1977

September 22, 1977

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
http://repository.law.umich.edu/res_gestae/516

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.
Reflections:
An Interview With Dean Theodore J. St. Antoine

[Editor's Note: Dean Theodore J. St. Antoine confirmed his intention to resign, effective June 30, 1978, in a letter to President Robben Fleming September 9, 1977. The Dean served a full five-year term which ended in June, 1976, and was asked to continue as dean for another term. Preferring to return to teaching and research, but also wishing to see the capital fund-raising effort through to a successful conclusion, Dean St. Antoine agreed to serve another term on the understanding that he would resign after two years.

What follows is the first part of an interview with the Dean conducted by David Duperrault, of the RG staff, on September 12. The remainder of Dean St. Antoine's remarks will be published in future issues.]

RG: What are your personal plans for the period following your tenure as dean?
St. Antoine: Tentatively, I plan to leave Ann Arbor for a year in order to give my successor a chance to get started without having me here, looking over his or her shoulder. I am not ready, however, to take an entire year off. I want to recharge my batteries before I devote a year to full time research. Probably I will teach for part of next year at another law school, perhaps one in another country. I assume that I will be back here at Michigan, teaching full-time, after that.

RG: What do you hope to accomplish in your final year as dean?
St. Antoine: The biggest objective for this year is to push the capital program through to completion. The campaign goal is a total of $10 million, of which $8 million is for the new library addition. We now have $6 million of that $8 million, but I don't know whether the University will let us start digging until we obtain the last $2 million. I'm hoping to persuade the central administration to permit construction to begin as soon as we receive an additional $1 million, because past trends indicate that alumni giving will provide another million over the next two years. The money we have in hand would finance construction through August, 1979, assuming the digging starts in December. The plans being prepared by the architect, Gunnar Birkerts, will be completed by next week, so with University approval, we could begin construction before the end of this year.

Therefore, our immediate goal is to obtain $1 million now, with the expectation that the other million will be received over the next year or two.

(See DEAN, page 6)

NEW LIBRARY DELAYED DECEMBER START?

Those of you who had fond visions of spending your closing days at the Law School safely entombed in the new underground library, surrounded by moles, worms, and tree roots, and protected from the bright light of day will be disappointed for two reasons.

First, the proposed design calls for a 150-foot-long skylight which will not only allow sunlight to penetrate the depths of the building, but will also allow users of even the third (lowest) level a clear view of the present library. Second, it's unlikely that the library will be ready for use before Winter term 1980. By that time only readers who have experienced extreme academic difficulties will still be around.

The current plans call for some 62,500 square feet of floor space on three levels. Earlier proposals for a glass and metal tower which was to include office space were scrapped for reasons of economy and lack of compatibility with the current Jacobean Gothic buildings. The plans as they now stand will solve the overcrowding problem in the stacks by providing space for about 200,000 volumes.

Of the eight million dollar projected cost, about six million dollars has already been raised. This shortfall poses a serious threat.

(See HOLE, page 3)
The reception to the last ROM column was the best yet—so far, I haven’t been mugged. Obviously, I must not have insulted enough people.

Let’s start thing right with this week’s “Thanks For Nothing” Award.

May I have the envelope, please? ... And the winner is, the LSSS—for outstanding work in the “Useless Rules” category (Library Admissions Division).

At exam time, the place is crowded—and I won’t say a word about rules during that period. But now? Why bother? Has a single law student been unable to find a chair? Has each table been filled? Are the lines to the john too long?

Besides, the new rule completely ignores the great entertainment value of the library groupies—often the only thing of value to be found in the library. Where else can one enjoy the spectacle of 75 undergraduate spouse-hunters competing under jungle rules?

Dear LSSS: We used to have a Coke machine in the game room—now all we have is a metallic pile of junk. Please, would you get it fixed, or at least rent one from the company? If so, I’ll even withdraw the “Thanks For Nothing” Award.

