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Clinic Crisis Spotlights Risks of Advocacy

This is the conclusion of a two-part series detailing the experience of the clinic in 1982 when it faced a felony investigation by the county prosecutor for obstruction of justice while defending an indigent client.

by Steven Pepe

While the factual investigation could not have taken more than half a day, and the legal research a week or two, the prosecutor was still investigating Jeff's case three weeks later when it came up again for trial at the end of May. In the judge's chambers, still no statute or cases could be cited by the assistant prosecutor. I began to become seriously worried that they just might use this case to try to make some new case law. I suggested that if he thought we had erred, a summary criminal contempt motion or bar grievance would test his theories more efficiently than a full blown felony charge. The assistant prosecutor said he was still researching for a meeting with the prosecutor and his two top assistants to decide on the charge. A second three-week adjournment was given.

We were now well into the summer; Blair and Howard, both graduated seniors, were studying for the bar exam, I was trying to get some summer research done and the client was getting anxious to get this case completed. If the prosecutor wouldn't call off the dogs after a month when he did not have a statute or case to support his accusation, he was either trying to intimidate us or he was serious in thinking he could make some new law. We also could not get more than a vague account of what the complaining witness, Tom, had told the prosecutor about his meetings with Blair and Howard. If he lied, it might take a jury to determine what happened at those meetings. If it was intimidation, I was being intimidated. We took no further action on the civil matter, and became more timid in the criminal case. The prosecutor refused to give us the address or phone number of a new witness they claim they found who was not listed in any student or telephone directories. They refused to arrange a time for us to talk with him. A search through university department listings helped us discover his new address. He refused to talk further or describe the incident, though he picked out the wrong photograph when shown one of the defendant and six other persons. He claimed the person at the bar had a mustache — Jeff didn't.

I talked with Professors Jerry Israel and Jim White about the investigation,

See INVESTIGATION, page three

A Weekling Publication

The Res Gestae

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Carol Retasket is a second-year law student.

A Law Student Not Without Reservation

Carol Retasket, a 2L at Michigan, was raised on the Navaho (her spelling) reservation, which encompasses parts of Arizona, New Mexico, Colorado, and Utah. Before coming to Michigan, Carol worked with Senators DeConcini of Arizona, and Abourezk of South Dakota. She has written a U.S. House-Senate Commission report on Urban Indians. Along with a handful of others, Carol reorganized the welfare payment structure for the Navaho reservation, which handled about $22 million for 26,000 people. She talked last week with the R.G.'s Ted Lee.

Q: Has your experience at Michigan pointed to any differences between Anglo and Navaho societies?

A: The biggest theme that I am studying while I'm in law school (besides just law itself) is how a culture transmits knowledge. So I look at the law school and ask, 'How they are trying to transmit a whole body of information? What problems am I running into with the methods and what does it say about my previous learning and training?'

One thing I've noticed, is an educational difference . . . I think people who do very well here tend to be very talkative. They are able to relate their conceptualization much quicker. Everybody in the class may have the same ideas, but there is a difference in who is better trained to articulate ideas in a quicker fashion. This culture encourages development of verbal abilities at an early age.

Q: How is the Navaho culture different?

A: Traditionally, Navaho society is

See Navaho, page seven

U Policy Changing Faculty Guard

by Peter Jackson

The University's mandatory retirement policy is changing the make-up of the Law School faculty.

Professors Browder, Stein and Kennedy retire this year. Professors Reed, Wright, Fleming and Proffitt are five or six years from the seventy year age limit. Professors Francis Allen, McCree, Estep and Watson follow within two years and Pierce and Cunningham within three. (see chart) The recent loss of Professors Smith, Conard, Plant and Cooperrider magnify these pending departures.

In a change unrelated to the retirement rule, Professor Vincent Blasi is leaving to join the Columbia Law School faculty. Blasi told the R.G. that he and his wife want to be closer to New York's performing arts.

PROFESSOR DAVID CHAMBERS, chairperson of the faculty recruiting committee, says these developments are demanding a "greater than normal" recruitment effort. The effort was rewarded last week when J.B. White accepted a permanent position at Michigan.

Faculty opinion varies on how the pending retirements will affect the law school's reputation.

In Dean Terrance Sandalow's view, "We are a well-balanced faculty and our reputation is undiminished by the current situation." Like most professors, Sandalow does not minimize the loss of expertise but emphasizes the school's institutional capacity to develop unheralded replacements. He notes the recent emergence of Professors Westen and Chambers as leading talents in their fields of criminal procedure and domestic relations.

Besides, recalls Sandalow, this is not the first time such concerns have been aired. "A number of years ago it was noticed that a great many professors were all born in 1934. Some people grew concerned over the prospect of a mass exit and really got Tom Kauper Senior all worked up until he realized that the problem would not arise until the year 2004." Then about ten years ago the Law School lost as many as nine professors all of whom were tapped for deanships of law schools across the country.

Sandalow sees temporary reputation damage in specific areas like international law, which recently lost comparativists Conard, Stein and Bishop, but says other departments, like criminal law, will remain unsurpassed.

Professor Yale Kamisar takes a different view of the retirements, emphasizing the opportunity for competing law schools to exploit them. "We're definitely thinning out," says Kamisar. "I have heard that other law schools are using the situation to cut us down in their efforts to recruit people considering positions here."

Kamisar attributes the problem to an unusual age gap in the current faculty; only one professor is between the ages of fifty-four and sixty-one. Evidently, other schools point to the coming

See FACULTY, page two

This week: a forum on Law Review. See pages 4 and 5.

The Res Gestae

LSSS - Sandalow Negotiate Open Meetings

by Brad Heinz

A newly-formed Law School Student Senate committee on open faculty meetings has begun to explore the open meetings issue with Dean Terrance Sandalow. The Senate discussed the role of the committee and heard reports from other committees at its meeting Monday.

LSSS President Yolanda Torres characterized the Open Meetings Committee as a "compromise-getter." In this capacity, the committee negotiated with Dean Sandalow for two hours on Monday in an attempt to make faculty meetings more accessible for student evaluation and input.

Committee members Al Levine and Rob Portman refused to comment on the contents of the negotiations because they thought it would be harmful to the process. Both members stated a belief that Sandalow would be reluctant to negotiate freely if his comments were revealed publicly. The R.G. could not contact Sandalow before press time for his views on opening the negotiations process.

Sandalow will go before the faculty with a number of proposals for opening up faculty meetings, some of which he will not endorse, according to Portman and Levine. The Open Meetings Committee is waiting for the faculty response and will then proceed with negotiations or recommend other action to the student Senate. Such other action could include a lawsuit against the faculty based on the Open Meetings Act.

LSSS members discussed whether a court battle would be successful in opening up faculty meetings. All Senators who spoke agreed that there would be a strong case under the Open Meetings Act. Third-year Representative Kathy Erwin recommended that the Senate undertake a thorough study of its legal position, but her proposal was not acted upon.

There has been concern that the student body would not support a lawsuit. A LSSS poll on student attitudes toward open faculty meetings taken last semester showed the students divided on the issue. Those surveyed rejected legal action as a solution.

Third-year Representative Felicity Brown stated, "I don't think that necessarily people being reluctant to sue means that they want to forego a legal right." Portman pointed to strong Senate and student participation in faculty committees as evidence of student concern.

In other Senate business, Law Club Board of Governors Representative Steve Cassin reported that the Quad Rate Committee will request $20,000 from the Board of Governors to modify two Lawyers Club rooms to accomodate handicapped residents. Cassin believes that this appropriation will cost each Club resident an additional $60 next year if approved. A handicapped 1L left the School two years ago after complaining about barriers at the Club. The Rate Committee will also ask for $30,000 to redecorate the Club's lounge.

The Social Committee will try to vary the character of parties this winter in response to complaints that their parties are too much alike. The Committee has asked BLSA to plan a large party in April dubbed "Soul Night." BLSA is asking for $600 from the Senate's contingency fund to add to $600 already allotted to the event by the Social Committee. Senator Felicity Brown expressed concern that too much Senate money goes toward liquor, and BLSA's request was tabled until next Monday.

Senate Vice-president Rob Portman announced that results of the Fall semester student evaluations of the faculty are now available in room 300.

Faculty Transition Underscored

from page one

retirements as harbingers of an inevitable academic slide.

