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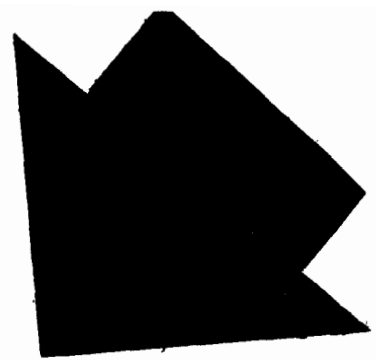
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**MICHIGAN
LAW SCHOOL
WEEKLY**

RES GESTAE



**ON AMNESTY: SAX
AND KAHN, PAGE 8**

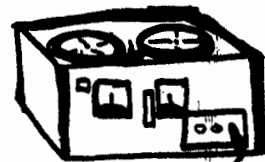
OCT. 25, 1974

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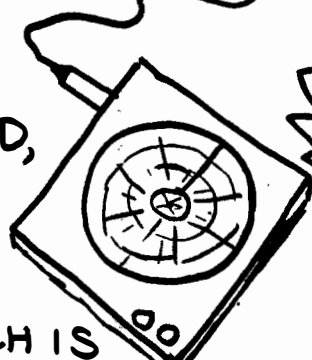
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BURP

LEGAL ENCHILADAS

By Stan Ford

In last week's column I had the pleasure of saying that generally law professors were "cheap hucksters....with karma like Charles Manson...who ought to return to their used car lots...." After reading my copy the noble editor of RG looked like he had just finished a plate of chili peppers washed down with sour buttermilk. As I write under a pseudonym when the shit flies it hits his fan. Consequently he does have reason for running in the other direction when I pleadingly place my offering on his desk.

In the last week RG I counted three articles critical of the law school and its expositors. The letter from the first-year, woman law student, was especially effective in relating the senseless pain engendered by unthinking sexist remarks in the law school classroom. Perhaps next year she will have the pleasure of taking Criminal Justice from Professor Kamisar and hear his discourse on the exact sum needed to encourage prostitution among women.

I was told, however, by more than one sympathizer with my critical intuitions that the R.G. is not nearly slashing enough in its observations on life here in the quad. As what has been written in these pages neither satisfies our more vituperative colleagues nor the latter day Quislings a different tack will be tried in order to satisfy the needs of the Friday morning in-class reader. At least for this week our brilliant editor will get a different sort of indigestion. Let us approach by route of the stomach.

Legal Enchiladas

You Need: Tortillas (can be bought at the Capitol Market; at Krogers across the river; corn tortillas are best but flour is o.k.); Two tablespoons olive oil; One-half cup chopped onions; One minced clove garlic; One tablespoon chili powder; One cup tomato

(SEE BURP PAGE 4)

SATAN

SATAN COMES TO MICHIGAN

By Bob Aicher

Needless to say we were all rather incredulous when the rumor began to go around. The Devil here? Satan himself coming to interview for associates and second year clerks at the University of Michigan? It was a well known fact that Mephistopheles never interviewed other than at Harvard and Yale, for reasons too obvious to mention, what could prompt him to break with centuries of tradition?

Still the rumors were confirmed and I saw the posting on the placement office's bulletin board. "Satan et al., offices in all major cities, interviewing 2nd and 3rd year students.

Deciding on whether or not to sign up was initially difficult; when I entered law school I had visions of righting wrongs, working for the underprivileged, and generally fighting for God. The difficulty with this, and I soon came to realize, is that God doesn't pay. Besides this, for some unknown reason there aren't many firms who fight for God interviewing here. So to fulfill ideals I would have to starve a little, a simply unthinkable course of action for a future University of Michigan Law School graduate, and one in the top half of his class to boot.

I discussed the problem with my good friend Corporate Suck. "Gee Suck", I mused, "I just don't know whether to interview with Satan or not."

"What's the problem", he laughed, "not those old idealistic tendencies coming through again?"

"Well Suck, I really wanted to work on God's side."

"Don't be a fool," Suck smiled. "Satan has rights too you know. He needs someone to stand beside him too. Besides, what can being for God get you? Personal satisfaction? Fulfillment? Happiness! Garbage.

(SEE SATAN PAGE 5)

(BURP FROM PAGE 3)

puree and one-half cup beef stock; One opinion by Justice Rehnquist, preferably one that is stupid on its face and revolting to read like Jefferson v. Hackney; Salt and pepper; One teaspoon cumin; One Law Review Flea; Chopped raw onion; All of the U.S. Reports you can steal from the library; Monterey Jack cheese; Any law school professor or student that you don't enjoy hearing run off at the mouth in class; Your first year notes.

Pre-heat your oven to 350. Place the U.S. Reports in the oven until golden brown. Rip out the pages and use as napkins. In a saucepan heat the olive oil and then saute until clear the onion and garlic. Add the chili powder. If it makes you sneeze blow your nose with Jefferson v. Hackney by "Renchburg." Its the only thing the opinion is useful for anything (see Marshall's dissent if you are sceptical). Pour in the tomato puree and the beef stock. Season with salt, pepper and cumin. Spread this sauce over the tortillas. Spread whatever

sauce is left over your first year notes. It will help preserve them. Fill the centers of the tortillas with the raw onion and the mozzarella cheese. Roll the tortillas and place in an oven proof dish. Pour more sauce and sprinkle more cheese on top of the rolled tortillas.

Tell your law review flea that he can get a better paying job with even more boring colleagues if he places his head in your oven. Leave him or her and the incipient enchiladas in the oven for fifteen minutes. Take your sauce covered notes with you to class and place them in front of the person you like least. Watch his or her eyes water. Then whip out your legal enchiladas and eat them right there on the spot. There's nothing like good food for making those law school blues go away.

打倒法律教育

METAMORPHOSIS (FEMALE)



SEPT, 1974



MAY, 1975



MAY, 1976



MAY, 1977.

(SATAN FROM PAGE 3)

Flush those thoughts down the toilet, This is the big leagues now. This is an elite school. You should have left that nonsense back in undergrad where it belongs. Besides, I thought you stopped all those thoughts when you interviewed Kirkland and Ellis?"

"Well I thought I did, Suck, Gee, I guess you're right. After all the Devil needs legal help too."

"Damn right, and besides, has God even offered you \$250 a week to clerk in the summer?"

"Well, gee, no Suck. Now that you put it like that, no."

"And think of your wife, should she have to sit in some dump watching black and white T.V. all day while you're out doing work that gives you personal satisfaction?"

"You're right, Suck" I said, pounding my fist into my hand. "I'm going to sign up now."

Finally the day of the interview came. I was nervous. After all, my grades were good but I wasn't on law review, and everyone knows how tough it is to get a job with Satan. I had to sell myself with my personality during the interview. I had to give it my best, I had to get this job.

