

University of Michigan Law School
University of Michigan Law School Scholarship Repository

Res Gestae

Law School History and Publications

1983

Vol. 31, No. 11, January 26, 1983

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

University of Michigan Law School, "Vol. 31, No. 11, January 26, 1983" (1983). *Res Gestae*. Paper 420.
http://repository.law.umich.edu/res_gestae/420

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.

The Res Gestae



Take Off Your Coat, America! Prof. Aleinikoff readies for the nitty-gritty. In a surprise move, Aleinikoff divided his 14th Amendment course into two sections, slicing in half the unwieldy class size. Photo by Earle Giovaniello

Teaching Seminars Fight Student Apathy

By Jeff Eisenberg

Members of the law school faculty will get a chance to teach each other this semester, as Dean Terrance Sandalow recently announced plans for a series of faculty teaching seminars. The program, announced by Sandalow at the last fall term faculty meeting held in December, calls for four to six sessions covering teaching methodology and discussion of ways to improve student class performance.

According to Sandalow, the idea to hold the seminar was prompted in part by complaints from several members of the Visitors Committee that some faculty members were being "too soft" on students in class. These alumni, who visited the campus in November and attended a number of classes, "were shocked that students were passing so frequently. They thought the faculty weren't pressing the students hard enough," said Sandalow.

While Sandalow agreed that a number of professors at the law school are dissatisfied with the current level of student classroom performance and preparation, he stressed that the primary purpose of the seminars would be to allow for discussion and informal

instruction of teaching methods and problems related to the classroom. He predicted that no changes in student academic requirements would occur "as a direct and immediate result of the meetings." However, he added that, in his view, it was "inevitable that discussion will include the subject of the level and goals of student class participation."

"Teaching techniques and the motivation of students are discussed among the faculty much more frequently than most students realize," noted Sandalow. "I'm not saying that such topics are foremost on the minds of all faculty members, but a lot of informal discussion occurs and is acted on by many faculty members."

The teaching seminars, which are the first in the law school in at least five years, will feature videotapes of a number of professors at work in the classroom. The faculty members who are taped will discuss their teaching techniques and this presentation will be used as a springboard for discussion by the faculty as a whole. Sandalow described the meetings as "informal and voluntary."

See SEMINARS, page two

2L Seeks Mayoralty



Law Student Tom Blessing is running for Mayor of Ann Arbor.

Second year Michigan law student Tom Blessing is one of two Democratic candidates vying for their party's nomination for mayor of Ann Arbor in the February 21 city primary election. Blessing, 32, is most widely known in the city for his four years of service as the elected Washtenaw County Drain Commissioner. He is being challenged by three-term City Councilwoman Leslie Morris.

Following last week's televised debate between the candidates, nonpartisan R.G. editors Margaret Thompson and Dean Rietberg spoke with Blessing about his campaign.

Q: What motivated you to run for the office of mayor?

A: Many of the same reasons that motivated me to attend law school. I am very concerned about issues in the community—how to resolve the problems, how to approach the different concerns that citizens have, and I'm particularly concerned about problems of cities.

Q: Does being a law student make you more qualified to be a mayor?

A: Well, it doesn't necessarily make me more qualified, although it adds an additional dimension to my background. Understanding the legal process and the different issues and how they've been resolved is helpful in public decision-making.

See BLESSING, page three

Sandalow Stays as Dean

by Greg Hopp

Having ironed out whatever differences may have existed between him and University administration, Terrance Sandalow has agreed to remain as Dean of the Law School for another five-year term. Confirming that he will remain as Dean, Sandalow reiterated that the Law School faces budgetary and faculty hiring decisions crucial to its future as a first-rate institution. He also expressed support for innovation in

the law school curriculum.

Ostensibly, student comments were taken into consideration in deciding whether to keep Sandalow as Dean. However, the paucity of student responses to a not-too-well-publicized administration request for comments all but vitiated whatever role such comments may have had. Faculty commentary no doubt carries substantial weight, as Sandalow acknowledged at the December 17th faculty meeting in thanking the faculty for their favorable comments. Still, as the Dean's other statements make clear, the decision on his retention was essen-

ELS Beats Edison, Moves On

By Dean E. Rietberg

The Environmental Law Society (ELS) enjoyed a victory last semester in its battle to bring the Detroit Edison Monroe power plant into compliance with state air pollution regulations.

The plant is currently operating under a variance, in effect until 1985, that allows it to burn coal which exceeds Michigan's 1% sulfur content regulation. Detroit Edison applied for an extension of this variance until 1990.

At its September meeting, the Michigan Air Pollution Control Commission (APCC) indicated its willingness to grant the Detroit Edison application.

However, at a heavily attended public hearing before the APCC in late November, ELS joined forces with a number of citizens and several state environmental groups to oppose the extension. The groups' comments to the Commission highlighted the injuries to

health, property, and the environment that would result from such an extension. ELS, represented by Carol Danzereau, Andre Daugavietis, and Lois Kallunki, presented oral and written testimony arguing that the APCC was required by law to apply certain criteria in its decision and that application of those criteria clearly mandated rejection of the extension request.

In a surprise move, the APCC reversed its earlier position in support of Detroit Edison and voted to deny the request.

Detroit Edison has since sued the APCC, claiming that its reversal violated the Michigan Administrative Procedures Act and the APCC's own rules. ELS is prepared to supply an amicus brief in that case if such action proves necessary.

The Detroit Edison fight was only one of several projects discussed at the

January 19 general meeting of ELS.

A second project group reported that it is investigating the possibility of creating a futures market in recycled paper in order to stabilize supply and demand for the product. The suggestion that a stable commodities market might increase the use of recycled paper within the state was originally made by representatives of the paper industry appearing before the Michigan Resource Recovery Commission, chaired by second year law student Tom Blessing.

Another project group reported that it is awaiting the Michigan Supreme Court's decision whether to grant leave to appeal in a case testing the application of the Michigan Hazardous Waste Siting Act. If appeal is granted, ELS is prepared to file an amicus brief addressing the issue of the Act's pre-emption of local ordinances.

Interpretive Report

tially that of the University administration.

While he has never denied an interest in remaining as Dean, in both an interview with the Res Gestae in November and the comments he made at the aforementioned faculty meeting, Sandalow referred to the need to reach "an understanding" with University Vice-President Frye on a few matters before continuing as Dean. Sandalow still refused to comment on the substance of his concerns, confirming only that he and Frye had reached agreement.

While reticent to comment upon the substantive terms of the agreement to keep him as Dean, Sandalow spoke easily and thoughtfully about the problems that would face him in the next five years. Paramount are faculty

See SANDALOW, page two

News

Busy Senate Endorses New Review Policy

By Brad Heinz

A draft letter advocating major changes in the Law Review selection process was approved by the Law School Student Senate (LSSS) and will be submitted to Law Review Managing Editor John Frank. The LSSS on Monday also heard reports from the speakers and placement committees and the results of a recent student survey.