By the way, first year people, LSSS stands for Law School Student Senate. And when it comes to spending our money, it stands for almost anything (even funding the RG).

Is Professor Kauper really Steve Allen in disguise? The voice and mannerisms are almost exactly the same. Let’s see—does Allen do a routine on trademarks?

Come to think of it, I still think that Professor Kennedy looks like the “bean buyer” on the Hills Bros. coffee ads (Harold Gould). Maybe Kennedy should have specialized in entertainment law, rather than bankruptcy.

Is there a mania for concrete on (See MMMMMore, page 3)

Avocado v. Filbert
—U.S.— (1977)

Plaintiff alleges that on the afternoon of May 21, 1977, defendant did willfully and wantonly, “beat, stab, skin, bruise, puncture and otherwise debilitate” plaintiff’s intestate with “quick, heavy blows” of her clenched fists and with various actions performed with sundry sharp instruments, including knives, can openers, awls, and pitchforks; further alleging that these circumstances amount to trespass “abhorrent and grievous to the hearts and pits of artichokes and avocados, respectively, world over.” Plaintiff seeks action in trespass for recovery of 59c, intestate’s value as a fungible good.

Defendants demurs, and countersues in nuisance for alleged substantial infringement of her right to “enjoy and otherwise eat certain goods, duly purchased with sufficient consideration for the sole purpose of ingestion” by defendant and her relations.

GREEN, J.:

While the emotional appeal of plaintiff’s case is strong, as guardians of accepted legal practice we can do no more than affirm the law as it has been established, and it seems to me that in this case our mandate is clear. By even the most generous analysis of precedent, this court has been unable to find any grounds for recognizing plaintiff’s claim.

We are, at first, left at great loss to discover any negligence. Ms. Filbert testified, “I fully intended to do everything I did and I fully realized beforehand any and all consequences attendant upon my instigatory impetus.” (Ms. Filbert is an attorney by trade.)

We must turn our attention then, (See CASE, page 4)
THE HOLE STORY; THE NEW LIBRARY

(Continued from page 1)

to the whole project since the University is afraid that it will have
to "bail out" the Law School with its own funds if the Law School
runs out of money with key portions of the building, e.g. the
roof, uncompleted.

The University has already com-
mitted what Dean St. Antoine calls
"a substantial sum" to the project,
but this amount is included in the
six million. So there remains what
the Dean jokingly calls "a small
problem of two million dollars."

One way of making up the
shortage is to cut back the cost of the
building. The working draw-
ings are currently being examined
in order to find places where costs
can be cut, equipment installations
postponed, and portions left tem-
porarily unfinished. There are no
plans to cut back the size of the
building. It is hoped that as much
as one million dollars of the
construction cost can be put off
until more funds are on hand.

That still leaves the project about
one million short. Rather than
postponing the project until this
money can be raised, the Dean
hopes that the University will give
the go-ahead on the project so that
an estimated 1% per month inflation in construction costs can
be avoided. It is estimated that the
funds on hand will run out in
August, 1979, before the structure
is complete.

The Dean is confident that an
additional million can be raised
while construction is under way.
His opinion is based on current
annual giving of about 500,000 per
year. The difficulty lies in convinc-
ing the University that this income
source is stable enough to be relied
upon.

If the University gives the okay
and enough cutbacks can be found,
the project might get under way in
December of this year. One faculty
member feels that February is a
better estimate. There will be no
problem excavating in the winter
because the hole will go down some
50 feet, well below the frost line.

The architect's design calls for
a grand staircase of 48 steps leading
down into the building from the
current reading room. There will
be about 350 study carrels in the
new structure and each will have a
section that can be locked by the
carrel holder. It hasn't been
determined how these carrels will
be assigned.

The 200,000 volumes to be kept
in the new annex will be on open
stacks except for the reserve
collection. It is not clear what will
be done with the current reserve
desk, although Professor Pooley,
the Director of the Library, is
understood to favor maintaining a
second desk with limited hours of
operation. The present reading
room will probably continue as a
study area.

