April 3, 1975

University of Michigan Law School
Recent demands upon RG have put a premium on space. We will try to get all contributions in as soon as possible.

There will be a meeting on Thursday, April 10, 1975, at 12:00 noon in the Environmental Law Society office for all members (and others) who are interested in becoming officers and administrators of ELS for next year.

Jeff Haynes, 
ELS Co-director

There will be a meeting for anyone interested in teaching the undergraduate Women and the Law course next year on Tuesday, April 8, at 3:15 in the Women Law Students office. It is not necessary for you to have taken the law school Women and the Law course. If you can't come to the meeting, call Nancy Broff at 668-6820.

Public Interest Internships

Want a low-paying job this summer with Michigan's largest professional public interest group? PIRGIM, Public Interest Research Group in Michigan, is looking for qualified law students for its 1975 summer intern program.

Internships pay $600 (more, if you can get work-study) for 10 weeks. Contact Eric Fersht at 994-0311 (home) or 662-6597 (office). If you wish rapid consideration, call within the next couple of days, since the hiring committee will be in town Wednesday afternoon.

All members of the Law School staff, faculty, and student body are invited to an introductory lecture on:

The Transcendental Meditation Program

Tuesday, April 8 - Rm. 242 Hutchins Hall
7:30 p.m.

Jim Zatolokin: 3rd Yr. Law Teacher of Transcendental Meditation

The following are the new members of the Women Law Students Association Steering Committee:

Beth Garfield
Susan Gzesh
Liz Hilder
Janet Kevneke
Gayle Horetski
Sue Bittner
Ann Stokes
Sharon Williams
Joanne Betlam
Flo Sprague

We would like a few more people to be on the steering committee. If you are interested, please call me for details. Christie Peterson, 663-9589. For all of you who cannot make a permanent commitment this year, active participation next year will qualify you for membership.

There will be a meeting for all those who attended the National Conference on Women and the Law on Monday, April 7th at noon in the Women's Office. Please bring notes, tapes, etc. so that we can put together a program to present to the school.
At the risk of oversimplifying a complex problem, I should like to summarize briefly some of the steps taken by the Law School, both recently and over the last few years, to respond to proposals presented by various student groups, including minorities and women.

1. **Curriculum.** The faculty has authorized a series of separate or interrelated courses on sex discrimination, race discrimination, and discrimination in general. The exact length and content of these courses would be worked out with the persons chosen to handle them. My expectation is that we shall offer courses in both race discrimination and sex discrimination next year.

2. **Faculty.** (a) Over the past several years the Law School has offered four women regular tenure-track appointments to the faculty. Only one accepted, and she is scheduled to begin teaching here in the fall of 1976. The other three declined, in order to go to or stay at law schools in New York City and Los Angeles. (b) A minority person was invited to become our Admissions Officer, but declined in order to stay in a combined administrative and teaching (nonlaw) role in an Eastern university. (c) Three minority law teachers were invited to be visiting professors here next year, but all three declined because of research leaves or other prior commitments. (d) A female law teacher will be a visiting professor here this summer and next winter. (e) A noted black federal district court judge will commute here from the East Coast next year to handle a course in racism which he has previously taught in two Ivy League law schools. (f) Present hopes are to interview at least four more candidates for regular tenure-track appointments to the faculty for 1975-76. These include one black male, one black female, and one white female. (g) Earlier this year, another black male was invited to interview for a regular appointment for 1975-76. He decided instead to enter teaching at a law school in the New York metropolitan area, where his wife practices law. (h) In order to increase the number of minority candidates available

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**Cooley Lectures**

What is death, and who is entitled to say when it has occurred? When does human life begin? When and how may human subjects be experimented on?

These are among the issues to be discussed by Dr. Robert S. Morison, this year's Thomas M. Cooley lecturer at The University of Michigan Law School.

Dr. Morison will deliver a series of two lectures April 7 and 8 at 4:15 p.m. in room 100, Hutchins Hall. The lectures, open to the public, are entitled "Biology, Ethics and Law: Can They Help Each Other?"

The lectures will be followed by a symposium April 9 at 4:15 p.m. in the same location. In the symposium Dr. Morison will be joined by Profs. Robert A. Burt and Yale Kamisar of U-M Law School and Prof. William K. Frankena of the U-M philosophy department. Prof. Alfred F. Conard of the Law School will serve as moderator.

Dr. Morison, who is Richard J. Schwartz Professor of Science and Society at Cornell University, will be the first non-lawyer to deliver the Cooley Lectures at the Law School.

The lectures have been given almost annually since 1947. They are named for one of the original members of the U-M law faculty who later became law dean.


Born in Milwaukee in 1906, Dr. Morison attended Harvard University where he received a B.A. in 1930 and an M.D. in 1935.

In 1964 Dr. Morison joined the Cornell University faculty as professor of biology and director of the Division of Biological Sciences. Since 1970 he has held a distinguished professorship of science and society at Cornell.
for law teaching positions, the faculty has under consideration the establishment of special minority graduate fellowships for 1975-76.

3. Staff. The University has been request-ed to make a special effort to refer minority applicants for clerical and other staff positions to the Law School.

4. Student Recruitment. (a) Over the past several years, the Admissions Officer, faculty members, and black, Chicano, and female students have engaged in recruiting efforts directed at female and minority undergraduate students in Michigan, the mid-West, and coast-to-coast. (b) During this past year, the Law School shared with the School of Social Work the expense of sending a Chicano staff counselor on a recruiting trip to the West Coast. Further discussions are continuing between the Dean and La Raza concerning the most feasible means of enlarging the enrollment of Chicano students here. (c) During this past year, the Law School financed trips by women, blacks and Chicanos to national conferences dealing with both substantive law problems and the problems of women and minorities in law school. It was also hoped that the presence of significant Michigan delegations at these gatherings would enhance the image of the Law School in the eyes of these various groups as an institution genuinely interested in welcoming them.

5. Financial Aid. (a) In 1974-75 the Law School upped the total amount of financial aid to students by almost $200,000 over 1973-74, to $955,175. Of this total, $362,015 went to minority students. In 1973-74, minority students received $345,135 out of a total of $773,035, and in 1972-73 they received $343,710 out of a total of $709,705. In all instances the primary criterion for aid is need. On the average, minority students have demonstrated greater financial need than other students. (b) The Law School, through the Financial Aids Officer and the Dean, have submitted requests to the central administration for substantially increased funds for student financial aid in 1975-76. We hope we can get more. But the difficulty is that, meritorious as our requests are deemed, many other schools and colleges throughout the University have practically no funds of their own, and thus must be given large University allocations if they are to have any financial aid program at all.

6. Placement. (a) The Placement Office and the faculty are trying to devise new ways, e.g., through the direct solicita-tion of alumni, to improve minority placement. Last year, however, the placement rate for minorities as of May 1974 was only two percentage points below that for whites (75% v. 77%). (b) The Law School is helping substantially to finance the "Alternative Careers" Conference being held here this coming weekend. Many of the jobs to be discussed should be of special interest to minorities and women contemplating public service careers.