Both Sandalow and Kamisar said that the need to increase hiring has fueled faculty debate over hiring criteria and their effect in excluding otherwise promising candidates. The standards have been called both traditionally rigorous and rigorously traditional. One faculty member told the R.G. that "once you are an insider in the review process you can't believe that you made it through." Kamisar concedes that "there is probable cause to believe that our standards should be reconsidered."

Apparently however, the strict criteria do not explain the continuing inability to recruit significant numbers of women and minorities.

ATTEMPTS TO RECRUIT women have been made. Martha Minow chose Harvard over Michigan and many other schools. Lea Brillmeyer accepted a position at Chicago before Michigan could make an offer. Chambers confirmed that the outlook for attracting more women to the faculty is "gloomy".

Professor Chris Whitman attributes a large part of the problem to Ann Arbor's relative lack of opportunities for the husbands of potential candidates, most of whom are professionals and often lawyers. She places less emphasis on the current lack of women as a cause of the inability to attract more.

With respect to minorities, it is not a matter of finding candidates with the right credentials, but finding any at all. "The outlook for minority hiring is abysmal", according to third-year student Kevin Orr, a member of the Student-Faculty Hiring Committee. Orr stated that in his two years of interviews, none of the ten-to-twelve candidates were black. Orr noted the relative absence of blacks in the traditional hiring network—law reviews and judicial clerkships.

AN AD HOC PROGRAM to influence future faculty hiring has been launched by third-year student Felicity Brown. Brown is seeking students able to contribute research time toward identifying and recommending potential candidates.

Meanwhile, the mandatory retirement rule looms unchallenged. (As a state institution, the University is exempt from the Age Discrimination Act.) New talent will continue to fill the resulting vacancies but it is unlikely that replacements can explain the importance of enfeoffment in just the same way that Smith does or the evils of unsecured lending the way Kennedy does.

Faculty Age Distribution, 1983*

70-+	Browder (70)	50-54	Kamisar (54)		Lempert (41)
	Stein (70)		St. Antoine (54)		Soper (41)
			Gray (51)		Westen (40)
65-69	Kennedy (69)		Jackson (51)		Payton (40)
	Wright (66)				Pepe (40)
	Fleming (66)	45-49	Israel (49)		
	Reed (65)		Kahn (49)	35-39	Regan (39)
	Proffitt (65)		Pooley (49)		Martin (39)
			Sandalow (49)		Rubinfeld (38)
60-64	Estep (64)		White J (49)		Bollinger (37)
	Allen, F (64)		Kauper (48)		Adams (36)
	McCree (63)		Sax (47)		Whitman (36)
	Watson (63)		Vining (45)		Schneider (35)
	Pierce (62)				
	Cunningham (62)	40-44	Green (43)	30-34	Ross (32)
	Steiner (61)		Chambers (43)		Rosensweig (31)
			Cooper (42)		
55-59	Allen, L (56)			30- —	Aleinikoff (?)

Law Partners Share the Experience

Among the staid and stolid traditions that populate the musty historical closet of the law school lurks one that has retained its vitality and its reputation for good, clean fun. The Law Partners' Progressive Dinner has altered slightly through the years in order to meet the changing needs of the law school community, but it still provides a unique opportunity for law students and their "significant others" to socialize with faculty members and other law school couples.

Law Wives was originally founded as a social club for women married to law students. As more women law students joined the ranks at Michigan and as move "law wives" began working to pay tuition, the name was changed to Law Partners to reflect those changes in the character of the organization.

By providing a supportive network, Law Partners helps alleviate the loneliness and isolation the law student's family may sometimes feel.

This is a chance for law students to meet with their professors outside the classroom in a more informal atmosphere. And it is the best opportunity for the "significant others" to meet typical denizens of the law school and their cohorts. The Law Partners meet once a month, usually for a pot-luck dinner on a Friday night. This Friday, February 11, the primary topic will be the organization of the progressive dinner. All those interested in participating should come to the meeting at 7 p.m. in the old faculty lounge under the library reading room. Please bring your significant other, a dish to share, silverware and table settings for your family. Children are most welcome. A good time will be had by all (especially since Law Partners will be providing wine). If you are unable to attend this meeting but still wish to participate, or you want more information, call Jenny or Chris Wu at 485-3004, or leave a note in Chris' mail folder in Hutchins.

Notices

THE JANE L. MIXER MEMORIAL awards are given annually at the spring honors convocation. They are made to those law students who have made the greatest contribution to activities designed to advance the cause of social justice.

A special feature of the award provides that nominations are to be made by students in the law school. The award may be given to as many as three recipients. Students may make more than one nomination and are encouraged to make nominations soon. All nominations must be accompanied by a brief statement describing the activities and contributions of the nominee.

The statement should be addressed to the awards committee, the group which will make the final decision. Please submit the nomination and accompanying explanation to Mickey Slayton, 307 Hutchins Hall, no later than February 20, 1983.

PUBLIC INTEREST LAW CONFERENCE — is scheduled for Feb. 18 & 19, 1983. A potluck supper will be held Friday night, featuring a speaker and a party to follow. Saturday will be a series of workshops covering a variety of subject areas, and may also include a special speaker in the afternoon. Plans are still tentative. More information should be available soon.

ON-CAMPUS INTERVIEWS: 1982 summer starters and 2nd year — Twohey, Maggini, Muldoon . . . Grand Rapids - Feb. 14; 3rd year — James W. Goss P.C. - Southfield - Feb. 17. Please stop by the Placement Office to sign up.

CENTER FOR LAW AND SOCIAL POLICY — Washington D.C. The Center will interview for externships for fall term, 1983, on February 18. Students in their third and fourth term, this term, are eligible. Please stop by the Placement Office for more information and to sign up.

FAMILY LAW PROJECT will be holding a case review meeting on Thursday, February 10, at 7:00 in room 116. Supervising attorney Barbara Kessler will discuss some of the basic steps involved in handling a domestic violence case. All members are urged to attend.

The Res Gestae

Investigation Used for Delay, Intimidation

continued from page one

and spent the better part of two weeks researching the statutes and case law in Michigan, all the states and federal law — including current and proposed revisions of criminal codes. Nowhere is threatening or bringing a civil suit criminal. Common law obstruction of justice deals most commonly with trying to affect a witness' testimony, convincing them not to come to a trial, and bribing jurors or government officials. Efforts to settle criminal cases, which necessarily involve the approval of the prosecutor, are not only legal, but encouraged in both the ABA Standards for Criminal Justice and in the academic literature — particularly for less serious offenses and for first offenders. Threatening a criminal charge to try to obtain some civil advantage is extortion, but not visa-versa. The prosecutor had acknowledged we were clean under Michigan's extortion statute.

I sent the Prosecutor and his two chief assistants a 13 page letter outlining my research plus my grave concerns about the chilling effects such an extended investigation would have on the criminal defense function. I never received a response to this letter other than a statement that the matter was being investigated. Another trial date came and was adjourned, then another. Finally, twelve weeks after the initial charges in court the assistant prosecutor stated that they were not going to proceed with criminal charges against the Clinic. Without acknowledging that no crime was committed, he indicated only that he was outvoted three to his one vote, and it was concluded that "Professor Pepe and the Clinic were not a good test case to make new law." I was glad to read in Dean Reitberg's RG article that when he contacted the prosecutor's office a spokesman admitted that no charges were brought because no criminal violation had occurred and that the Clinic students did a competent and outstanding job.

AN INVESTIGATION that probably should never have reached public articulation in a courtroom, could have been concluded in a couple weeks at the most. To drag it out for twelve weeks over last summer was unnecessarily protracted. Whether intended or not, it was enormously intimidating to Blair, Howard, and me. The Michigan Supreme Court has recently affirmed the important requirement that any criminal charge be tested before a judge within 12 days of charging so that one falsely accused can challenge the legal sufficiency of the charge without sweating out long delays. However, the precharging "investigative" stages still permit wide areas for abuse as the many attacks ont the grand jury system have made clear.

The sixth amendment and Code of Professional Responsibility require that the accused have zealous advocates. Vigorous defense requires pursuing client interest through any legally permissible means. A three month investigation of criminal defense attorneys for pursuing our client's goals has an extremely chilling effect on that funciton.