Then the door opened and as the previous interviewee walked out I briskly stepped up and introduced myself. "German Rationalizer," I said.

"Very pleased to meet you. I'm Satan," replied the Devil.

He was all I expected him to be. He wore \$50 shoes, a Hickey-Freeman suit and had a Phi Beta Kappa tie clasp holding his \$15 tie. He had a slight tan and very stylish horns. He wasn't at all like the Bibles pictured him, and he was friendly too.

"Well, German" he began as he glanced through my resume, "I assume you're interested in working for Satan etal.?"

"Yes Sir, I am." I replied.

"And just what is that interests you in our type of work?" Satan asked as he studied a xerox copy of my grade transcript.

"Well, I admire your work very much. For example, I saw the fine job you did on Linda Blair in the Exorcist."

"Ah, so you saw that did you, eh? Yes, yes, it was a delightful piece of craftsmanship. And the legal experience my attorneys got when her mother sued me! Fantastic! Do you know it took 4 Harvard Lawyers full time to relieve me of liability?"

"You don't say" I responded somewhat nervously as I noticed this line of conversation was causing him to get excited and his fingertips were scorching my resume.

"Yes, yes! he continued. "Do you know how I finally got off?"

"No, I have no idea."

"Well you remember that glorious scene with the crucifix, and he giggled. "Well, my boys, that's how I think of all my lawyers, as my sons, convinced the judge that Linda got pleasure out of the masturbation, and this constituted contributory negligence on her part as a matter of law and I was off scot free. Brilliant-huh?"

"Yes" I said as we chuckled together.

"Well, German" he said, and he leaned towards me, "I like you, you look like the type of man I'm looking for. So I'm going to tell you something in the strictest of confidence of course."

"Of course."

"Well, we are currently in the process of expansion. I'm buying all the insurance companies in California. As soon as these acquisitions are complete I intend to cause a major earthquake out there and then will the fun begin. German, do you think you would like to be there on our side fighting all those claims?"

"Boy, would I!"

"Fine, Fine. Of course there are a few details. We do pay \$250 a week to start but you will have to sell your soul to me so to speak-He He He."

(SEE SATAN PAGE 6)

(SATAN FROM PAGE 5)

"Oh, of course, my soul. Hell-Ha, Ha, - that is- Heavens, I lost that the day I began law school."

"Good, and of course you do realize we are known as a sweat shop. It does get a little hot under the collar with me, so to speak, He He."

"Oh, of course, the hotter the better."

"Fine. Well, German, as soon as I complete interviewing at Harvard I'm going to sit down and make some decisions, and I'm sure you'll be hearing good things from me after that. Do you have any questions, our time is almost up?"

"Well, yes sir, I do. Just out of curiosity, what prompted you to interview here this year? After all you are known as a Harvard and Yale man if I may speak freely."

"Of course, my boy. Well, Michigan certainly is an elite school and I had to find a


substitute for Yale. I've discontinued interviewing there you see."

"Oh, why was that?"

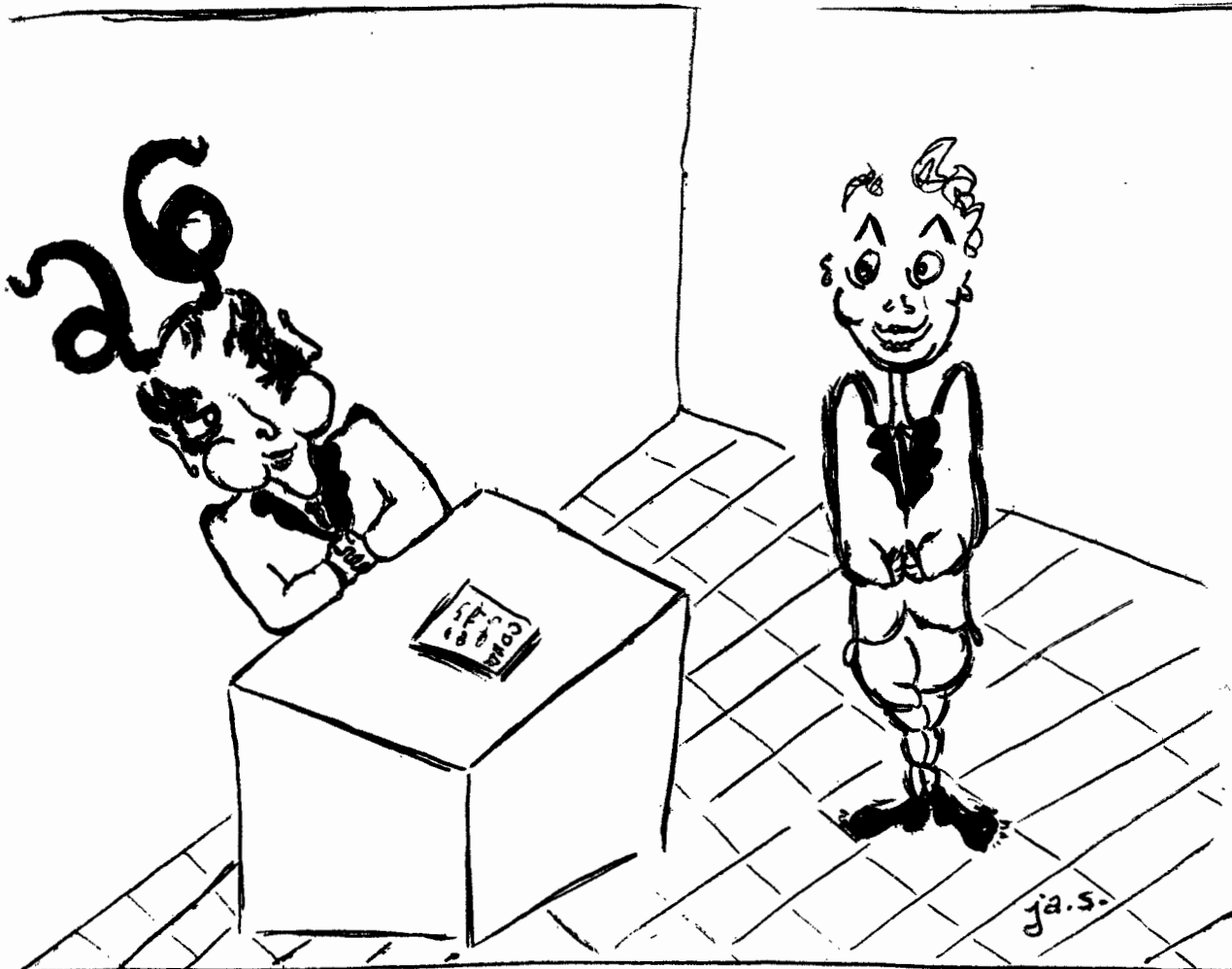
"Well, they now are pass-fail and we have doubts both as to the quality of student they are graduating, and the lack of competitive preparation given by that system. Michigan certainly doesn't lack that. In fact you might say I find myself almost at home here when I've been here during exam time. Makes one nostalgic, you know?"