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On-going discussions of these and other matters are proceeding between various student groups and the Dean or faculty members. I feel real progress has been made, and will continue. But it is vital that the Law Schools reaction to student proposals be both responsible and deliberate. We cannot commit ourselves casually to a program that may have significant institutional consequences over the next forty years. We cannot accede to requests that we are convinced are educationally unsound. But with some mutual understanding and cooperation, I believe we can go far toward reconciling our remaining differences.

Theodore J. St. Antoine
Dean
3/31/75
LSSS AGENDA
April 7, 1975

1. Last Week's Minutes.
2. Report by Jon Karp on Rules of order.
3. Report by Committee on Revision By-Laws.
5. Rhonda Rivera - Lockers.
7. Report by Sharon Williams on possibility of Music for May 2 Party.
8. Report by Pam Hyde and Bertie Butta on talk with Dean.

ATTENTION

LAW SCHOOL ORGANIZATIONS
(if you want funds for next year)

The Senate will hold budget hearings on Saturday, April 12, 1975 from 9 to 11 and from 12 to whenever everyone has been heard. Each group will be given 20 minutes to present their case (a five-minute formal presentation and fifteen-minute question and answer period). Sign up at the Lawyer's Club desk for a time slot between 8 a.m. on April 7 and 5 p.m. on April 9.

Budget allocations will be decided at an open meeting of the Law School Senate on Monday April 14 at 6:00 p.m.

LSSS MINUTES
March 31, 1975

The meeting was called to order at 6:00 p.m. by Terry Linderman. Sherry Clifton, who runs the kitchen at the Lawyer's Club, thanked the "old" Senators for a job well done and welcomed in the new.

George Pagano reported that there had been no requests for a recount of any of the ballots of the LSSS election, but one person had speculated on whether the ballot box had been stuffed. George reported that there had been 62\(\frac{1}{2}\) ballots put in the box and 622 names checked off the lists of voters; the discrepancy was too insignificant to have made a difference in the outcome for any office.

Terry turned over the gavel to Pam Hyde at 6:10 and the new Senate got underway. The first decision made was to hold future meetings at 7:00 p.m. on Mondays instead of 6:00. Pam said that she would like to set agendas for all meetings one week in advance. The agenda will be posted along with the minutes on the LSSS bulletin board on the second floor of Hutchins Hall and will appear in Res Gestae.

Jimmy Jenkins of the Lawyers' Guild that they be allowed to use money which had been set aside in their budget for mailing to purchase two ads in the Michigan Daily instead. A motion that we authorize this procedure passed with no opposition.

The Senate unanimously approved a motion that Jon Karp be appointed to look into alternative systems of parliamentary rules and report his recommendations at next week's meeting.

A committee was appointed to study the Senate's by-laws and suggest any necessary revisions; the members are Bertie Butta, George Vinyard, Kathy Krieger and Jon Karp.

Pam asked Senate advice on the question of whether she should retain her position on the administrative committee. The Senate did not feel that any conflict of interests was involved and voted (unanimously again) that she remain on the committee.

A request from Rhonda Rivera for $270 for a social event for the summer starters was tabled so that Pam and Bertie could get more information on this.

Bertie said that student organizations would be turning in their budget requests by April 2. Bruce Hiler suggested that the Senate formulate some policies for
the allocation of funds to these groups, and he was put in charge of coming up with proposals for discussion at next week’s meeting. Bertie moved that April 12 be set aside for budget hearings; that each organization be allowed five minutes to give a formal presentation and fifteen minutes to answer questions of Senators; that Law School groups sign up for a particular time on a sheet which would be at the Lawyer’s Club desk between Monday, April 7 and Wednesday, April 9 (until 5:00 p.m.); and that the Senate meet at 6:00 on Monday, April 11 for an open meeting to decide on the budget requests. This motion passed 11-1.

It was decided to postpone appointments to faculty committees until next fall. Pam said she would like to have any prospective member of a faculty committee meet with that committee to find out what kind of work would be involved; she suggested further that each candidate be interviewed by a committee of the Senate.

Discussion of Senate committees (Sports, Social, Film, and Speakers) led to a motion by Kathy Krieger that the committees as they are now constituted be responsible for generating a successor committee for next year which would elect a chairperson this year and contact each student organisation to invite it to send a representative to the committee. First year people would be encouraged to join the committees next year. The motion passed without dissent, and Kathy volunteered to contact the existing committees so as to effect an efficient changing of the guard.

Pam read a letter from Bill Scanlon of the Speakers Committee which accompanied a set of policies and guidelines formulated by that committee. Barbara Harris moved that we table consideration of this matter until next week when we will have had a chance to read the material. The vote was unanimous again.

There was discussion of a request by Sherry Clifton that the Senate donate enough money to provide a band and beer for a lawn party (cookout) for residents of the Lawyer’s Club. It was decided that money set aside for a Sherry Hour be rebudgeted along with an additional $350 for a cocktail party for the entire Law School to be held on Friday, May 2. Beer will be provided by the Senate on the lawn, and non-Lawyer’s Club residents will be able to purchase meal tickets for the cookout (in advance only) for a reduced price of $2.25. A motion to this effect passed with no opposition. Sharon Williams volunteered to look into the possibility of having music for the occasion.

Jon asked members to consider the desirability of two rules supposedly in effect last year: a $180 maximum allocation for attending conferences per group and a one-week waiting period before voting on all money matters. These suggestions will be discussed next week.

The meeting adjourned around 8:00 p.m.

Phyllis Rozof
LSSS Secretary

**Basketball Poll**

John Rothhaar won the final b-ball poll of the season. He was only one point away from perfection. That’s good enough for a B+.

**Final RG Rankings**

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<td>UCLA(3)</td>
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<td>Syracuse</td>
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<td>2</td>
<td>Indiana(4)</td>
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<td>Marquette</td>
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<td>Arizona</td>
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Others receiving votes: Purdue, Drake, and Princeton.

The RG wishes to thank this year’s panel of experts:

- James Rodgers of Fodram
- Barry White of Rhode Island College of Education (RICE)
- Paul Ruschmann of Overated U. (N.D.)
- Craig Gehring of Moo U.
- Howie Bernstein of Big Choke (B.C.)
- Tom Blaske of Ummmmmmmmmmmmmmmm
- George Pagano of UP (Penn)
LEGAL

ACTS THE REASONABLE FIVE YEAR OLD

CONVICTS THEM OF CONSPIRACY TO CONSPIRE.

THE VEXED MR. CROUESOME TEARS HIS HAIR

CONSIDER THE CASE

FROM ANOTHER PERSPECTIVE
NLG PRESENTS HAMPTON FILM

In 1969 the Chicago police, pursuant to a comprehensive F.B.I. plan to destroy black activist groups, murdered Fred Hampton and Mark Clark, leaders of the Illinois Black Panther Party. Soon to go to trial is the civil suit charging Edward Hanrahan, another State Attorney official, and local and federal police with conspiring to murder and maim the Panthers, to cover up these acts, and to maliciously prosecute the raid's survivors.