Prosecutor's Muscle

When he was Attorney General, Justice Robert Jackson warned: "The prosecutor has more control over life, liberty, and reputation than any other person in America." Because of this our system places many hurdles in front of the prosecutor before he can bring the coercive power of the state against a citizen — the constitutional safeguards under the fourth, fifth and sixth amendments, a tougher burden of proof, and a presumption of innocence. Our Code of Professional Responsibility and the ABA Ethical Considerations set out special, more limiting professional norms for the prosecutor. "The responsibility of a public prosecutor differs from that of the usual advocate; his duty is to seek justice, not merely to convict . . . (The prosecutor's) decisions . . . affecting the public interest should be fair to all; and. . . the accused is to be given the benefit of all reasonable doubts." (EC 7-13; see also DR 7-103, DR 7-106, EC 7-14 and the ABA Standards for Criminal Justice: Prosecution Standards (Second Edition, 1980)].

WHILE MANY prosecutors take these standards seriously, some look upon them as the Holmesian "bad man," testing their limits, ambiguities and areas of unenforceability. Rarely does the prosecutor resolve reasonable doubts in favor of the accused; rarely is there a presumption of anything but guilt; rarely are investigations thorough nor disclosures to defense counsel adequate. While discovery rules have eliminated "trial by surprise" on the civil side, it is still an element of our criminal process. In Jeff's case the prosecutor did everything legally permissible to block our access to witnesses and discovery in the case. The police only interviewed bar employees at the scene.

When we found the neutral witness who confirmed our client's story the police and prosecutor had little interest in his testimony even though it contradicted that of their complaining witness and showed why their complaintant might lie or exaggerate the provoking incident to justify his attack on our client. The prosecutor and police refused to assist us to find another witwere unconcerned that he could not describe the defendant and indeed picked out another person's picture from a group of photos. When the prosecutor finally said we would be able to talk to this witness on the morning of the trial, he told the witness he did not have to talk to us. With such a signal, he refused to talk.

While prosecutors are charged to seek justice, these aspirations are inadequate safeguards so long as such broad-gauged nets as "conspiracy to commit a common law obstruction of justice" are left around. Many jurisdictions have done away with vague common law crimes fearing their abuse. If new common law crimes can be made in a near *ex post facto* manner, a door is opened to the prosecutor to threaten any zealous defense attorney with a most devastating weapon — public criminal investigation charges and charges with their attendant costs for the accused in time, money, energy and stigma even when the charges are not substantiated.

THE SUPREME Court has noted: [I]f arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. Vague law impermissibly delegates basic policy matters . . . on an ad hoc and subjective bases, with the attendant dangers of arbitrary and discriminatory application. *Grayned v. Rockford,* 408 U.S. 104 (1972)

Common Sense Settlement Urged

After the investigation of the Clinic was ended and Jeff's matter came up for trial in October, the judge urged the prosecutor to explore a common sense settlement with the complaining witness, Tom. As Blair and Howard proposed five months earlier, the criminal A&B charge was dropped in exchange for mutual civil releases. Jeff paid $25 for the menu board and plead to the lesser charge of maliciously destroying it — which he never disputed and which charge will be dismissed this month under a deferred sentence.

The pressure for actual criminal practice to fall short of the idealized theories is troubling. Representing a poor and powerless defendant, who initially faced three biased, but respectable" witnesses with none in his camp made loss at trial likely. While overworked public defenders and underpaid private assigned counsel might have pushed to find and preserve the Colorado witness, Steve, through a civil suit and videotape deposition, I doubt it — not for a misdemeanor — not for the $200 fee presently paid by the county for a trial.

The realities of the criminal system sabotage its espoused theoretical rights and standards for most defendants. The presumption of guilt, limited resources for defense, the presumption of lukewarm advocacy in most cases leads to many pleas and many losses. The local public defender seemed proud that they only try 8% of their cases and win 4%. What annoys the prosecutor is that the Clinic files more motions, more voir dire questions, more trial memoranda and more jury demands than most defense attorneys. The Clinic tries more than 8% of its cases and wins more than 4%. So could most defenders if they were less overworked, and had fairer payment and more resources to challenge the prosecution.

Vigorous advocacy for the underclass of criminal defendants has risks and costs. To do what you are professionally charged to do *will* rock the boat. You will need to articulate your constitutional and professional duties and know your limits and take care to stay within them. Knowing the limits is only half the protection you need for vigorous advocacy. The best protection when playing the zealous advocacy game is a reputation for playing it clean. That reputation can be easily squandered for a client in the quest for victory. Once it's gone, your best protection can't be regained when the winds shift.

While I must admit loss of a few nights sleep over this last summer, my ultimate comfort was the knowledge that the presumption of the Clinic's innocence did exist with the judge and the most respected members of the bar. Even the prosecutor admitted we were a bad "test case." Sometimes that's real nice.

Placement Picture Less Than Gloomy

by Dave Tryon

Although every student does not yet have a job most 2Ls and 3Ls do. According to information gathered by Nancey Krieger of the Law School Placement Office, 57 percent of the 3Ls and 58 percent of the 2Ls have jobs. And that is with over 30 percent not yet reporting their job status.

However, about 12 percent of both classes have reported "no job" so far.

But those 12 percent need neither give up hope nor slash their wrists. According to Krieger there are still lots of jobs out there. Unfortunately, it might take a little more than writing your name on a computer card and showing up at an interview.

There are several actions law students may take. Some will find jobs with the few firms interviewing on campus this month; others will have to strike out on their own — write letters, pay for their own flybacks, and seek employers instead of employers seeking them.

Those seeking positions must find names of firms and corporations with legal departments. Krieger suggests watching the bulletin board outside the placement office and using the "Martindale and Hubbell" as well as the "Directory of Corporate Counsel" directories. The Placement Office has other reference materials as well.

For those that graduate without jobs, Krieger suggests picking a state and taking the Bar exam. Many places are not even interested in talking to those who haven't passed the Bar yet. These are the places that don't hire nine months in advance, they hire when they need an attorney.

UNFORTUNATELY, 1Ls aren't faring as well as the upperclassmen. In the past only about 50 percent have found summer jobs and this year isn't likely to be any better. Many of those getting jobs have done it by knocking on the doors of small home town firms that pay five or six dollars an hour instead of the 650 dollars per week that some firms pay.

Overall, for the students at Michigan Law, the picture looks bright. As Krieger says, "It's much better than I expected it to be at this stage in the game."

Forum

The Res Gestae

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letter

Schiller Again

To the editors:

I was not surprised to find a challenge to Schiller's quota system. At a law school the size of Michigan, there are bound to be many different opinions on almost every issue. But I was shocked that people believe that the Law Review selection system is based on a completely objective standard that is blind to color and wealth.

I suppose that Mr. Mueller believes that an education at Harvard is equivalent to an education at Chicago Circle or Ferris State, or that a Detroit public high school is equivalent to a public high school in Bethesda, Maryland. Wealth has a great deal to do with the type of grades a person gets (particularly LSAT scores). Money can buy a great education. If you have money and have been educated at a private school since you were five, the trend is a hard one to reverse. The opposite side of this coin is that people without money, who have not been exposed to an educational system which provides them with such tools for advancement, may bloom a little slower at a place like Michigan.

I do not believe that these people have less to offer; on the contrary these students often bring perspectives on social questions much needed and sorely lacked at Michigan. Coming to Michigan is often a "cultural shock" to many minorities. Many have to get accustomed to the new environment dominated by white males. Mr. Mueller who believes that skin color does not restrict one's perspective on social institutions should have some sense of this.

To say that race is irrelevant is to ignore history. "Affirmative action" was created to counter historical practices of "negative action." If we attempt to portray the system as color blind we forget that racism whether personal or institutional still persists at Michigan. Even assuming that racist tendencies no longer exist it would take years to rid the system of all the "negative action" effects. The Law Review is considering these factors and I for one think that any change in the selection process can only be beneficial.

At the risk of offending Mr. Mueller, I have to ask why, after the first semester at law school, he hasn't learned that an "objective standard" is a myth.

Gregoria Vega-Byrnes 2L

R.G. Passes the Buck

This week, the R.G. editorial staff humbly foregoes its own editorial space, to free more room for the debate presented by our readers. The buck will be passed only this week. We will return in our next issue and reclaim our territory.