The LSSS letter urges the Review to replace its current selection process based on grades with a system based on a writing competition. It specifically proposes that all students have the opportunity to develop a topic and write a note for credit during their second year; a third year staff would consist of those students who completed publishable notes.

The letter also expresses an independent Senate policy favoring guaranteed opportunities for minority student participation on the Review. It recommends any institutional change, includ-

ing a quota system, which would assure minority involvement.

The LSSS letter is a response to an announcement by the Law Review that it would accept written comments on its staff selection criteria. The Law Review is expected to adopt a position on the issue in February.

The Placement Committee reported on a meeting with Dean Sandalow concerning the placement office budget, public interest employment, flybacks and the possibility of charging employers a fee to use the placement facilities.

The LSSS expressed interest in a suggestion by Sandalow that a student organization might solicit voluntary contributions from private law firms interviewing here to finance placement office visits by public interest firms. This issue will be raised again at the Senate's March 14 meeting.

Sandalow does not anticipate any changes in placement procedures at present. There are no current plans to

charge employers for using placement facilities, and this policy will not likely be reconsidered, at least until several more schools adopt the practice first. LSSS Vice-president Rob Portman commented that such administrative fees would probably detract from students' efforts to obtain voluntary contributions for use in attracting public interest firms.

The Speakers Committee reported work on a number of projects. It is arranging talks by Julian Bond, Dean Robb and Democratic Presidential aspirants, and a faculty debate on the Exclusionary Rule. It will also co-sponsor talks by Mary Morgan and

Harry Edwards and a forum on censorship and pornography which will incorporate film examples.

The LSSS released survey results showing the student body divided over law school policy regarding faculty meetings. Most respondents were opposed to a lawsuit based on the Open Meetings Act, but the Senate has previously announced that survey results will not dictate its policy decisions in this area.

The LSSS formed an ad hoc committee to study the open meetings issue and hold discussions with faculty. The committee was not empowered to take any further action.

Sandalow Spots Issues

from page one

recruitment and budgetary matters. As the article about the Law School in *The New York Times* this summer graphically demonstrated, a Dean is often measured by the faculty members recruited during his tenure.

It is here that Sandalow has the opportunity to leave quite a mark on the Law School. As he pointed out, the faculty has sustained seven retirements in the past three years. "These are significant losses," he said. "The most important decisions a school makes are who its faculty shall be. I suspect I'll put in a fair amount of time on faculty recruitment, in deciding who to recruit." Faculty recruitment is quite obviously an ongoing process. But Sandalow indicated that a step-up was due in such activity, commensurate with the replacement needs of the faculty.

eyes are the Law School's continuing budget problems. He allowed that such matters are more time-consuming than most people can appreciate. "It's not just a question of raising funds," the Dean said, "but of budgetary uncertainties. There's a great planning drain on one's time and energies." In this area, the problems of the University as a public institution are directly applicable to the law School in the specific.

Finally, while offering no simple solutions, Sandalow echoed a concern

common to all the major law schools: "Something must be done about the impact of the placement office and its services upon the educational process."

Beyond dealing with the problems of the Law School, Sandalow expressed an interest in trying new ideas, at least in terms of curricular experimentation. "By experimentation, I mean literally that," he said. "My own interest is with the first year class. I would like to see one section with a different program. Of course, it is hard to coordinate a wholly new program with the faculty." Discussions on the matter were already underway, he indicated, at least on an informal basis between members of the faculty.

As his brief recitation of the problems of the Law School demonstrates, Sandalow is as keenly aware of the import of such issues for the future of the school as he is of the present demands such issues present. The next five years will present a great opportunity for the Dean to leave a lasting impression on the law school.

Whatever his stated views about the role of a Dean in this institution, Sandalow is clearly comfortable with a role at the fore of faculty reports to combat the problems facing the Law School. He has the clear support of University administration and the apparent support of the Law School faculty. And now he has another five years in which to fight those problems he noted, in the fashion he would most desire.

Teaching Seminars

from page one

While several students have recently gone on record to suggest that the law school bring in instructors from the school of education to discuss ways of improving teaching skills, Sandalow said that there are no plans "to bring any outside people in," adding, "Most of the professors I've talked to feel that the school of education doesn't have much to offer us."

Sandalow's own views seemed to echo this thinking. "Legal education is a unique thing—it's much different than most other academic disciplines," he observed. "I think that our fellow law professors are much more attuned to the special problems involved than are professors from other areas."

Sandalow noted that professors at Michigan Law School, as in other law

schools, are left to their own devices to develop individual teaching styles and to design their own curricula. New professors are given no organized schooling in these areas before stepping into the classroom for the first time. He stated that the faculty does take several steps to aid new professors once they begin teaching here. "Classes of junior members of the faculty are visited by more experienced faculty with a view not to evaluation of the junior faculty in terms of a report, but just to have an informal talk about his techniques in the classroom and class objectives," he said.

The Dean also stated that a professor's classes are also visited for evaluative purposes when the professor is considered for tenure. He added that teaching ability it taken into account in tenure decisions.

Notices

PROFESSORS AND STUDENTS in the Joint Law/Public Policy Program will discuss the program and answer questions for interested law students on Wednesday, January 26 at 7:30 P.M. in Room 236. Participants in the program earn both the J.D. and Master of Public Policy degrees in 3½-4 years. The joint program aims to provide students with a broad range of skills for policy and administrative positions which involve substantial contact with those in the public sector. The Institute of Public Policy Studies curriculum includes analytic and quantitative courses in subjects such as economics, statistics, and econometrics, courses in political and organizational theory, and a range of seminars in substantive policy areas.

1ST YEAR STUDENTS—On-campus interviewing begins February 3, please stop by the Placement Office for more information.

2ND AND 3RD YEAR STUDENTS—If you have taken a position, or if you are still looking, please stop by the Placement Office and let us know.

BETTER LIGHTING? The Rape/Assault Prevention Committee of the WLSA in connection with its safety/transportation survey has received many complaints about lighting in and near the Law Quad. If you have specific suggestions, please leave them in the box near the Paraplex folders or in the envelope provided on the WLSA office door.

JUDICIAL CLERKSHIP MEETING—A meeting will be held on Friday, January 28 at 2:30 p.m. in Room 218 for 2nd year students interested in judicial clerkships after graduation. There is a handout on judicial clerkships available in the Placement Office. Please stop by and pick it up before the meeting.

THE LAW LIBRARY announces the publication of *A GUIDE TO LEGAL RESEARCH IN THE UNIVERSITY OF MICHIGAN LAW LIBRARY*, 3d edition. This book describes in detail how to use the various collections and services of the Law Library. Each student in the J.D. program has had a copy placed in his or her mail folder outside the student lounge in Hutchins Hall.