Tonight (Friday, April 4) at 8:00, the National Lawyers Guild will present "The Murder of Fred Hampton", a one-hour documentary on the events of December 4, 1969, and the subsequent coverup by police. Accompanying the film are speakers Jeff Haas (attorney for the Panthers since 1969), Matt Piers (co-counsel in the suit), and Diane Rapaport (Coordinator of the Fair Jury Project, Chicago). The presentation is free, but donations to aid the progress of the suit will be gratefully accepted.

"THE MURDER OF FRED HAMPTON"
Friday, April 4, 8:00 p.m.
Room 100 Hutchins Hall

UNITED FARMWORKERS BENEFIT DINNER

This Sunday, April 6, there will be held a multi-course Mexican dinner for the benefit of the United Farmworkers Union. Donation is $2.25 for adults and $1.75 for children. For those in the law school, tickets may be obtained from Frank Ponce or Gail McCarthy. The dinner will be held at St. Mary's Catholic Church, located at Liberty and Maynard.

ANN FAGAN GINGER

SATURDAY, APRIL 5
1:00 p.m.
Room 100 Hutchins Hall

Ann Fagan Ginger graduated from Michigan Law School in 1947. She is returning to speak here this Saturday for the first Alternative Practice Conference. Ginger has been in "alternative practice" herself for almost 30 years, having started as a labor lawyer in Detroit and Ohio. In the early 50s, she defended numerous victims of the "Red scare"-McCarthy witchhunts, taking one of her cases to the United States Supreme Court in 1959 where it was won on entrapment of the defendant by the Ohio state UnAmerican Activities Committee.

Ginger is currently the director of the Meiklejohn Institute for Civil Liberties in Berkeley, Cal. She has been active in the National Lawyers Guild for many years, and is the author of numerous publications, including Minimizing Racism in Jury Trials; The New Draft Law; and The Relevant/Lawyers, a series of interviews with attorneys who participated in the Tom Paine Summer School at the Meiklejohn Institute in 1970.

Section 5 invites everyone in the law school community to come hear Ann Fagan Ginger and everyone else who will be here for the Conference. See you tomorrow.
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<tr>
<td>9:30 - 10:00</td>
<td>Coffee/Doughnuts/Information Station: in the Lawyer’s Club</td>
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<td>10:00 - 11:00</td>
<td>Panel on Alternative Forms of Practice: Room 100</td>
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<td>11:00 - 12:00</td>
<td>Young People’s Gay People’s Crime/Environmental Mental Rights</td>
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<td>12:00 - 1:00</td>
<td>Government Services Legal Services</td>
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<td>1:00 - 2:00</td>
<td>Keynote Speaker: Room 100</td>
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<td>2:00 - 3:00</td>
<td>Afternoon Break</td>
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<td>3:00 - 4:30</td>
<td>Rights of Private Community Environmental Prisoners*</td>
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<td>4:30 - 5:30</td>
<td>Rights of Consumers’ Rights</td>
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<td>5:30 - 6:30</td>
<td>Wine, Beer and Cheese Party: Lawyer’s Club Lounge</td>
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These workshops will only be given once - all the rest twice.
Resource Center on Women Offenders Launched as Joint ABA Pilot Project

WASHINGTON, D.C. -- A pilot National Resource Center on Women Offenders has been launched by the American Bar Association's Commission on Correctional Facilities and Services and the ABA Section of Criminal Justice.

The center, headquartered here, will father and distribute information on the treatment of female adult and juvenile offenders. It also will explore means of actively involving state and local groups interested in working on behalf of women offenders.

The pilot project plans to publish a bi-monthly newsletter, build a library, and offer to assist research efforts and action projects in the female offender field. It will be funded by the U.S. Department of Labor through the ABA Fund for Public Education.

District of Columbia Superior Court Judge Sylvia Bacon will chair the resource center's 17-member advisory board. Judge Bacon called the pilot project "an important beginning in an area requiring immediate attention."

She explained that "little is known about the woman offender. Even less is known about the many programs which are an outgrowth of a new awareness about her. There is need for a center which can stimulate exchange of information and thereby foster new efforts," Judge Bacon said.

Named by Criminal Justice Section Chairman Ben R. Miller as section representatives on the advisory board were Elayn Hunt, Louisiana Department of Corrections commissioner, and Delance Lewis, a Washington, D.C., attorney.

(ABA p. 11)

Next Monday, April 7, the Federal District Court for the Eastern District of Michigan will hold a session of the court here at the law school. Motions will be argued before Judge John Feikens in three separate cases. Counsel for the various parties have graciously consented to this arrangement.

The arguments will be held in the practice court room on the second floor of Hutchins Hall. The LSSS Speakers Committee has arranged for this session of court to be held here, with hopes that it will stimulate students and provide a kind of education not available in the ordinary classroom.

The Judge has scheduled for argument three cases which are bound to be of interest to law students, and his clerks have provided us with background information on these cases. Following are summaries which may serve as guides to the issues that will be argued:

1. 9:30 a.m.: United States v. Hollifield. Mr. Hollifield is an inmate at the Federal Corrections Institution in Milan, Michigan. He has been indicted by a grand jury and charged with attempting to smuggle a revolver into the prison. Such an offense is both a violation of the institution's regulations and a federal crime.

   The alleged incident occurred on April 8, 1974. Both prison officials and the FBI carried on investigations. In one of his appearances before the prison's disciplinary committee, Mr. Hollifield made a supposedly incriminating statement. He later made another incriminating statement in the course of one of his interviews with the FBI. In both cases the Miranda warnings were given.

   The question before the court is whether the evidence of the incriminating statements should be suppressed at trial. Counsel for the defendant argues that the defendant's Fifth Amendment rights were not protected at the institutional hearing, in part because the only kind of testimony possible at such a hearing is the defendant's own statement. He also argues that the subsequent statement before the FBI should:

   (LIVE pg 11)
Named by Corrections Commission Chairman Robert B. McKay to represent the interdisciplinary commission on the center advisory board were Bertram Brown, M.D., director, National Institute of Mental Health, and William Leek, South Carolina corrections commissioner.

Directing the resource center will be Laura Crites, a former director of the criminal justice project of the International City Management Association (ICMA) and former editor of TARGET, its criminal justice newsletter. Catherine Pierce, who has worked in the juvenile female offender field, will serve as project assistant.

Providing technical assistance will be another Labor Department-funded project on women offenders - Entropy, Inc., Belmont, Mass. Entropy's director, Laurel Rans, has been named vice chairperson of the center advisory board.

Other board members will be appointed in the near future.

should be found contributorily negligent; (c) an instruction to the jury that "respondeat superior" would not apply if IMA employees were "borrowed servants" of the plaintiff at the time of the accident; and (d) a ruling by the judge disallowing admission of a certain deposition into evidence on the plaintiff's behalf.

