1974

February 8, 1974

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/673

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 mlawrepository@umich.edu.
**Going Broke**

It will be another two or three years before Frank R. Kennedy, a University of Michigan law professor, sees the culmination of his efforts to reform one of the most complex of legal fields: federal bankruptcy law. His involvement in the far-reaching reform effort began in 1960 when he became chief draftsman of new legal rules of procedure for bankruptcies. The new rules were finally implemented by the courts on Oct. 1 of this year, but Kennedy views the changes as minor in contrast to the comprehensive reforms proposed in legislation now being considered by Congress.

Kennedy recently returned to the U-M Law School after spending two years in Washington, D.C., as executive director of the Commission on Bankruptcy Laws, which drafted the proposed National Bankruptcy Act of 1973. Introduced in Congress in the fall, the proposed legislation will be the subject of hearings throughout the coming year. And once the bill is enacted, Kennedy predicts an 18-month transition period before the reforms can actually be put into effect. The U-M professor acknowledges that many provisions of the 600-page proposal will be viewed as "controversial," and he anticipates opposition by the consumer credit industry, bankruptcy court personnel and other groups directly affected by the reforms. "Undoubtedly, the bill will be subject to some changes by Congress," says Kennedy. "But I'm hopeful that most of the substantive legal measures will be enacted as proposed."

Major features of the bill call for a separation of the present bankruptcy court system into administrative and judicial units; measures making it easier for bankrupt individuals to pay off their debts over a period of time; and new procedures streamlining business bankruptcies and

(see BROKE page 2)

---

**LATE NEWS BRIEFS**

**PORTRAIT PRESENTED TO SCHOOL**

In a brief ceremony this morning, Professor Conard presented the law school with a full-color portrait of a corporation. Professor Conard painted the portrait himself, drawing on his years of experience and a piece of canvas. After examining the painting, which is titled "A Corporation," Dean St. Antoine commented, "I just can't see it myself."

**CONTEST ANNOUNCED**

The House Committee on Subversive Activities has announced their third annual Informer Contest. All law students are invited to submit their favorite anti-Nixon obscenity, along with the name of its author, before April 1, 1974, for a chance at the big prize.

**REMODELING PLANNED**

The basement office now being used for minority student organizations will be remodeled in the near future. Commenting on the present facilities, Assistant Dean Cook said, "I think it's a shame to crowd all those blacks, females, and razas into one tiny office like that.

**PARKING FACILITIES**

New parking facilities will soon be provided adjacent to the law school for the convenience of law students. The daily parking rate will be $5, which is competitive with the rates the City of Ann Arbor now charges for parking at other spots around the quadrangle.

**MIXER CHANGES**

Additional guidelines for complying with health regulations were discussed by a State Health Official at last week's LSSS meeting. According to state law, dogs can-

(see BRIEFS page 4)
reorganizations. In outlining the proposed changes in bankruptcy court structure, Kennedy suggests that the current system, which places heavy administrative burdens on the courts, leads to "a drain and a bad use of judicial manpower." In addition, he sees an "incompatibility" in the role of judges who both decide disputes and appoint and supervise trustees representing the litigants. In appointing a trustee, a judge "becomes identified with the party whom the trustee represents," says Kennedy, "and this could be seen as an infringement on the judge's impartiality in the case."

To separate these administrative and judicial functions, the Commission recommended establishment of a U.S. Bankruptcy Administration as a part of the executive branch of the federal government, and the creation of "separate independent bankruptcy courts" whose judges would be free from administrative duties "and elevated in stature so as to command the respect of the litigants." Under the proposal, the Bankruptcy Administration, operating through local and regional offices, would handle over 90 per cent of the administrative work now done by the bankruptcy courts. As a result, says Kennedy, there could be "a reduction in the number of bankruptcy judges across the nation to perhaps one-third of the present number."

Among other structural changes, the Commission recommended that bankruptcy judges be appointed for 15-year terms instead of the present six, "and that the courts be further insulated from possible partisanship by having funds drawn from general public revenues rather than collected fees. Kennedy notes that this measure would also provide a greater source of funds for the bankruptcy courts. Under present circumstances, he says, the bankruptcy courts are "theoretically self-supporting" but their costs exceed collected revenues.