The design of the new structure
is one of the most modern
imaginable. It is "energy effi-
cient" because it is underground.
Although the building will be fully
climate-controlled, it is expected to
use only one-fourth the energy of a
comparable above-ground struc-
ture. There are provisions in the
plans for later addition of computer
terminals and microfilm readers.

Many people have expressed
concern about how an underground
building effects its users. Will such
an environment be conducive to
study? The Dean has looked into
the matter and gives assurances
that "very, very few people react in
any negative way." In contrast
with the present dark, dingy,
cramped quarters used by many
law students for study, the new
library should actually be an
improvement. Pity you'll never get
to use it.

(Continued from page 2)

this campus? Just across the
street, on the north side of the
Quad, there's a new stretch of
sidewalk; it connects two points
already connected by a (slightly
doglegged) sidewalk, no more than
15 feet away.

Even half of the grass areas on
the Quad, between the sidewalk
and South U, have been concreted.
Why?

Graffiti from around campus:
"When the bookstore raises prices,
the rest Follett the leader" ...
"Joan of Arc is alive and (medium)
well" ... "Do you trust in life after
estates?" ... "Jesus saves, but
Noah buys chattel paper."

Personal to the three law stu-
dents who pulled the fire alarm in
"A" section, Sept. 10: Brilliant,
kiddies. What better time than
when the Club was jammed with
people at a dance, and all but one
exit was blocked? Really brilliant.

Back to your sandboxes, turkeys.
MUSIC
NEW WAVE AND MODERN JAZZ

Timothy Sawyer Knowlton
Byablue—Keith Jarrett

I admit that I do not particularly care for the music of most of the modern jazz musicians. I much prefer the be-bop of such jazzmen as Charlie Parker, Dexter Gordon, Dizzy Gillespie, and Thelonious Monk (my favorite pianist on my favorite instrument). I find much of the modern jazz cacophonous or atonal. Ironically, be-bop favored similar resistance when it was coming in to its own in the late 40x and early 50s. (I have been accused of adopting the same type of mentality toward the moderns as Cab Calloway displayed toward be-boppers when he contemptuously referred to theirs as "Chinese music".)

Despite the introduction it is with great pleasure that I report the arrival of an exceptional album by modern jazz pianist, Keith Jarrett. Byablue contains six compositions. Four of the pieces were written by Jarrett’s frequent drummer/percussionist, Paul Motian. One selection is written by Jarrett himself, and the remaining piece (and the one I like best) was written by Margot Jarrett. Since Motian composed most of the music, I expected not to like it. The albums released under Motian’s own name I find nearly unlistenable, particularly his 1973 ECM release, Conception Vessel. Motian’s writing for Jarrett, however, is precisely that, for Jarrett.

As to the music itself, “Byablue” which opens the album, displays the tight and pleasing sound of Jarrett and his frequent sidemen - Motian on drums, Dewey Redman on sax, and Charlie Haden on bass. These men have recorded some fine quartet works for Impulse and Atlantic records. The album closes with a lilting solo version of “Byablue” played by Jarrett on piano. “Konya” and parts of “Yahallah” display Jarrett on soprano saxophone and remind me of much of Rahsaan Roland Kirk’s work on Atlantic. “Yahallah”, a Motian creation, strikes me as over ambitious—a splicing together of musical segments which do not seem to work as a unified composition. “Rainbow”, written by Margot Jarrett, is a lyrical piece played as a fairly traditional trio creation by Jarrett, Haden, and Motian. It is strikingly similar to many of the pieces on Columbia’s Bill Evans Album. “Trieste”, also by Motian, is the album’s other stand out. This is an intense, brooding composition which is a perfect vehicle for Jarrett’s piano.

The album is well produced by Esmond Edwards and the recording is crisp. My only objection to the album is its lack of liner notes, a failing in almost every Jarrett album I’ve seen.