"Oh, of course. Thank you very much for the interview "I said as I left.

Sad to say my story does not have a happy ending. Satan rejected me by letter two weeks later. "I knew I should have worked harder as a Freshman to get on Law Review" was all I could think. "Then I could have gone to Hell with no difficulty."



(THIS IS THE LONGEST R.G. IN HISTORY!)



NOTICES

CANCELLATION OF RECEPTION FOR HOWARD PRIM:

Due to the decision of Howard Prim (the law firm representing Gallo Wines) not to visit the University of Michigan Law School this fall for interviews, the meeting proposed by the Lawyers Guild and La Raza Law Students to discuss their representation of Gallo has been cancelled. Howard Prim had scheduled for interviews on October 24th and 25th, but cancelled since they have already met their hiring needs.

The Lawyers Guild and La Raza
Law Students

FILM SERIES

Friday, October 25, the Law School Film Series will present a double feature, Horror of Dracula (at 7 and 10 P.M.) and Them! (at 8:30 P.M.) The place is Room 100, Hutchins Hall. Admission is free for law students (with the white receipt from the \$15 law fee) and only \$1.00 for both films for non-law students.

Anyone who owes money for calls made on the women's office telephone: please pay up soon.

All people interested in raising and receiving funds for the National Conference On Women and the Law:

The deadline for signing up for the fund-raising committee is today, October 25th. Please sign up on the door of the women's office. The next meeting is also today at noon in the women's office.

PHI ALPHA DELTA

Phi Alpha Delta Law Fraternity will have U.S. Congressman Marvin Esch as its guest speaker on Thursday, October 31.

Our luncheon is at noon in the faculty dining room (between the Lawyers Club Lounge and the student dining room). Everyone is invited, and free coffee is provided.

FACULTY RANKINGS

Insofar as the machinations of this humble organ, along with the pleas of gentle souls have failed to produce any significant changes in the law school system of ranking students (with small letters supposedly providing a convenient summation of one's total entity) we are behooved to subject the dominant forces to the same form of primitive analysis they impose upon the student body.

Consequently, we present the first Res Gestae faculty ranking poll. The standards are simple. Of the professors with whom you have come in contact, name the best and the worst teachers. We are not concerned with REPUTATIONS, publications or other unmeaningful criteria. Rather, the ability to CONVEY MEANINGFULLY knowledge, a degree of sensitivity, and courtesy, are what matter here.

This of course, will not be a statistically pure endeavor, i.e., to a certain extent, the results will be unscientific. It is an opportunity to remove an onus from your shoulders, and speak out! Place the complete polls in the box in front of room 100 (next to the football poll box). You need not sign the entry.

TOP FIVE FACULTY MEMBERS:

(LIST IN ORDER OF PREFERENCE)

1. _____
2. _____
3. _____
4. _____
5. _____

BOTTOM FIVE (WORST) FACULTY MEMBERS

(NO. 5 BEING THE WORST)

1. _____
2. _____
3. _____
4. _____
5. _____

Docket

HALLOWEEN DANCE

Next Friday (Nov. 1) the LSSS will sponsor a Halloween Dance in the Lawyer's Club Lounge. In the interest of attracting more of the married students and couples who usually tend to avoid the "meat-market" atmosphere of the mixers, the dance will be advertised only within the law school community, and an admission price of \$2 will be charged for both couples and singles. Beer, punch, and other refreshments will be served, and live music will be provided by The Rabbits, a versatile seven-piece rock band from Ann Arbor. The program will include several numbers featuring their jazz flutist, and other songs in the Halloween spirit.

Dress is nominally semi-formal, but everyone is welcome to come in costume. A contest will be held for the best costume, just before midnight. Everyone is asked to

at least bring a mask, although masks will be available at the door free of additional charge (beyond the \$2) for those who don't.

The dance was scheduled for the Friday night after Halloween to avoid a conflict with the accounting exam being given that Friday afternoon.

Bill Hays

SECTION 5

Section 5 had its meeting on Tuesday Oct. 15 and about 25 first-year people came. We got together a few project ideas, some of which were:

1) Alternative Practice Conference-to be held sometime next semester-to bring to the law school, attorneys whose practice is outside the realm of the corporate firms (which have plenty of money to send interviewers here) - for example: People from law collectives, people who work for legal aid, for appellate defenders, people with small-town and urban-neighborhood private practices, and any other "alternatives" you might be interested in.

There are probably a lot of second-year people who would be vitaly interested in this project and their ideas and help are certainly welcome. Mike (764-8967) or Susan (665-2170) would be the people to call.

2) This semester we hope to have a panel on prison reform, bringing in some area people who have some expertise and personal experience in dealing with being inside.

3) This coming Tuesday (October 29th) there will be a gathering, again in the Lawyers Club Faculty Dining Room at noon, of first-year people who are interested in discussing what they can do about the way the law school experience, and professors in particular, "messes with your psyche." This is not meant to be a therapy session (but a discussion of what kind of action would be possible, and is necessary). We feel it is particularly important that first-year people from section 1 show up, as they seem to be the most oppressed section of the class. This is for you:
BE THERE.

4) Stay tuned to this station, same time, next week, for any further news. People with other project ideas should leave a note in the Section 5 box in LR 110.

BRIDGE

WHAT: Swiss (Team-of-Four) Tournament

WHEN: Thursday, November 7, at 7:15 P.M.
Sunday, November 10, at 1:00 P.M.

WHERE: Law Club Lounge

COST: Free

WHO MAY PLAY: All members of the Law School community--students, faculty, staff, spouses, etc.

SIGNUP DEADLINE: Saturday, November 2, at 8:00 P.M. Sign up at the Law Club Desk

QUESTIONS: Barry White (764-8991)
Jim Warden (971-1034)
Louise Jung (665-4292)

SAX

A REFLECTION UPON THE AMNESTY*

By Joseph L. Sax

*Copyright © 1974 by Joseph L. Sax. Printed with permission of Law Quadrangle Notes.

With a single stroke Gerald Ford converted the amnesty problem from a peripheral political issue into an operative program. Considering how little the public in general was agitated about amnesty, the existence of any sort of program today is remarkable. As late as mid-1972, a Newsweek poll showed only 7% of the public in favor of unconditional amnesty, and by April, 1974, that figure had risen to just 34% in the Gallup Poll.