The defendant argues that the court was correct in its rulings and instructions, and further argues that the motion for a new trial should not be granted because it was not timely made.


It appears that in August, 1972, SDRC employed Dr. Surana on its research staff, placing him in charge of developing an isoparametric finite element computer program. The same month, it hired Dr. Kathawala in a supervisory role over Dr. Surana in general charge of this program development. Both men had employment contracts with the standard non-competition and non-disclosure-of-trade-secrets clauses. In January, 1973, Dr. Kathawala left SDRC, and formed EMRC shortly thereafter. Dr. Surana left SDRC in late January, and later began working for EMRC. About a year later, EMRC announced the development of an isoparametric finite element computer program, and offered it for lease and sale.

SDRC initiated this suit, claiming that the defendants breached their contractual obligation not to compete, and that the defendants have confiscated plaintiff's trade secrets.

The case was tried without a jury, the nine weeks of testimony concluded only last week. The closing arguments have not yet been presented, nor has a decision been handed down.

The defendant has moved to dismiss, claiming that the plaintiff breached the employment contract and that it is therefore unenforceable, and that no trade secrets were confiscated because all the information involved was generally available in the literature.

The parties will first argue the motion to dismiss, and afterwards will present their closing arguments.

NOTE: There are more complete summaries of all these cases attached to various posters around the law school.
Dear RG:

I am greatly disturbed by Mr. Sandalow's response to the Women Law Students. The exam question speaks for itself and Ms. Kelly's reply addresses the specific points made by Mr. Sandalow. However, his response demands additional comment.

Sexism and sex discrimination pose a problem for the progressive evolution of our society. In recent years, there has been an increased awareness of this problem. The writers and critics have questioned the validity of the roles traditionally assigned to women and men in our society.

The legal profession has been historically male-dominated. This domination is reflected in our own law school by the composition of the faculty. It will require many years to erase the effects of prior domination. During the transition period there will inevitably be conflict, debate and discussion as the vestiges of the old domination are challenged.

The transition will be difficult for many of us. As a male, I realize that many of my feelings about women were developed in a social milieu which accepted traditional notions of the appropriate roles for women and men. I cannot escape from my upbringing and the subtle effects it still has on my thinking. I can, however, understand that it is a part of me, of which I should be conscious. Realizing this, I can continually evaluate my actions, aschewing those actions wherein I am relating to persons on the basis of sexual stereotypes or role expectations.

If the law school is ever to change, we will all have to engage in some soul-searching. This cathartic experience will never take place if we adopt the "one of us is wrong" attitude expressed in Mr. Sandalow's response. We have to leave our egos behind and forget about "putting someone down" or being "put down." We all have a lot to learn about ourselves and about our colleagues. Until we stop being defensive, such learning will not take place.

Stephen Godsall-Myers

I would like to thank those who supported me in the LSSS elections of March 26th.

Also, I want everyone to know that I am open to all suggestions or recommendations to improve the efficiency of the LSSS or what ever else that may need our attention. For your convenience, I will keep an envelope on the Raza Law Students office door for the suggestions which you may want to make.

Please do drop in and see me or just catch me in the hall.

Otila Saenz,
Member-at-large,
LSSS

Towhom it may concern:

In a recent Wall St. Journal, Bayless Manning, an ex-dean of the Stanford University Law School, commenting upon the general incompetence of recent law school graduates in the practice of law, was quoted as saying: law schools "do not hold themselves out to be lawyer schools." I bring this to the attention of any nievetes who still believe that they are paying thousands of dollars a year and attending this law school to become a lawyer; or that law school is something more than fraternity pledging; or that "law school achievement" is useful for some other reason than just tricking a prospective employer into offering a higher salary. (CONTINUED FROM 13)
If these conclusions seem a bit harsh or unfounded, then why am I required to attend law school in order to join the bar even though law school does not teach me to be a lawyer ... instead of requiring attendance when it would be useful (ie when I already have a grasp on legal functions and issues, and these appellate level, academic discussions would be somewhat meaningful).

Of course, I would enjoy hearing Dean St. Antoine deny Mr. Manning's remark, telling me that the University of Michigan Law School does hold itself out to be a lawyer school.

s/G. Burgess Allison

Editor, Res Gestae:

Sunday, March 16, C.B.S. News "60 Minutes" reviewed American involvement in Viet-Nam with a film collage narrated by Morley Safer. Because the images and consequences of what Americans did in Viet-Nam were so vivid, I found myself hoping Prof. Doug Kahn saw the program. If he did see it, he might understand why the men who left the U.S. to avoid fighting in Viet-Nam made the kind of moral decision that deserves more than the abuse he awards them in his article on the Amnesty Program.

Prof. Kahn's article appeared in Res Gestae long ago but, at that time, I put it aside suspecting I might be outraged if I read it. I was right about that.

In his article, Prof. Kahn misses an important point. He does not understand that some men long ago realized that American policy in Viet-Nam was wrong and refused to be drafted to do the killing the government required. As events in Viet-Nam in recent weeks tell us how great a failure and tragedy our efforts there have been, we should welcome the return of these men and wonder how the rest of us could have been so wrong for so long. If the rest of us had shown the same convictions or, perhaps, just the same inclination to run from something we would not risk our lives for, 55,000 Americans and countless Vietnamese might still be alive.

Prof. Kahn criticizes the men who left America out of their fear of being killed in Viet-Nam, or of being imprisoned in the U.S. for draft evasion. While he may be describing their motives correctly, isn't it appropriate to turn the criticism around and ask him what his motives were for remaining here while requiring others to fight in Viet-Nam? Where were you, Prof. Kahn, when the war drums beat and your country called? Are your services so valuable and your obligations so different that you should be permitted to stay here, in relative safety, while others are forced to risk their lives overseas? By staying behind and not volunteering to serve, did not you consign someone else to a tour in Viet-Nam as surely as any draft evader did?

Perhaps the answer to these questions lies in the fact that middle-aged professors are seldom drafted into the armed forces. Perhaps, more simply, the answer is that older men have always found it easy to send younger men off to war.

Scott Ewbank

(MR. KAHN REPLIES P. 14)
Editor, Res Gestae:

Mr. Ewbank has written a reply to an article I wrote on the Amnesty Program some time ago. To the extent that Mr. Ewbank has raised any substantive issues, I am satisfied with the discussion I gave to those issues in my earlier article, and I see no reason to repeat that discussion. However, since a substantial portion of Mr. Ewbank's letter is a personal criticism of me, I do wish to comment on that aspect of his argument.

