October 1, 1971

University of Michigan Law School
In Detroit's remaining white enclaves, Recorder's Court Judge George W. Crockett, Jr. is known as "the judge who frees black criminals." Elsewhere he is known as "the only criminal judge who acted constitutionally" in handling the flood of cases during and after the 1967 riot.

He sees himself as a "civilly disobedient judge," one of a small number of "nonconformist judges." Plainly, Judge Crockett savors this image.

One of the first black graduates of this Law School, Judge Crockett spoke on "Civil Disobedience: Reflections of a Jurist" last Tuesday before a nearly-packed room 100. To him more than most judges, perhaps, the law is a dynamic instrument for change and progress. And although he considers lower criminal courts, especially in congested urban areas, to be little more than "conviction mills," Judge Crockett considers the laws of this country to be "the finest known to man."

Taking his theme from Thoreau among others, Judge Crockett told his Law School audience that civil disobedience is necessary when a judge is confronted by laws...
SIS!

Big Sister is Watching you Award of the Week

This week's award goes to the Medical School Admissions committee who asked a woman applying for admission for a letter from her husband saying that he approved of her going to medical school.

The weekly prize for Sexism in the Media devolves this week upon:

The Union Oil Company for their television commercial introducing the "Sparkle Girls."

Behind scintillating scenes in a gas station, depicting a young woman, dressed like an airline stewardess, putting a white gloved hand over outdoor sinks, fuel pumps and other appurtenances is heard a sonorous male voice:

"Some people today think men and women are becoming more alike...."

"If we at Union '76 enjoy the difference. That's why, when you see our 'Sparkle Girls' at your Union '76 gas station, they won't be pumping gas.... They're there to handle the housekeeping chores so that our stations and restrooms are kept clean and sparkling.... so make no mistake, it's just another part of our spirit of '76..... Scene cuts to billboard-backed Sparkle Girl, cleaning cement at married-husband gasoline purchaser, whose reply response is met by trite, screen female voicej "George!"

N.B.

The first informal lunchtime gathering of women students will be in the Lawyers Club faculty dining room next Wednesday, October 6, from 11:45 to 12:45. Residents of the club may bring their trays from the dining room; and those who do not live in the club may bring sack lunches if they wish.

clerkships • •

Two pieces of specific information that will be of interest to some clerkship applicants:

1. The Honorable J. Edward Lumbard until last year the Chief Judge of the Second Circuit, has asked the Law School to choose one of his law clerks for him. Judge Lumbard is taking approximately 65% of the case load that he handled as an "active" judge. He is Chairman of the Advisory Committee on the Federal Rules of Criminal Procedure, and for a short period each year sits as a trial judge in Connecticut. In 1969 and 1970 Michigan graduates Dick Sayler and Jim Bieke (each the editor-in-chief in his year of the Law Review) served as clerks for Judge Lumbard, and each was subsequently asked to serve as a law clerk for a Justice of the Supreme Court.

Applicants are requested to pick up and turn in special application forms in the Placement Office. Applications should be turned in by October 15. No applications should be made directly to Judge Lumbard.

2. Applications for a clerkship with the Appellate Division of the New York Supreme Court (at Albany) are available at the Placement Office and from Miss Estes in 1033 Legal Research. The deadline for such applications is Tuesday, October 5. -- Prof. J. A. Martin
which were "foisted on America by phony old majorities." He approves of Cardozo's conception of law as the expression of the moral sentiments of the majority, but lest this seem a glib excuse for repression and obsolescent law, Crockett cautioned, "Who ARE the people? Who constitute the majority? The majority is not always the same, and its will is changeable."

His penchant for "non-conformism" is as notorious as it is heroic. "I've been on the Recorder's Court bench now for nearly five years," Crockett began. "Shortly after I came on the bench I incurred the displeasure as well as the surprise of a lot of people when I announced to newspaper reporters that I would not be bound by a certain provision of the Constitution of the State of Michigan. That provision mandated that Michigan judges should receive in evidence narcotics, dangerous weapons, and so forth, notwithstanding that they had been taken in violation of Fourth Amendment rights.

"The reporter pointed out that he was of the opinion the Michigan Supreme Court had upheld that provision, and certainly the Michigan Court of Appeals had declared that there was a presumption of validity attached to that provision. Here I am, a smart-aleck on the bench for the first time. But notwithstanding that presentation, I repeated: I will not be bound by that provision, because I do not consider that to be the law of the land."

So it has been throughout Judge Crockett's active career, which has included being the first black lawyer in the Department of Labor, a member of the first integrated law firm, and serving a four month sentence in federal prison for contempt of court stemming from a case in which Crockett defended several alleged Communists.

But within one year another Recorder's Court Judge was following Crockett's defiance of the provision; in the next year two more joined the ranks. This kind of frontiersmanship judicial leadership has also been a hallmark of Crockett's career. His reputation as a libertarian is national.

Unfortunately, Crockett's avocation for legal scholarship is not as widely known. Rejecting the notion that the law is a simple body of fixed, immutable statutes and precedents, Crockett asks rhetorically, "If it's so simple and so clear, why am I so frequently in hot water?"

"The authors of our Constitution were well aware of the impermanency of that remarkable document," Crockett theorized. "That's why they worded the first ten amendments, our Bill of Rights, in brief and general terms.

"They knew that the strength and the vitality of those precepts were relevant only so long as they could accommodate to the vicissitudes of changing conditions and the stresses of changing times."

Nowhere is the tension between changing interpretation of the founding fathers' philosophies and the letter of the law more pronounced than "in the judgment of what constitutes democracy, what constitutes law, what constitutes civil disobedience."

Judge Crockett cited the discrepancy between what is professed to be the law and what is done in actual practice. Our laws profess "the widest range of

cont'd. over
human liberty the world has ever known," he asserted. Yet daily we see, for example, First Amendment freedoms and guarantees abridged by police, prosecutors, and judges.