While some of those to whom Mr. Ford's amnesty program is now available will doubtless take advantage of it, public attitudes about amnesty will continue to be highly important over the next several years for a number of reasons. A good number of resisters and deserters will not bring themselves within the terms of the present program; of those who do, the question whether to shorten or rescind the terms of alternative service will remain. It is a continuing feature of the amnesty question that with each passing year public attitudes become more sympathetic, and historically (as with our own War Between the States) amnesties tend to be granted in stages, with the terms over time becoming increasingly generous. Perhaps most significantly, we ought to ask some hard questions about the broader meaning of an obligation of alternative service.

It seems fair to begin with the assumption that most Americans fall neither in the category of those who feel that unconditional amnesty is the only morally acceptable decision nor of those who demand that war resisters be treated like any other criminals. Rather, the majority appears to view the Ford amnesty program as an appropriate solution to an ambiguous problem: Those who refused to participate in the Vietnam War had much justice on their side; still, obedience to even dubious legal commands must hold a high priority in a society that prizes stability and cohesion. 1 As against the risk of being

(SEE SAX, PAGE 10)

KAHN

THE CASE FOR ALTERNATIVE SERVICE--

A REPLY TO PROFESSOR SAX

By Douglas A. Kahn

Professor Sax advocates that unconditional amnesty should be granted to Vietnam draft evaders and deserters, and he contends that the condition of alternative service imposed by President Ford, while superficially attractive to some, is unsupported by an acceptable rationale. While I harbor misgivings concerning the grant of any type of amnesty for Vietnam evaders or deserters, I have concluded that amnesty should be given provided that is conditioned on the performance of some service such as that required by President Ford's program. Obviously, this places me squarely at issue with Professor Sax, and I will attempt to detail the specific areas where our analyses or perspectives diverge.

First, we should note that the question of amnesty is a political question and therefore that the granting of amnesty and the form it takes should be determined principally by political considerations. Secondly, any consideration of whether amnesty should be unconditional should begin by determining the grounds for granting any form of amnesty. Obviously, there will not be uniform agreement on those grounds, and I would expect that Professor Sax and I would discover our first area of disagreement in our respective resolutions of that issue. Nevertheless, I will examine those grounds for amnesty that occur to me.

One rationale which might be offered in support of an amnesty policy is that the war was "illegal" because it was not declared in accordance with the terms of the Constitution or some similar contention. I do not wish to discuss that issue (partly because of space limitations and partly because I do not regard it seriously), but I would note that apart from the legality of the war, I personally feel quite certain that the draft was legal. In any event, I suggest that there is not sufficient political support for the view of illegality to warrant granting amnesty for that reason, and as I stated above (and I assume that this statement is not controversial), the granting of amnesty rests primarily on political considerations.

(SEE KAHN, PAGE 10)

(SAX)

killed in combat, languishing in a federal prison or being permanently separated from family and home, the requirement of two years alternative service seems magnanimous. Moreover, it is widely thought desirable that vigorous young men should devote a brief period of their lives to public service in hospitals or other such places where aid is badly needed and can be ill-afforded.

However seductive such compromise may at first appear, I am persuaded that it cannot withstand analysis. Let us take a look at the claims for imposing a requirement of alternative service at this time. They are, so far as I can tell, four in number. First, it can have a deterrent effect for the future, setting a precedent that refusal to serve in the armed forces should not be lightly undertaken; second, it may have a punitive effect, making the point that legal disobedience, even for good reasons, should not be given a status of acceptability; third, it imports a version of fairness, indicating that draft resisters ought not to be treated better than were qualified conscientious objectors, and ought to bear at least some burden commensurate with that borne by those who served in the military forces. And fourth, some may be concerned that an unconditional amnesty would represent an official symbolic statement that the war was wrong or illegal, a determination that many may feel ought to be avoided or at least finessed.

I do not find any of these claims persuasive. As to deterrence for the future, it is a virtually uniformly held position among experts on the criminal law that for deterrence to work it must be swift and sure; that is, the sanction must be imposed quickly and the nature of the sanction must be clear to the person whose behavior is sought to be affected in the future (and to others who may be so tempted). It is also undoubted that deterrence works best for conduct that is rationally calculating, and works least when the conduct is the product of passionate or deeply held feelings.

Taking these accepted principles of deterrence, it is clear that the conduct with which the amnesty program deals falls very far on the non-deterrable side. By their very nature, amnesties usually comes con-

(SEE SAX, PAGE 11)

(KANN)

Another ground for amnesty would be to serve as an official admission of the errors of judgment and morality made in prosecuting the Vietnam war and to serve as a recognition of the merits of those who resisted it. While undoubtedly there are many Americans who would favor such an admission, I do not think it would be seriously suggested that there is sufficient political support for that position to warrant its adoption. Parenthetically, I should note that by "political support," I do not refer to congressional action but rather I mean to refer to the position held by a majority of American citizens--albeit I realize that one's appraisal of the majority's position is something less than an educated guess. Regardless of whether the war constituted an error of judgment and/or morality, I believe that a significant majority of Americans regard the act of evading the draft or desertion as reprehensible.

A third ground, which I believe is the position adopted by Professor Sax in his paper, is that amnesty is an appropriate vehicle for repairing the current division in our country by wiping the slate clean and hopefully thereby putting behind us the internal turmoil caused by the prosecution of the Vietnam war. Referring to the Civil War amnesty as a precedent, Professor Sax suggests that a major purpose of an amnesty is to renew and restore confidence and fraternal feeling among the citizenry. Of the various reasons offered for granting amnesty, this desire to restore unity appears to be the most widely held, and indeed it is that purpose which led me to favor some form of amnesty. However, it is important to consider who is to be the object of this quest for unity. Initially, it should be noted that while there are similarities between the present situation and the post Civil War period, there are also great dissimilarities. The Civil War was fought to maintain the unity of the nation, and if all those who participated in the rebellion (which included the great majority of Southerners) were punished for their participation, the prospects of obtaining a lasting unity would have been slim indeed. Moreover, despite the revolutionary characterization of the war, the post-war position of the South was similar to that of a conquered nation and amnesty was consistent with that reality. A more anala-

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(SEE KANN, PAGE 11)

(Sax)

siderably after the event, when involvement in the fighting has ended and passions have cooled on all sides. In addition, government's response to claims for amnesty are inevitably tailored to the particular event involved and cannot be expected to be uniform from one war to another.

Our own history makes this latter point quite clear. American experience with amnesty, from the time George Washington, has varied widely depending on the moral and political goals sought to be achieved. An amnesty may be needed to bring political opponents back "into the fold," as was the case in the War Between the States. It may be desired to cope with laws that have been unmanageable, as with the Whiskey Rebellion; it may be undertaken during wartime, in a limited way, to deal with inability to recruit and hold soldiers, as happened in our early history. It may be wanted only to deal with retrospective efforts to untangle mistakes and blunders in the conscription process, as was the case with the Truman amnesty board.