BASKETBALL TOURNEY. The Student Senate is sponsoring a Men's and Coed Division basketball tournament. All games will be held in the I.M. Building. The Men's Division schedule is: Opening Rounds—Saturday, January 29, from 8:00 p.m. to 9:30 p.m.; Semi-final and final contests Saturday, February 5, from 6:00 p.m. to 9:30 p.m.

Registration: Where? Outside Room 100; When? Wednesday, January 25, from 10:00 a.m. to 1:00 p.m. Registration Fee? Yep, \$10.00/team. Prizes—rumored to be the drinkable sort—awarded to the top two teams in each division.

KISS OFF INFLATION

PICK UP YOUR **FREE** DISCOUNT

CARD AT

Copyquick

1217 SOUTH UNIVERSITY

769-0560

CONVENIENTLY LOCATED ACROSS FROM THE CAMPUS THEATER

GET 10% off copying

- * notes
- * briefs
- * resumes
- * reports
- * anything

The Res Gestae

Blessing Discusses Mayoral Race

from page one

Q: How many courses are you taking and how much time do you spend on your law school studies?

A: That's almost a trade secret, I suppose, on how much time is actually spent! I'm taking eight credits (three courses) this term, which is half my previous load.

Q: Your primary opponent has promised full-time devotion to what is generally considered to be a part-time position. How will you be able to continue your law school studies and be mayor as well?

A: The amount of time that I have planned to devote to the mayor's job is in the area of 25-35 hours a week, which may vary depending upon the needs of that particular week. I'm confident that I can handle city problems very well within that amount of time. We have a "strong" city manager form of government, and the mayor's role is appropriately not one of day-to-day administration.

Q: The city primary election is scheduled while the undergraduates at the University are away on spring break—how has this affected your campaign strategy?

A: I wish it was something that would have affected it more, but unfortunately students tend not to vote in primaries, and I don't expect this election will be any different. However, I do have absentee voter applications and would be delighted to help anyone fill one out.

Q: How do you account for this student apathy?

A: The city elections just don't have the national flavor and focus that students tend to respond to. University students do vote in the national and state-wide

elections. They tend to think that the city-wide elections are unimportant to them. I think they're wrong as some of this year's ballot issues demonstrate.

Q: Specifically, how does the mayor's job affect the University and the student population?

A: It's not very well known, but over 50% of the dwelling units or housing in this city is rental property, and a pretty high percentage of that consists of students. Action that the city takes which either increases or decreases the amount of rental housing has a tremendous impact on the pocketbooks, the convenience, and the kind of living accommodations that students have.

Q: The local press has characterized your opponent as someone who sees the mayor's role as the leader of a kind of perpetual town meeting, while you have been characterized as someone who would function more like a corporate executive—a much stronger leader. Are you comfortable with that characterization?

A: I'm not sure I'd describe myself as a corporate leader, but I would see my role as a much more active role—helping the Council and community identify goals and then actively seeking ways to achieve them.

Q: Your opponent is trying to raise a feminist issue in this campaign. Is there one?

A: Well, it certainly has been explicitly mentioned by my opponent as a significant consideration. As far as I'm concerned, it's not something that I'm going to focus on. If people find that to be the primary criterion that they will select on, there's little I can do about it. My approach to the campaign has been to stress my qualifications—the twelve

years of governmental experience that I've had—and to simply point out to people that we're different—we are different candidates and we are different people. The decision facing the voters is which of these two different people will make the best mayor.

Q: One of your campaign endorsements came from a former Ann Arbor mayor who is now a member of the law school faculty. Do you have any ultimate plans to become a law professor?

A: (laughter) I'm not sure I'd wish that on my friends... or even my enemies!

Q: The present Republican-dominated City Council has decided to place before the voters the issue of repealing the City Charter ordinance which pre-empted state criminal penalties for use and possession of marijuana by substituting its own system of fines and reduced penalties. How do you feel about this ballot proposal?

A: I oppose the repeal of the ordinance for a couple of reasons. First, this city is not willing to pay for equal enforcement for all people caught with small amounts of marijuana under the state law. Local judges estimate that it would cost at least \$200 in court processing fees to handle each case. Secondly, because the community would be unwilling to pay for full enforcement, we would necessarily be faced with unequal enforcement. I am just unwilling to see that judgment made on an ad hoc basis by a police officer out on the street.

Q: Mayor Lou Belcher has deemed expansion of the Ann Arbor airport to accommodate corporate jets an absolute necessity. How do you feel about this issue?

A: Well, he's talking through his hat!

First, it is not a necessity. We've got an airport that is fully equipped and fully capable of handling all sized aircraft in Willow Run which is probably ten, at most fifteen minutes away. Secondly, expansion of the airport will increase maintenance costs at the airport, and I have yet to hear any response as to how those increased costs are going to be paid for.

I can tell you one thing, it sure shouldn't be coming from the city's general tax base! Thirdly, proponents have yet to address the problems associated with having a landfill as close as we have to an airport handling jets. It must be three years ago now, that a DC-10 at Metro Airport had two of its three jets disabled on take-off as a result of birds hitting the turbine fans, and it was only through the great skill of the pilot that they were able to land without incident. It's not an unreal hazard, by any means!

Q: Recent cutbacks in federal spending for social services have placed a greater burden on state and local governments to assist the poor and needy. As mayor, how would you propose this problem be dealt with?

A: Well, the present mayor has failed to lead the Council in identifying what the city's burden really is and in developing some kind of program to meet the social needs in this community. There are \$1.5 to \$2.5 million in unmet human needs, yet the entire response has been a \$5000 appropriation for supplementing some private local hunger programs. The city should be developing a program which will coordinate the services that are available, meet emergencies as they arise, and identify needs on a longer term basis.



First Bar Meeting of '83

Photos by Earle Giovaniello



The Res Gestae

Editor
Ted Lee
Managing Editor
Ruth Milkman

News: Greg Hopp
Opinion: Dean Rietberg
Features: Dan Bronson
Arts: John Ramsay
Sports: Ray Berens, Dave Blanke
Law in the Raw: Mike Walsh
Copy: Margaret Thompson
Business: Peter Radin
Graphics: Dave Rubenstein
Photography: Earl Giovaniello
Staff: Dave Tryon, Alan Maclin

The Res Gestae is published every Wednesday during the regular school year by students at The University of Michigan Law School. Opinions expressed in by-lined articles are solely those of their authors. Articles may be reprinted without permission, provided the author and this newspaper are both credited. Mailing address: The University of Michigan Law School, Ann Arbor, MI 48109.

Hip Hooray

Two cheers for the law school faculty. Recently, the faculty has taken steps to show that it really is concerned with the classroom experience at Michigan. We hail their efforts.

How many times have students complained that one reason for poor class participation and attendance is the failure of the faculty to provide a stimulating environment? The first cheer goes to faculty for beginning to develop a framework for seminars aimed at teaching teachers to teach. (See story on page 1). Dean Sandalow suggests that the seminar participants will discuss teaching styles, theories, and perhaps even engage in video-taping professors. If video-taped, some professors are surely in for the shock of their lives.