Live At The Rat—Various Bands

The Rat is Boston’s showcase of local punk/new wave bands. (I use the terms “Punk” and “new wave” only because I don’t have enough space to explain why these terms are a rather unsatisfactory grouping of the many interesting new bands so classified). Live At The Rat is a double album containing nineteen cuts by ten bands. Most of the bands are mediocre. Some of the bands such as Susan, the Infilitors, and Thundertrain actually contain individual standout musicians (all of Thundertrain’s musicians, in fact, display better than average technical proficiency). The problem is that their ideas are clichéd, both musically and lyrically. Their performances sound flat and sterile. Other bands such as Willie “Loco” Alexander Boom Boom Band, Sass, and the Real Kids lack any real competence on their instruments although their compositions are more entertaining and their performances come off as more vital. The most successful band on the record is DMZ which sounds like the Ramones. Both bands follow a similar formula of three chord rock, their music sounding like a series of tuned power generators.

Live At The Rat is patterned after Live At CBGBs (two discs, sixteen cuts, eight bands). CBGBs, located in New York City, was the first of the new wave/punk clubs. I like the CBGB album much better than the Rat album. This is not because the CBGB musicians are technically more competent, indeed, they are not. I prefer the CBGB album because most of the bands exhibit a unique style or personality. For the most part the Rat bands sound just like so many other guitar oriented groups. While only one of the Rat bands uses a keyboardist, most of the CBGB bands do. The music is more diverse. The CBGB composers also have much more flair when it comes to lyrics.

For those who like the punk genre Live At The Rat is an interesting collector’s item. I would not recommend it to others. For anybody interested in hearing some of the music of the new wave bands I would suggest Television’s Marquee Moon (the new wave’s one classic work), the Ramones, Blondie, and Mink DeVille.

Case of the Avocado

 account in prescribing standards for reasonable care. Memorial Hospital of South Bend, Inc. v. Scott 261 Indiana 27, 300 N.E. 2d. 50 (1973). In this case, it was decided that plaintiff could not be expected to flush toilets properly, given his status as a reasonably prudent impaired individual. It is clear, therefore, that the Court must ascertain reasonable and prudent care for a person in like or similar circumstances, and not necessarily for that of the average individual.

In assessing the standard to be applied in the extant case, we must take note of the myriad of facts brought out by the defendant in trial court indicating that a special standard should be applied to her.
CASE

AVOCADO v. FILBERT

(Continued from page 4)

Instead of laboriously summarizing them here, we are inclined merely to recall counsel's brilliant summation of the factual material, which indicated only that, "indeed, Ms. Filbert is a rare individual."

Here we are left at an interesting crossroads where all signals seem to leave us with no conclusion but that there is only one way to go. Or, as Justice Frankfurter once very eloquently put it: "why did the chicken cross the road? Why, to get to the other side." And so, to get to the other side, we recognize that the extraordinarily unique facets of Ms. Filbert's character present us with no choice but to adopt the standard of "what would a reasonably prudent Janet G. Filbert do in like or similar circumstances?" At this point our remaining argument runs a course exactly opposite that of the expected res ipsa loquitur, viz., that the non-negligence of the defendant may be inferred from the mere facts of the situation. For in answer to the question, "what would a reasonably prudent Janet G. Filbert do in like or similar circumstances?" we must invoke the ancient legal maxim, "she would do that which she hath donne."

Under this rule we adjudge plaintiff to have exercised all due care. In that she is not negligent, we hold her not guilty of trespass.

WASHTENAW COUNTY COURT TRIAL

A visiting judge of the Washtenaw County court will be conducting a trial in the Moot Court room every day during the month of September. Please feel free to attend.