And, of course, one must expect congressional attitudes toward amnesty to reflect feelings about the particular war in question. For example, it is not surprising that no general amnesty was declared following World War II, considering the overwhelmingly favorable public attitudes about that war. Similarly, there is no reason to know whether, should the problem arise in the future, we would be dealing with a war like the Vietnam War, the Second World War or, the War Between the States, each of which might quite properly call for different attitudes toward those who opposed the war.

I can say from personal experience, having talked with a great many young men who were considering draft refusal, and with many who had refused or deserted (in Stockholm and Paris, in 1967), that the question of the "precedent law" of amnesty in the United States was never in any discernible degree a factor in their decisions. Nor, indeed, if it had been, could I (or anyone) have told them what the appropriate precedent was or would be. Should one have told them to read up on the Whiskey Rebellion, on the 1860's, or on the situation in France following the Algerian War?

(SEE Sax, PAGE 12)

(Kahn)

gous example would be the treatment afforded to deserters from the Union army, and, while that situation also presented different issues from the Vietnam war, after my brief and concededly incomplete inquiry, I was not able to determine that any deserters was given unconditional amnesty.

The purpose of seeking unity through an amnesty might be aimed at seeking to re-unite the nation with its prodigal children who departed the country, or through the symbolic act of terminating the last vestige of the war it might be aimed at regaining the participation in our national activities of those members of our society who (though they remained within the country's boundaries) were alienated by the war, or it might be aimed at both groups. My own personal reason for accepting an amnesty program is to unity those who have remained within the jurisdiction of the United States; I see no intrinsic benefit in inducing the evaders and deserters to return other than as an effort to minimize the division among those who remained. However, in seeking to mollify those who strongly urge amnesty, we must not overlook the substantial number of persons who strongly oppose the granting of an amnesty of any kind. We will have no unification if we mollify one group at the cost of alienating an equally substantial or even larger group. Consequently, an amnesty conditioned on alternative service is a political compromise in the best sense of that term. It takes into account two widely divergent and strongly held views and seeks a middle ground which provides enough to each group to meet their basic demands even though neither group gets all of what it wants. Indeed, where political action is a resultant vector of sincerely held but irreconcilable positions of major segments of the society, the democratic process is operating at its optimum. If either or both groups are totally dissatisfied with the Ford program, then the compromise failed, but despite grumbling that has not yet happened; and even the failure of the compromise would not prove that it should not have been tried.

I regard the desirability of compromising this issue as a sufficient justification of the Ford Program. However, there are

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(SEE Kahn, PAGE 12)

(Sax)

One might say that if the United States set a precedent now, and determined to follow it, we would have a clear rule to which future potential draft refusers might

look. But I think it fair to say that no such precedent could be binding, for no Congress can bind the future, no would it want to in such a complex situation. Consider whether a Congress sitting in 1840 should have set a precedent that it would have felt bound to follow in 1868 or 1872.

As a final word on deterrence, I want to emphasize that one need not sympathize or agree with draft resisters to be confident that deterrence through the medium of amnesty laws will not be effective. Thus, whether one thinks that some draft resisters responded to deeply held moral feelings, or to simple but powerful cowardice, you can be quite certain that in either case a reasoned consideration of future congressional legislation would not moderate their feelings. If, indeed, as may be the case with some who oppose amnesty, they feel many draft resisters were merely afraid to die, that is the emotion least likely to be affected by what the government does half a dozen years after the event.

Beyond the specific issue of deterring draft evasion and military desertion, is there a claim to be made for conveying the general message that legal disobedience is disapproved? Certainly there is, though I have elsewhere observed that we often are tempted to state an excessively rigorous view of the need for strict law enforcement.²

However, one deals with this problem in general, the amnesty situation seems a peculiarly inapt setting in which to implement a broad position of general deterrence. The reason is an eminently practical one. Most amnesty programs are wholesale enterprises; they undertake to deal with thousands of cases in a single stroke. Of necessity, they include the full range of individual situations, from those who acted out of the highest principles with the most appealing extenuating circumstances to some who merely feared to die or who would be unwilling to serve their country under any circumstances. They include as well some who, had the selective service laws been more equitably or carefully administered, would have been held exempt or have been classified as conscientious objectors. Such circumstances would seem to present the weakest case for

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additional and independently sufficient reasons for conditioning amnesty on alternative service.

The act of desertion or draft avoidance was not a mere technical legal violation but was a serious offense and a morally reprehensible act. If society fails to punish those acts, it will condone grievously illegal behavior. Professor Sax seeks to minimize the significance of those illegal acts and suggests that society often adopts "a more rigorous position against civil disobedience that is appropriate to the complexity of life." However, the crimes committed by these young men were not mere trespasses on private property or even relatively minor destruction of property. By shirking their obligation to serve in the Armed Forces, the deserters and evaders did far more than harm some amorphous fictional entity called the Government of the United States, they harmed specific individuals--namely, the young men who served in their place and who would not have been required to serve but for the acts of desertion or evasion by those for whom amnesty is now sought. While many of those who filled in the ranks left bare by the deserters and evaders undoubtedly were not subjected to combat; it is reasonable to assume that a number of them were subjected to the risks of combat and that a portion of those who engaged in combat suffered severe consequences. Where an individual fraudulently evades his income tax liability, it is regarded as a serious criminal act; but that action merely shifts a disproportionately larger tax burden to his fellow citizens and typically the amount falling on any one citizen is relatively small. The action of the evaders and deserters was far more serious; each evader shifted his burden of service and all risks attendant thereto to a single innocent fellow citizen.

I should also note that the decision to punish serious illegal actions does not depend upon a deterrence rationale. If during a domestic quarrel, a man killed his wife, he should be punished for that crime even if there is no likelihood that he will ever sin again and even though such punishment is not likely to deter other spouses from doing away with their mates in the heat of an argument. Similarly the punishment of draft evaders and deserters does not rest on a determination of whether such punishment will deter others.

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insisting on a solution that incorporates the general social principle that failure to obey the law is to be condemned.

If, then, the situation is one in which, by virtue of an enormous range of individual cases, we must perforce make a general rule inappropriate to some of those who will be affected by it, our problem is not solved by pointing to a general rule in favor of general deterrence. We must choose between two imperfect positions. Since the original meaning of amnesty is of a "forgetting," there is support in tradition for taking the least rigorous path. The literal meaning of amnesty is not accidental. It represents a tradition that permits a society to deal compassionately with those who opposed a war without in any way dishonoring those who served valiantly. It says to all that we respect all who followed inner duty's call, whichever way that call may have led. If the concern is for fairness, respect for each individual's choice might seem a reasonable response. It is worth keeping in mind that appellations like cowardice, duty, opportunism and the like are the monopoly of no group. To join the army, with its rather modest risk of death even in wartime, is not ipso facto a more courageous act than was taking the high risk of a lengthy jail term or the highly uncertain fate of those who fled the country. And these were the real alternatives draft-age men faced.