No Affirmative Action

by Dave Tryon

In the current discussion of modifying the Law Review selection process, two ideas seem to stand out most predominantly: affirmative action programs and increased writing competition.

Although affirmative action programs may be beneficial in some areas of our society, the Law Review selection is not one of them. Affirmative action programs are instituted to cancel the effects of prejudice and also to compensate for past and present obstacles imposed by virtue of being a minority.

In the Law Review selection process, there is no chance for inadvertant or subconscious prejudice to enter in. The process is presently based on grades and writing ability. Grades are arrived at without knowledge of race and they later show no evidence of race. The writing competition entries are judged independently of the identity of the entrant. Only if there is a conscious effort to prejudice the selection by actively seeking the identity of the candidates can prejudice enter the process. If this is occuring, those responsible for it should be removed from the selection process. However, there is no evidence of this happening.

IN TODAY'S society there is no inherent disadvantage in being a minority. In the past certain minorities have been almost universally discriminated against, thus creating obstacles for them to overcome. This may still be true in certain areas of the country and world, but it is certainly not universal nor serious enough to consider it an inherent disadvantage to be a minority in the law school. In some ways it can even be an advantage — particularly in affirmative action programs when those helped thereby have never been harmed by virtue of being a minority.

In this law school, especially, there is no evidence that the minorities as a general rule have had to overcome any more obstacles than any other group. We all have obstacles in our lives; minority groups do not have a monopoly in that area. Some of the minority students have had more advantages in life than other non-minority students have had.

Consequently, we cannot institute an affirmative action program for minorities on the pretext of eliminating prejudice or compensating for the 'hardships' of being a minority. If we want to cancel the effects of past or present obstacles that some minorities and others have had we should do it directly, not indirectly using minority groups as a surrogate for disadvantages. If we want the disadvantaged to be considered separately or favored over those who have had it "easy," every student should be considered separately or allowed to submit an explanation of past obstacles overcome. But even this would not be a true gauge of disadvantages. Who are the ones that will play God and decide on the worth of an accomplishment or the degree of disadvantages suffered by a particular student?

AN AFFIRMATIVE ACTION program in the selection process would be undesirable anyway. It would strain relations with other students, especially those to whom it is apparent that they were rejected to enable minority representation. It would also seem to be condescending to the minorities — implying that they are inferior — which they are not!

This year Harvard Law Review started an affirmative action program in their Review selection. Their members included six minority members this year, up from one last year. The President of the Review said, "It would be a mistake to assume that any person who looks like a minority is here as a result of the affirmative action plan." (NYT 10/10/82) Although it might be a mistake, with an increase of 600 percent, it's likely that many (both students and employers) will make that mistake. The net result is less credit going to those minority students that get there without the help of the affirmative action.

Some wish to put more minorities on the review in an effort to increase minority representation in the Federal and Supreme Court clerkships. If we initiate an affirmative action program for this purpose, we are formulating public policy better left to the Federal Courts. If the courts see a need to have more minorities clerk for them, then they should recruit more minorities. It isn't our job to decide that they need more minority clerks, especially when it is done at someone else's expense.

I can see little redeeming value in an affirmative action program and the detriments far outweigh the advantages.

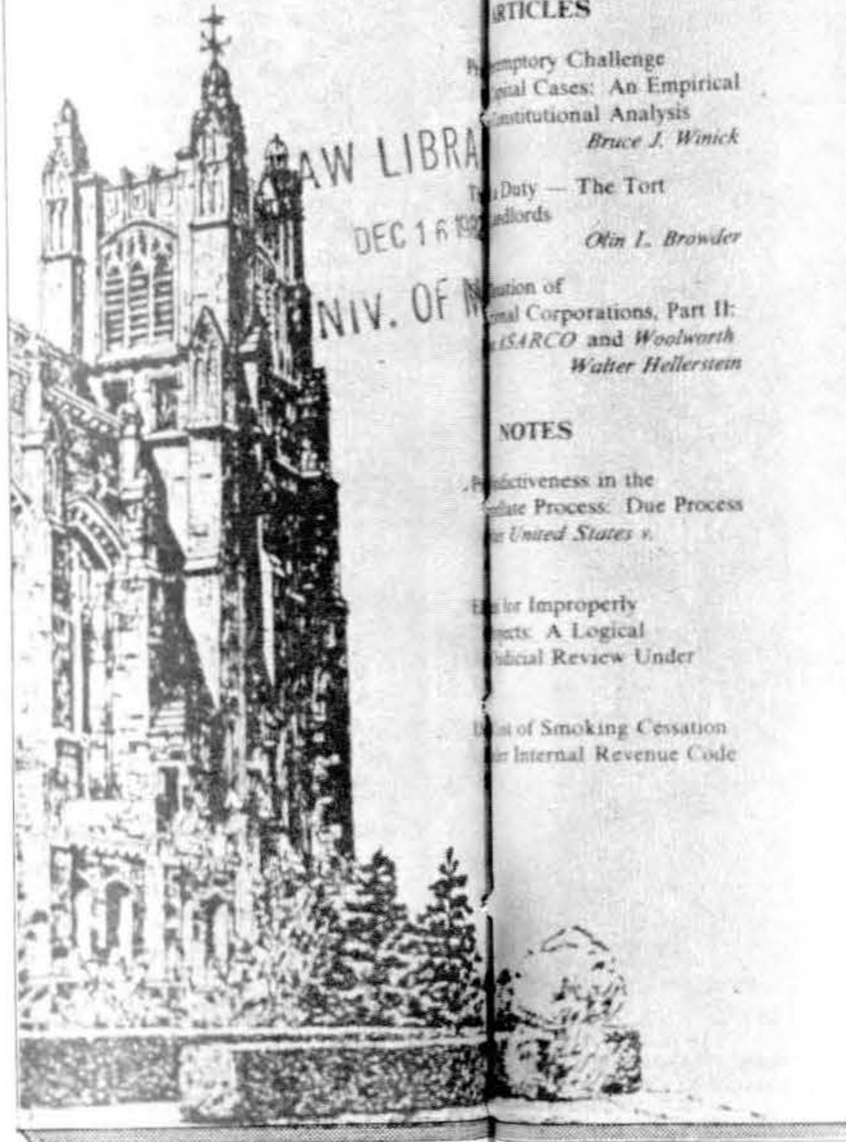
THE SUGGESTION THAT more people be selected based on the writing competition is quite popular. Indeed, the reasons for it are strong. First, grades are a big enough reward in and of themselves to provide the incentive to do well and so there is no need to give these students a double reward. But, we obviously want the better students on the Review and grades are an easy way to measure this.

But allowing more students to write onto the staff will increase the number of students on the Review that really want to be there and are willing to work, and will give minorities another chance to gain the Review. It would also tend to reduce the number on the Review who are there just to build their resume.

Since writing is high on the list of activities of Review members, it would seem natural that writing be a basis for selection. Writing is also a better measure of probable performance on the Review. Those who write on are more likely to have the desire to work hard on putting out a good journal. They are also more likely to have the writing skills the Review requires, since grades do not reflect writing ability.

But in spite of all the advantages to increasing writing competition selection, there are significant problems.

THIS YEAR 40 people submitted entries. Of those, four were invited to join the staff.



pping down much further might have meant wering the standards significantly.

But, if a greater number were selected through iting competition, there would probably be a eater number of entries and hence a greater mber of superior entries.

Unfortunately, this may not be true. First, writing takes a lot of time which undoubtedly scourages many from trying. Second, an increase entries would not necessarily yield more good es.

But, assuming more entries and more superior es as well, there is a problem of administering it. dging the entries requires a tremendous amount time. The senior staff of the Law Review does all e judging in addition to their other responilities. Increasing the burden on them seems ther unfair.

However, this problem could be solved by an ernative judging system or by modifying the ting competition. The latter seems the more sible solution. Perhaps even more than one type riting competition could be used. Either instead r in addition to the present competition, papers tten and evaluated in the "Writing and Adacy" course could be used to determine memship. Or perhaps a standardized writing test ich would be easy to grade could be used. Shorter ers could be required in the present competition. tainly there is nothing sacred about the present ting competition program.

No matter what changes are made, they should be tious and gradual. Large changes, such as those y now advocate, not only create controversy confusion, but if they do not work well, we don't w if the problem is in the change or the gnitude thereof. In addition, small changes are er to implement and more acceptable to all conned.