Many of the changes proposed by the Commission deal with personal bankruptcies, which have become the most common type of case heard by bankruptcy courts---possibly as a side effect of the recent explosion in consumer credit. Presently consumer bankruptcies overshadow business bankruptcies by a nine to one margin. A major problem in this area, according to Kennedy, has been the relative unattractiveness of "wage-earner plans," which allow bankrupt individuals to pay off their debts over a period of years rather than opting for "straight" bankruptcies, where they would be discharged from their debts upon surrendering their property. And many individuals who do choose such payment plans, Kennedy notes, agree to pay their debts in full (called "extension" plans) and then wind up defaulting on their payments. "An extension, which calls for 100 per cent payment, frequently imposes hardship on the debtor and his family," the U-M professor explains, "and the mortality of extension plans is high." To offset this, the Commission recommended that individuals be fully informed of various options by a counselor employed by the Bankruptcy Administration. Among these options is a "composition," under which a bankrupt can pay only a portion of his debts over a period of time. And to make such an option more attractive, the Commission recommended eliminating the present requirement prohibiting an individual from seeking further relief from his debts under The Bankruptcy Act for a six-year period after he opts for a "composition."

Here are some other consumer-related provisions in the proposed legislation according to Kennedy:

(1) Creditors' consents would no longer be required for either a "composition" or "extension" plan (although creditors could challenge a plan in court as not being in their best interests). Also under the proposed legislation, if a debtor enters an "extension" plan, where he agrees to pay in full, attorneys' and trustees' fees would be borne by his creditors.

(2) A bankruptcy discharge would have the effect of extinguishing a debt forever, thereby prohibiting creditors from obtaining "reaffirmations" of debts from bankrupts whose debts have already been declared legally uncollectable. In addition, creditors would no longer be able to use the charge of "false financial statement" to block the discharge of a debt.

(3) There would be a standardization of exemptions, which are now controlled by state law and vary widely around the country. (Exemptions" are property that the debtor is allowed to keep after being declared bankrupt.) Among the standardized exemptions, a debtor would be able to claim a homestead of up to $5,000 in value;

(continued next page)
$1,000 in household furnishings and other personal property; $500 in cash; and life insurance with a cash surrender value of up to $1,500.

Although one general aim of the proposed legislation is to liberalize consumer bankruptcy, there are some areas of tightening, according to Kennedy. Under the proposed reforms, for example, the following debts could no longer be discharged in bankruptcy: debts incurred without intent to pay, involving credit purchases made within 90 days prior to bankruptcy; and educational debts during the first five years after the first installment becomes due.

"Hey paisano. You needa loan?"

In the area of business bankruptcies, here are some of the proposed changes under the legislation:

(1) Procedures would be simplified to speed court action in cases involving involuntary business bankruptcies. Under the proposed reforms, an involuntary bankruptcy petition could be filed by one creditor having a claim of $2,500 "if he can allege and prove simply that the debtor is unable to pay his debts or has failed to pay his current liabilities."

By contrast, under current law, three creditors are usually required for an involuntary petition, and Kennedy maintains that, as a result of the legal delay, "assets are dissipated and the debtor becomes hopelessly insolvent before administration is commenced."

(2) To protect the debtor against ill-founded petitions in involuntary bankruptcy cases, the court would hold a preliminary hearing to determine what action is in the best interests of the debtor and the creditors. If the court proceeds with the case, there would be no jury trial on any issue presented by the petition (under current law a jury trial is provided on demand of the debtor).

(3) Business "reorganizations" (as opposed to "straight" bankruptcies, which often lead to liquidation) would be covered under Chapter VII of the proposed law, consolidating Chapters X, XI and XII of the old law which have overlapped in practice. Chapter VII would provide a flexible mechanism for small or large businesses to work out variety of reorganization plans.

(4) While the Securities and Exchange Commission (SEC) now investigates and participates in certain business reorganization cases, the new law would greatly restrict the role of the SEC in the bankruptcy field. Instead, the agency's functions in this area would be performed by the new U.S. Bankruptcy Administration. The federal government would also be affected by proposed changes in the priority of payment of claims, whereby the government would have the same status as any other creditor for non-tax claims and for tax claims accrued more than one year (rather than three years) prior to the bankruptcy.