"A citizen — and we judges — knows that such a perversion of written law is wrong," Crockett said.

Invoking many of the ringing phrases of the American Revolution (original version), Crockett drew what are by now inevitable comparisons with the causes of today's committed. "How shall we measure the injustice of taxation without representation as compared with an imperialist, evil war which is managed by the Pentagon and is opposed by four of every five Americans?"

The infrequently bland analysis served as the vehicle for some hard questions, however, the kind Crockett revels in. "In the light of this continuing paradox between the promise of our democracy and the performance, is it proper to be always civilly obedient?"

Clearly for Crockett it is not.

"The assignment America gives to her judges is this: work to transform the precepts of our Constitution into legal interpretations and judgments that will legitimize the peaceful actions of all those who subscribe to our Constitution's philosophy."

When certain of these interpretations and judgments (statutes and precedents) are no longer acceptable, Crockett observes, "they must give way to new and timelier laws."

Although civil disobedience is, for George Crockett, "action taken in conscious disregard for (what is claimed to be) the law, without thought of personal gain, in full contemplation of adverse consequences, in support of a moral principle," he explained a novel way of looking at the concept as well.

"The conformist judge, who follows the law, really doesn't take much of a risk," Crockett told the audience. "He simply follows precedent blindly. But the judge who senses the will of a new majority (i.e., one which now does not exclude sizeable portions of the population, such as women, blacks, rural southerners, 18-to-21's, the poor) and the mood of the times have changed sufficiently to incorporate into the temporary law behavior or a point of view that previously was regarded as illegal conduct is also...and must be civilly disobedient himself, at least temporarily."

Law's dual role of embodiment of the public will and "prediction" of what courts will do puts this kind of nonconforming, civilly disobedient judge in the position not only of disregarding precedent but also of attempting to predict the will of this new majority he senses. "Precedents are only meaningful as aids to sound prediction," Crockett says, sounding a little like McLuhan.

How then, it was asked following Judge Crockett's talk, does such a judge ascertain the sentiment of the people? By "reading between the lines in the newspapers," by associating with learned men and women and ordinary men and women, by "reading the best thought in magazine articles and new books. I'm afraid that's the best answer I can give you. But first you've got to put a judge on the bench who's willing to read the will of the people — and all too frequently we don't."

Turning to his controversial
practices on the bench in Detroit, Crockett affirmed, "The State must enter the halls of justice with clean hands....If a subject has been brutalized, I'll go so far as to suspend sentence."

"The recent situation at the Attica prison is another illustration of what I'm talking about. Too long we judges have simply washed our hands of human beings whom we sentence to prison. Many have absolutely no concern whatever for what happens to them once they're behind bars. I suggest there is a continuing judicial responsibility.... Judges must look behind prison walls.

"The problem is finding appropriate legal remedies....Here in Michigan it is well settled that the sentencing judge retains jurisdiction at all times to grant motions of relief to file delayed motions for a new trial. And that technique, normally referred to as 'post-conviction remedy,' is regularly available to the judge who is convinced that someone whom he has sentenced is not being treated in compliance with the law...."

At new trial, the prisoner is sentenced to the time he has already served.

"The remedy is there. What we need is more non-conforming judges who are willing to make it a part of the everyday law in their court."

Crockett sees some hope for easing the overcrowded conditions in American courts in the talk of judicial reform President Nixon and Chief Justice Burger indulge in ("but I part company with them," he says, "for as I see it they're concerned mainly with convicting more easily, rather than with the quality of justice"). He said he plans within the next few days to examine the backlog of cases in his own court with an eye to throwing out as many cases as possible involving unreasonable search and seizure.

Given what he calls the "keep press, Crockett concedes that over the short period the American system looks hopeless. But he steadfastly maintains that over the longer span the American people have been persuaded, and that "things have changed — radically." The last word is uttered with what seems to be a particularly acute pleasure.

Any Detroiter such as this writer who has ever been nearly blown off a freeway for displaying a "Support Judge Crockett" bumper sticker, or chilled at hearing rednecks at neighborhood gatherings vow to have Crockett's head on a plate, must marvel at this man's serene optimism and faith in the common American. Although he little relishes the current criminal justice system ("court-appointed attorneys... by and large are not competent; they're primarily concerned with convicting their clients without delay and picking up their paycheck...") he obviously enjoys his maverick role in the otherwise staid world of the black robe. When he says, "I don't worry too much about re-election, I'm enjoying myself too much now,"

"Let those of us who are judges teach others how to persuade," Judge Crockett concluded. "Let those of us who are skilled in the law defend the persuaders. And if the people can be persuaded, the law will welcome the extension of liberty, the broadening of opportunity, and the more equitable sharing of this country's bounty, consistent with the lofty and still unfulfilled promises we made over 200 years ago."

— John Scott
Attica and Ithaca

A TALE OF TWO CITIES, TWO MEN, AND THE POLITICS OF "SELLING OUT"

-- by John Salmon
Cornell '68

Thursday, April 18th, 1969 marked the beginning of Parents' Weekend at Cornell University in Ithaca, New York, and 2000 visitors would soon hear President James A. Perkins give a timely speech entitled "The Stability of the University." But Cornell University was far from stable and President Perkins would never give his speech. During the previous week, Cornell had been plagued by racial incidents. When a cross was burned in front of the Black Coed Dormitory, Black militants warned that they were determined to protect Black women. The Blacks were further angered by the decision of the student-faculty discipline committee to suspend three Black demonstrators. And during the month the town of Ithaca had been the scene of several muggings in which some students were seriously injured.

Shortly after 2:00 AM on Friday, April 19th, 1969, the tense racial situation at Cornell exploded. In retaliation for what they believed to be Cornell's racist policies, the Black Students, screaming "fire," swept through Willard Straight Hall, the Student Union, rousing forty visiting parents from their beds and sending both them and an equal number of employees scurrying into the chill morning air of Ithaca. The Blacks chained the doors, aimed fire hoses at the parents, and stationed guards at all entrances.