The basic issue with which my prior article dealt was the propriety and desirability of imposing sanctions on those who had had a great burden imposed on them by their nation and who had fled the country both to avoid shouldering that burden and to avoid the imposition of sanctions for their refusal to serve. In any national government, the power to make national decisions, such as the decision to fight a war and the manner in which societal burdens (including the burdens of supporting a war effort) will be allocated among the citizens, must rest with appropriately designated persons. There are democratic and judicial processes by which such decisions may be questioned and changed or reversed. In my view, an individual, acting on his own behalf, cannot be permitted to reallocate to another a burden which has been imposed by society's designated authorities upon that individual. If each of us can decide which of the burdens which our nation has imposed upon us we will accept and which we will refuse, there will be precious little order in our society.

Consequently, I was critical of the deserters and evaders for having shunned a burden which had been imposed upon them; I was not critical of those who were not called but who failed to volunteer to share in that burden. Mr. Ewbank no doubt is correct that (at least from my viewpoint) to volunteer one's services would be an act of courage deserving of great praise, but it does not follow that one who fails to undertake more than has been demanded of him or her is morally reprehensible.

(CONT. FROM PG. 13)
I have made no claim to courage, and I make no claim to greater morality than the meanest of the deserters and evaders. I do not, however, believe that my cowardice or hypocrisy or courage is relevant to the discussion of the Amnesty issue. The merits (or lack of them) of the points I made should stand or fall on their own without regard to the personal worth of the writer. I do not believe that ad hominen attacks add any helpful light to the analysis and resolution of serious questions.

Sincerely,

/\Douglas A. Kahn

(Continued)

SALESMA: The terms is fair. We finance your purchase--7% on the principle, 24.5% interest on the interest.

PROFESSOR JACKSONITE: Hold it, my friend. I'm no hick from the sticks. You're talking to U-M Professor of Contracts John "Vox Mix" Jacksonite.

SALESMA: Well then, make that 34.5%. Ah didn't know you could afford it.

JACKSONITE: Cost spreading, huh? Fair enough.

SALESMA: Ah'm here to help.

JACKSONITE: What about these liquidated damages: "should buyer default, Highway Robbery-Ply By Nite Used Cars, Inc. is authorized to attach buyer's spouse, children and stereo to be sold to the highest bidder." I think we have an unconscionability problem here.

SALESMA: Hot damn! Ya might be right. Why don't ya jus' scratch out the word "stereo".

JACKSONITE: Fine. Now, suppose the car should seriously malfunction.

SALESMA: No problem. We got a solid money back guarantee.

JACKSONITE: How does that work?


CLASSICS

Good Listening
(Classical)

(Note: The purpose of this series is not to identify "the" ideal recording of any particular work. Rather, it is to mention one or more versions of a piece that I have found consistently satisfying and to explain, in non-technical language, the reasons why. I have been listening to classical recordings for over ten years and rest many of my judgments on four years' training in music theory and composition at college.)

1. Three Passionate Pieces

After law school, one needs some passion. While most music can be described, at least in some respects, as passionate, I've chosen three nineteenth-century works that, to me, represent peaks of passionate writing. Naturally, I expect to hear loud protests about the many works I have omitted.

Among the most passionate piece I know is Schumann's C Major Fantasia, Op. 17, for piano solo. Written when the composer had lost all hope of seeing his eventual wife, the Fantasia is a virtual sea of emotion, from the surging left-hand motives at the opening to the incredibly delicate arabesques in the final movement. A good performance of this piece will leave one limp. Of the recordings I've heard, including Horowitz's, Arrau's, and Simon's, I prefer Ashkenazy's, because his attention to detail - for example, the interrupted passages in the first movement - best conveys the overwhelming emotion embedded in the music. My sole complaint with the Ashkenazy version is that the opening right-hand chords seem stiff; however, this is a small price to pay for the miraculously

I am writing this penalty box while sitting out my own penalty. A two minute minor for tripping and a ten minute major for drawing blood. I am repenting like all good hockey players should, and should be completely rehabilitated when my twelve minutes are up.

I realize that last week I was being ungrateful that I had been allowed into the NHL (the big leagues) in the first place and just because I don't have the intestinal fortitude to hack it, I still shouldn't go around making it bad for the other players with my sour grapes attitude.

Anyone who doesn't understand this apology, you have to remand to mind last week's p-box in which I cast some doubt upon the value of This Great Law School. Anyone who believes this apology gets a game misconduct for having the intestinal fortitude to swallow this shit. Half of those who still don't understand there is no hope for; and the other half score one goal for having the guts to stay sober.

LAST WEEK'S STARS:

Professor Reed is my first star of the game for his brilliant efforts in sneaking some actually valuable, practical insights into the practice of law as well as some useful discussions of ethics into a class which he otherwise maintains at a very high quality. But don't tell anyone; it has to be kept a secret.

Argie Ant is the second star of the game for his brilliant shooting and
JOURNAL OF LAW REFORM STAFF POSITIONS

The Journal of Law Reform is now accepting applications for positions on its junior staff for Volume 9, to be published during the 1975-76 academic year. The editorial board will select the new staff on the basis of demonstrated writing abilities. Students who began law school in the summer or fall of 1974 are eligible to serve on the staff. Any legal writing prepared during the first year of law school, typically memoranda and briefs written for case club, may be submitted for consideration. Since this staff selection is supplementary to the Joint Writing Program for the Journal and the Law Review, anyone who has entered that Program need not submit additional samples. Those who wish to submit writing samples should do so by attaching their names and summer addresses to the samples and leaving them at the Journal office, Room 731 Legal Research Building, by May 16, 1975.

Samples will be evaluated by the editorial board according to four criteria: 1) word usage, grammar and syntax; 2) argumentative/expository skill (including analysis, logic and use of empirical and legal authority); 3) research and citation skills; and 4) the composite impression generated by the sample (recognizing that the whole may amount to more, or less, than the sum of its parts). No fixed limit has been placed on the number of Volume 9 junior staff positions that will be filled. It is the Journal's policy to extend invitations to as many students as submit samples or Joint Program entries demonstrating superior research and writing abilities.

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10 minute major: any and everyone, who - for whatever reason at all - had even the slightest, momentary twinge or thought of disgruntlement (find that word you turkeys) when the electricity went off in the library a month ago.

‘They Call That Humor?’
Another in my list of "passionate" works, and one more familiar to most listeners, is Tchaikovsky's Sixth Symphony, nicknamed the "Pathetique." Of the many deeply-felt moments in the piece, I find the sudden "outburst" occurring about halfway through the first movement especially striking: to my ears it seems the epitome of unbridled rage, particularly as it bursts suddenly upon inordinate tender and wistful music. However, the piece as a whole reflects an amazing range of emotion that even a poor performance cannot obscure. Of the two recordings I have heard, I prefer Giulini's on Seraphim to Ormandy's first stereo version for Columbia (MS-7169, in D3S-727) because Giulini's leaner sound and greater rhythmic steadiness convey more of the power in the piece. Perhaps someone can direct me to a better version.