- UM News

ARGUMENT SET

The Semi-Final Round of the Fiftieth Annual Henry M. Campbell Moot Court Competition will be held at 3:30 to 5:30 p.m. and 7:30 to 9:30 p.m. on February 13, and 3:30 to 5:30 p.m. on February 14, 1974, in the Moot Court Room (Rm 232 Hutchins Hall). Contestants will argue a hypothetical case in which a share holder in a Michigan public utility company has brought suit, both as a derivative action and a class action, to enjoin the company from constructing a "fast-breeder" nuclear power plant. The Court will consist of Mr. Paul Trigg of Dykema, Gossett, Spencer, Goodnow & Trigg of Detroit; Professor Terrance Sandalow; and Professor Samuel Estep. The contestants are Conrad Reddick, Robert Morris, Matthew Van Hook, Jim Rodgers, Jack Gerstein, David Buffam, George Wing, W.C. Blanton, Alan Weinberger, John Kolinski, Jack Fenigstein, and Michael Hartmann.
Deadline for applications for Atlanta Urban Corps is Friday, February 8th. Please turn in the application today!

New jobs are being posted all of the time. Keep checking the board.

On February 27th, the Michigan Attorney General's office will interview those students who turn in resumes. Please come in and sign up for a spot.

Interviews on campus:
- Feb. 13 - American Motors (Detroit)
- Feb. 15 - Riley & Roumell (Detroit)
- Feb. 18 - Plante & Moran (Southfield)
- Feb. 19 - Office of Civil Rights Compliance (D.C.)

Keep checking first floor bulletin board for additions.

Anyone interested in writing up their experiences job hunting is encouraged to do that, and put them on file in our office for others to learn from.

If you've taken a job - please report it to the Placement Office.

Are you the victim of discrimination?

In 1973 alone, over 200 million Americans were the victims of discrimination. Almost 50 million of them weren't even aware of it, until it was TOO LATE! Were you one of them? To find out, fill out the coupon below, and we will send you, at a nominal cost, free statistics to show how YOU have been the VICTIM of DISCRIMINATION!!!!

Are you: (Check one.)
- Black  Uncircumcised
- Chicano  Republican
- Female  Other (specify)
- Protestant  Catholic

Name __________________________ Age __________
Address __________________________
Name of Father's Firm __________________________
If Female, Phone Number __________________________

Send to: DISCRIMINATION, Box 69, Fresno, CA

- Bill Hays
RESTAURANT GUIDE

SOUTH OF THE QUAD

In this, the first article in a new series, RG takes a look at local eateries as they probably have never been seen before. Stay tuned in coming weeks for the comments of guest gourmets.

CAMPUS GRILL (808 S. State) - Prices: low to reasonable. Selection: good for small size; try the French toast, three slices of bread sprinkled with confectioners sugar and cinnamon and a dish of apple sauce for 65¢. Service: fair; you don't always get the utensils you need or the respect you deserve. Other comments: I stopped going to this diner because the way the owner treats his help is a flagrant violation of the Thirteenth Amendment, casting a distasteful pall over the place.

VAUDEVILLE DELICATESSEN (800 S. State) - Prices: outrageous. Selection: unique and tasty; try any one of the sandwiches with dressing. Service: self-serve, unless the moon is blue. Other comments: the place reeks of highly spiced Jewish delicacies most of the time, which some people call atmosphere - others will call for the Pepto-Bismol.

GARBAGE PIT (810 S. State) - Prices: low to absurd. Selection: unusual sandwiches and side dishes. Service: all orders are held hostage to the tiny grill. Other comments: if nothing else, the people who named this establishment should be congratulated on their candor; GP is your basic freak haven; the counter is never cleaned of food scraps (perhaps in the hope that they'll just go away), all personnel appear to be stoned, but if you don't mind having everything served up with the same spoon, the food will taste good; if you're looking for a different environment (though definitely not at standard temperature and pressure), the Garbage Pit is it.

DELTA RESTAURANT (640 Packard) - Prices: reasonable. Service: reasonably efficient, but surly, probably due to the management which apparently consists of Greek Colonels on furlough. Selection: the Tuesday-Thursday Greek menu is supposed to be better than that offered elsewhere. Other comments: a special characteristic of the Delta, otherwise indistinguishable from all other eateries around the U, is the breathing and stretching space it offers at and between tables; it would seem most local restaurants are laid out as if American students never exceeded three feet in height or twenty inches in girth.