The siege continued into the second day in an atmosphere of imminent bloodshed. At 10:30 on Saturday night, these fears were heightened when the Blacks armed themselves with shotguns, high-powered rifles, and considerable ammunition. Fearing that disaster would result if any force were used, President Perkins decided to keep state and county police officials off the campus and followed what he believed to be the only course open to him. He conceded to every one of the Black militants' demands, including their demands for general amnesty and the dropping of all charges against the Black demonstrators arrested in December. As a result, the Blacks marched out of the student union and ended their two-day siege.

On September 9, 1971, violence erupted at Attica State Prison in upstate New York. Moving swiftly against the undermanned prison staff, the convicts set fire to several buildings and gained control of cell block D and the yard it faces. They locked the gates and even welded some of them shut with equipment from the metal shop. In the revolt, thirty-nine prisoners - twenty-eight guards and eleven civilians - were captured by the convicts.

The events that followed are now history and take their place alongside the events of Mai Lai, Kent State, Jackson State and other American tragedies. After the takeover, several days of negotiating occurred. The prisoners presented a list of thirty demands. Commissioner Oswald granted 28 of them but refused to grant two - complete amnesty for the prisoners and the discharge of the prison warden, Mancusi. When Governor Rockefeller refused to negotiate with the prisoners and Oswald remained intransigent about conceding on the last two demands, an impasse was reached. Shortly after 9:30 on Monday, Governor Rockefeller and Commissioner Oswald made the irrevocable decision to storm the prison. Under the cloudy mist of tear gas bombs dropped by National Guard helicopters, the prison exploded with gunfire. The prison revolt was instantly crushed, but the price of victory was high: 31 prisoners and nine hostages dead of gunshot wounds.

In Ithaca, James Perkins conceded to the demands of the militant Blacks barricaded in Willard Straight Hall. Although he

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managed to avoid bloodshed, President Perkins paid dearly for his decision. In the days following the Blacks' armed takeover of the student union, President Perkins was accused by professors, past friends, parents of students, and alumni of "selling out" to the Black militants' demands. Several notable professors resigned from the University in protest. In the face of a growing faculty revolt and the knowledge that his presence would not aid the university in recruiting either new funds or new students, President Perkins himself resigned. A man who had been generally regarded as one of the nation's great college presidents, a man who had been seriously mentioned for the position of Secretary of State, could only survey the remains of his career—a career dramatically and permanently destroyed. No one had been killed at Cornell, but politically, James Perkins was a dead man.

On the other hand, after the attack on Attica, Commissioner Oswald remains very much alive professionally. Nor, on balance, has the career of Governor Rockefeller suffered from the decision to wait or negotiate no further but to storm the prison, guns blazing. The Governor has received the firm approval of President Nixon for his decision to attack, as Professor Kamisar mentioned in his comment last week. And, he has secured a politically attractive "tough, firm, no-nonsense" public image. For example, according to Time Magazine, Sept. 27, 1971, p. 19, "Many if not most Americans seemed to feel that the attack was legally and morally justified."

Although one may readily point to differences between the happenings at Ithaca and Attica, I believe that Commissioner Oswald and Governor Rockefeller were faced with a problem essentially similar to that which had confronted James Perkins of Cornell and that the officials at Attica dreaded the kind of "sell out" image that plagued Perkins. Politics has a way of labeling decisions as "inevitable" which are no more than the result of a careful weighing of the political pros and cons involved. If Oswald and Rockefeller had chanced negotiating further with the prisoners or had taken the time necessary to consider the alternatives to an armed assault on the prison such as the use of a paralyzing gas, etc., they might have been able to save all, if not most, of the lives lost in the attack. But by so delaying, they also would have run the risk of being labeled "sell outs" by the American people, a politically disastrous consequence.

It can only be hoped that leaders of the character of James Perkins will be present during future crises and be unafraid of "selling out"—in order to avoid bloodshed and death, although well aware of how their decisions will be received by a public which continues to have an insatiable thirst for "John Wayne" solutions to crises that demand restraint, understanding, and patience.

**nick's**

It may be too soon to speculate about the long-term effects of the enhanced beverage selection. For example, how many Budding legal careers will be imbibed away, or whether a "different" crowd, one not so dedicated to peaceful discourse, will be attracted. What is certain is that the change is welcome and long overdue. Pretty soon, though, you will be able to see for yourself anytime during 'Nick's new hours: Mon.-Sat. 7:30 A.M. to midnight, and Sun. 5 P.M. to 11 P.M.

--J.J.S.
consider this a place for students and to a certain extent what we serve will be controlled by their tastes."

On one thing, however, Dominick is resolved. "I'm not going to change the atmosphere. I've tried to emulate in spirit the European outdoor cafe, where groups of people come in to talk, buy a brandy or a beer over the counter, and feel free to just sit down and talk. There'll be no bar. I want to keep the present clientele."

Dominick, who informed us that he has traveled extensively in Europe and especially through Spain and Italy, is a man with vision. The simple sidewalk cafe, so common in Europe, he feels has not caught on in this country because few entrepreneurs ever consider it. "There's no tradition for these"; he said, "you have to get a zoning variance just to put one in a residential neighborhood."

The genesis of Dominick's is instructive. In the late fifties, De Varti came from his hometown, Bridgeport, Ct., to settle in the Midwest. The property now occupied by his cafe attracted his attention. Before the Cook quadrangle was built, the property had been a neighborhood grocery store. After World War II, it was taken over by a former Ann Arbor police officer, Eddy Goegenbach. In stages Goegenbach transformed the grocery store into a luncheonette. By the time 'Nick purchased the property in 1960, it had been long vacant, stripped of fixtures, and a mess inside. While repair and remodeling progressed inside the building, 'Nick decided to begin business on the outside. At a discount he bought some tables and chairs and erected a striped awning. So fathered by necessity, Dominick's Sidewalk Cafe was born.