The final work to be mentioned is Chopin's Fourth Ballade which, to my mind, is so incredible that I can only hint at its content. The genius of this piece (and the musical source for its "passion") is its coming to rest temporarily but firmly, on a key - D♭ - not part of the F minor chord, about three-quarters the way through the work. To return quickly but convincingly to F minor requires the tempest that follows: and uncontrollable rush of sound sufficient in intensity to obliterate the sense of D♭ as key-center and restore F minor as the "home" key. This passage, to me, is unparalleled in music for representing unbridled power, and I dream of hearing anyone performing the piece so as to convey this sense. Of the recordings I've heard, including Rubinstein's and Moravec's, only Frankl's (on Turnabout) comes close to suggesting the headlong rush with which the piece should conclude. In contrast, Hoffman's performance, on Veritas, succeeds in conveying the force needed to begin the return to F minor but bogs down during some of the subsequent passage-work.

Joshua Greene

stellar defense. Mr Ant was no less than devastating in his season high performance. We understand, however, that Mr. Ant will no longer be with us. While sitting (squatting) out a penalty called by Referee Flea on a clearly trumped-up charge (he just hadn't had the cards to go for game in no-trump), he received a letter informing him that he had been totally defeased, by proxy. Mr. Ant, therefore, never existed and is a non-person (ant); and since control of the present is control of the past...

The second star of the game is Professor Sandalow for having the balls (as it were) to do something really outrageously inane and then in the true law school spirit, defend it to the bitter end.

Free John Erlichman!

The third star of the game must go to the renowned Mr. Fford whose offense-minded campaign tactics made all the difference between a valiant effort and a resounding victory.

It was a brilliant team effort assisted by occasional (fatal) twinges of intelligence by some of the faculty. The team had to overcome the loss of manpower expended by the inevitable tail-chasing some of the team members insist is the way to win, but that factor was at a minimum due, primarily, to how close the season is to playoff time. Tail-chasers and faculty had certainly let their guard down as they both were building up their reserves for the upcoming monsoon season.

STUDENT RED WINGS 1
FACULTY BRUINS 0

2 minutes for hooking: anyone who scorns my well thought out assertions because I can't spell the big words I'm trying to impress everyone with.
I need a dump truck, Mama, to unload my head.

B. Dylan

Did anyone read my first column? I immodestly thought fame and fortune would be mine after getting published in the Res Gestae. Oh well, I'll console myself with the thought that since it came out the day before vacation, nobody was here.

So for those of you who missed my debut let me say that this is to be a forum for unadulterated opinion—I plan to come to large conclusions with often unstated facts to back them up. Everything just gets poured into a dump truck.

The "Dump Truck" title for this column is plagiarized and that leads to today's substantive remarks. From 1968 to 1972 I attended college at the Michigan of the East. 1968 to 1970 is fondly remembered (by me) as being a time of revolution for the hell of it. During that period, the Crimson regularly published a special supplement entitled "The Dump Truck" with Dylan's quote on the head and some "right-on politics" or "avante-garde" literature on the inside. (Don't forget, this is the time that the Weathermen took their name from one of his lyrics—so it was "OK") "The Dump Truck" stirred the mind and imagination of this young man who, under the tutelage of Commie classmates, pinko professors and deranged underground paper hawks, was rapidly coming to mistrust all American institutions and despise as liars and charlatans all our elected leaders. I was never into serious didacticism; I hated the harangues of the various SDS factions, but I certainly veered left in my general political alignment.

The evidence looked bad, that I will admit. There were definately grounds for a reasonable person to question my ardent denials of having ever considered the possibility of such an act. After all, I had considered the possibility, I mean what healthy, red-blooded, seven year old would not have considered the possibility? All things considered, that is, the surface of the bed being rather large, and the mattress being soft, yet springy, one would have to be a fool not to recognize in the bed an ideal testing ground for various natural laws. However, to have admitted this, would have been to admit a motive for the act, which would have been the same as admitting to the act itself, in the eyes of my judges, so I had to deny having considered the possibility of bouncing on the bed, since I was not the one that created the cause and effect relationship which led to the leg of the bed being broken. Even if I had been the one that had accidentally broken the leg on the bed, it would seem only reasonable for my judges to have considered the motive, and, having considered the motive, and upon learning that knowledge was the end to which the act was but a means, to have dismissed the act and the accident as unfortunate, yet beneficial sacrifices to science. If I had thought that my judges were of this reasonable bent of mind, I might have confessed to the crime, even though I was innocent, just in order to ease the minds of all concerned parties; humans, and particularly judges seemingly being very uncomfortable with doubt, and unable to live with unanswered questions. However, realizing that such a simple solution to the problem was out of the
Along with changes in academic political thought processes, that period introduced many new life concepts to me. I was an unabashed believer in all aspects of the counter-culture (as Time magazine referred to it then; who the hell knows what kind of term should be employed today.) Music, sex and "plant grower," as the litany would have it, did certainly enliven my life then. The politics, the apparel, the rock and the rest all came together in a mighty explosion in my head at the time.

In the spring of my freshman year, after a number of months of anti-way, anti-capitalism incubation, I was ready for some action. When SDS took over the Harvard Administration Building, I was there. I stayed inside the building all day and night; but at 4 a.m. when the cops started to mass together into unending platoons, I decided to join the vanguard meeting them outside the building--because the administration had said that those on the inside would be arrested--and my revolution for the hell of it didn't extend that far.

Anyway, right before the takeover, Dylan's "Nashville Skyline" had come out and during the "occupation" and the following week when the university went on strike after the bust, the album was played incessantly. It was good, It was nice to hear those country tinged songs on pretty spring days when you had nothing to do except have a good time while thinking you were doing good for the world. (We knew it was nothing, but the takeover and the strike did actually have some legitimate demands--like the end of ROTC on campus, the end of Harvard's expansion into surrounding neighborhoods, etc.). But the point wasn't really the demands; it was the spring

question, I was forced to insist upon the truth and therefore to deny any culpability with regard to the unfortunate mishap.

Looking back upon the situation with divine retrospect, I realize that it was the laugh that convicted me, unreasonable as that may sound, and indeed, as unreasonable as that is. But then, that is precedent for you. You see, when I was young, and my mother would accuse me of having committed some unseemly act, which I had committed in a moment of impetuous frivolity, after several vehement denials, I would break out into great spasms of laughter, which was a sure sign of guilt in my mother's mind. Now, in this particular situation, I knew, after having happened upon the broken bed, that when my father came home, I would invariably be accused of having committed the deed. I therefore knew that I would be expected to laugh, after having denied responsibility for the broken bed. Knowing this, and being aware of my innocence, at the moment of confrontation, with my judges gazing down upon me with stern, alert eyes, I found myself contemplating the absurdity of a situation wherein I could condemn myself to punishment for a crime I had not committed simply by laughing. Having considered this absurdity, I was unable to refrain from laughing, and having once begun to laugh, I was unable to abate my laughter.

I was subsequently convicted and sentenced to several hours of solitary confinement in order that I might better be able to contemplate not only the atrocity of the act itself, but also the generally low state of my character, and the closeness of my soul to the gates of Hell. In between the paroxysms of laughter I find myself only capable
of 1969, and if Columbia had done it last year, we were going to do it this year.