PIZZA BOB'S (814 S. State) - Prices: average. Service: take a book to read. Selection: my sister says that 'ol Bob has about the best pizza around and that's good enough for me. Other comments: sardines would be claustrophobic at PB's, but from another point of view, the place offers a great chance to rub elbows with your friends - and shoulders and hips and shins...

-Mike Slaughter

UPCOMING PAD LUNCHEON PROGRAMS

Thursday, Feb. 14--Valentine's Day Special
Dr. Andrew S. Watson, Prof. of Law and Psychiatry: "Conjoint Psychotherapy in Marriage Counselling"

Thursday, Feb. 21--PAD PLACEMENT SEMINAR II
-interviewing through the Placement Office for 2nd and 3rd year jobs.
-interviewing at law firms.
-judicial clerkships

Bring your lunch. Brownbaggers & Lawyers Club residents welcome. Coffee provided. Both programs in Faculty Dining Room, Lawyers Club.
There was a three-way tie in the race for the sub last week. Arnold Kiburz, Craig Gehring, and Richard Dixon only had six incorrect guesses for a percentage of .700. Alas, the Harvard-Yale tie breaker apparently was not played. Both schools have been informed that they are no longer eligible to participate in the poll this year. Since the tie breaker did not break the tie and since Res Gestae is too cheap to give three subs, the tie will be broken by this week's poll.

There is one happy note. The percentage correct increased from .533 to .537. Congratulations.

Cross out the losers. Put the poll in the box in front of room 100 by 5:00 p.m. Friday.

Kansas at Oklahoma St. (10 1/2)
Creighton (6 1/2) at Marquette
Maryland at George Washington (10 1/2)
Ohio State (8 1/2) at Michigan
Minnesota (5 1/2) at Purdue
Duke (12 1/2) at Notre Dame
Oregon (12 1/2) at UCLA
Syracuse (3 1/2) at Pittsburgh
Providence at Seton Hall (8 1/2)
Georgia Tech (15 1/2) at North Carolina
Southern Illinois at Detroit (3 1/2)
Tennessee (6 1/2) at Alabama
St. Joseph's (Pa.) (3 1/2) at Boston College
Pennsylvania at Brown (10 1/2)
Dayton (8 1/2) at South Carolina
Furman (12 1/2) at North Carolina State
Hawaii (1 1/2) at Nevada Las Vegas
Houston (2 1/2) at Cincinnati
Illinois (12 1/2) at Indiana
Iowa (10 1/2) at Wisconsin

Tie breaker: Number of total personal fouls in the Ohio State-Michigan game.

-George Pagano

PASS/FAIL DEADLINE

Students taking courses during Winter semester for no grade must file the appropriate election slip in the Law School office, 3rd floor HH, by 5:00 p.m. today, Friday, February 8th.

On Monday, February 11, the International Law Society will present Mr. J. J. Beuven-Mery, speaking on "Harmonizing National Laws in the Common Market," at 6:45 p.m. in the Faculty Dining Room. The Society will host Mr. Beuven-Mery at a dinner at 5:45 p.m. in the Faculty Dining Room, and those wishing to attend the dinner should sign up on the list on the Society office door by Friday, February 8.

Duck Soup was the Marx Brothers' climatic moment at Paramount. They shared the billing with no one and were assigned director Leo McCarey, one of the top directors on the lot, and a genuine genius of comedy. As Prime Minister Firefly of Freedonish, Groucho soon reduces queen Margaret Dumont's kingdom to a shambles. Harpo and Chico appear as peanut vendors who become secret agents. Zeppo rounds out the gang as Firefly's secretary and straight man. "The most surprising thing about this film is that I did not go mad... they were completely crazy," said director McCarey in CAHIERS DU CINEMA. Allen Eyles in THE MARX BROTHERS added, 'DUCK SOUP is the most highly regarded of the Marxes' pictures. Groucho himself thinks it's the craziest...it is almost mint-fresh today and will be timelessly funny.'

Shows start at 7:45 & 9:15 p.m., Friday, February 15th in Room 100 HH.

"Women in Business, Law and Social Work," will be the topic of informal discussion among faculty and students at the Michigan League, Rooms 4 and 5 on February 12th from noon to 2 p.m. The event is sponsored by the Center for Continuing Education for Women.