Affirmative Action

by Adrien Silas

THE MINORITY person who begins a legal education at Michigan finds few other minority law students. He concludes that few minority people are "smart" enough to study at Michigan. Of the minority people here, he finds only examples of academic mediocrity. No minority people are on the *Michigan Law Review*. Very few minority people are landing the "great" jobs. These factors, in turn, contribute to a poor self-image of intellectual ability. While it is not certain that such an image always worsens academic performance, it is certain that the image is not conducive to academic excellence.

I KNOW OF NO minority people who have rejected invitations to write for the Review. To put my conclusion very briefly, because the present selection scheme is based primarily on grade point averages, minority people are consistently excluded. Of course, this is also to say that minority people do not score highly enough, consistently enough, on law school examinations to fit the grade point average criteria. The total number of students selected on the basis of their writing is so small that it becomes nearly impossible to gauge minority performance in that area.

Unless one is prepared to equate being black or Hispanic with inferior intelligence (such an assertion would find little scientific authority today), he must question whether the grades of minority students adequately reflect their legal abilities. For minority law students to leave the classroom with an inferior education would be tragic for the University and for those minority students. But this does not seem to be the case. All evidence indicates that minority students perform well when evaluated under practical conditions. The conclusion is inescapable that the present testing and grading system fails to adequately measure the legal abilities of minority students.

Dean Sandalow has recognized that minority grade point averages tend to lag behind those of majority students, and the law school administration has made a good faith effort to respond to the needs of minority people in the Minority Academic Advancement Program (MAAP). MAAP is a program of voluntary, formal study groups. Each group is supervised by a minority upperclassman and a faculty advisor. Minority students' grade point averages are probably higher because of this program than they would be in its absence. Nevertheless, the differential continues to exist. I believe that until a study is undertaken to understand the nature of the grade point differential, important needs may continue to go unredressed. It might also be possible to accomplish directly the effects that, until now, have been accomplished only with great pains.

Grade point averages have been undeservedly sanctified as indicators of ability. Although there is probably a great deal of difference between the respective legal abilities of a person with a 4.0 grade point average and a person with a 1.0 grade point average, I fail to see how a person with a 3.5 grade point average is more intelligent or has greater legal ability than a person with a 3.25 grade point average. The recent letter of Mr. Schiller points out that, at the law school level, the chief value of grade point averages is administrative. The assignment of grades is a particular course is an easy way to purport to measure legal ability or subject matter knowledge attained by a student. Both the internal and objective validity of the process is suspect, especially as it applies to minority students. Further, grade point averages are a convenient screening device among those law reviews and potential employers who have an overabundance of candidates. But the arbitrariness of this system is too much to tolerate where minority people must bear a disproportionate share of its burden.

Without deciding *the* purpose for law review membership, I have concluded that any selection scheme adopted must do three things. First, it should bypass at least some of the impediment to minority grade point achievement. Second, it should ensure that those selected are able to write cogent articles without "flunking out" because of the review time commitment. Third, it must be rationally related to the study or practice of law.

"AFFIRMATIVE ACTION," as considered here, means the disposition of benefits in a nontraditional manner to accommodate those who would otherwise be excluded by factors extraneous to desired goals. It is a "fudge factor" for organizational failure. A system under which a given percentage of review members must be a racial minority people (a quota system) would qualify as affirmative action. Affirmative action would also include any reorganization of institutional design to accomplish this purpose.

Traditional notions of fairness require rationality and equality in a selection scheme. Rationality requires that the scheme must have *some* basis in the study or the practice of law. Even a scheme with serious flaws (as I believe the present scheme has) tends to legitimate the individuals it selects. It is therefore my opinion that even among the champions of meritocracy, the Review has considerably more political leeway in its choice of selection schemes than it presently exercises. It is certainly unnecessary to "piggyback" upon law school testing solely because it is the standard sorting technique.

The detractors of affirmative action argue that affirmative action is favoritism and that favoritism is inconsistent with traditional notions of equality. I fail to see how establishing a temporary standard, which is more advantageous to a *disadvantaged* minority group, is inconsistent with long-term equality.

I HAVE CONSIDERED the criticism that an affirmative action modification would stigmatize all minority students who are selected for Review. This argument is unpersuasive. First, there are affirmative action measures, such as a writing competition, which fall short of making race an explicit criterion. Second, for those mechanisms that give minority students an extremely high probability of selection for Review, there are two affected groups. First, there are those minority students who would not have been identified under a non-affirmative action system. Those who argue the stigma imply that it is better for these individuals to have no law review credentials than to have law review credentials which are tainted by an affirmative action program. This does not make sense.

The lack of substance in the stigma argument is fully apparent when it is applied to the second group, minority students who would have been identified by a selection system which did not take minority status into account. If there were an "unearned" stigma to bear, these people would bear it. I can not help but wonder, where are these minority people? The reevaluation of the Review selection process is premised on the observation that virtually no minority people have ever been selected for the Review. When minority people become a mainstay of the Review staff under non-affirmative action selection, the stigma will become a practical handicap.

There are several variations to the writing competition selection process. The Review could provide for a multi-faceted competition. Candidates could be required to write two successive sample notes. Alternatively, in addition to writing a sample note, candidates might be given citechecking assignments and a substantive edit to perform. The writing competition might be open to all students at some time after the first semester.

A GOOD LAW review selection scheme should be constructed in a manner consistent with the putative purposes of Review membership. The present selection process bears no relationship to any of these purposes. If the purpose is to develop legal skills, it is beyond argument that minority law students share the needs of the majority students. If the purpose of membership is to provide to the legal community "a forum for new ideas and learned discussions of trends in the law," it hardly seems possible to provide an unbiased forum for such discussion without the participation of minority people.

The Res Gestae

Soul and Shysters are LSSS B-Ball Champs

Berens and Blanke

The LSSS men's b-ball tourney ended Saturday night with Legal Soul winning the coveted Sandalow Trophy by virtue of its 37-29 triumph over Legal Ease in the tournament finals. Both teams earned a berth in the championship match by posting victories in the night's earlier semifinal action.

The key semifinal contest had Legal Soul over Law Big Dogs by a score of 37-34. This game pit the faster Soul team against the taller and stronger Big Dogs. Soul's victory can be attributed to its decision not to force the ball inside, but rather to spread out the offense and work for the open jumper. Capitalizing on those shots were Derrick Mayes and Kevin Scott, who lead Soul with 15 and 9 points, respectively.

Top scorers for the Big Dogs were Kay with 12, joined by Witri and Andre Jackson with 10 each. The fact that these three had 32 of the team's 34 points clearly illustrates the offensive sacrifice made by the Big Dogs in substituting for Kay and Witri simultaneously.

IN THE OTHER semifinal game, Legal Ease annulled Just Married 37-29. On paper, the match-up promised an interesting contrast in styles: Legal Ease is a physical team, which relies on the strong inside play of third years Al Hoff and Mike Maurer; Just Married, on the other hand, is more of a finesse team, relying on the play of Jim Lefkowitz and Bill Brennan. But from the start, there was little doubt that Legal Ease's strength would carry the game.

The totals: Legal Ease's Hoff and Maurer had 12 and 8 points, respectively, while Brennan had 8 points and Lefkowitz had 7 points for Just Married.

THE TOURNEY'S final game pitted Legal Soul against Legal Ease. For the first ten minutes of the first half, it was a nip-and-tuck affair; but then Legal Soul's speed began to spell the difference. With the score 16-16, Legal Soul's Mike Wilson scored on two fast breaks within :15 to open up a 4 point margin. Legal Soul never looked back. The rest of the half, Soul widened the margin by forcing turnovers and capitalizing on the fast break opportunities they created.

Down 28-18 going into the second half, Legal Ease had a formidable challenge and they were able to do very little to close the gap. Legal Soul's ball-handling and defense make them the best team in the law school at protecting a lead. The final score was 45-37.