Students and faculty alike naturally gravitated to the nearby location. The novelty of leisurely talk in a congenial milieu soon became habitual for many, and Dominick's acquired the quality of a minor "institution."

'Nick remembers the day back then when Professor (and now Mayor) Bob Harris, eating a pizza, complained that he couldn't enjoy a beer with his meal. All agreed that this was a superb location to serve alcoholic beverages. Everything had to wait for the state and municipal legislative apparatus to grind into the twentieth century. Under law educational buildings were all surrounded by "dry islands." By 1969 the legal obstacles had been cleared, and Dominick filed an early application for his liquor license. This summer it came through.

(Perspectives Dept.)

OF INTEREST TO ANYONE WHO HAS EVER TAKEN "PROPERTY":

"...the Indians could no more conceive of 'owning' land than they could conceive of roping off and fencing in the sky..."

— Hal Borland

"...What do I need to own? I live in the same world with beautiful houses, vast green acreages of lawn, sparrows and squirrels. I pass a huge Victorian home with stained-glass windows every day in life; I read the library's books in a meditative setting; I see and read about a thousand things other men lust to possess, yet I am content, for I am hardly 'without' them. They fill my life, just as do the dozens of beautiful women I pass and speak with, knowing full well I can never 'have' them as my own. Indeed, the benefits I derive are greater than those who claim title to the world's things, for I need not live in fear that they will be taken from me...."

— Carlos Raskierdos
NEW FACULTY

Due to University-wide general budget cut-back, the law school was unable to hire any new full professors for this academic year. However, funds were available to hire seven new instructors and assistant professors. The new professors are all under 30.

They are:

JOE KALO, Instructor, Clinical Law Program. Mr. Kalo, originally a native of Flint, Michigan received his BA degree from Michigan State in 1966. He graduated Magna Cum Laude from the University of Michigan Law School in August 1966. After clerking for a year with Judge Sperry Waterman, of the 2nd Circuit U.S. Court of Appeals, he traveled to Phoenix to work for Streich, Lange, Weeks, Cardon, and French. He returned to Michigan this last June to work with Professor Isigel in establishing the Clinical Law Program. He finds the Clinical Law Program more than a full time job, yet exciting none the less. "It's like starting a law firm from scratch, except there is already a full case load."

DAN SEIKALY, Instructor, Criminal Appellate Practice. Although born in Haifa, Palestine, Mr. Seikaly has lived in Detroit most of his life. He attended Michigan State as an undergraduate and he received his law degree from Wayne State in 1970. While in law school, he worked for the defender's office. Since graduation, he has worked for the Appellate Defender's Office. His experience forms the basis for the new course here, Criminal Appellate Practice. Unfortunately, the future of the course is uncertain -- funding is partially dependent on the Crime Commission. He and his wife, Cynthia, a Detroit social worker, live in Detroit. Interests? Reading a lot of transcripts ("Law still fascinates me.) and watching a lot of Dick Cavett.

"All I need is a detailed map and a bicycle to get from Hutchins Hall to the library." Perhaps echoing the sentiments of several other fall term newcomers is PETER JACOBSON, a transplanted Australian. Professor Jacobson is an Instructor in Problems and Research this semester. He received his B.A. and L.L.B. from the University of Sydney. He also received an L.L.M. from the University of Pennsylvania Law School last spring. While here, he will be researching international law, with a particular eye towards aircraft hijackings. Mr. Jacobson plans to make teaching a career. His interests are traveling and ocean swimming (an interest doomed to frustration while here at Michigan). While the hot weather at the end of the summer was fine, Mr. Jacobson and his wife Marlene are definitely not looking forward to winter.

WILLIAM GAUS comes to us after receiving his J.D. from Southern Methodist University. Originally from Indianapolis, he completed his undergraduate work at Beloit College, in Wisconsin. Between college and law school, he spent two years in the Peace Corps teaching math in the Philippines. His principal legal interests are labor law and criminal law. Mr. Gaus recently completed a study of a Texas bail reform project. While here, he will be an instructor in Writing and Advocacy for Section I. Intrigued by the size of Michigan, he is impressed by the simple fact that his office is on the eighth floor of a law library. An avid GO player, Mr. Gaus is anxious to take on any other fans of the game.

JULES FRIED, Instructor, Writing and Advocacy, Sect. 2. Mr. Fried is one of our own. He graduated from Michigan Law School earlier this year. Originally from New Hyde Park, Long Island, he received his undergraduate degree from Princeton. After three years as a student, he sometimes finds walking through the library as a faculty member a rather unnerving experience. Mr. Fried likes to occupy his spare time with sailing and cooking omelets. cont'd. over
GEORGE FREY CAINE, Instructor, Writing and Advocacy, Section 3. Another Australian. Mr. Caine is also from Sydney. After receiving his BA and LLB at the University of Sydney, he attended the University of Illinois Law School 1st year, where he received his LLM. In addition to his pedagogical duties, he is also working toward his SJD while here at Michigan. His thesis topic will concern a comparison of the ways some political federations curb domestic violence. Offering a few observations as a De Toqueville from Downunder, he has noticed that despite their professed dissatisfaction with their society, American students are still remarkably pro-America and pro-football. "Very few people sit down when the national anthem is played, which is a common form of protest in Australia." He also has his reservations about the Socratic method and the American system of legal education in general. But he does like Ann Arbor: "Very pretty—very friendly." Mr. Caine eventually plans to return to Australia and teach law.

