Counsel, "Oakland 7 Anti-Draft Conspiracy"; and Benjamin Smith, leading White Constitutional Lawyer, New Orleans. There will be two seven week sessions beginning in June and July, with enrollment limited to eleven students each session. For information, write: Tom Paine Summer Law School, Box 673, Berkeley, California 94701.

Letters

[This newspaper, as a forum for Law School opinions welcomes letters on all relevant topics. All letters should be doubled-spaced typed, and submitted to the Res Gestae mailboxes at the Lawyers Club desk and on the third floor of Hutchins Hall by Wednesday morning, 8:00 a.m.]

Tc the Editors:

Last Week a group of students and professors met to discuss the Chicago conspiracy trial. Professor Israel undertook a defense of the various laws under which the protesters were charged. His arguments should not go unchallenged. (I hope I do not misrepresent his position.)

Professor Israel noted that the various "interstate" conspiracy and anti-riot laws represent the historic and settled policy of the federal government in the twentieth century to prevent mass violence. He put particular emphasis on the trials under these laws in the past, when the government moved against radical leaders furing and after the two world wars, and against the leaders of the German-American (Nazi) Bund during the late 1930's and the early 1940's. The essence of Professor Israel's justification seemed to me to be a sort of stare decisis: the laws and the prosecutions represent the settled (and therefore, I guess, meretorious) policy of the democratic federal government to punish "interstate" troublemakers who might promote violence somewhere.

But Professor Israel's history is incomplete. The federal conspiracy and anti-riot laws have usually been enforced aginst the left alone. Perhaps to offset this obvious truth, Professor Israel emphasized the prosecutions of the leaders of the Nazi Bund. The German-American Bund, however, was attacked because of its open allegiance to an unfriendly, and, later, openly hostile foreign power, not because it was a right-wing racist group with propensities toward pogroms. At the same time the Bund was active, the government countenanced the larger and much more dangerous anti-semitic "Social Justice" movement led by

Father Coughlin. Similarly, the federal government tolerated the growth of the Ku Klux Klan (no non-violent organization here!) to a position of dominance in state after state in the Midwest and South in the early 1920's. The government turned its back on the predictable extra-legal mob action against Catholics, Jews, and blacks.

The right wing, then, has been generally immune, as the federal government has moved primarily against the organized left. The government's consistent goal has been to harass and break up any potentially effective national (interstate) organization that might threaten the corporate power structure. For breaking a political organization, nothing is so handy as the conspiracy charge. Thus "interstate" conspiracy has been the chief legal weapon in the federal government's anti-left arsenal ever since the 1890's when the government first applied the Sherman Act to labor.

The supporters of this policy have usually advanced the "outside agitator" theory of mass violence. As a woman in a barbaric little Indiana town which was having racial difficulty told me, "There's no real trouble here. We treat our niggers fine. It's just all these outside agitators coming in here to stir things up." Translate the "we-treat-our-niggers-fine-it's-just-all-these-outside-agitators" theory into legislation, and you will get the recent anti-riot provisions and the older federal conspiracy laws. These laws are simply not good faith governmental efforts to protect person and property from evil men as are the denial-of-civil-rights statutes. Rather, they are America's Nuremburg laws, directed at the left, and selectively enforced through co-operative judges.

Moreover, the cumulative effect of the existence and application of these federal laws has been to identify the political left as an enemy, to shut the left out of the established political processes and institutions, and thus effectively to postpone consideration and redress of the very real social grievances to which the left has traditionally addressed itself. These governmental policies resulted in the spectable of a "Democratic" convention surrounded by fences, barbed wire, troops and tanks to protect itself from the disenfranchised section of the people.

This country has been living on borrowed capital for some time, while pursuing expensive policies of imperialism abroad, and tolerating racism and vast economic inequality at home. The creditors are now clamoring for payment. I am both surprised and saddened that Professor Israel thinks anything can be gained by continuing to shoot the bill collectors. Rather, to avoid further civil war those in power must truly open the political process, invite the collectors in, and begin to make good faith arrangements to pay society's accumulated debts. A good place to start would be with a dropping of the charges against people like Bobby Seale, a repeal of the laws which Professor Israel defends, and a freeing of all political prisoners.

-Bruce A. Campbell

To the Editor:

I for one support the women of Kappa Beta Pi Legal Sorority. I don't see how in good faith any office of the Law School can condone any violation of the Civil Rights Act. Law firms that are known to be prejudiced or that exhibit overt signs of discrimination should not be entitled to use the facilities of any public institution to further the ends of such discrimination.

On the other hand, it seems to me that if discriminatory firms are barred from use of the Law School facilities, it is not a final solution of the problem. To achieve any significant victory against the forces of discrimination, the women will ultimately have to find some way to bring the pressure of public opinion to bear upon the guilty firms.