The second cheer goes to Professor T. Alexander Aleinikoff. During the first week of classes, Aleinikoff divided his Fourteenth Amendment course into two sections. This cut in half the 100-plus student population enrolled in the course. The result should be to slice through the feeling of students that each is nothing more than a ladle of water in the sea of unnoticeable law students. (But even this move created waves—one section is now taught on Friday afternoons.)

These actions demand reciprocity. Perhaps the third cheer could go to the students. Is there nothing positive we could add to turn the failure that is the present classroom experience into something positive and, dare we suggest, even enjoyable? Could the LSSS develop its own committee of students to make recommendations for fruitful change? Students, too, would surely be shocked to see ourselves on video-tape responding "I pass," or "I haven't read the material for today."

Whatever the result, it is very rare that the R.G. uses this space to applaud the faculty. Nice goin', teach!

Reviews

Author's American Journey Updates Tocqueville Epic

By Jim Loots

American Journey, by Richard Reeves. 1982, 369 pp. (Simon and Schuster, \$15.95).

If there is one writer credited more than any other with prescient knowledge of the American culture, it is Alexis de Tocqueville. His compilation of observations, culled from an 1831 journey across the emerging nation, "Democracy in America," is indeed filled with random views and insightful comments on the developing political infrastructure—which was at that time so unique and challenging.

The novelty may have worn a bit, but the challenge of survival for the grand American experiment in democracy is no less real 150 years after the Frenchman's inquiry. We are amused and amazed by aspects of Tocqueville's journal, especially when comparing his accurate forecast of an emerging legal elite. At this year's first-year law school orientation, Tocqueville's words were invoked no less than four times, leading one to suspect this introductory law school experience more founded in Alexis terminals than substantive law.

Yet if Tocqueville's historical significance lends credence to his methodology, perhaps it is all the more necessary to repeat the process in order to validate his results. Such an effort is made with remarkable success by Richard Reeves, whose 1981 re-tracing of Tocqueville's journey was recently published.

Reeves enjoys the guidance of an absentee master, to be sure, inasmuch as Tocqueville was himself a credible sociologist (to the extent anyone in 1831 could be considered such), and brought to his work the inquisitive edge of a journalist's quill. But the advantage Reeves gains by his status as a native American, coupled with a mastery of the idiomatic English lexicon, perfects the book in its role as a contemporary survey of America.

American Journey is not like the post-60's social cause-and-effect study of Charles Reich's "Greening of America," nor does it attempt the epic importance of William Manchester's narrative history "The Glory and the Dream."

Reeves does, however, successfully combine Manchester's compendium of contemporary sources (newspapers, advertisements, the Congressional Record and trips to the 7-11 store) with an evocative interviewing ability reminiscent of Studs Terkel.

The resultant rendering of the American landscape is both disturbing and compelling. Reeves finds in the South a racism more subtle than, but equally as powerful as that found festering in the days before the Civil War; his interviews with legal scholars and judicial tyrants point up the failings as well as powers found in our legal system, revealing both the noble path and the oft-errant truth of the law.

Reeves discovers the industrial age come and gone in Detroit, the narcissism of the East tem-

Ex Libris

pered by a reality of decay and a promise of future renaissance—all told through the eyes of America's leaders and her commoners. The author has made an attempt to mirror the sources of Tocqueville's original effort; he speaks to Presidents, corporation leaders, religious men and women, social workers, newspaper publishers, Supreme Court justices, *ad almost infinitum*. With each new facet of the American gem comes as well a new prism, through which the society may be dissected and explored.

American Journey is a scholarly book, both documented and assembled from a respectable list of secondary academic authority. But its true forte is in its enthralling portrait of a nation which is so very different from that found by Alexis de Tocqueville yet at the same time so very much the same.

Excerpt:

"The modern governing of America was based on fairness and appeals to fairness—'enforced fairness'—and the enforcer had to be the government itself, government at the highest levels, the levels which deal with fundamental questions. No American question could be more fundamental than equality of opportunity. The national government, the enforcer of fairness, guaranteed equality, and education, in the American mind, guaranteed opportunity. The match was made—the government would police the 'gateway.' Then came the question of proof, of finding some way to prove that there was equality of opportunity, that things were fair. The answer was obvious, even if a bit foolish: the results had to prove equality. In a truly egalitarian society, everyone should make the Harvard Law Review."

Letters Policy

The Res Gestae welcomes comment from our readers. To be printed, letters must be signed, although requests for anonymity will be considered. We reserve the right to edit for length and clarity. Submissions should be typed and double-spaced, and may be dropped off in the Drop Box on the door of the R.G. office at Room 408 Hutchins Hall. The deadline for each Wednesday's issue is the preceding Sunday at 6 p.m.

Deprogramming— a Diffi-cult Issue

by Judah Garber

Imagine John Doe, a young college graduate, who in one week loses his job, his girlfriend, and his self-confidence. He begins drinking heavily. A concerned friend urges him to join his "group," and solve all his worldly problems. In desperation, John joins the group, parting with his last hundred dollars as part of the initiation rite. John is forced to share tiny living quarters, meals, and all spare moments with other "group" members. Time once spent on family, friends, and newspapers is now taken up by endless hours in group indoctrination sessions and solitary contemplation of obscure doctrine. Is John Doe a ripe candidate for deprogramming, or is he just another law student?

The Jewish Law Students' Union

sponsored a panel discussion last Thursday night at the Law School on "Cults and Deprogramming." Visiting professor Yudof acted as moderator for panel members Daniel Schnee, a "Moonie," turned deprogrammer, turned law student; Don Baker, a third year law student and active member of The Way International, an organization characterized by U.S. News and World Report as one of the largest cults in America; Kit Pierson, a 3-L and author of an article on legal aspects of cult deprogramming; and Amie Alperson, a recent defector from the ranks of the Unification Church, i.e., a former "Moonie."

The discussion centered around such issues as how to distinguish cults from

other religious groups, and the ethical and legal problems involved in "deprogramming" cult members.

Kit Pierson claimed that any effort to statutorily define a cult would inevitably face the danger of overinclusiveness. Professor Yudof alluded to these definitional difficulties when he quipped, "Christianity is a Jewish cult that has gotten out of hand." Don Baker described "cult" as a loaded term, often used indiscriminately to refer to many different groups with widely divergent methods of operation. Daniel Schnee argued that the problems inherent in line drawing should not obscure the very real differences between groups employing highly insidious and coercive recruitment methods and other, more benign organizations.

Amie Alperson expressed the opinion that no matter how one defines a cult, legal regulation designed to alter a cult's behavior would be like trying to "change the behavior of a used car salesman—it can't be done." Mr. Baker advocated the use of statutes to regulate illegal cult activities. He deplored the use of self-help remedies by emotionally involved parents which often violate the First Amendment rights of their children. Mr. Pierson pointed out that current legal remedies for acts by cults or deprogrammers are inadequate in that the initiator of the action was likely to lose, it seems undesirable to subject parents to the full brunt of kidnapping statutes, and it is dangerous to subject the rights of a religious minority to judgment by a jury composed of members of a religious majority.