It should be noted that societies not known for their softness toward criminality have made just such choices following even more devious and bitter controversies without a discernible loss in social stability. France following the Algerian War (where a full general amnesty was declared), and we ourselves after the War Between the States are as good exemplars as any.

Is there any way to grant unconditional amnesty without having it read by some as a recognition that the war was wrong? Perhaps not, but by the same reasoning a requirement of alternative service and an oath of allegiance would have to be read as an official statement that the war was justified. However one chooses to resolve this dilemma, it should be recalled that our own history supports the grant of a

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Many persons contend that draft evaders were motivated by altruism rather than by a highly developed sense of self-preservation. Undoubtedly, altruism was the principal motive in some cases. Undoubtedly, in many cases, self interest was the dominant motive. I suspect that in a large number of cases, these motives were so intertwined that the young men themselves could not determine whether they were seeking to save all of humanity or only one specific member. Where it can be demonstrated in an individual case that a young man's dominant motive for fleeing the country was to comply with his moral standards, the flight might well have been a courageous act; but even then his behavior would not necessarily be regarded as laudatory--action which I regard as reprehensible (in my moral judgment) does not become laudatory in my eyes merely because the action was motivated by good intentions. Moreover, while an individual's defiance of the draft may have been altruistically motivated, his flight from the country to avoid prosecution almost certainly was not.

An individual's adherence to his own conscience is a mitigating factor in determining the proper punishment to be imposed, and in appropriate cases, a prosecutor might refrain entirely from prosecuting such an individual. Concededly, it is not feasible to provide a case by case review of the actions of all the deserters and evaders, and the subjective nature of the inquiry makes the determination of even a single case very difficult. But, the fact that some might qualify for prosecutorial discretion or for a reduced punishment does not justify granting a blanket indulgence to all those who fled unless there is a conviction that at least a majority of those who fled were primarily motivated by altruistic considerations. There can be no hard evidence on this question, and so we can do little more than resort to our intuition. For myself, I am skeptical of the altruistic motives of those who preserved their own safety at the sacrifice of the safety of others, particularly where they fled to avoid the consequences of their acts. Consequently, I believe that a substantial majority of the evaders acted primarily in response to what they regarded to be their self interest, and

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full amnesty standing together with whatever view the government chooses to take of the merits of the war. On Christmas day, 1869, President Johnson proclaimed:

unconditionally and without reservation, to all and every person who...participated in the late insurrection or rebellion a full pardon and amnesty for the offense of treason against the United States.

The reason, the President said, was "to secure permanent peace, order and prosperity throughout the land, and to renew and fully restore confidence and fraternal feeling among the whole people."

Perhaps the goal of amnesties ought to be an effort to divest them of all symbolic connotation and let them stand only for recognition that the war is over and that it is time to attend to what President Johnson called--more than a century ago--the task of renewal and restoration. Perhaps too it is wise to try to disentangle the fate of individuals from the burden of symbolic public acts.

Finally, I turn to the question of alternative service. There is an initial ambiguity here that ought to be faced. Are we to think of alternative service as a mild form of punishment given to criminals for whom some element of extenuation is appropriate; as a responsibility fairly to put evaders and deserters in the same category as CO's, who of course were not criminals at all; or as a step toward implementing a duty of service to the nation which might be appropriate generally, without regard to the amnesty question?

I have already indicated why I think the punitive approach is inappropriate. As to creating equality of status with conscientious objectors, I am persuaded that such a view is guided by a misplaced sense of fairness. It should not be forgotten that many CO's during wartime do not serve involuntarily.

They are quite willing to devote themselves to national service but balk only at being conscripted into the violence associated with military service. Beyond this, alternative service for CO's during wartime and in the midst of widespread conscription is a practical compromise. It is a

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therefore I cannot justify an unconditional amnesty. The assumptions that a person makes as to the likely motives of the evaders and deserters will likely be based on that person's view of human nature, and perhaps others will hold a less cynical view than I.

In any event, given my assumptions, President Ford's program is both reasonable and magnanimous. To obtain clemency, an evader must accept a mild and inoffensive sanction; he must devote two years to "good works". Professor Sax describes this as involuntary servitude and indeed it is; so is the draft and so are the prison sentences imposed on those refused to serve in the draft but who did not flee the country. The servitude imposed on the returnees will likely be far more palatable than was military service during war time or was a prison sentence. Indeed if the evaders did flee because of a commitment to altruism, the requirement that they work for the betterment of society should be a particularly gentle sanction.

Another ground for imposing a service requirement is the inequity of granting an unconditional pardon when draft resisters who remained in the United States were jailed. I take it to be a basic premise of justice that persons committing similarly acts be treated similarly to the extent possible. Evaders and deserters defied the law requiring military service and fled the country to avoid punishment for their acts. Others defied the same laws and were subjected to prison sentences therefor. It would be inequitable to permit the returnees to escape from any punishment when the only difference between their acts and those who served a jail sentence is that the returnees fled after or while committing their crimes. As previously noted, there are strong political reasons for not subjecting the returnees to a prison sentence, but it necessary to impose some sanction upon them (such as the relatively mild sanction of alternative service) to provide a semblance of equity and even then the returnees are given preferential treatment. The requirement is not only of concern to those who are treated unequally but also is of concern to all of us who live under our legal system since we have an interest in seeing that our system deals fairly with all who are subjected to its processes.

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means--and an appropriate one, in my view --to deter irresponsibility at a time and in a setting where deterrence makes good sense; that is, in the midst of a war where the immediate alternatives of being shipped off to combat or being left alone could well present an overwhelming temptation to some to shirk their duty. At such a time, it seems clear that all the arguments in favor of deterrence are at their strongest and it is to be expected that a government will treat draft evaders and deserters rigorously, and will have a restrictive policy toward those who claim conscientious objection status.³ It is however precisely the difference in deterrence policy during the war, and some years subsequent to it, that suggests the fairness and propriety of different policies in the respective circumstances.

As to fairness with respect to those who performed military service, I indicated above that amnesty need not, and has not historically, been viewed as implying invidious distinctions among those who went wherever duty called them. If, however, the notion is that fairness to those who served in the armed forces during wartime can only be achieved by requiring public service subsequently, a disturbing new view of social obligation may be emerging.

That issue is the notion of alternative service as a useful device to provide needed public work. I do not suggest that the present amnesty plan overtly or even consciously incorporates such a broad view. But I do think the very ambiguity of our position about war resisters as wrongdoers, and our inclination to put aside--in concern for fairness--a reluctance to conscript persons into public service except in times of national exigency, poses the prospect of a troublesome change in our principles of personal liberty.