The strike ended—but not until we had a couple of "Mass Meetings" in the football stadium, where proposals were voted on in a New England Town meeting that our Massachusetts ancestors hadn't dreamt of. And then the year ended.

When we came back there was the October 15 Moratorium with 100,000 on Boston Common and the Peace Symbol done by a skywriter; and then the November 15 March on Washington—which I think you remember as being a very important football weekend for a current resident of San Clemency...Old Dick, he kept my sophomore year alive. His speeches were the funniest thing ever on TV (until his Watergate Press conferences). But the highlight was his pointer and map extravaganza when he introduced the all-new incursion—not invasion, please—into Cambodia. It was that little performance that led to the most exciting protests and marches and streetfighting that I had seen. After the Cambodian invasion and Kent State there were demonstrations around Harvard Square 4 or 5 nights running (and I do mean running). There was no time for Dylan then. We knew we had a madman on our hands. After 10 years of fighting that didn't work in Vietnam we figured we'd try it out in Cambodia. Makes sense, don't it? But...I make no lessons on comparisons today, this lecture is about remembrance of things past.

Those street demos were the wildest, but what I didn't know at the time, they were the last. I had enjoyed my tear gas experiences, and when spring came my junior year I was hoping that revolution would come again too. But it didn't. Any by spring senior year I knew the jig was up, there was to be no more "fighting in the streets".

In a way, the lack of knowledge that Cambodia-Kent State Demonstrations marked an end of an era is too bad. I might have done something differently. But those things happen. Time changes, times change. The '70's are quiet, strangely de-amplified. Recently, I read an interesting comment about "John Wesley Harding", Dylan's sparse album that was released in 1968, a year before "Nashville Skyline". The critic said, "It was the first album of the 70's and it came out before we had any idea that the 60's might end.

But the 60's did end and now we're all here to the University of Michigan Law School, and you know what surprises me and has surprised me for three years? The lack of any evidence that the class that entered this school in the fall of '72 went through any of the 60's. Why did it take until this year for Section 5 to come into being. I'm not claiming that I attempted to do any leading here. (I've admitted I liked politics for the hell of it.) But why is there such a lack of overt social consciousness exhibited by the class of '75. One first year student put forth the theory that third year people have been through it all and became disillusioned and that's led to the quietness. Maybe that's it, I don't know.

But I wonder often about the people I knew during those years at Harvard—during those years when, like Peter Pan, we'd never grow up, when we'd laugh derisively at any mention of the Business School, when nobody (at least visibly) was concerned about grades, and when movies, wine and love were all important (when one wasn't thinking about politics, of course.)

Which brings us to the final point about Dylan. (Today's column is actually about Dylan and how he relates to us all, if that point has somehow slipped by.) "Blood On The Tracks", his new album, indicates he's fully
into the 70's now, and he, like the rest of us, had to be thinking about the past few years and what's happening. There are some lines that strike me over and over again when I try to guess what's changed with my friends of Cambridge:

All the People we used to know
They're an illusion to me now
Some are mathematicians
Some are carpenters' wives
Don't know how it all got started
I don't know what they're doin' with their lives

Many of the songs on the album are remembrances-snatches and stories of past experiences. Radical politics is one thing, but maybe the "need for affiliation" (as Professor McClelland taught about "love" in Social Relations 150) is more important. And for me, having to break off with a special someone simply because we were definitely going to be in two different places for the unforseeable future was the worse part of leaving Harvard and (symbolically, since it was 1972) leaving the 60's. Dylan captured the special sadness of an apparently unnecessary end with a few words:

Maybe she'll pick him out again.
How long must he wait?
One more time for a simple twise of fate.

People tell me it's a sin
To know and feel too much within.
I still believe she was my twin
But I lost the reign.
She was born in spring,
But I was born too late.
Blame it on a simple twist of fate.

What more can I say? Listen to the album, it's certainly the best record this year. And if that don't turn you on, well, put on the Stones real loud doing "Street Fighting Man," hang two lanterns in the law quad's steeple and start yelling, "The 80's are coming, the 80's are coming!" It's time for a change, ain't it?

Larry Halperin

To whom it may concern;

Six fellow students last fall established a Sports Illustrated Football Fame league to produce some real competition. As per our Big Ten tradition, the championship was claimed by both Jim Graham and Gary Goldberg; a misplaced ball late in what became the deciding game played early in the season led to a Commissioners' vote. When that ended in a tie, the league resorted to an impartial Board of Arbitration. A copy of their opinion is included. Those who fail to recognize the source of McMorrow's alliteration will not be allowed to autograph Scnarf Nella's cast.

Yours etc.,
Rion Bourgeois

In re TENNESSEE v. ARKANSAS
1 Football Arbitration Reports 1

The parties have agreed to the following stipulation of facts. For convenience, "T" shall stand for Tennessee and "A" for Arkansas.

The controversy in question arose out of a Sports Illustrated Football Game. "A" was responsible for keeping time; "T" was responsible for the placement of the football and 1st down marker. The score was "T"17-"A"16. "A" missed a six-yd. field goal attempt. "T" incorrectly placed the ball on the 6-yd. line rather than the 20-yd. line. "T" was now on offense, "A" on defense. 2
New Rape Law

Stanford, Calif.--The victim of rape is often the victim of the legal system as well, the author of Michigan's new rape law said at a national women's conference here Saturday (March 22).

Virginia B. Nordby, a faculty member at The University of Michigan Law School, said Michigan's new Criminal Sexual Conduct Act represents an attempt to "treat victims of rape more like victims of other crimes."

The new law, passed by the Michigan legislature last August, will take effect April 1. Nordby said the new law should serve as a model for similar legislation in other states.

The U-M law instructor was speaking at the sixth national conference on "Women and the Law" at Stanford University. The conference, focusing on women-related legal issues, is being attended by women lawyers, law students and legal educators from around the country.

Nordby said that, among other provisions, the new Michigan law:

---Sets penalties based on the "degree" of sexual assault or injury to the victim.

---No longer requires that the victim prove "non-consent" to having sexual intercourse.

---No longer includes information on the victim's prior sexual activities with other persons as admissible evidence.

---No longer provides that the victim must resist, where such resistance would be futile or dangerous.

In the past, said the Michigan lawyer, "the need to prove 'non-consent' justified and necessitated excruciating examination of the victim's private life." And, said Nordby, "if the victim failed to meet the law's requirements for resistance, outcry and prompt report, she was made to feel that she was guilty.

If the rape victim "had been a voluntary companion of the accused, she was treated as 'fair game'," Nordby continued. "If the victim has had an active sexual life with a third person, she was viewed as a prostitute and at least assumed to have 'enjoyed it'. If the victim was seductively dressed, hitchhiking, or had had a drink, she was assumed to have 'asked for it'."

Nordby insisted that legal statutes are largely responsible for the low conviction rates of rapists and the reluctance of women to report instances of rape.