When asked whether the techniques he had employed as a deprogrammer to re-establish a cultists' ties with the larger community weren't also a form of brainwashing, Mr. Schnee admitted that he did use the same sort of tactics as those used by the cultists, but he did not then "send them out on the street to collect money."



JOSEPHSON

JOSEPHSON BAR REVIEW CENTER OF AMERICA

Josephson offers bar review courses for the following states: For further information on your state's bar requirements, simply write or call the offices of the state bar or bar examiner listed here.

BRC NATIONAL OFFICE: 800-421-4577 For all states not listed below.

BRC EASTERN OFFICE: (collect) 212-344-6180

For MA, NJ, NY, PA

Massachusetts Board of Bar Examiners
77 Franklin St.
Boston, MA 02110
New Jersey Board of Bar Examiners
CN 973
Trenton, NJ 08625
New York Board of Law Examiners
90 State Street
Albany, NY 12207
Pennsylvania Board of Law Examiners
Public Ledger Building
Independence Square
Philadelphia, PA 19106

BRC SOUTHERN OFFICE: (collect) 813-441-4133

For Alabama, Florida

Alabama State Bar, P.O. Box 671, Montgomery, ALAB 36101
Florida Bar Admissions Center
1300 East Park Avenue
Tallahassee, FL 32301

BRC WESTERN OFFICE: (collect) 415-776-3202

For Alaska, California, Hawaii, Nevada

Alaska Bar Association, P.O. Box 279, Anchorage, Alaska 99510
California Comm. of Bar Examiners
555 Franklin St., P.O. Box 7908, San Francisco, CA 94120
Supreme Court of Hawaii, P.O. Box 2560, Honolulu, HA 96804-2560
State Bar of Nevada, 834 Willow St., Reno, NV 89502

BRC MIDWESTERN OFFICES: (collect) MI 313-559-7606, MN 612-644-6070
For IN, MI, MN, OK

Indiana Board of Law Examiners, 402 State House, Indianapolis, IN 46204
Michigan Board of Law Examiners, P.O. Box 30052, Lansing, MI 48909
Minnesota Board of Bar Examiners
200A Minnesota State Bank Building
200 S. Robert St.
St. Paul, MN 55107
Oklahoma Board of Bar Examiners
Charlotte Nelson, Administrative Director
P.O. Box 53056
1901 N. Lincoln Blvd.
Oklahoma City, OK 73152

BRC is looking for Campus Representatives. In exchange for selling course materials you will receive a free Bar Exam review course.

Most course materials will be sent 7-8 weeks before the exam. Courses generally start 6 weeks before the exam.

For further information on the Josephson Review Course, mail the coupon below to:

Name _____ phone No. _____

Address _____ Date of Graduation _____

Exam Date and State of Interest _____

I am interested in becoming a BRC Campus Rep _____

Ethan Powsner
309 Packard No. 1
Ann Arbor, Mich. 48104
761-6541

or
Susan Dunnings
1245 Island Drive
Ann Arbor, Mich.

Arts

“The Verdict” is in: The Movie is Out

By Ruth Milkman

Watching Paul Newman play pinball is the best part of *The Verdict*. Newman plays an alcoholic ambulance-chaser who gets one last chance to redeem himself.

The high point of the movie is Newman's final speech to the jury, a powerful appeal to truth, justice and the wisdom of trial by jury. Unfortunately, while the speech is an inspiring and reassuring message about the state of the law in America, the rest of the movie doesn't measure up.

Although the acting is generally good, the plot is thin, and there is not enough support for the final scene. Here's the plot: Newman has one case, dredged up by Jack Warden, his longtime lawyer buddy. It's a case of medical malpractice—a well-respected Catholic hospital (and, remember, this is Boston) and a famous doctor have given the wrong anesthetic to a pregnant woman, leaving her comatose.

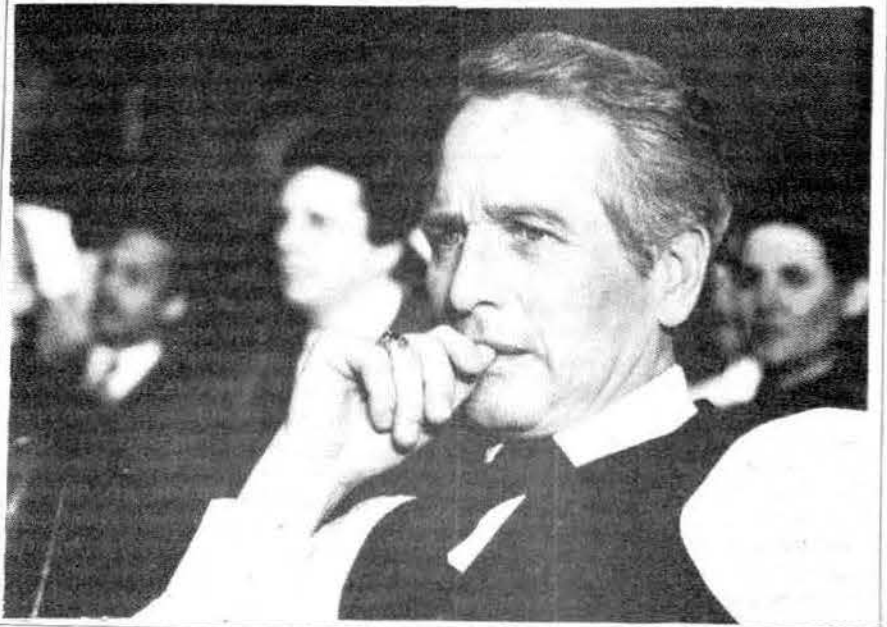
Once he sees his client, Newman refuses to settle out of court, and takes on the bad guys—the Archdiocese plus the corporate law firm defending it. James Mason is terrifically evil as the senior partner directing his team of 14 young and eager associates.

Fortunately Newman has Jack Warden on his side, and Warden is the good old-fashioned Boston lawyer, working his ass off to help Newman save his. Unfortunately, the judge (Milo O'Shea) is extremely Boston too—that is, old-style Boston—Irish corrupt. The Boston bit would have been more effective if the characters hadn't kept losing their accents.

The accents were symptomatic of the credibility problem in *The Verdict*. Normally I am utterly absorbed in a movie. For those two hours I believe absolutely that all these people and their problems are real. It was hard to do that in *The Verdict*; there were too many jarring inconsistencies, bad lines, and meager characterizations.

It was difficult to remember that Paul Newman was supposed to be Frank Galvin and not Paul Newman. Of course the subject matter of the movie may have triggered my law-school type critical training (was that a 12(b)(6) motion I just saw?)

