October 12, 1973

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/621

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.
I had occasion recently to draft some legislation for a friend of mine. This friend, a distinguished second-year law student, was interested in a bill clarifying the status of those in the process of collecting rejection letters from law firms. Certainly a germane piece of legislation for the law community, I thought! It's about time someone took an interest in the rights of the oppressor.

So I sat down and drafted this statute:

Section 13. Placement Code

For purposes of this statute, a "script-antipathelexcoist" shall be defined as an individual who collects letters of rejection from law firms.

For the benefit of those to whom the derivation of the word is unclear, herewith is a crude explanation:
/script/ = writing, letter (scribe)
/antipath/ = adverse feeling, dislike /hatred (antipathy)
/e/ = from
/lex co/ = law company, i.e. law firm
/ist/ = one who collects

The appellation is preceded by the name of the city in which the firm is located. I myself, vis-a-vis the statute, am a Philadelphia scriptantipathelexcoist, having received my letter of antipathy from the city of brotherly love just last week. My distinguished second-year friend is an Atlanta scriptantipathelexcoist. Others have already added New York, Detroit and Los Angeles to their collections.

I was rather pleased with the statute. Having had classroom experience with the pains of statutory construction, I labored to create what I thought was an unambiguous

(see SPECIAL page 4)

It is unfortunate that a vast majority of law students at this law school graduate in May. This is not because of the romantic attributes of the month of May, nor any disadvantages associated with graduating in Springtime. The fact that May is the 5th month of the calendar year means that 3 years after graduation, a large number of law students will be paying $500-$1,000 more in federal income tax than they would pay if they had finished school on the last day of April.

May graduates who have received 1/2 of their support from anyone else (other than their spouses) will probably not be eligible for income averaging under I.R.C. §1301-4 in their third year after their graduation. The I.R.C. does not allow the benefits of income averaging to persons (& their spouses) who furnished less than 1/2 of their support in any of the four years preceding the year for which income averaging is desired, I.R.C. §1303(c)(1). However, under certain circumstances individuals receiving support from others may be entitled to use the income averaging provisions. One of these circumstances, I.R.C. §1303(c)(2), will apply to virtually every law student as long as the individual was not a full-time student in 4 of the 5 preceding years (including the year for which income averaging is desired).

The following chart gives the estimate of taxable income of a typical unmarried May '74 graduate:

<table>
<thead>
<tr>
<th>Year</th>
<th>Taxable Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>1973</td>
<td>No taxable income because summer earnings are less than the $2,050 low income allowance personal exemption</td>
</tr>
<tr>
<td>1974</td>
<td>$7,000 (earnings from June-Dec)</td>
</tr>
<tr>
<td>1975</td>
<td>$15,000</td>
</tr>
<tr>
<td>1976</td>
<td>$17,000</td>
</tr>
<tr>
<td>1977</td>
<td>$20,000 (see TAX BITE page 5)</td>
</tr>
</tbody>
</table>
To the Editor:

Truth is stranger than fiction. It seems somebody has developed a real passion for the posters and notices of the Law Student Division of the ABA. As fast as we put them up they get spirited away.

And it's not only the corny printed posters that have become collector's items-like the picture of Uncle Sam pointing, a la Army recruitment, with the captions "Join the Law Student Division." Even typewritten notices instill a passion to possess in the hearts of those unknown "ABA notice nuts." Quite unfortunately, however, the "notice nuts" are unable to contain themselves until after the announced event has passed. Probably to assure themselves of a genuine ABA notice, preferably in unread mint condition; they appropriate the notices immediately after posting.

Of course, the LSD-ABA is flattered by the interest in our posters. So, to meet the demand of ABA poster pirates, which has skyrocketed since its beginning last June, the LSD-ABA is proud to offer--absolutely free--individualized notices and posters for all those who feel unable to resist the thrill of having an authentic: unread, LSD-ABA poster for their very own.

Think of it, poster pirates, your own collection of LSD-ABA memorabilia. The thrill is back!

In addition, for the truly insatiable collector, we will arrange with law schools throughout the country for a compilation of ABA posters and notices, national in scope, which should make any passionate poster puller the envy of the block.

Just...please leave the rest of the posters on the wall......