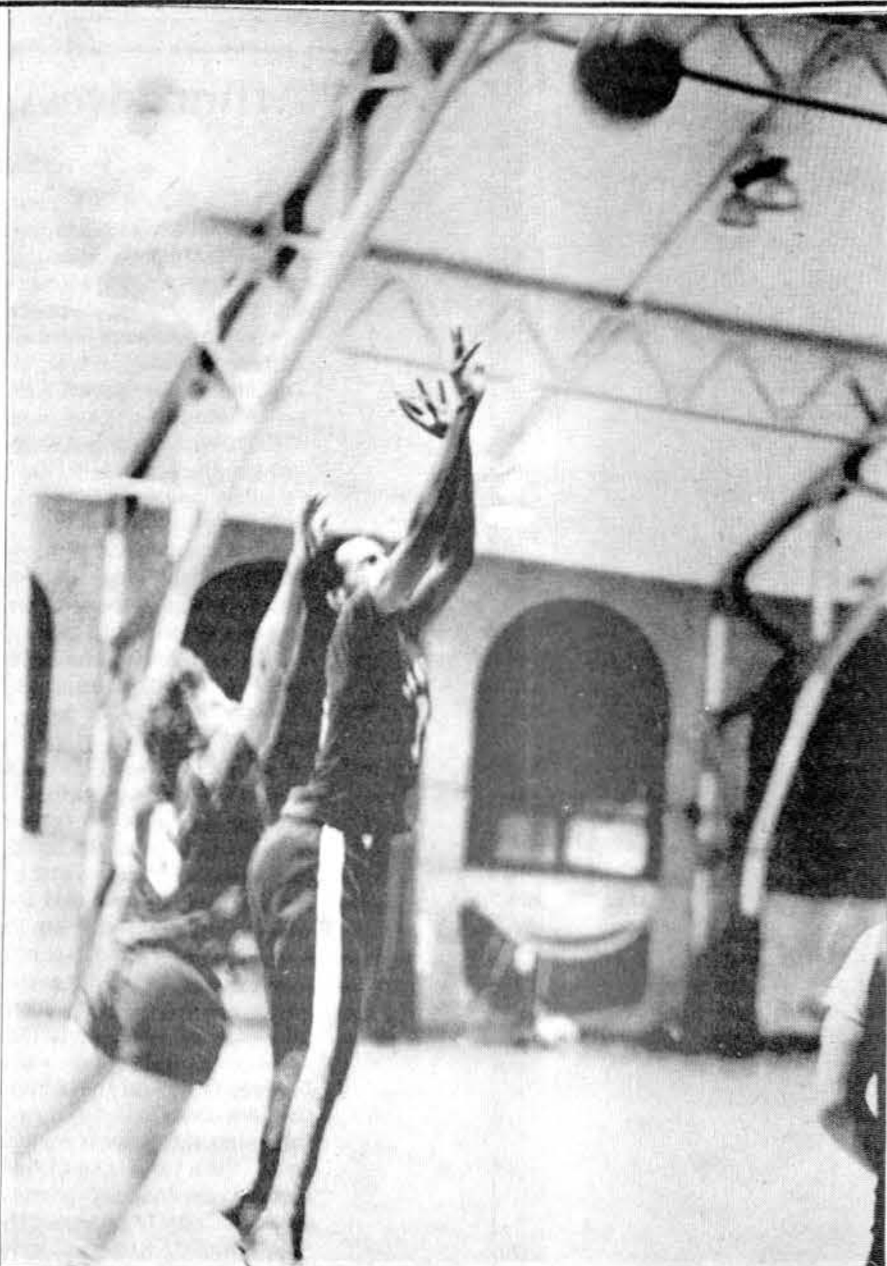
For the new law school champs, Jon Hollingsworth, Derrick Mayes, and Mike Wilson each had 10 points. Al Hoff had 12 points for Legal Ease.

There is no MVP award for the tourney, but two players deserve special mention. Mike Wilson and Jon Hollinsworth usually don't lead Legal Soul in scoring, but each plays a key role in their success. Wilson, who played for Brown University, is an able floor leader, defensive player, and the best in the law school on the fast break. Legal Soul is not a very tall team and is invariably at a size disadvantage, but Hollingsworth keeps them from getting blown out on the boards. He had 12 rebounds against Legal Ease, keeping Maurer and Hoff from dominating the inside.

Another point of interest: Just Married's Brad Steenland gets the Billy Martin-Jack Tatum Sportsmanship Award for his part in Saturday night's action. Rumored to be the only man ever to start a fight in a co-rec intertube water polo match, Brad's constant and colorful dialogue with the refs resulted in the evening's sole technical foul.

THE COED TOURNEY featured a series of lop-sided matches. In the semifinal round the Sharpshooting Shysters shot down the Ill Eagles 78-12. Becky Burtless-Creps led the Shysters with 30 points (keep in mind that the Coed rules award women 4 points for each basket they make — it seems to me that there are 14th Amendment problems with that, but then again I only took Con Law pass/fail). In the other semi match-up, the Bouncing Blow-Offs were excluded by the Inadmissibles 34-21. The Inadmissibles lost their best player, Peggy Kopmeyer, in the first half, which handicapped their chances in the Coed finals.

The Coed final was another blow-out, as the Sharpshooting Shysters riddled the Inadmissibles 92-26. Peggy Chutich, in addition to running a fine tournament along with Greg Gilchrist, led the Sharpshooters with 36 points, while Maureen Geary had 12 points for the Inadmissibles.



Derrick Mayes hits for two — photo by Earle Giovaniello

Campus Events

2/9 — **Hakan Hagegard**, Swedish Baritone
Hill Auditorium, 8:30
Info: 665-3717

2/9 - 2/12, 2/15 — **"Three Sisters" (Chekov)**
University Players
Wed-Sat, 8 p.m.; Sun, 2 p.m.
Tickets-$4.50 to $7
call 763-3333

2/10 — **Union's Concert of the Month**
"Early American Popular Music"
Pendleton Room, Union, 12:15 p.m. (free)

2/11 — **The Falcons**
U-Club, Michigan Union
Info: 665-3717

2/15 — **"Pericles" (Shakespeare)**
John Houseman's Acting Company
Power Center, 8 p.m.
Tickets-$5 to $8,
call 763-3333

Cinema:
What may well be *the* film of the year, Richard Attenborough's *Ghandi*, is now showing at Briarwood Mall. This compelling epic features the rise to fame of the Indian leader and his passive resistance philosophy as he guides a near-bloodless revolution for independence. The film's powerful message is matched by brilliant photography and first-class performances by almost everyone. Don't miss it.

Eric's
Action SportsWear
FACTORY CLOSEOUTS
Swimwear,
Footwear,
Bodywear
663-6771
406 E. Liberty
2 blocks off State St

gold bond CLEANERS
· down garments · leather cleaning ·
· waterproofing · free minor repairs ·
332 maynard at the tower plaza 668-6335

Valentines

Dear James: Keep thinking about fun in the sun. Win a lottery for me. Love, Your #1 Valentine.

Peggy: Court wouldn't be much fun without you. Thanks, from all of us who tie our own shoes.

To J.B.F.: Our eyes are red, our book is blue,
Citechecking's a bummer, but we'll still miss you.
Thanks, Junior Staff

Yo: We've got to stop meeting like this. The Senate.

Peter: I want to take you on my surtin' safari. S.S.

Mike: Clear your launching pad; I'm ready to land. Mindy

Dear Rob: I would like to write you a love note, but I know you are too busy to read it. XXoo BB-C.

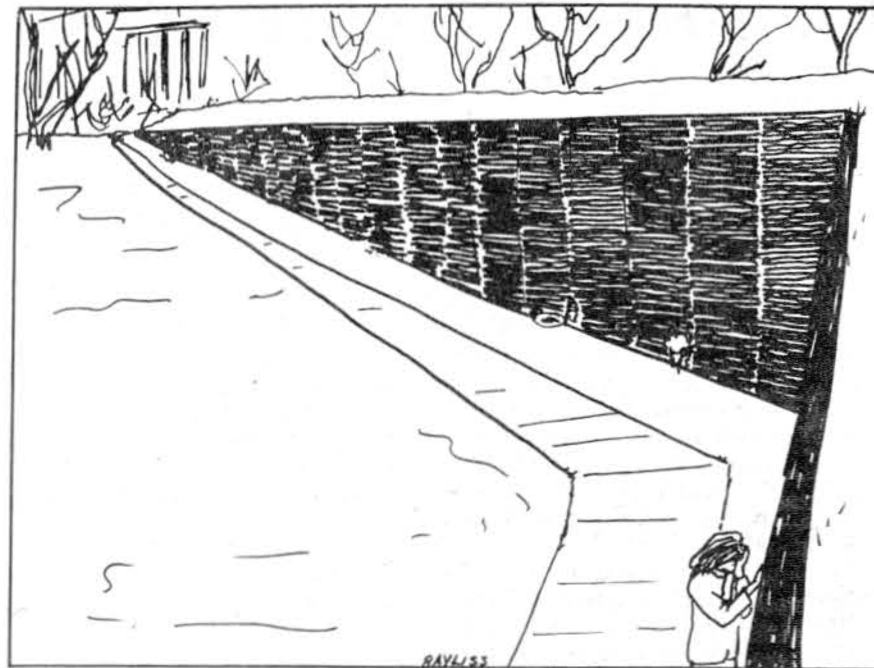
Mein Stuck Knackebrot: Du gefallst mir auch ohne ungesalzene Butter! Dein Schatz.