People who are sensitive to attacks on the legal profession may not like *The Verdict* much either. Everyone is



morality has already forced him to leave his firm and his wife. In fact, the medical profession is treated almost as harshly—a respected doctor fails to look at a patient's chart, and institutes a four year cover-up.

On the other hand, it might be useful to know how the public thinks of lawyers. And it might make you feel better to know that grown-up lawyers play pinball too.

Workshops

Students interested in weekly classes to develop artistic skills can contact either the Student Wood and Crafts Shop (woodworking) at 763-4025 or the University Artists and Craftsmen Guild at 763-4430. The Guild features classes in everything from calligraphy and graphic design to something entitled “Drawing on Right Side of the Brain.” Be careful.

Campus Events

Jan. 26. Professional Theatre Program production of “Old Times” by Harold Pinter; 8 p.m. in Trueblood Arena of Frieze Bldg.; for tickets (\$10.00), call 763-1085.

Jan. 27. Pianist Santiago Rodriguez, prize-holder in ten national competitions, performs in Rackham Aud. at 8:30 p.m.; tickets from \$4 to \$8 for students; call 665-3717. Eclipse jazz jam session at 9 p.m. in the Union; free admission.

Jan. 28. Big Band Extravaganza featuring Buddy Rich at 8, 10:30 p.m. in Hill Aud.; tickets at \$6.50, \$7.50, \$8.50; for info., call 763-5610.

Jan. 29-30. Marcel Marceau Concert in the Power Center at 8 p.m. both days; tickets from \$11.00-16.00; for info., call 665-3717.

ERIC'S
Action SportsWear

FACTORY CLOSEOUTS

Swimwear,
Footwear,
Bodywear

663-6771

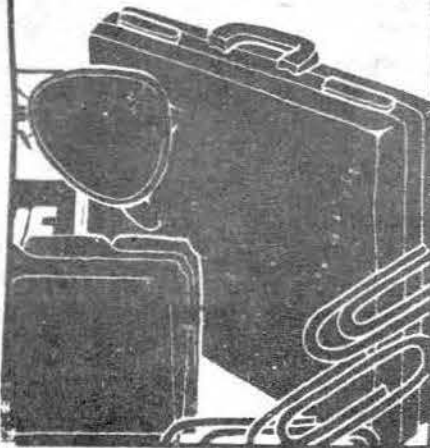
406 E. Liberty

2 blocks off State St

Ulrich's has...

pens... briefcases... sunglasses... folders...
pencils... art supplies... jogging suits... pos...
books... prints... calendars... paperclips...
clocks... drafting supplies... watches... calc...
typewriters... cards... globes... computers...
pens... paints... filing cabinets... markers...

and more



Bell's Pizza

two 12 oz. Cokes with any pizza

or
\$2 off any large 2 item pizza
must refer to RG. special when ordering

716 Packard at State 995-0232
Free delivery after 11:00 a.m.
NOW DELIVERING RICH MILKSHAKES

gold bond CLEANERS

• down garments • leather cleaning •
• waterproofing • free minor repairs •

332 maynard
at the tower plaza 668-6335

REGENCY TRAVEL INC.

STUDENTS FACULTY STAFF

Individuals or Groups / Domestic or International

MAJOR CREDIT CARDS HONORED

“we can arrange job interview flight for you”

HOTELS • CAR RENTALS • CRUISES



ANN ARBOR

“Satisfying Your Full Travel Needs with Friendly Personalized Service”

CALL
665-6122

Convenient Location: 601 E. William
(CORNER E. WILLIAM & MAYNARD)

HAPPY HOUR TWO for ONE

1.65 House Brands
Beer & Wine Specials
10:00 PM - 1:00 AM
Sunday thru Thursday

THE CELLAR GETS HAPPY ALL DAY

512 E. William
663-3379



Sports

Wonkas and Soul Roll In Sunday's I.M. Hoops

Berens and Blanke

Several law school basketball teams were in action this past Sunday, but only two managed to keep their records unblemished. Wonkas, a team composed primarily of second-year students, raised their record to 2-0 by outlasting the Mongrels, another team of second year students. Legal Soul also notched their second win against no defeats as they bested Brennan's Babes in a physical contest at the I.M. Building.

The Wonkas started the scoring on a short jumper by Jim Davidson and never relinquished the lead. Powered by the strong inside play of Davidson, Tom Hessburg, and Jim Jacobson, the Wonkas quickly extended their lead to

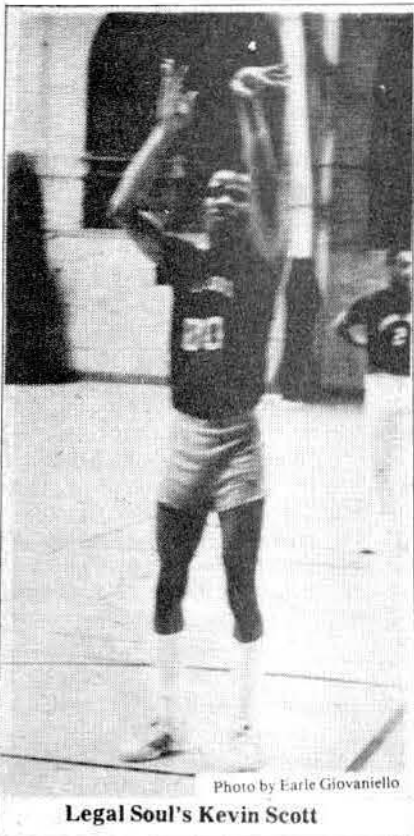


Photo by Earle Giovaniello

Legal Soul's Kevin Scott

10-3 at the 10:00 mark and then to 20-5 with 4:30 remaining. But the Mongrels weren't about to fold. On defense, their 2-3 zone toughened, shutting the Wonkas out for the remainder of the half. And on offense, the Mongrels finally managed to force the ball inside, scoring seven unanswered points to narrow the half-time gap to 20-12.

Early in the second half, it looked as though the Mongrels would make a run at the Wonkas. Organized on offense and tenacious on defense, the Mongrels outplayed the Wonkas for the first five minutes of the second half. But the Wonkas' Bruce Zivian and Jim Jacobson kept the Mongrels at bay by keeping them from getting any second shots. After the Mongrels narrowed the lead to 36-30 with 4:30 remaining, Tim Ryan quarterbacked the Wonkas slow-down offense. The tactic successfully stalled the Mongrels comeback effort, allowing the Wonkas to escape with a 43-36 win. Tom Hessburg led the scoring for the

Mongrels with 10 points and captain Tim Ryan tallied 8 points.