JOHN SNOWDEN, Instructor, Writing and Advocacy, Sect. 4. Mr. Snowden, a native of Lincoln, Nebraska, received his BA from the University of Nebraska. He taught high school English and history in Schuyler, Nebraska, before returning to the University of Nebraska for his JD. His special interest in law is jurisprudence. He also was a co-author of a study of prisons. Prof. Snowden and his wife and daughter are bicycling devotees. The have found Ann Arbor and the surrounding country-side a very pleasant place for bicycle touring.

"I don't want the typical law review job when I get out of here; I want the kind of job that anybody with a 2.5 can get."

--- Second-year Law Review accomplishee in the context of a public interest law discussion

GOOD LUCK!

--- The Editors
Several recent thefts from the Lawyer's Club again raise the question of what security can be established at a college dormitory, especially in a time of theft dependent drug users and apparent brazenness in thieves. The case of one law student illustrates two major security factors. Near midnight during the Lawyer's Club mixer, some stereo equipment and a television were stolen from this particular Club resident's perhaps inadvertently unlocked room. By coincidence a few days later, and much to the student's consternation, the owner of a refrigerator left in the student's room came by and let himself into the locked room with a key he had retained from his previous occupancy, and took back the refrigerator.

The first security factor - unlocked rooms producing thefts - accounts for the vast majority of property loss cases in UM living units, according to Dave Foulke, supervisor of security for University Housing. Of 134 reported instances of thefts from dormitory rooms over the period September 1970 to March 1971, only 4 victims believed their doors were probably locked. And there were 26 cases where the victim allowed thieves inside the room, say on the pretense of using a phone directory; then while the victim was diverted a wallet or other valuable was taken by an accomplice. The "prime time" for these thefts is between 7 a.m. and 9 p.m., when two-thirds occur, and most of these are confined to the period from 3-9 p.m., when students are visiting down the hall or whatever.

In the second security factor area of "floating" or illicit keys, statistics are unavailable, although Mr. Foulke notes it is common knowledge that many keys are reported lost, honestly or not, during the year, and some keys are simply not returned. Foulke and Mr. Max Smith, manager of the Lawyer's Club, both state that lock cylinders will be changed upon the reasonable request of any student in isolated circumstances, but that total turn-over of the lock system is prohibitively expensive. Only West Quad has such a plan for system turnover, to be implemented next summer at a cost of between two and three thousand dollars. The necessity of replacing the entire lock rather than merely the cylinders boosts the cost of turnover to about $40 a door in the Lawyer's Club, an expense rejected by the Club governing body.

An optimum solution cited by Mr. Foulke was the University of Wisconsin policy or purchasing three full lock and key sets at the time of dorm construction, with system turnover on a three year cycle aided by the randomness of lock replacement. It appears that budgetary politics favors this procedure because requesting a fraction of original construction costs for lock sets is easier than extracting a healthy percentage of later operating funds for the same purpose.

Judgment of the degree of vulnerability for University housing units, says Foulke, follows almost directly from the age of each dorm, since to his knowledge all units have their original locks. Under this formula, the Lawyer's Club would be highly vulnerable. But Mr. Smith suggests that in fact the minimal property loss annually suffered by Club residents flows from the nature of students living there, and the conformation of the dormitory itself. Smith theorizes that non-residents are more obvious and are scrutinized closely by the generally older body of residents, more so than is the case in undergraduate dorms, and the single entrance-exits and decentralized arrangement of rooms in the Club also deter would-be thieves.

Solutions to security problems are not simple and are usually not inexpensive. In the area of unlocked doors, there is virtually no defense against theft save vigilence by others toward, say, persons walking around with lumpy bedspreads slung over their shoulders. To facilitate vigilence, it's conceivable that better lighting is possible on the face of the Club building without cluttering the interior court with unsightly lamp-posts. However, Club cont'd. over
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Lighting has had an unhappy history in that last year the coming of stubby bulb-tipped poles was protested to the point of burning the forms for the lamp-post footings in the middle of the Quad.

On the other hand, "floating" keys can probably be controlled inexpensively by an enlightened selective lock cylinder replacement policy. For instance, a manager like Mr. Smith might eke out enough time from his multitudinous and solemn duties to make sure solid records are kept of all keys reported lost or not turned in, so that every one of these suspect lock cylinders is changed at the end of the session or year.

An individual does have some defense against theft, still mostly this side of Rube Goldberg, even in the case of unlocked doors. For example, it's possible to wrap a small-link chain around a stereo tuner or amp such as one would wrap a parcel, loop one end around a bedstead, and lock the whole affair in one or two strategic places. Articles with secure handles could also be similarly chained to cumbersome fixtures without being too obtrusive. Unfortunately, this method does not prevent a thwarted thief from mutilating one's stereo in revenge. Also, under the Ann Arbor Police's Operation Indentification, a special pencil available at the Department can be used to engrave one's Michigan driver's license number (or other number assigned by the police) on valuable articles. Some dorms presently make these engraving pencils available to their residents, and the Lawyer's Club might consider obtaining such instruments too.

---Michael Slaughter

letters

To the Editor of Res Gestae:

Mr. Hirschfield's data on Page 8 of the issue of September 24 indeed merits a closer look. What is the probability that differences as large as the ones he observes between sections would occur "by chance"? The answer is suggested by the use of a standard statistical test (chi-square), which shows that a random drawing of 30 from a population divided into four equal groups will produce a pattern as different from equality (7 1/2 per group) as 9, 7, 4, 10, nearly 50% of the time.

What Mr. Hirschfield observes may be a systematic bias, or it may be the workings of chance. These data do nothing to dispel the latter hypothesis.

Sincerely yours,
Peter O. Steiner
Professor of Economics and Law

To the Editor:

This is, admittedly, not a major social issue. Yet, it is frustrating and an indication of the Law School Administration's attitude.

