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RES GESTAE

February 9, 1967
Vol. 21, No. 4
Ann Arbor, Michigan

The Weekly Newspaper of the U-M Lawyers Club

TWO PROGRAMS BEING PRESENTED IN THE LOUNGE TODAY

DEAN FRANCIS ALLEN will moderate a discussion on "Ethics in Legal Aid" this afternoon at 3:30 pm in the Lounge. Coffee will be served.

U.S. REPRESENTATIVE THOMAS B. CURTIS from Missouri's 2nd District (S. St. Louis and St. Louis County) will speak to the Law School this evening at 7 pm. He is the second ranking Republican on the House Ways and Means Committee and senior Republican on the Joint Economic Committee. In 1963 he was recognized as the outstanding Republican member of the House by the American Political Science Association. In addition, he is the author of a book, 87 Million Jobs, and several articles, including "Conscription and Commitment" appearing in February's Playboy. Rep. Curtis will speak on modernizing the draft.

WEEKEND FORECAST: The Swingingest Party of the Year

"GREAT" Party this weekend at Susterka Lake! Dancing inside to the sounds of the Satellites from Detroit. And for all you aspiring Dick Buttons, you may find skating easier by starting the evening off with some good beer (and/or hot choc.) But no matter what you're planning for Saturday night be sure to start with Susterka.

Skate Rental Arrangements:

1. Pick up skates at Michigan ice rink Friday or Saturday from 6:00 am to 11:00 pm. Return skates by Sunday at 3:00 pm.
2. Rentals are \$1.00 per pair of skates per 24 hours.
3. All law students whose names appear in the 1966-67 Law School Directory may take out 1 pair of men's skates and 1 pair of women's skates by signing the special list and leaving your I.D. card.
4. No deposit is required.

--Allen Field

ST. ANTOINE ARTICLE CITES CLASH BETWEEN ANTITRUST LAW AND COLLECTIVE BARGAINING

More explicit U.S. Supreme Court rulings are needed to reduce inevitable clashes between antitrust laws and collective bargaining, according to Prof. Theodore St. Antoine.

In an article to appear in a forthcoming publication of the Industrial Relations Research Association, he takes issue with one recent Supreme Court decision in this area.

"A central aim of collective bargaining," he states, "is the elimination of . . . wage competition among all employees doing the same job in the same industry." This aim clashes with the primary purpose of antitrust laws--the promotion of competition.

Prior to several recent court decisions, peaceful and nonfraudulent union conduct during a labor dispute was immune to antitrust regulation as long as the union acted alone and in its own interest.

Acting alone presumably meant striking, picketing, or boycotting. "But when a union has finally won recognition from an employer or group of

employers and enters into a collective bargaining relationship, can it any longer be said to be acting alone?"

In the recent case of United Mine Workers v. Pennington, the union and major coal producers were alleged to have conspired to drive out smaller, less efficient operators by establishing a uniform industry-wide wage rate higher than the small producer could afford.

The Court ruled that the union would forfeit its antitrust exemption if it was clearly shown that it had agreed with a group of employers to impose a certain wage scale on other bargaining units.

In questioning the decision, Prof. St. Antoine, who served as union counsel on the case before joining the faculty, said, "There are times when it is simply unrealistic to insist that an employer has no valid interest in the wage scale a union gets from the employer's competitors."

A better solution, he states, would be to require evidence of an explicit union-employer agreement to force competitors out of business before a case could go to a jury. "Mere knowledge that some marginal operators could not pay the prescribed industry wagescale would not, in itself, be sufficient.

"What is more natural than for an employer to want assurance that his competitors will have to match any concessions he gives the union?"

"I find it hard to imagine how collective bargaining could stay healthy if discussion were choked off on some of the most vital subjects--the competitive position of various firms in an industry, the demands the union will make in other negotiations, and so on."

The Pennington decision applied literally "may seriously hamstring collective bargaining as an instrument for coping with today's critical problems in industrial relations. For example, management's need to introduce technological improvements to increase productivity and meet competition is countered by labor's anxiety over the possible loss of job security and craft skills."