S/ Don Duquette
EDITORIAL

MOTHER DIDN'T TELL ME ABOUT ARGE RSINGER

In case you haven't heard, indigents are now entitled to counsel if charged with any offense -- local ordinance violation, misdemeanor or felony -- providing that conviction might result in incarceration. So says Argersinger v. Hamlin, 407 U.S. 25, 92 S.Ct. 2006, 32 L.Ed.2d 530 (1972). I've brought up the case in order to pick up and draw out several threads left hanging out of the decision's seams which affect young lawyers. But before the tailoring job, a review of the case facts.

"Jon Richard Argersinger was charged in the state courts of Florida with carrying a concealed weapon. This is an offense punishable by imprisonment for up to six months and a $1,000 fine. He was tried by a judge and sentenced to 90 days in jail. He brought a habeas corpus action in the Florida Supreme Court alleging that he was deprived of his right to counsel because he was an indigent and unable to 'raise and present to the trial court good and sufficient defenses to the charges ...' The Florida Supreme Court in a split decision ruled that he was not entitled to counsel in cases in which there is a conviction for less than six months. On writ of certiorari to the Supreme Court of the United States, the Court unanimously reversed...," declaring that the Sixth Amendment, made applicable to the States by the Fourteenth Amendment, required assistance of counsel for indigents if imprisonment could result from conviction for even petty offenses. (Someone, "Gideon II, or the Trumpet Blows Again," 58 A.B.A.J. 858, 859(August, 1972), reprinted in Case and Comment, September-October, 1973, available in the Law School office and other places around, and providing a complete discussion of the holding and some of its implications).

Now the first thread. The Court majority calculated that 2300 full-time lawyers would be needed to provide counsel for those affected by the decision. Justice Powell pointing out that additional prosecutor-hours, the equivalent of an unknown number of extra attorneys, were involved, too. More jobs, you say. Great. The young lawyer market could use some loosening up. But drawing out the thread, we snag on the problem of paying for all of us out of barren local governmental coffers, consequently draining resources away from rest of the process and thus perhaps pushing the percentage of copped pleas to 99% of cases instead of the 90% so processed now (although Argersinger purportedly applies to plea bargaining negotiations coupled to court proceedings). At that rate, the not-so-slow judicial mill is grinding exceedingly coarse, if indeed the input and the output are not indistinguishable. I grant that it's an esoteric consideration, but do we young turks really want to start buying our cars, stereos and Cutty Sark with cash displaced from a criminal justice structure operating more like the court chamber of an Eastern potentate than a "system" of due process? Well, as the lawyers say, it's an argument.

There's another thread to pull, which, as you might have guessed, I think will free the snag in the first one. Nothing new. It's called pro bono publico, or more appropriately, the renaissance thereof. It still costs money, but not out of the pockets of fed-up taxpayers. Picking up the tab is the profession that has grown fat litigating both sides and the middle of the technocracy we live in. And deservedly so. Yet the vital signs up to now have seemed to show pro bono dying when it should be most vigorous. To carry out the demands of Argersinger, and generally to obtain resolution of important public controversies in the context of substantial justice rather a laughable caricature of that concept, we need pro bono. And all you have to do is ask that interviewer what kind of a public interest opportunity the firm is developing instead of how many years it takes to get your own executive washroom key. Ask the guy (have you ever been interviewed by a woman yet?) about pro bono after you ask about getting the key, but ask him, OK? Good show.

-- M. Slaughter

RES GESTAE October 12, 1973
statute, and gloated silently that I could write legislation better than the legislators.

But nay, I was wrong. There are rumblings deep from the bowels of Hutchins Hall. News has reached me that a class action suit has been initiated by students with rejections from HEW and HUD, claiming protection under the statute for all those who have been rejected by the federal government. A student whose rejection consisted of a postcard saying "Tough luck, kid" claims that postcards should be considered letters for the purposes of the statute. Another asks if the statute calls for the affirmative action of collecting letters, or merely indicates omission in not throwing them away. Yet another wonders what "rejection" means. His letter started "Dear John" (his name is David) and went on for three pages about the open, sincere relationship which had been established during the interview, but concluded with something to the effect that the firm had just gotten tired of him in the next four weeks and had decided that the long-distance relationship could not continue. And a friend of mine, a striking blonde, received a letter saying "Come up and see us sometime." She queries whether "sometime" really means not to come at all. And would you believe it--another friend received a rejection letter from a firm he didn't even interview, and wonders if that qualifies.