Room 234B in Hutchins Hall is a rest room, supposedly a men's room but there is no real reason for the one gender limitation. It has been liberated for almost one year, freely used by any student, staff member, faculty or other person. Now it is locked! The lock had not worked and the Administration sent maintenance men in to repair it at three different times. But they couldn't fix it. The answer to the dilemma was simple: install an entirely new lock! The new lock is installed, the john is locked tight (even faculty keys won't open it), and the Administration is, presumably, very happy and secure in the knowledge that no student will be able to use that john. (New keys will probably be issued to faculty.) As mentioned, this is not a major social

cont'd. on p. 13
There are two interesting and parallel facts about two of the world's great institutions: the Roman Catholic Papacy and the United States Supreme Court.

You don't have to be a priest, let alone a Cardinal, to be elected Pope. And you don't have to be a lawyer, let alone a judge, to be named to the Supreme Court. You can see the fascinating possibilities.

If Pope Paul, as has been rumored, follows his old advice to Cardinals and retires next year at the age of 75, this offers a thrilling opportunity for the Church to make a drastic move toward relevance and complete the dismantling of its old image.

The Cardinals could make a dramatic ecumenical gesture, perhaps, by electing Billy Graham. Or they could make overtures to disaffected youth by choosing Rod McKuen or Bob Dylan — or a Beatle.

Not only does a Pope not have to be a priest or a Cardinal — nothing in the rules says 'it' has to be a man.

The Supreme Court offers even more immediate and practical opportunity for President Nixon to break with precedent, which he has been in the mood for lately.

I suppose that lawyers, along with highway builders and real estate developers, would rank fairly poorly in the way they have lived up to their collective responsibilities in the last few decades. And it may be just the right time to administer the rebuke to the profession that appointment of a non-lawyer to the Court would constitute.

"Think of how it would liven up the court. And there's no reason why Mr. Nixon couldn't combine this idea with other criteria that have been urged upon him. He could certainly pick people who would preserve balance among national philosophies. A respected conservative, for example, and an articulate exponent of new and activist philosophy. He could also satisfy the people who think it's time the other sex was represented. And there's nothing to prevent his 'classing up' the Court's appearance.

"With all these things in mind, a balance of philosophies, a balance of sexes, a consideration of appearance, all among non-lawyers, the choice narrows down:

"How about Barry Goldwater and Gloria Steinem?"

— Harry Reasoner
ABC Evening News
28 September 1971

cont'd. from p. 12

issue, but one might ask WHY the Administration spent so much time and money ($) on making sure a john door was locked. Is the Administration's policy one of encouraging bladder, kidney, and intestinal problems among law students? The logic now is inescapable. The Administration couldn't open the john now -- for if nothing else, that would mean it wasted all that money. -- John Anon
To the Editor:

I read in last week's RG about the problem of various professors' grading practices resulting in differences in students' point averages. While Mr. Hirshfield suggests a faculty investigation and possible assignment of students to their freshman sections with the faculty's biases taken into consideration, I believe that this method is too sloppy. If our collective goal is to have students' point averages calculated so as to compensate for faculty idiosyncracies, there is a theoretically perfect method which could easily be used.

First, calculate the average grade point which a given professor hands out to each of his classes in a given semester. Call this the Professor Average (PA). Each professor will have several PA's, one for each of the courses he teaches.

Second, calculate the average course grade point of all students who have taken a given course in the law school that semester (e.g., Torts). Call this the Course Average (CA).

Third, divide the Professor Average by the Course Average to arrive at the Professor Coefficient (PC). PC = PA/CA, that is. For example, suppose that Prof. Smith gives his criminal law students grades which average to a 2.5, while the school average for criminal law that semester is 3.0. This would give Prof. Smith a PC of 2.5/3.0, or .833, for criminal law. He would have different PC's for each of his courses.

Fourth, the student would receive his grades for the semester. But instead of the registrar recording his point average as it stands, it would be divided by the product of the PC's of each of the faculty members under whom he had studied during that term. The resultant figure would be recorded as the student's average. The formula would be TA = \( \frac{IA}{PC_1 \times PC_2 \times \ldots \times PC_i} \).

"IA" is his initial average, calculated by the usual process, whereas TA is his "true average"--that average which he would have received had his professors graded according to the average of the standards followed by all the professors teaching the courses which the student took.

For example, suppose that the student took four courses from professors who were very hard graders, and that their PC's were .8, .9, .95, and .85. Suppose that the student's initial point average--his IA--was only 2.0. Using our formula, we find that his true average (TA) is \( \frac{2.0}{.8 \times .9 \times .95 \times .85} \) or a very respectable 3.44. Therefore, the student who happens to run afoul of four strict professors will not be penalized.

Contrariwise, a student whose professors grade very liberally will not be blessed by his good fortune, and his TA will be correspondingly lower than his IA.

The PC's would be calculated by the registrar's office at the close of each semester, after the letter grades had been received. This would keep the various PC's confidential, which would protect the faculty's feelings, while the students would be sublimely confident that a harsh professor would not be able to successfully take it out on his students.

On the other hand, we could, as Nancy Abrams pointed out, simply select people randomly for Law Review on the theory that if this school really does select only one applicant in ten, any differences in ability would be so small that you could pick a decent crew for the Review by drawing straws. And that way you also avoid pitting students against each other in an alienating race for the grade point.

/s/ Dave Cahill
TO: Faculty and Students
FROM: Dick Nygaard
RE: Closed Circuit TV System

Following is the weekly schedule of the Washtenaw County Circuit Courts. Our closed circuit TV system, with cameras in two courtrooms, is in working order and located in room 210 Hutchins Hall. Any student or faculty member who wishes may use this equipment. Directions for its use are pasted on the control console in room 210.

The weekly schedule is also posted on the bulletin board outside the TV room. Extra space is left for the Thursday docket to be used by Legal Aid and Clinical Law students to post their names and the case or motion they are arguing.

If anyone has a suggestion, please tell Dick Nygaard or leave a message on the bulletin board by room 210.