It would, I think, be a fine thing if many young people felt a sufficient sense of community obligation that they would devote a few years to public service. However, a penal approach to the achievement of such goals seems misdirect. It has some of the same uncomfortable connotations as imposing on naughty children an obligation to attend church regularly. One may wonder whether two such distinct goals ought thus to be

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A weighing of such risks would not merely consider the probability of being sent into combat, it would also consider the extent of the consequences of losing that gamble.

Finally, we reach what for many may be the most important consideration of all. The imposition of conditions on the granting of an unconditional amnesty has symbolic meaning which has stimulated much of the controversy surrounding the Ford program. An unconditional amnesty will be read by many as an official recognition that the actions of the evaders and deserters were justified. On the other hand, the condition of service (which does constitute a sanction) signals a condemnation of the returnees' acts. Indeed, newspaper interviews with a number of war resisters suggest that their principal objection to the requirement of service is that they are unwilling to accept a judgment of condemnation. The resolution of this question rests on political realities. If, as I believe, there is a consensus in this nation that the acts of the evaders and deserters were reprehensible, then the symbolic condemnation of those acts is quite appropriate, and in no event should the Government signal its approval of those acts. However, if I have misjudged the situation so that, in fact, a majority of Americans approve of the acts of those who fled to evade military service,

then a symbolic approval of those acts would be warranted. In this connection, note Professor Sax's observation that as of April of this year, the Gallup Poll indicated that only 34% of the population favored unconditional amnesty.

¹ While the contention has been made that the self interest of evaders and deserters would have been better served by their yielding to the draft, I doubt that the majority of evaders viewed their interests that way at the time they fled the country, and even with hindsight I am not convinced that they erred in their evaluation of the risks.

(SAX)

yoked together.

Alternative service incorporates an additional and even more troublesome problem. For it takes a step in the direction of--let us give it its proper name--involuntary servitude. I am concerned that our long experience with military conscription, even in peacetime, has dulled our sensitivity to how much any such notion strikes against our fundamental notions of personal freedom.

I find it very strange that in a country where many people are strongly agitated by the government telling citizens how to manage their business, how to use their property, how much they may charge for their services, or even what they may buy, there seems to be so little revulsion against telling people how they must spend two years of their lives.

If we begin to move toward a policy of having the state require all its young people to give several years of their lives to a service that the state deems appropriate, we must not forget the problems of state intervention that have so regularly plagued other governmental programs. Who is to decide what constitutes useful public service and what does not? How are we to have assurances against misuse and exploitation when young people are farmed out to work involuntarily to enterprises that need not pay them the wages obtainable in the marketplace? What protection will we need against a misuse of the power to control several years of productive livelihood, to grant exceptions for some and have the full weight of this obligation fall upon those least able to resist it?

Perhaps in the general relief to lift the burdens of Vietnam from our shoulders, and in the midst of our ever strong temptation to soften the edge of principled decision by alluring compromises, we risk forgetting a lesson long ago provided by the Supreme Court in a not unrelated setting:

In order to...develop ideal citizens, Sparta assembled males at seven into barracks and intrusted their subsequent education and training to official guardians. Although such measures have been deliberately ap-

CLIENTS

CLIENT COUNSELING COMPETITION

Dear Law School Newspaper Editor:

The 1975 Client Counseling Competition of the Law Student Division of the American Bar Association will take place in March 1975. Last year 48 schools participated; this year, with your cooperation, it is hoped that many more will enter the Competition. Please publicize the Client Counseling Competition in your law school newspaper. You will be doing a great service for your fellow law students.

As you may know, the Client Counseling Competition developed as a legal teaching technique. In some ways it is analogous to Moot Court, except that the skill tested is counseling rather than appellate argument. At a time when interest in both clinical tools in legal education and preventive law as a substantive area is growing, this Competition fills a real need. The Competition tries to simulate a real law firm consultation as closely as possible. A typical client problem is selected and a person acting the role of the client is briefed on his or her part. Prior to the day of the actual Competition students, who work in pairs, receive a very brief memo concerning the problem. This data is equivalent to what a secretary might be told when a client calls to make an appointment. The students are asked to prepare a preliminary memorandum based on the problem as it is then understood.

In the actual competition, which takes place at a regional host law school, each team of students is given an hour. The first 45 minutes of the hour are devoted to an interview with the client during which the students are expected to elicit the rest of the relevant information and propose a solution or outline of what further research would be necessary. During the last quarter of the hour the students may confer between themselves and verbally prepare a post interview memorandum. This memorandum can be used to explain to the judges why the participants handled the interview as they did.

All American Bar Association approved law schools are invited to enter a pair of stu-

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proved by men of great genius, their ideas touching the relation between individual and state were wholly different from those upon which our institutions rest.⁴

¹ My comments here are directed to those who stand in this middle group and not to those who oppose all amnesty on principled grounds. My views on amnesty generally are set out in "The Amnesty Problem", 16 Law Quad. Notes No. 3, p. 25 (Spring, 1972).

² Sax, "Civil Disobedience," Satur day Review, September 28, 1968, p. 22. "In fact, no society could operate if it did not tolerate a great deal of technically or arguably illegal conduct...Newspapers (recently) carried the story of a man who had lured several boys to a mountain cabin, bound and then sexually abused them. One of the boys... seized a rifle and killed his abductor. The local prosecutor announced that no proceedings against the boy were contemplated...A technical case of murder might have been made out... It is not strict obedience to the law, but the sense of justice, that we require in the administration of the legal system."

³ To say that it is appropriate for the government to deal rigorously with evaders and deserters during wartime is not to say that it is inappropriate for juries before whom selective service prosecutions are brought to bring in verdicts of acquittal if they are persuaded--as representatives of the community--that the war is unjust. See my article "Civil Disabedience", cited above, and also my article "Conscience and Anarchy: The Prosecution of War Resisters," The Yale Review, Summer, 1968, p. 481.

⁴ Meyer v. State of Nebraska, 262 U.S. 390, 402 (1923).

(CLIENTS)

dents in the Competition. Application forms and a twenty-five dollar (\$25.00) entry fee per school should be received by the Law Student Division by November 18, 1974. A book containing 18 Client Counseling problems with analyses of the problems is available from the Law Student Division at a cost of three dollars (\$3.00). Three copies of this book are sent free to all schools which enter the Competition. More information about the Client Counseling Competition is available upon request.

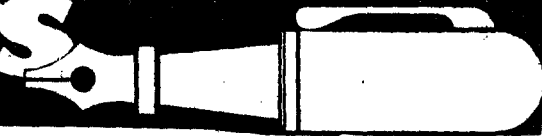
In order for a school to enter, its Dean must approve and a faculty member must be willing to serve as advisor. Each school may select its entrants in any way it chooses. After the deadline date for applications, November 18, 1974, the exact location of the Regional Competitions will be announced. There will probably be about nine regions. The Regional Competitions will take place on March 15, 1975 and the National Competition will be held on April 5, 1975.