Reconciling these opposing interests, he says, may be severely hampered if employers cannot be reassured on what will be demanded of their competitors.

PROF. PIERCE NAMED TO STATE GOVERNMENT ADVISORY PANEL

Prof. William J. Pierce has been named to the Research Advisory Committee of the Council of State Governors.

His fellow committeemen will include U.S. Sen. Edmund S. Muskie of Maine, Gov. Winthrop Rockefeller of Arkansas, former Gov. Terry Sanford of North Carolina, U.S. Comptroller General Elmer B. Staats, and National Aeronautics and Space Administration Director James E. Webb.

The Committee will assist the council through a problem-solving approach, not the descriptive approach of conventional research, Prof. Pierce said.

Problem-solving research analyzes present law in light of a changing world to find out what new law is needed to meet an evolving challenge. This will be done, says Prof. Pierce, "not only in relation to specific controversies among individuals or between the state and elements of society, but also in the formulation of public policy."

Since the general purpose of the Council of State Governments is to "preserve and strengthen the American federal system," problem projects will include mental health, mass transportation, air pollution, interstate compacts concerning nuclear production, mining, water use, and many other problems more efficiently handled by individual states or regional groups of states.

Research has already been done in some of these problem areas by the U-M Law School Legislative Research Center, of which Prof. Pierce is director. He is also acting president of the National Conference of Commissioners on Uniform State Laws and executive secretary of the Michigan Law Revision Commission.

The Council of State Governments provides information, research, and mechanisms for interstate cooperation.

As a committee member, Prof. Pierce will attend a meeting on Feb. 15 to consider establishing an Institute of the States for the purpose of state planning for the 1970s. The meeting, in Chapel Hill, N.C., will be led by former Gov. Sanford.

REPORT FROM THE BOARD

The financial statement for the Lawyers Club Book Exchange for the fiscal year ending February 1 was submitted and approved by the Board. Robert Chulock was approved as the new Bookstore manager.

The Board voted to release \$100.00, allocated tentatively last October, to the Civil Rights Research Council.

The four student appointees to President Hatcher's Commission on Student Participation in University Decision Making met briefly with the Board to consider several views on the role of students in the decision making process. Law student Roger Leeds is a member of that Commission.

Two Board members reported on their meeting with Dean Allen and Dean Proffitt concerning the reactivation of a faculty-student committee to meet on a regular basis for the purpose of communication and consideration of Law School problems.

The annual elections for the Board of Directors will be held on Wednesday, March 8. Nominating petitions on a form provided by the Board must be submitted to the Lawyers Club office by 5 pm, MONDAY, FEBRUARY 27. Each petition must contain the signatures of 25 students. The forms will be available shortly. Also, by the above date, the statements of candidates who wish to appear in the Res Gestae election issue must be submitted to the Res Gestae mailbox on the third floor of Hutchins Hall. These statements will be accepted only if in typewritten form and double-spaced.

The Board has voted to enforce the dress regulations of the Club dining room. Beginning Monday evening, February 13, no male will be admitted to the evening sit-down meal unless dressed in a coat and tie and otherwise attired decently and neatly.

A letter will be sent to the Board of Regents requesting that steps be taken to permit students and organizations who wish to list their Centrex phone number in the Ann Arbor city directory the chance to do so. Presently, Centrex numbers are rarely permitted to be listed.

--Wm. H. Conner

VISITING FOR THE SEMESTER: Rev. David C. Bayne

Visiting here for the semester from the St. Louis School of Law is the Rev. David C. Bayne, S.J. You've doubtless seen him in the halls. He wears the same kind of clothes all the time. His stay, though short, will not soon be forgotten by the students in his Corporations section and his seminar in "Conscience, Obligation and the Law."