<table>
<thead>
<tr>
<th>DAY</th>
<th>Schedule</th>
</tr>
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<tbody>
<tr>
<td>MONDAY</td>
<td>Trials</td>
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<tr>
<td>TUESDAY</td>
<td>Trials</td>
</tr>
<tr>
<td>WEDNESDAY</td>
<td>Trials</td>
</tr>
<tr>
<td>THURSDAY</td>
<td>Motion Day, mostly domestic relations, Hearings on orders, injunctions, etc.</td>
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</tbody>
</table>
| FRIDAY    | Criminal Day
            | Arraignment to sentence.                                                 |

Good times

Tired after a hard week? Stop by Martha Cook on Friday, October 1, at 3:30 p.m. for refreshments, music, and conversation with attractive young ladies. All law students are cordially invited!! B.K.
During the 1970-71 school term the Law Review and the Journal of Law Reform sponsored a joint writing competition to select five members for the junior staffs of the two publications. All students are being asked to complete the following questionnaire which will provide information needed to prepare a proposal for the current year's competition.

I. To be answered by second-year students who did not submit papers in the 1970-71 competition:

A. What factors influenced your decision not to participate in the competition?

B. Which of the above factors do you consider to be the major one? Explain.

C. What suggestions do you have for improving the competition?

II. To be answered by all other students (indicate year in school--1st____ 2nd____ 3rd____--and whether you submitted a paper--Yes____ No____):

A. Do you favor the continuation of a joint writing competition?

B. What suggestions do you have for improving the competition?

PLEASE PLACE COMPLETED QUESTIONNAIRES IN THE BOX PROVIDED AT THE CIRCULATION DESK IN THE LIBRARY.
To the Editor:

Recently I had the pleasure of speaking with the members of the Law School Class of '41, on the occasion of their thirtieth reunion. I was struck as we talked by the apparent prosperity of the group, and by the large number who had children who were planning to apply for admission. What was even more surprising to me was the fact that a majority of the group came from practices in small to middle-sized towns, and this fact prompts my letter.

The lot of a Dean of Admissions facing a group of alums is never an entirely happy one. I am told that old Blues were wont to make rude noises when Inslee Clark, the ex-admissions person at Yale College, was introduced. I was not surprised, therefore, at questions concerning our admission of so many "brains". I was somewhat at a loss, however, when the man from Hart, Michigan, with the support of friends from Johnson City, Pa., Carbondale, Ill., Springfield, Ill., Canton, Ohio, and Wooster, Ohio, asked why more of our students were not beginning their careers in such communities. My answer had something to do with recruitment and money, but I would like to pass the question along to the student body for its consideration.

One has the impression that the parade of eighty-man firms through the Placement Office fosters the attitude that life is only worth living on the top floors of tall buildings in big cities. For some that may be so, but I have recently learned that there are a group of prosperous (lots of double-knit sportswear in evidence for the reunion), seemingly contented lawyers in the smaller cities. Presumably this sort of life includes lots of dealing with people, as well as the roles of civic leadership which are more easily undertaken in smaller towns, and because so many law students indicate an interest in these aspects of law when they apply to law school, I thought I would share my observation that some small-town alumni display at least a rhetorical enthusiasm for the services of our graduates.

Yours faithfully,
Matthew P. McCauley
Assistant Dean

(Editor's note: The cartoon, perhaps needless to say, was not contributed by Dean McCauley. We fully agree with the Dean's observations and appreciate his passing them on to us.)
Law School Student Senate
Meeting: Sept. 27, 1971

Minutes

Members present: Kuhbach, Jackson, Bernott, Bowie, Mullaly, Behe.

1. Bob Ferenz of PSURFS requested $35 for operating expenses for the group. PSURFS is a singing group composed of male and female law students. The motion was passed unanimously.

2. Coming Events.

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Details</th>
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<tbody>
<tr>
<td>October 4</td>
<td>John Conyers, speaker</td>
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<tr>
<td>October 8, 9, 10</td>
<td>Social event - dance</td>
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<tr>
<td>October 15</td>
<td>Movie - &quot;Wait Until Dark&quot;</td>
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<tr>
<td>October 14</td>
<td>Don Reigel, speaker</td>
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<tr>
<td>October 21</td>
<td>Sherry hour</td>
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<tr>
<td>October 25</td>
<td>Jerry Leteourt, speaker</td>
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<tr>
<td>November 14, 15, 16</td>
<td>Judge McGowan, Holmes lecture</td>
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3. Discussion of insurance for the vending machines, piano, and television; it will be purchased.

4. Information on Graduate Assembly and Building Directors Group was discussed.

5. Senate members are to suggest students they might wish to have considered by the President and Dean for the Law School Judiciary.

6. Greg Kearns was nominated to the Administrative Committee. The motion passed unanimously.

7. Students wishing to aid in the renovation of the Hutchins Hall Lounge should contact Senate members Sandy Thompson (764-9095) or Mandy Behe (764-8953).

8. The problem of lack of space in the law library (due to non-law students occupying a significant number of chairs) was discussed. Two Senate members will see Prof. Pooley about the problem.

9. Postage stamps will soon be available for purchase at the Lawyers Club Desk.

10. Henceforth Law students have first priority to use the Club piano, and the piano key can be checked out with an I.D.  

Mandy Behe  
Acting Secretary
Much academic and political discourse has been generated by the malicious activities of the New York law enforcement contingents in regard to the Attica Prison riot, here in the Law School and the nation. The action represents an unreasonable response to the despondent and critically frustrating plight of human beings. While the state admittedly has police powers which may be used to control for the benefit of an ordered society, the use of force as demonstrated at Attica cannot be justified, either in terms of a threat presented or actual harm done.

Though convicted and sentenced, each inmate retained without question rights to life and humane existence. The exercise of state police power resulting in mass killings, in the absence of clear and immediate danger warranting such repressive action, can only be considered a blatant abuse of such power and a violation of the Fifth Amendment rights of the inmates.