- Joe Sinclair

FACULTY CARSWELL STATEMENTS

[Ed note - the following are three responses by Faculty to protest the nomination of Harrold Carswell to the U.S. Supreme Court. The first is a telegram sent by Dean Allen. The second is a telegram sent by the undersigned Faculty. The third is a statement sent by the Faculty who wanted a stronger statement. The first two were sent to Senators Hart and Griffen, the third to Griffen only.]

There is no governmental institution of more critical importance in these times than the Supreme Court of the United States. Appointment of new members to the Court, therefore, is one of the President's heaviest responsibilities. The nomination of Judge Carswell to the High Court is particularly disconcerting, for he gives little evidence of the extraordinary qualifications that a member of that Court should possess.

One does not lightly oppose the nominee of a popularly elected President for membership on the Supreme Court. Appointment of persons with political philosophies congenial to the President is one important way in which our system insures that majority opinion will be reflected on the Court. But the country can properly expect that the candidate nominated will possess high credentials of technical competence, unusual intelligence, a broad and accurate understanding of the problems of these difficult times, and outstanding skills in articulating his views in written opinions. It is precisely in these crucial areas that Judge Carswell fails. Nor can the President's selection of Judge Carswell be explained by any lack of qualified candidates. There are literally scores of judges and distinguished lawyers of the President's own party, who presumably share his general political philosophy and who are genuinely qualified for membership on the Court. There is no reason whatever for the country or the Senate to accept Judge Carswell or any other candidate with such meagre credentials for membership on the Supreme Court.

February 16, 1970
Dean Francis A. Allen

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February 20, 1970

The undersigned members of the University of Michigan Law faculty agree with the statement of Dean Francis A. Allen in opposition to the nomination of Judge Carswell. Dean Allen's statement was contained in a telegram to you dated February 16, 1970.

Carl S. Hawkins, Terrance Sandalow, Matthew P. McCauley, James A. Rahl, Theodore J. St. Antoine, Samuel D. Estep, Arthur R. Miller, David L. Chambers, Beverley J. Pooley, Robert L. Knauss, Charles Donahue, Jr., Frank R. Kennedy, Robert J. Harris, John W. Reed, Virginia Nordin, Richard O. Lempert, Joseph R. Julin.

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February 24, 1970

We the undersigned members of the Faculty of The University of Michigan Law School urge you to vote against confirmation of Judge Harrold Carswell as an Associate Justice of the Supreme Court of the United States.

Your yourself have pointed out that the Senate must apply more rigorous standards in reviewing nominees to the Supreme Court than it applies in reviewing any of the President's other appointments. We agree. The role of a Supreme Court Justice has never been more important than it is today. There is no place on the Court for a man of Judge Carswell's mediocre talents. There is even less place for a man who has acted so feebly in cases involving civil rights. Your vote against the Carswell nomination will make clear to the President that integrity in financial matters, though indispensable, is not the only qualification for a Justice of our highest court.

Layman E. Allen, David L. Chambers, Roger A. Cunningham, George L. Dawson, Charles Donahue, Jr., Robert J. Harris, Carl S. Hawkins, John H. Jackson, David Joswick, Yale Kamisar, Frank R. Kennedy, Robert Knauss, Richard O. Lempert, Matthew P. T. McCauley, Arthur R. Miller, George E. Palmer, Beverley J. Pooley, James A. Rahl, Donald H. Regan, Theodore J. St. Antoine, Russell Smith, E. Blythe Stason, L. Hart Wright

LEGAL AID

The Legal Aid Society recently elected the following members to its student board; Margie Utley, Corky Appel, Elaine Polo, Joyce Peters, Joe Sinclair, Karl Adkins, Steve Winkler, Don Silverman and Peter Hoffman. At the first meeting the board elected its officers; Joe Sinclair was elected President. The board is presently considering numerous changes in the Legal Aid programs and hoping to bring order out of chaos.

All current members are requested to turn in a current case list in the Legal Aid Office in Hutchins Hall by Friday, February 27, This list should include the member's name, address and telephone number as well as all of his open cases by number and name.

Although the general membership meeting was held last week, anyone who is interested in working at the Clinic but who missed the meeting may call Steve Winkler or Corky Appel.

Board of Editors: Neal Bush, Roger Tilles, Don Tucker

Staff: Tom Jennings, Rev. Steven Solomon, William A. Irwin, Isaac Schulz, David Garfunkle and Simon, David A. Goldstein, Judy Munger, John Trezise, Abe Singer, Steven Polatnick, Greg Curtner, Steve Keller, and the Placement Office.

Shorn in the Ozone: Dave Dellinger, Rennie Davis, Tom Hayden, Jerry Rubin, Abbie Hoffman, John Froines, Lee Weiner

Produced and Collated: The Boone's Farm Tribe