Legal Soul had an even tougher time against Brennan's Babes. Third-year student Kevin Scott opened the scoring for Legal Soul with a driving lay-up. After trading baskets, both teams played sloppily, going four minutes without scoring a point. Then at the 12:30 mark, Legal Soul looked as though they would break the game open. Mike Wilson scored on two fast-break lay-ups, giving him his only four points of the half and Kevin Scott hit an 18 foot jumper from the side to make the score 12-6. But Brennan's Babes came storming back. Playing steady, aggressive ball, they gradually closed the gap against the much quicker Legal Soul team. Bill Brennan blocked 2 shots and grabbed 7 rebounds in the final ten minutes of the first half to power the Babes on defense, while Mike Levitt and Andy Chaikovsky each scored 4 points on long jumpers to give the Babes a narrow 15-13 lead at intermission.

Legal Soul came out of the blocks quickly in the second half. Kevin Scott again opened the scoring with a 20 foot jumper to knot the score at 15-15. Mike Wilson then hit a short jumper in the lane and Derek Mayes scored on a driving lay-up to make the score 19-15. Legal Soul never looked back. It was not until 16:30 in the half that Tony Natsis got Brennan's Babes on track with a short jumper from the side. But again, as in the first half, sloppy play dominated as both teams went four minutes without scoring. Legal Soul's press finally broke the drought, keying 2 straight fast break lay-ups by Wilson and Scott. Then with the lead well in hand, Legal Soul put the game on ice with their slow-down offense, killing the last 10:00. The final score was 38-27. Kevin Scott, perhaps the best offensive basketball player in the law school, led all scoring with 14 points for Legal Soul. Bill Brennan paced Brennan's Babes with 6 points.

In other action, Intentional Harm, a first-year team lost to ABC despite Bill Sailer's 7 points. And Ambulance Chasers, a team of third-years, lost to Standard Deviants 54-24. Scott Tucker and Tony Natsis shared scoring honors for the Chasers with 8 points each.

Penal Action ended its bid for a perfect season, losing to Spasm, a non-law school team, 42-26. As the score reflects, Spasm was a much better team, and Penal Action did well to keep the game from being more of a blowout. Anchor-man for The Action had to be Pat Quick, who led the squad in points (8), boards (near 15), and fouls (at least 5). In defeat coach Barry Wolf said, "Well now the pressure of an undefeated season is gone and things are back to normal. If I can pull down just one more win, my job should be safe for next year." He admitted privately, however, that another win is a pretty tall order for Riz and the boys. Go for it guys.

We asked for it and we got it. So now the R.G. has its own weekly sports column. This may not seem like a big deal to you, but it's enough to make the two of us wet our pants. After all, the only reason we're in law school is that we failed to break into the big leagues as mighty power forwards. At any rate, wet or dry, we promise to bring you some "interesting" sports news every Wednesday.

Our major responsibilities over the semester will be to give coverage to the law school's IM teams, to publicize and in the spring), and to keep the student

help organize law school-sponsored activities (e.g., softball and golf tournaments in tune with the spring's major sports news. Each column will contain the sort of unprofessional, misinformed and shallow analysis that our instructors have come to expect from us. We just hope that the more fun we have writing this stuff, the more fun it will be to read.

If you're wondering why it takes two people to write this drivel, consider that neither of us is stupid enough to expose himself to all the blame.

— Berens and Blanke

'81 Section Fours Womp In Football and Softball

Last semester, as most students worried about flybacks and classes, summer starters from 1981 were busy capturing the two most coveted intramural championships of the Fall semester. Section four members mounted a combined 13-0 record as they rolled to the grad/faculty/staff championships in both football and softball.

The softball team, lead by tri-MUPS John Witri, Chuck Jarrett and Tom Frederick, dominated their competition until the final game. In the final, the "Law Big Dogs" fell behind a hard-hitting dental school team in the early going but rallied to win by one run, behind the hitting of Jarrett and Frederick. Said Frederick, "The team showed the type of character you would expect from a group that has been

through rigorous training with (Professors) Jerry Israel, Alan Smith and Ed Cooper."

This same section four team, with outstanding free agents Peter Levine and Mark Fergusson has now won three softball championships in two years without losing a game.

Section four's football team, "Minimum Contact," displayed an awesome defense and a versatile offense as it compiled a 6-0 record without allowing a single point. The team was led by Tri-MUPS Clay Ottoni, Kurt Yost and Stuart Hershman who showed their superior talents by starring on both offense and defense. Ottoni accounted for three safeties over the course of the season which is believed to be an intramural record.

eclose

BUDDY RICH
and the
BUDDY RICH BAND
Good Seats Available!

in a **BIG BAND SPECTACULAR** with
WASHTENAW COMM. COLLEGE BIG BAND
UNIVERSITY OF MICHIGAN JAZZ BAND

FRIDAY, JANUARY 28

8 P.M. HILL AUDITORIUM

Tickets: \$8.50, \$7.50, \$6.50. Reserved
On sale at the Michigan Union Box Office and all CTC outlets.

For more information call (313) 763-6922

This concert made possible in part by a grant from the National Endowment for the Arts.

Features

Choking on our Word Salad

By A. D. Maclin

New Haven, 1956—Yalee R. H. Helgeson argues that what Law needs is more Logic.

"Nowadays," he writes in a paper not destined to be published, "a detailed study of 'anything' presupposes an awareness of nearly 'everything.'" Lawyers in practice, he says, are masters of mastering new, 'technical' information; they oughtn't be scared off by the symbols that "are becoming the esperanto of modern scientific discourse."

Helgeson had something there. We're frequently less than logical. While we 'know' that an *eggbeater* is more than a little bit different from a *wife beater*, it takes many of us—trained interpreters of words—a moment to say just why. (How long did it just take you?) In fact, not only are we often nonlogical, we're more than occasionally illogical when it comes to playing professional games with words.

Marbury implies Marbury

Now, 'illogical' does not, of course, mean *irrational*. 'Irrational' is believing that society ought to pay your bills for the next half a century simply because what anybody rational would throw out, you file. 'Illogical' is justifying the conclusion the Supreme Court ought forever to have the last word in disputes like this with the assumption the Supreme Court ought forever to have the last word in disputes like this.

q

Lots of our bread-and-butter phrases could do with an encounter with a logician's knife:

(1) some ought to be chopped up into little bits and sold at a discount as an emetic;

(2) others need merely thoughtful explanation.

But enough abstraction: let us unto the all-too-real world.

p

An example may fail to define the class whence it sprang as an analogue

may fail to explain the original idea. Nonetheless, examples of the two classes of bad wording just described may prove instructive to writers of legal fiction.

An example of a class (1) phrase is *promissory estoppel*. The main reason we ought to banish this term from the Kingdom of Legalese is that it is at once hopelessly confused and pesteringly confusing. To understand its confusion,

one might consider the term from the vantage of nonlawyers.

Normal people, it is true, do not often use the word "promissory." This is because common folk have what is known outside Law as "common sense." On those rare occasions when the laity find themselves unable to avoid articulating this abomination, however, they use the word to mean "having the nature of a promise."