On that first day in Corporations, the shock waves reverberated around the room for the whole hour as Father Bayne explained his classroom technique. It boils down to sort of an intellectual football game with "Knut" Bayne on the sidelines and in the lockerroom urging the faithful unto the near impossible, i.e., mastery of Harry Henn's kaleidoscopic casebook.

The first thing that entered your mind that day was that there was still time to change sections or drop the course. But after two weeks of classes the brave (foolhardy?) that remained had pretty well adjusted to the format when they were really rocked--there is to be a midsemester exam on the Monday following spring vacation. Protest, you say, but how do you fight a collar?

Father Bayne utilizes the Socratic technique in a spitfire method that makes it impossible to doze off for even a little bit. Everybody gets called on at least once every day. This razzle-dazzle approach makes heads spin in class and currently rates as great party conversation. Not since the advent of Kamisar and Miller have prof parodies been so fashionable (sacrilegious?).

Bayne says his role as a teacher is to "elicit the greatest effort possible on the part of the students. All my techniques are designed to that end. No one ever goes to sleep." Amen.

Father Bayne decided to enter the Jesuit order after he had completed two years of law school. Jesuit training lasts 15 years and consists of general education to approximately the level of a master's, 3 years of teaching or special studies and theological studies. Having completed his training in 1953, he served as Dean at the University of Detroit School of Law for 6 years. He described his reign as a "rather stormy period. To put it

bluntly, I was fired."

One is not surprised to learn, after knowing him for even a short time, that the "storm" arose out of a disagreement over what should be the proper standards at the Law School (needless to say, Father Bayne was not for lowering them).

In 1960, he went to St. Louis, first as a member of the Institute of Social Order (the national Jesuit social science center in St. Louis) and next as a faculty member at the Law School.

Since one only infrequently runs across a priest who is also a corporation lawyer and a member of four bar associations, I asked him how he arrived at such a combination.

"Ignatius Loyola, who founded the Order in the 1500's, conceived it to be the elite guard of the Church. His idea was to get together a small group of educated, intelligent people who could spring into action in the areas posing the greatest threats to morals and societal well-being.

"Law students should appreciate that corporation law is right at the heart of the well-being of the nation. My main purpose is to try to bring to the corporate system the teachings of my scholastic background in moral theology and philosophy and to do my best to make the corporation the best possible form."

Father Bayne holds a bachelor's degree from the University of Detroit, a master's in philosophy from Loyola of Chicago, a master of laws from Georgetown Law School and a doctorate from the Yale Law School.

Listed in "Who's Who in the Midwest," "Who's Who in the United States" and the "International Biographical Dictionary," Father Bayne is a member of the American Bar Association and the bars of the District of Columbia, Michigan and Missouri.

His publications include the book "Conscience, Obligation and the Law," which is being used in his seminar, and numerous law review articles dealing primarily with corporate control. He has also completed most of the research for a new book, "A Philosophy of Corporate Control."

--Richard Sawdey

ANNOUNCEMENT

Seniors who ordered a yearbook when they had their pictures taken for the Quad last fall are asked to send or give their checks for \$4.50 to Jim Walter in J-13.

LETTER TO THE EDITOR

Query to the Law Wives.

At the outset, I should emphasize that although I am Treasurer of the Board of Directors, I am speaking in an unofficial capacity. Many married students have asked me how the Board uses the \$5 it gets from the \$20 fee collected yearly from all students. The answer, in part, is that we provide a social program for the students of the Law School. This year, the Board provided \$290 for Law Wives and earmarked an additional \$110 for the Law Wives Dance to be held February 25. This additional money was theirs for the asking, subject to the approval of the Board. This past two weeks, no less than three Board members have contacted the officers and committee chairmen of the Law Wives to inform them of the availability of this money and to ask that they appear to request these funds. Thus far, we have heard nothing. The \$3.50 price of admission to the Dance indicates that some subsidy may be needed.

I am not certain that the Board would approve such a request, but I do know that the Board has made gracious overtures to provide this money. It seems to me, and to the several who have asked me about our finances, that anyone attending the dance would appreciate the opportunity to pay less at the door and to have the party subsidized out of our Law School Fee.