The Res Gestae

Remembering the Vietnam Veterans

by Jill Martin

I was there in D.C., so went to see the Vietnam Veterans Memorial. Walking along the walls, so many names. An old woman nervously shuffling, scrutinizing, anxious; she stops suddenly—I almost bump into her. "I found it, George," she barely whispers. I look behind me; an old man approaches, identical shuffle, only with more trouble and very wet cheeks. I hurry on. A child placing a flower between the cracks beside a name. Five names on each line. An old officer-capped gentleman placing a small Star-Spangled Banner on a Stick on the ground beneath a name. A diamond beside the name means dead; a cross means missing in action. A young woman tracing the letters of a name with her fingertips, streams of silent tears, softly saying "Oh God." God Bless America. America the Beautiful. I walk on, the black wall getting higher, now shoulder-height; a man reaches out touching the grass at the top of the wall, places his palm down on the ground, as if to gain strength from the land. Land That I Love, stand beside her, and guide her—the walls grow out of the ground itself, they are part of the earth, and they are granite . . . from Bangalore, India . . . they are natural, yet they are man-made; we put them there and we etched each name into the wall into the ground painstakingly for eternity; like death they are forever. A mother takes a picture, a closeup of a name. Does she regret that her son had only one life to live for his country? A child stares bewildered at the 57,939 names. "Why?" she asks; no answer.



by Darby Bayliss

But this was not the worst, seeing the people searching the walls, finding the names. The worst was watching those standing far back, away from the crowd, along the hill, along the horizon. Unmistakable Vietnam veterans; the expressions giving them away, not the clothes, hair, backpack, or limp, but the expression on the face. Some would approach from afar, and seeing the great inverted V carved out of the earth, the beautiful polished granite, their steps would become hesitant, or fearful, then stop altogether. I was surprised at first, then I walked closer and saw the range of emotions flitting across the fact of a man whose eyes were ancient in a body still young. Pride—anger—fear—sadness—strength—exhaustion. He moved forward and stopped again. Sadness. He looked up and I looked up to where his gaze rested on the huge American flag flying overhead. Cynicism and anger on my part; but I looked over, and sadness was still there. He stood still for a long while. Another Unmistakable came over the hill, then halted. He approached and stood silently beside the first; an emotional force passed between them—I could feel it even. They did not look at each other, but both faces dripped tears. I had something in common; thank you Maya Ying Lin for your gift to us all. I walked on.

Up to the vertex. Walls are 10'1½" here. The right-hand wall begins here at the top, 1959, with the deaths. I was born then. The names: all the way down the wall, 246'8" long, pointing directly to the Washington Monument. Then from the far end of the other wall, pointing from the Lincoln Memorial, all the way back to here, at the juncture, at the bottom, 1975. The end . . . but there really is no break; it joins the other wall here . . . the deaths begin again. I hurry on.

Ms. Martin is a second year law student.

Land, Life, Logic and Law: Navaho Speaks

from page one

not a literate society. Young people — I am considered young until I have white hair — are discouraged from talking; they are expected to listen and to observe.

Q: You have obviously not decided to 'keep quiet.' You've made major changes in the welfare system on the reservation. What kind of welfare program does the tribe have?

A: The whole theory of the welfare program we used was to not make people more dependent that they really want to be. Welfare is new to the reservation. Sometimes I get concerned about welfare programs because they encourage people to be dependent. For example, some people make a full time career of trying to process a welfare application and they don't have time to look for a job. So we've tried to design it to encourage community support for local people, but there are still a lot of problems with the design.

Q: I don't understand why Navahos want to stay on the reservation when they are subject to such extreme poverty.

A: Well, they have been there for thousands of years. The actual ground that they walk on is land they have lived on for THOUSANDS of years. I can see how most Europeans (U.S. citizens of European descent) can't understand that. Also, it is very nice to be able to be with a group of people with whom you don't have to explain your speaking style, and you don't have to constantly evaluate your mannerisms. That's very comfortable. It becomes even more comfortable when the society outside is intolerant.

Q: But they are so poor when they stay on the reservation.

A: Indians are poor, but they are not necessarily indigent. Indigent means poor and wanting. My husband and I always research these words. We were thinking of one tribal official who always wears three piece suits and drives a Mercedes, and we said, "Now HE's an indigent Navaho!" He feels poor and he does WANT more.

But when I was working with one senator, he said "I never realized that Indians don't mind being poor, that they value other things." I would say some Indians, and probably including myself, will put up with a lower standard of living than other people will because the benefits (on the reservation) are so wonderful. The reservation is just a beautiful place.

Q: But what about the taxpayers who say that they are not willing to pay welfare money just so that some people can live in a beautiful place?

A: First, not everyone is on welfare. Secondly, beauty is in the eye of the beholder, and you have to look at the place. There's absolutely no running water where I live. We have to go to a windmill to get water. I don't know of many Anglo people that could live on a reservation the way Navahos live because they weren't raised that way. We're probably the only people that could live there.

The other thing is that, well, we (tribal members) used to live on some pretty good land near Flagstaff. I remember asking my father when I was very young, "How come we Navahos don't live in Flagstaff any more, where there's everything?" and he said, "We use to live there and we kind of got thrown out." That happens with Indians.

Q: But that's only part of the question. There is massive unemployment. Is there a desire to be employed?

A: My parents are full time unemployed people. They work from 5 a.m. until the sun sets. But they are statistically unemployed.

Q: I don't understand.

A: When I am at home, I am considered the laziest person in the household, because I get up at 7:00 a.m.; at that late hour everybody has already eaten breakfast, fed the cattle, the sheep, all while I was in bed. I know of no harder working "unemployed" people on the face of the earth. They have to haul water. Every time they use water to wash their face, or make meals, or drink a glass of water, it's got to be brought in from five, six, or eight miles away. They don't have any electricity, so they have to find wood to enable them to cook or have heat. They are so busy doing those chores that they are too busy to be unemployed.

Q: Then would most Navahos find it objectionable for, lets say, some industrial company to come on the reservation and build a plant?

A: Well, there's got to be some give. Some young Navahos want an 8 to 5 job, so there are some that want to see that happen. We have coal and oil resources on the reservation. We use to have a lot more. All the electricity produced on the reservation is wired down to Phoenix, or to Las Vegas, east Los Angeles and Tucson. Their electricity is produced from burning coal from our reservation.

Q: Why not make demands on the utility company?

A: Every time we make a demand, well, look at our coal. There wasn't an escalation clause in the contracts. So, we sold the coal at 25 cents per ton when the price was in that neighborhood. But it's still being sold at 25 cents a ton.

Q: What are the normal rates for coal now?

A: I don't know what it is now. About eight years ago I believe it was about $12.50 per ton.

Q: Well, it would seem to me that, by the contracts course we both took last year, that the contract would be . . .

A: UNCONSCIONABLE! Yes, that word rattled in my brain during contracts class. See, that's an example of a problem that makes it hard for me to be in law school. I know what the bottom line is going to be on some of these situations. I think minorities tend to do that when they go to law school — they tend to look at the outcome. Be as logical as you want, but let's look at the outcome and see what that says about the system . . . Minorities tend to say, 'You may be fair, honest and all these things you say you are, but the bottom line is there is something wrong here.' So we might tend to not think highly of logic or of legal systems, because they tend to produce such biased outcomes. So after class I think, ok, I can probably think my way around this problem logically, and I might be able to eventually get a pretty good deal for the tribe, but the bottom line is that people in Phoenix and Tucson don't want a larger electric bill.