Denial of fundamental rights secured by the Constitution and the edicts of any ordered reduces our faith in these legal mechanisms and serves as a humiliating blight on any civilized society.

Further, the immediate denial of necessary medical services after such repressive actions serves only to emphasize the inhumanity, and lack of due consideration on the part of the policy hierarchy. Such action can be interpreted as cruel and unusual punishment in violation of guaranteed Constitutional rights under the Eight Amendment, and serves as evidence of the severity of the abuse of power by the state officials.

An even graver consideration, however, is the administrating of the police assault. Though incomplete, the evidence can well support the finding that loss of life on the part of hostage and inmate was caused by the over-reaction of the police as inspired by their incompetent leadership. The blame for murder is on the police, not the inmates.

A fact which bespeaks more than all other comments, the nature of the decision, and its relations to an ordered system of laws, is the apparently expendable nature of the life of the guards held hostage.

The political system reaction displayed at Attica only serves to promote more Atticas plus more rationalizations for the murders of the predominantly black inmates. We feel it encumbent on us to vehemently denounce the actions taken by the New York officials and point to their gross disregard for human life.

--- BLACK LAW STUDENT ALLIANCE

**THE CINEMA**

**Friday, Oct. 1**

C.G. - "Far Country" 7,9 p.m.
C. II - "Finnegan's Wake" 7,9 p.m.
A.I.F.S. - "Triumph of The Will" 7,9:30

**Saturday, Oct. 2**

C. II - "Finnegan's Wake" 7,9 p.m.
C.G. - "One-Eyed Jacks" 7,9:30

**Sunday, Oct. 3**

O.W.F.S. - "Othello" 7,9:15 p.m.
C.G. - "Red River" 7,9:15 p.m.

**Monday, Oct. 4**

AA F.C. - "Le Bonheur" 7,9:30 p.m.
*(C.G. means Cinema Guild and is in the Arch. Aud.; C.II means Cinema II and is in Aud. A of Angell Hall; A.I.F.S. is Alice's International Film Series and is at Alice's Restaurant, Alice Lloyd; O.W.F.S. is, you guessed it, Orson Welles Film Society and it too is in Aud. A of Angel Hall. AA Film Co-op is at ## 330 Maynard*
Griddie Goodies:

Well, Dandy Don, they laughed at me when I chose Michigan while conceding
25 points to a tough, imperturbable UCLA eleven (actually 22 but we'll talk in
euphemisms) whose only losses were at the hands of an equally tough and impertu­
able Pitt eleven and at the hands of a tougher and even more imperturbable Texas
twelve (how else could they achieve such annual dominance over all the other elevens
excepting Ara's). Well Dandy, I knew that Michigan just had the conviction that
Michigan was the possessor of unparalleled pursuit, unsinkable spirit and undeniable
drive, in addition to being all-around tough "mothers".

The AA (average accuracy) was extremely low, highlighted by this reporter's
despicable 50% showing. The GGGotWA (Griddie Goodie Guy of the Week) Award goes
to Jim Bradley who had a mere two misses (86+% and defeated Nick Boyen (honorable
mention) on the basis of a more accurate prediction of the Detroit-Lion game.

This week as a special treat we have invited the ace admistrative handclapper
of Hutchins' Hall to be the GRIDDIE GOODIE GUEST GUESSER (GGGG). Yes, "Handy"
(not to be confused with "Dandy") Helen Betts has succumbed to the unrelenting
popular demand and has no doubt correctly chosen the winning teams (for those of
you who are unfamiliar with Mrs. Betts -- she's the one who
turns on lights, hires Deans, replaces teachers, and keeps attendance in each
class (while traveling incognito, of course)).

Well, here we go again -- match wits with your boss!

<table>
<thead>
<tr>
<th>Air Force</th>
<th>at</th>
<th>Penn State</th>
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<tbody>
<tr>
<td>Mississippi</td>
<td>at</td>
<td>Alabama</td>
</tr>
<tr>
<td>California +30</td>
<td>at</td>
<td>Ohio State</td>
</tr>
<tr>
<td>Tennessee</td>
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<td>Washington</td>
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<td>Illinois</td>
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<tr>
<td>Syracuse</td>
<td>at</td>
<td>Indiana +15</td>
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<td>Iowa</td>
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<td>Minnesota</td>
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<tr>
<td>Kansas State</td>
<td>at</td>
<td>Colorado</td>
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</tbody>
</table>

| Wake Forest | at | Maryland |
| Navy +50 | at | Michigan (50!!) |
| Michigan State +20 | at | Notre Dame |
| Missouri | at | Army |
| Nebraska | at | Utah State +30 |
| Wisconsin | at | Northwestern (upset) |
| Oregon +30 | at | Texas |
| Pitt | at | West Virginia |
| USC | at | Oklahoma (upset) |

TIE BREAKER: SCORE
Detroit Lions _______
You tell Us _______
LIMPY

MORE...

On Thursday, October 7, at 4:00 P.M.
there will be a discussion about the
Detroit Edison's Monroe power plant,
which is the largest cool-powered
power plant in the world. Mike
Fortune, an undergrad who has done
extensive research on the plant, will
attend the discussion.

On Friday, October 8, at 3:30 P.M.
the discussion topic will be, "How to
Use the Fairness Doctrine if You're
a Friend of the Earth." Harvey
Schulman, a 3d year law student,
will discuss various aspects of the
recent Friends of the Earth vs. FCC
case and other good legal-environmental
stuff. Harvey helped write the FOE
brief during his recent stay in Wash­
ington.

Unless there is an overflow crowd
the discussions will be held in the
"new" ELS office in the basement of
the library.

Consumers for ENACT will be discus­
sing "Environmental Law" with two
area lawyers on Tuesday night, October
5, at 8:45 P.M. at Mrs. Vanderbrook's
house, 309 Mark Hannah.