Ed Bittle

WEEKENDER

Some good films will be on tap this weekend in addition to the beer at Susterka Lake.

The best one again will be at Cinema II, which will present the excellent

"Zorba the Greek" tomorrow night and Saturday. In this powerful and often depressing drama, Anthony Quinn gives the finest performance of his career as an aging Greek whose overwhelming love of life shines high above the bitterness and frustration of the people around him. In addition, fine performances are given by Alan Bates as a young upper-middle-class English writer befriended by Zorba, Irene Papas as a widow desired by all the local men, and Lila Kedrova as a pitiful old "lady of pleasure." But in the final analysis the picture is all Quinn's. May I urge you to take the time to see "Zorba."

The Michigan will finally bring in "Alfie," a movie which I found strangely short on quality yet high in appeal. Michael Caine performs admirably in this one as a ne'er-do-well Cockney who loves and leaves a variety of women (or "birds" as he calls them). It is the comic smoothness with which Caine handles most of these situations that provides almost all of the picture's appeal. Nonetheless, what "Alfie" really does is to take over two hours to make the very trite point that men who avoid getting themselves involved with even the worthwhile women soon find themselves very, very lonely. On the whole, though, "Alfie" should provide you with some good bawdy humor if you're in the mood.

Cinema Guild will have one of its best films of the semester tonight and tomorrow in Orson Welles' "The Trial," which is based on Franz Kafka's bizarre novel of a young man accused of a "crime against the state"--the specifics of which he is never told throughout the entire story and one which he has not committed. Anthony Perkins is perhaps miscast as the victim of the anonymous Eastern European totalitarian regime, before whom the accused ultimately and willingly confesses his guilt. This does not detract, however, from the fact that "The Trial" is an absolutely fascinating psychological drama, skillfully and imaginatively directed by and acted in by Orson Welles. Jeanne Moreau and Romy Schneider decorate in featured roles. On Saturday and Sunday, the CG will run Ingmar Bergman's "Smiles of a Summer Night," a 1955 "carnal comedy" starring Pauline Kael.

The Campus will have the American Premiere of "Falstaff" tonight; apparently, they have mercifully decided to skip "10:30 P.M. Last Summer." The new feature, at any rate, stars Orson Welles as the famous fat knight, and also Jeanne Moreau.

The State, which last week held over "A Funny Thing Happened on the Way to the Forum," will this week present "The Venetian Affair," which as we noted last week is a "Man from Uncle"-type flick starring Robert Vaughn.

--Jay Witkin

SPORTS

Intramurals--The Law Club earned a berth in the championship division finals of the basketball tournament by winning their "first and last" league game of the season. Ron Schram led a rally which brought the Club from behind in the last minute of play to tie Nu Sigma Nu 36-36 at the end of regulation play. The team won in overtime, when it went ahead for the first time in the game. The final score was 40-38. The semi-finals will start this week with the Law Club scheduled to play the Phids Thursday night at 8:15. The winner of this contest will oppose the Tort-Feasor (Law Club Frosh)-Reject winner for the Grad Division Championship next week.

* * *

Basketball--Is it possible that George Mikan and his American Basketball League are serious? The NBA teams must struggle to fill up their rosters with the 12 bodies that league rules permit. Would you believe that the New York Knicks have a player by the name of Wayne Molis? Well, then, how about Dave Deutsch? The Celtics have Toby Kimball and Ron Watts sitting on their bench and Philadelphia is winning all those games with only 10 players.

This year's college draft should be one of the worst and it is obvious that the ABL will have to try to steal players from the NBA if it is to succeed at all. But think of the poor fans. Could anyone root for a team with starters like Bud Olson, Matt Guokas, Henry Finkel, Jon Block, and Chico Vaughn?

Hero Award--This week we proudly present our first sports Hero Award to Willie Edwards for his tremendous play against a real tough Purdue team.
--Saul Schultz

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