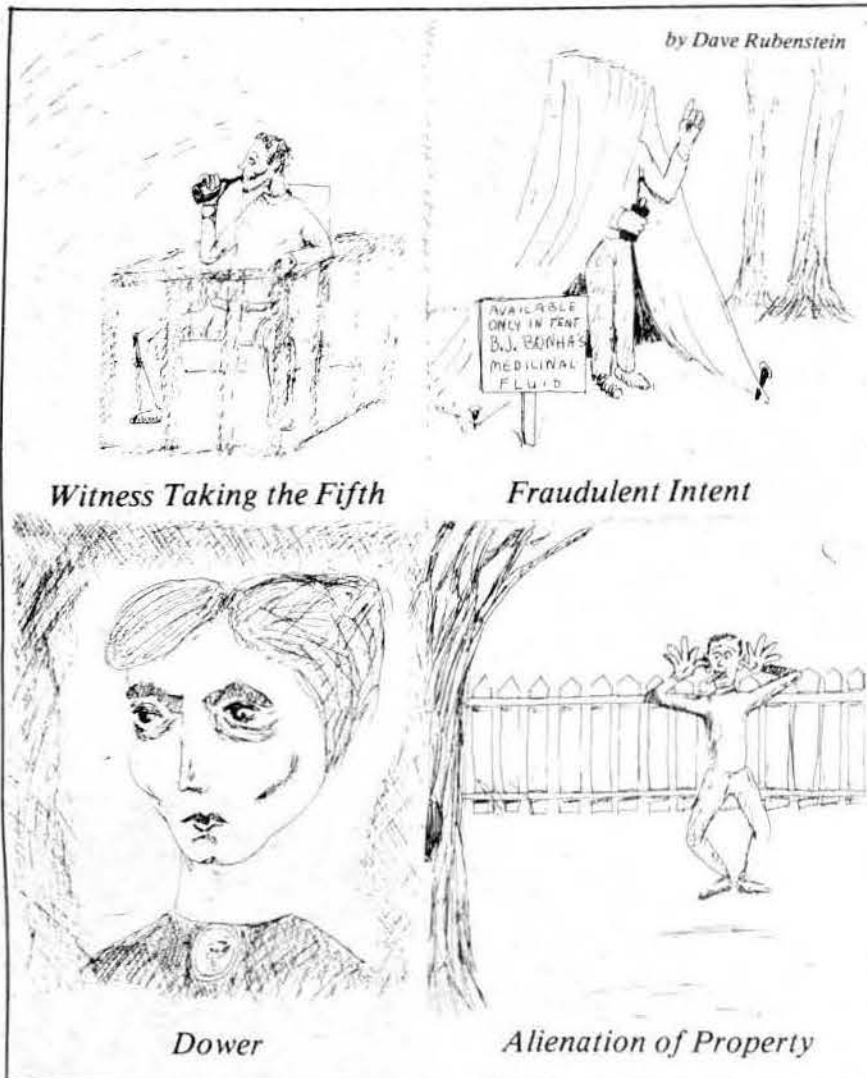
Law, you'll agree, does not mean to suggest that "promissory estoppel" denotes an estoppel "having the nature of a promise." Nor, oddly, does this "promissory" mean even that a 'promise' is to be 'estopped.' What Law means by "promissory estoppel" is that, because of his promise, some would-be weasel will now be estopped from wriggling out from beneath the burden of his obligation. "Promissory," then, says Law, means "caused by a promise." This, of course, is a lie.

Consideration, an example of a class (2) phrase, is easy to explain. Consideration is kind of like thoughtfulness, only it has fewer letters. It's when you do something for somebody else, like maybe a friend or your uncle. On Monday, a friend of mine was nodding off in class. But instead of telling the teacher to stop talking and start saying something, she just let her head rest on her arms and went to sleep. That's consideration. Also she didn't snore.

Legal consideration is, of course, a little different. It's when you are considerate to somebody who is a lawyer or a judge or something. For instance, say you were running overtime in your most important interview; that the next interviewee walked in; and that, looking at your brand-new digital watch, you asked him for two more minutes. If he said, "Sure—and, by the way, that's a great looking watch" instead of, "You know, you're just the sort of injection-molded Philistine I'd expect to find a digital watch on: be missing, clone," that would be legal consideration because you're a law student and he didn't embarrass you.

All you really have to remember is that, on the whole, legal consideration is more important than just normal consideration because lawyers need it more.

The author is a first year summer starter and totally out of control.



Law in the Raw

Compiled by Mike Walsh

Adversary System

An innocent man spent 2 months behind bars because of an 11-year-old girl who told her family she had been raped so as to avoid being punished for wandering away, Miami police said. The man was taken into custody, police said, because a playmate corroborated the girl's story and because a doctor who examined her erroneously said she had been raped. The accused made no attempt to tell his side of the story, he said, "because if you are innocent, you have nothing to talk about."

—New York Times, January 12, 1982

Women: In Montana, Don't Kiss Men

A district judge in Bozeman, Montana has given a two-year suspended sentence to a man convicted of assaulting a woman he thought was a gay man.

Judge Joseph Gary claimed he was lenient with defendant Mark Miller because the assault on the woman was his first offense, because Miller voluntarily enrolled in an alcohol treatment program and because he agreed to pay a portion of his victim's

medical expenses and lost wages. Aggravated assault usually carries a penalty of two years in prison.

After drinking a case of beer, Miller assaulted Stacy Gaffner when he saw her kissing a man. "I thought I saw two gays kissing, so I punched one and it turned out to be Stacy Gaffner," Miller is quoted as saying. Miller hit Gaffner with a beer bottle and then kicked her in the face when she tried to get up.

—Associated Press, January 22, 1983

Spelling Counts

When Arley Thomas, Jr. of Dallas was booked for possession of cocaine, his attorney noticed that the indictment referred to a derivative of cocoa, as in Nestle's, rather than to coca, as in nostrils.

"Our law places a burden on the state to dot all the I's and cross all the T's," the lawyer argued in Thomas' defense. "To do otherwise would deprive a person of his freedom."

It must have been a delivery worthy of Clarence Darrow, because, as the trial judge explained: "I can't send a guy to the pen for possession of chocolate, can I?"

—Playboy Magazine

Penguin, Hog Arrested

New York City's reputation for wild life was enhanced recently as police subdued a penguin locked in the trunk of a stolen car and a 150-pound stray hog that forced its way into a motorist's back seat. The penguin was discovered in upper Manhattan by an employee of a towing service called for an abandoned, stolen car. Meanwhile, in Brooklyn's Bushwick section, a 150-pound hog with a leash sauntered along the sidewalk. Police said a curious driver stopped his car and jumped out for a better look, and the beast squeezed into the back seat.

Both animals resisted arrest.

—Detroit Free Press

Quote of the Week

"Can you imagine an opinion of the Court of Appeals without a single *arguendo*, not even one a *fortiori*? The opinions would be able to be read and understood by the public, and then we are in serious trouble."—Judge Jon Newman of the U.S. Court of Appeals for the Second Circuit.