When the time comes the electric company will send out notices with the customers' bills and ask whether their customers want a rate increase. Consumers will object and the company will go to their state legislatures saying, "Everybody doesn't want a rate increase." The decisionmaking occurs in very isolated contexts. And that method often precludes, or rather, defines the outcome.

Features

Hundreds Found Hanging in Hutchins Hall

by Jeff Eisenberg

BY THE TIME you get to be a last semester senior, things can get real dull. Especially classes. For a lot of my friends, crossword puzzles are the answer. Having no aptitude at that sport, I've found myself staring at the walls a lot these days.

Wondering who in the hell are all those faces staring back at me?

The other day, I noticed that in Room 218 there were something like 58 photographs hanging from the walls. Most of the people pictured were graduates of the Law School who later became famous. Like the renowned George Meiklejohn, J.D. 1890, who, as you know, held the post of Assistant Secretary of War for a while. His picture hangs next to that of George Washington. Somehow, I couldn't figure out the connection there. First I looked to see whether this classroom could be the 'all George Room.' Since that proved not to be the vital link, I realized that it must be something deeper.

After class, I copied down the names of each one of the persons pictured in the room and went to the library for some biographical research. Turns out that every one of these famous and nearly famous people suffered from the same painful scalp disease. Room 218, it turns out, is the 'Seborrhea Room.'

> *"Turns out that every one of these famous and nearly famous people suffered from the same painful scalp disease. Room 218, it turns out, is the Seborrhea Room."*

I FOUND THIS research so interesting that I decided to check out some of the other rooms around Hutchins. In Room 232, the Moot Court Room, all of the photographs are of U. of M. Law grads who later became judges. That seemed appropriate. What didn't seem appropriate at all was the ridiculous oversized polka-dot bow tie that Judge G. Mennen Williams, J.D. 1935, chose to wear over his judge's robe. I propose that, in keeping with the dignified traditions of both bench and Law School, that someone should touch up the Honorable Chief Justice Mennen's portrait, making his tie black.

Not every classroom features U. of M. Law Grads, I discovered. In Room 220, the motif seems to be YE OLD ENGLISH LAWYERS. Some of these people aren't exactly household names. For instance there's a big portrait of Alexander Weddenburg, also known as "Baron of Loughborough, First Earl of Rosslyn." I wondered, what, exactly, this man had contributed to the legal process to warrant recognition in our hallowed halls. Once again, it was off to the library. Painstaking seconds of research uncovered that the answer is either:

A). Nothing much, or

B). How do you use this damn card catalog?

Another portrait hanging in Room 218 is that of Sir John Eadley Wilmot, 1709-1792. I read the caption underneath his profile which noted:

"At Cambridge, where he matriculated from Trinity, he did not graduate but acquired a taste for learned leisure, which he never lost. Called to the bar 1732, Lord Chief Justice of the Common Pleas 1766-77."

READING THIS WAS enough to make me wish I'd been born in the 18th century. I went home that night and dreamt that I was Sir John. In the dream I dropped out of law school and spent a few years getting high, eating Munchos, and watching sports on T.V. One day, the phone rang. It was Queen Whatshername, asking me out for a few drinks. I accepted, and when I met her at the bar she dropped the bombshell on me. How would I like to be a judge? she asked.

"Well, I never graduated from law school," I admitted.

"No prob.," she said. The lady was cool.

I spent the rest of my life in court, powdering my wig and doing whippets under the bench.

A few days later I told a friend about my dream and she informed me that "learned leisure" means playing chess. I got kind of depressed hearing that.

But I kept spending my class time examining the photos, paintings and drawings in the classrooms of Hutchins and some interesting questions popped up. For instance, what about the shitty looking photos — Why is the photo quality so bad? And who decides what photos make it to the wall, and which ones don't? Could I just put up a portrait of myself, as did Kevin C. Randall, J.D. 1982? The caption on his portrait reads "Robert K. Mondavi Professor of Wine Law" (I'd tell where it's located except if I did some humorless prof would probably take it down).

I decided to pay a visit on the Faculty's unofficial historian, Professor Roy Proffitt for the answer to these questions. The Professor explained that a few years ago, Professors Vining and Carrington (who has since left the faculty) decided that the photo situation around the law school was getting out of hand. The pictures were hanging all over with no rhyme or reason. So these two profs volunteered to organize, arrange and clean up all of the photographs. They attempted to give each classroom in the law school some sort of theme. Professor Carrington really got into the project. For instance, he decided to get a picture of every Michigan Law alumnus who ever became a Governor. In some cases he even had to go to a library and find an old newspaper picture. Then he would xerox it and have it blown up to portrait size. Carrington even wrote to the families of some deceased alums asking for a portrait.

OF COURSE OVER the years, the number of pictures really mounted. Soon there were far too many pictures to hang them all. The "line of distinction" had to be drawn somewhere, explained Professor Proffitt. So the 'leftovers' were respectfully stuck in a closet somewhere in the depths of Hutchins, and, according to Proffitt, no one is quite sure where they are today.

Listening to the tales of Professor Carrington's labors made me realize how ignorant I was of the nuts and bolts of scholarly research. I would never have realized that my tuition money went to fund these types of historical efforts. At first I was a bit upset. It seemed like a waste of money and time. But I thought about it some more and I decided I was wrong.

So thank you, Professor Carrington, wherever you are. Your project may not have changed the minds of the legal world, but if the name Alfred Budge ever comes up in conversation, I'll know that he was a Chief Justice of the Supreme Court of Idaho, that he graduated from U. of M Law in 1892, and that he had hair growing out of his ears.

The authors lifelong dream is to someday get Andy Rooney's autograph.

Law in the Raw

Compiled by Mike Walsh

Something Smells in Washington

Scientists have discovered a mind-altering chemical scent that can be used to manipulate voters, according to an article in the Reader's Digest. "These signal scents are called pheromes, and now it seems that [the scent] acts as a social pherome—a follow-the-leader odor command—in humans." writes Lowell Ponte, author of the article. Ponte points out that "Congress should pass a law making it a crime to use this or similar chemicals to influence voters." He speculates that the odor could be used as an aerosol during political rallies or as a fragrance in the ink of campaign literature to make the candidate more attractive.

—*Student Lawyer*, **Januery 1983**

Leave a Wake-up Call

A three-judge panel on the D.C. Circuit has been asked to rule that sleep is a protected expression under the first amendment. The battle arose when a group called the Community for Creative Non-violence gained permission from the Park Service to pitch their tents at various Washington parks in order to dramatize the problem of homelessness. The Park Service, however, said that the demonstrators must remain awake in order to prevent the ostensibly legal protest from becoming an illegal "camping" on federal grounds.

New York Times—**December 23, 1982**

Room and Bored

Defendants sentenced to weekend jail terms as part of probation in Crawfordsville, Indiana, have to pay the Montgomery County Jail a daily rate of $21.75, which includes $18 for the cell and $1.25 each for three meals. "It's not only saving the county some money," said chief jailer Glen Sillery. "It's done to be an added punishment. A lot of these inmates sent here on the weekends thought this was a lot of fun. They got away from the wife and kids and played cards with the other guys for a couple of days. We wanted them to remember they were in jail."

—*A B A Journal*, **December 1982**

"90 Days, with Hot Dogs for Good Behavior"

An easygoing sheriff in West Virginia who lets prisoners out for chores, gardening, and an occasional social event is being hauled into court by the local prosecutor for his policies. "[The prosecutor] didn't like for the prisoners to be out working a little bit on the side, and cleaning up around the courthouse," the sheriff said. "He wanted them kept inside and locked up, and I said I wasn't going to do it."

"We had a square dance July 4th and Labor Day. I took 'em to that," the Sheriff said. "Bought 'em hot dogs. We got along fine. I don't take outlaws too much. I take the ones I can trust."

—*Los Angeles Daily Journal*, **January 23, 1983**

Quote of the Week

"Women judges are sometimes very lonely."—**Sybil Hart Kooper**, *Justice of New York Supreme Court in Brooklyn, chair of the 1982 conference of the National Association of Women Judges.*