And that's not the half of it. Lately people have been coming to my room in the middle of the night babbling nonsense about "intent of the framers", "contemporary practices" and "mischief to be remedied." People accost me with rueful tales of having received letters without postmark and postcards without signatures; postcards without postmark and letters without signature. They ask ingenuously how a letter can not be a letter just because it lacks postmark or signature. My friends who have received no rejection letters are starting to feel neglected. One even had the effrontery to ask me to draft a statute defining the rights of "scriptamorelexcoists" (those who collect love letters from a firm).

My interest in this legislation is simple. When I was young my mother admonished me to bring home a rich, New York, Harvard-educated attorney to marry. I figure if I bring home a Kansas City scriptamorelexcoist from U-M Law, I may get by.

-Elyse H Fox.

(SPECIAL cont'd from page 1)

LAW SPOUSES ASSOCIATION

Sex discrimination will be the subject of Professor Harry T. Edwards' talk on Tues. October 16, at 8:30 p.m. in the Lawyers Club Lounge.

The Law Spouses Association, formerly the Law Wives, welcomes all members of the law community.

UNDERGRADUATE LAW TEACHING SEMINAR

All law students interested in taking the two credit Undergraduate Law Teaching Seminar next semester (Winter, 1974) are invited to attend an informal, information session Monday, October 15, in Room 120 at 12:00 noon. At this meeting the types of law courses which have been offered through the Course Mart in prior years will be reviewed and questions of general concern to the law student-teachers will be answered.

This seminar is an excellent opportunity for law students to provide both a valuable service to the university's undergraduate community and also pursue an area of legal study more in depth than the various law school courses will allow.

If you are interested in the Undergraduate Law Teaching Seminar and are unable to attend this meeting, please contact Bill Harris at 665-8231 or leave a note in the College Course mailbox just outside room 300 Hutchins Hall.

INTERNATIONAL LAW SOCIETY PRESENTS

Albert Coppe on the subject "The New Common Market and Multinational Corporations," on Thursday, October 18th at 6:45 pm in the Lawyers Club lounge. Sign up for faculty dining room dinner at 5:45 pm Monday through Wednesday on the ILS office door.
The tax on $20,000 of taxable income at current rates is $5,230. If this attorney is allowed to use income averaging for 1977, omitting the lengthy computation, the income tax would be $4,517. Can the attorney use the income averaging provisions? Assuming that others supplied half of the 1973 living costs and that no other exception applies, the answer to this question turns on whether the attorney was a student in 1974. The I.R.C. in §1303(d) defines a student as "...with respect to a taxable year, an individual who during each of 5 calendar months during such taxable year was a full-time student at an educational institution..." (emphasis added). TheRegs: interpret "each" to mean "some part," §1303-1(d)(1). Since our attorney was a "student" in more than one year (1973 & 1974) of past five (1977, the computation year is included), income averaging is not available unless the attorney furnished more than 1/2 of his support in the years 1973-1976. However, had the attorney had the good fortune to graduate from law school on April 30, 1974 rather than in mid-May 1) he would not be considered a "student" that year, 2) he would not have been a "student" in more than one of the past five years," 3) he would qualify under the "non-student" exception, §1303(c)(2)(A), to the "prior dependant ineligible" rule, §1303(c)(1), and most importantly, (4) he would be eligible for income averaging.

The only course of action available to students affected by this provision (short of petitioning the law school allow April graduations) is that they make sure that they are not deducted as a dependent under §151(e)(1)(B)(ii) in the taxable year prior to their graduation, thus avoiding §1303(c) altogether. It would be difficult to ascertain how many students are losing a year of eligibility for income averaging because of May graduation, but if, for example, 1/6 of the graduating class were affected by this provision the aggregate tax difference between an April and May graduation would be approximately $10,000-$20,000 for each graduate.

--- Bernard Kent

$ & $
Coif-Man Triumphs—
(with only light casualties)