"An analysis of 1970 FBI data revealed that a person accused of rape---and the complaint found valid---had seven chances out of eight of walking away without any conviction for anything," said Nordby.

"Forcible rape has a lower conviction rate than any other crime," she said, and, according to FBI estimates, only one in 10 rapes are even reported.

Here are some of the specific provisions of the new Michigan law, as compared to the old law, according to Nordby:

---Four degrees of sexual assault are now defined, depending on such factors as presence of a deadly weapon, serious injury to victim, and whether there was sexual penetration as opposed to sexual contact. (The previous law defines rape as a single offense requiring sexual penetration).
---Sentences range from two years to life, depending on the degree of sexual assault. (Previously an offender could be sentenced for life or any term of years.)
---Non-consent of the victim need not be proved by the prosecution, although consent may be raised as an affirmative defense in certain situations. (Under the old law, the woman is required to prove non-consent.)
---The threat of force, such as the threat of kidnapping, may be sufficient to prove sexual assault. The victim need not resist where such resistance would be futile or dangerous. (The old law stipulates that the rape be accomplished by force and the victim resist to the utmost.)
---Evidence of the victim's sexual activities with persons other than the accused is not admissible in almost all circumstances. (Under the old law such evidence is admissible at the discretion of the trial court.)

We decide for "T" in what is admittedly a most difficult case, with potent arguments for both sides.

First let us note that jurisdiction lies in this Court, for "it is emphatically the province and duty of the judicial department to say what the law is." Marbury v. Madison. While the parties have agreed to submit their controversy to us, and to have our decision binding upon them, there will undoubtedly be those who question our right to render the decision. We note that we do indeed possess this power; and we proceed with our disposition.

Two long-standing doctrines conflict in the making of our decision. One is the doctrine of estoppel; since "T" was responsible for placement of the football, this doctrine indicates that he should be held responsible for his own error.* The other doctrine is that of substantial error; since this error was so extreme, this doctrine would hold that its correction should be cognizable by the judiciary.

In making our decision, we must inquire into the exact nature of the game in question. Is it intended to be solely a game, like monopoly or parchesi, a simple contest between two people, or is it intended to be as exact a recreation as possible of a real football contest? The more we view the game as a re-creation, the more compelling the view that "T" must be declared the winner of the game.

Note: This is closely related to the doctrine of "extremis stupiditatis", especially in light of the last play of the game, "T"'s attempted pass. Admittedly, this is perhaps the extremest example imaginable for application of the doctrine. It is only with the greatest reluctance that we do not apply the doctrine; but counter-vailing considerations overpower our temptation to decide for "A".

DECISION OF THE COURT: We decide for "T", by a 2-1 vote.

Opinion of McMORROW, J.
This game is no idle venture. It is the product of thousands upon thousands of hours or work by the staff of Sports Illustrated, intended to give its participants the pleasure of a contest truly reflective of an actual football encounter. Let us consider the work done by the Sports Illustrated staff. They let themselves down by flimsy ropes into the pits of statistics that seemed bottomless; they clung to scanty dice odds as they skirted the brinks of probabilities, while the flickering flare of their flaming flambeaux disclosed no bottom to the yawning paperwork beneath them; they waded through rushing totals, not knowing what defenses to put up against them; they climbed slippery steeps to include a passing game; they wounded their bodies on Split-T, Wishbone, and other curious and weird formations; they found champion teams, star-studded and filled with scintillating light reflected by a phantasmagoria revealing fancied phantoms and galloping ghosts; hunger and thirst, danger and deprivation could not stop them. They created a kingdom where Unitas may have lived, or where O.J. may have found the off-tackle or end-sweep which meant eternal rushing championships.

Can we honestly say that SI intended a game in which, following a missed field goal, the ball would be placed on the 6-yd. line? Such an accident could never happen in an actual Tennessee--Arkansas encounter. It would be a mockery to the brave and dedicated staff of SI if we allowed such a result to be perpetuated.

We note further that "A" had a responsibility to note the error, notwithstanding that the responsibility for ball-placement belonged to "T". All participants in such a game have a responsibility to guard against flagrant errors of this nature. This error attacked the very integrity of the rules of the game, and we cannot allow it to stand. If we do allow it, what future errors will we also be required to give our imprimatur to? We have no desire to establish a precedent that would lead us down that most treacherous of legal roads, the "slippery slope."

One caveat to our decision; we by no means imply that any and all errors of the players must result in changing the results of games. Our decision is intended to reach only those flagrant errors that bring into question the very integrity of the game.

One further Note: after reading the opinion of my brother BRACKEN, I feel his equitable remedy is just. I fully concur with his suggested order contained in the last paragraph of his opinion.

Opinion of BRACKEN, "J.R."*

At the basis of this controversy is the nature of the game itself. The issue is whether we are to consider this a mere contest undertaken for pleasure or a life-and-death battle between enemies. Although misguided participants often conduct themselves in a manner consistent with the latter alternative, I believe the former to be more correct.

In my opinion, the final score should be "T"17-"A"16, the disputed safety being disregarded. Undoubtedly, there was an egregious mistake made. "A" himself recognized this by permitting

*Note: If is untrue that the initials of this distinguished jurist refer to a recurring infirmity of the body. Actually, the initials refer to the esteem with which other judges view his opinions--they're "just ridiculous."
the final two plays to be replayed. I agree with my brother McMORROW that both participants have a responsibility to insure the time clock and the ball placement are correct. It would be unconscionable, for instance, to allow one participant to knowingly benefit from his opponent's mistake.

I believe, however, that the ruling that the final score should be "T"17-"A"16 is an unfair remedy, without more. This arbitration panel sits as a court of equity with all the powers consistent thereto. With such power in mind, my brother McMORROW has overlooked a long-forgotten, but valid remedy existing under the equitable doctrine of "extremis stupiditatis." This remedy has been traditionally called "remedia fraserus." Because of the delay, inconvenience, and uncertainty caused by "T" attempted pass, therefore, I would order "T" to compensate "A" by purchasing a pitcher of appropriate refreshment at a local pub. This is only just.

Opinion of SALKE, J.

Respectfully, I dissent.

That the contest should not stand as originally decided is a proposition up with which we should not put. Indeed, the inviolate nature of the game itself requires that it stand as originally played in one continuous thread, as it were. No game per se is played in two installments one of 124 plays, one of 2 plays. The truth of this proposition is intuitively apparent, and until today I should have thought that it would never be challenged.

The safety must count, because the two plays carried out in place of those that resulted in the safety cannot be valid. Two plays were called after the misplacement of the football. They were called spontaneously, in the psychological atmosphere that would prevail only during the unbroken stream of events that led to the 18-17 score. The substitute plays were called in a separate psychological atmosphere, the offense calling only the safest possible plays in the hope of running out the clock. These replayed plays were artificial and unreliable. The only result with any integrity is the final score as originally played, "A"18-"T"17. To wipe out the safety means to wipe out the entire game.

The rules should be discharged.