ATTENTION: COMMITTEES

If any L.S.S.S. committees or any other Law School committees want to arrange for food or beverage from the Lawyers Club, you must give the food service at least ten days notice.
Another important responsibility of mine will be to keep the faculty happy, harmonious, and in Ann Arbor. I hope to continue to succeed in foiling the efforts of other law schools to raid our faculty to fill deanships, faculty chairs, and so forth. The faculty have resisted these blandishments for the most part, I am happy to say. I am very proud of this faculty. Its members offer a rich variety of extraordinary talents. We have brilliant scholars and scintillating classroom performers; some are thoughtful, some thought-provoking. We must recognize that although their interests and talents are diverse, their value to this institution is enormous.

A task that has troubled me throughout the time I have been dean has been that of improving rapport between the faculty and students, and among students, for that matter. We're at a disadvantage because this is such a large school, and because the faculty-student ratio is not high, by any means. On the other hand, Ann Arbor is small, so people are able to return to the school for evening events. Also, the Lawyers' Club is a facility which is conducive to developing better relations within the school. Visitors often comment that this faculty is unusually cordial, to the visitors and to each other. Perhaps students don't perceive them to be cordial, but they really are.

Sue Eklund, and Rhonda Rivera before her have done an excellent job of reducing the anxiety and confusion which are an unfortunate part of being a law student. I am delighted with the way they have helped to meet students' needs. Additionally, the students who have conducted the orientation programs for first-year students have made an important contribution. This breaking-down of barriers is another goal we will continue to seek to achieve.

RG: Beyond the topics you have just discussed, what are the major challenges facing the law school in the years ahead?
St. Antoine: This is not so much the dean's problem as it is a challenge for the whole school; we must continually re-examine the curriculum and, if necessary, modify it to make it more realistic and meaningful. Curricular reform is a recalcitrant beast. Everyone—students, faculty, alumni—is an expert on what courses should be taught, and any innovation is bound to tread on someone’s toes. One person will be forced to reorganize the content of a course he's been teaching for many years, and another may be required to research and master a whole new body of material. Others may be forced to stop teaching a subject they enjoy. There is tremendous resistance to programs, such as an expanded writing course, which involve the time-consuming drudgery of reading dozens of essays.

I think that the integration of other disciplines into the traditional law school curriculum is very important. Too many students are ignoring courses which combine legal problems with those of economics, sociology, psychology, government, international relations, medicine and other sciences, history, language, philosophy and other disciplines.

RG: Are you referring to the programs which are offered by other schools within the University in conjunction with the law school?
St. Antoine: I was thinking of the courses in the law school curriculum. The joint degree programs are useful for the few who will become government policy-makers and so on, but the courses offered in law school are very valuable to all practitioners, at least those of the caliber of our graduates. Inter-disciplinary work should be a part of every student's legal education.

There is a sort of triad of qualities which we hope to impart to students at this law school. One is to develop the analytical powers of our students, and I think we do a good job of that. We also try to give our students a sense of objectives, an understanding of what the law should be trying to achieve. Here the law must look to other fields for guidance, and that is why inter-disciplinary studies are so important.

The third area, that of developing the skills which a practicing lawyer needs, is the one where we are least effective. The clinical law program and courses like trial practice, lawyer as negotiator, writing and advocacy, estate planning, business planning and lawyers and clients, do help to provide a foundation for practice. But the challenge facing legal education today is to improve its ability to teach such skills as drafting, negotiating, counseling and courtroom techniques at a time when higher education is feeling a severe financial pinch. The law school has traditionally been one of the cheapest schools in the university to operate, thanks to the "production line" method, which features a single professor lecturing to 100 students. Clinical programs, on the other hand, are very expensive because of the close supervision and low faculty-student ratio which they require. To be candid, we're not going to get the additional funds for these programs from the central administration, because they don't have it. Whereas the English and Classics Departments have nowhere else to turn for funding, law schools can appeal to the bar, both to individual alumni and to bar organizations. The practicing bar benefits from improvements in legal education, and the "legal establishment", bar associations, bar foundations, law firms and professional corporations, should support the law schools.