The regions and host schools have not been determined because the number and location of participants are presently unknown. If you think your school might be interested in serving as a host, please consult your dean as well as the team's faculty advisor and indicate this interest on your completed application form. All that is involved in being a host school is having the competition at your school on March 15, 1975 and obtaining judges for the competition and a person to act as the client. The Law Student Division of the American Bar Association will cover any costs incurred by the host school, including videotaping, if the facilities are available and will provide a meal for the participants on the day of the competition.

The travel and lodging costs incurred because of participation in the Competition cannot be reimbursed. There will be an award of one hundred dollars (\$100.00) to the winning team in each Regional Competition. The National winning team will receive three hundred dollars (\$300.00) and the National runner-up team will receive one hundred and fifty dollars (\$150.00).

(All those interested, please see Dean Rivera).

letters



DEAR EDITOR,

I thought you might like to reprint this excerpt from Gulliver's Travels, in which the hero explains to his Houyhnhnm master the peculiarities of the legal profession.

Joe Clansvan

I said there was a Society of Men among us, bred up from their Youth in the Art of proving by Words multiplied for the Purpose, that White is Black, and Black is White, according as they are paid. To this Society all the rest of the People are Slaves.

For example, If my Neighbour hath a mind to my Cow, he hires a Lawyer to prove that he ought to have my Cow from me. I must then hire another to defend my Right; it being against all Rules of Law that any Man should be allowed to speak for himself. Now in this Case, I who am the true Owner lie under two great Disadvantages. First, my Lawyer being practiced almost from his Cradle in defending Falshood; is quite out of his Element when he would be an Advocate for Justice, which as an Office unnatural, he always attempts with great awkwardness, if not with Ill-will. The second Disadvantage is, that my Lawyer must proceed with great Caution: Or else he will be reprimanded by the Judges, and abhorred by his Brethren, as one who would lessen the Practice of the



Law. And therefore I have but two Methods to preserve my Cow. The first is, to gain over my Adversary's Lawyer with a double Fee; who will then betray his Client, by insinuating that he hath Justice on his side. The second Way is for my Lawyer to make my Cause appear as unjust as he can; by allowing the Cow to belong to my Adversary; and this if it be skilfully done, will certainly bespeak the Favour of the Bench. [202]

Now, your Honour is to know, that these Judges are Persons appointed to decide all Controversies of Property, as well as for the Tryal of Criminals; and picked out from the most dextrous Lawyers who are grown old and lazy: And having been bypassed all their Lives against Truth and Equity, lie under such a fatal Necessity of favouring Fraud Perjury and Oppression; that I have known some of them to have refused a large Bribe from the Side where Justice lay, rather than injure the Faculty, by doing any thing unbecoming their Nature of their Office.

It is a Maxim among these Lawyers, that whatever hath been done before, may legally be done again: And therefore they take special Care to record all the Decisions formerly made against common Justice and the general Reason of Mankind. These, un-

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Under the Name of Precedents, they produce as Authorities to justify the most iniquitous Opinions; and the Judges never fail of directing accordingly.

In pleading, they studiously avoid entering into the Merits of the Cause; but are loud, violent and tedious in dwelling upon all Circumstances which are not to the Purpose. For Instance, in the Case already mentioned: They never desire to know what Claim or Title my Adversary hath to my Cow; but whether the said Cow were Red or Black; her Horns long or short; whether the Field I graze her in be round or square; whether she were milked at home or abroad; what Diseases she is subject to, and the like. After which they consult Precedents, adjourn the Cause, from Time to Time, and in Ten, Twenty, or Thirty Years come to an Issue.

It is likewise to be observed, that this Society hath a peculiar Cant and Jargon of their own, that no other Mortal can understand, and wherein all their Laws are written, which they take special Care to multiply; whereby they have wholly confounded the very Essence of Truth and Falsehood, of Right and Wrong; so that it will take Thirty Years to decide whether the Field, left me by my Ancestors for six Generations, belong to me, or to a Stranger three Hundred Miles off.

In the Tryal of Persons accused for Crimes against the State, the Method is much more short and commendable; the Judge first sends to sound the Disposition of those in Power; after which he can easily hang or save the Criminal; strictly preserving all the Forms of Law.

Here my Master interposing, said it was pity, that Creatures endowed with such prodigious Abilities of Mind as these Lawyers, by the Description I gave them must certainly be, [203] were not rather encouraged to be Instructors of others in Wisdom and Knowledge. In Answer to which, I assured his Honour, that in all Points out of their own Trade, they were usually the most ignorant and stupid Generation among us, the most despicable in common Conversation, avowed Enemies to all Knowledge and Learning; and equally disposed to pervert the general Reason of Mankind, in every other Subject of Discourse, as in that of their own Profession.

COOK

COOK LECTURES

John Rawls, a noted legal philosopher, is spending the current academic year at the University of Michigan as William W. Cook Visiting Professor.

The professorship, administered by the U-M Law School, replaces for 1974-75 the Cook Lectures on American Institutions, which have brought distinguished speakers to the U-M campus almost annually since 1944.

A well-known member of the Harvard University philosophy department, Prof. Rawls is offering a U-M graduate seminar on "Ethics" this term and will teach a course on legal philosophy during the winter term.

Prof. Rawls is best known for his book "A Theory of Justice," published in 1971, in which he challenges traditional utilitarian notions with a new theory of justice for the individual.

The book was given the Coif Award by the Association of American Law Schools, which honors the outstanding work in the field of law over a three-year period. This was the first time the award was given to a work by a scholar outside the legal profession.

Born in 1921 in Baltimore, Rawls graduated from Princeton University in 1943 and received a doctorate there in 1950. He taught at Princeton, Cornell and Massachusetts Institute of Technology before joining the Harvard faculty in 1962.

In addition to his book, Rawls has written many articles for professional journals. He is a member of the American Philosophical Association and the American Academy of Arts and Sciences, and served as president of the Association of Political and Legal Philosophy.

The Cook lectures and professorship at the U-M are named for William W. Cook, a New York lawyer who received an undergraduate degree from Michigan in 1880 and a law degree here in 1882. Among other gifts, Cook provided funds for the U-M Law Quadrangle and established an endowment fund for legal research and for the Cook lecture-professorship on American institutions.

(SEE COOK PAGE 23)

black letter life

"AD-LIB"

By R. Richard Livorine

(A one-act play. He and She in a room, speaking alternately, He speaking first)

"I just don't feel like we can talk anymore. There's nothing left to say about it."

"It only seems that way, since there is everything left to say about it."

"Well let's not argue about that."

"We don't have to argue about anything. We have to talk. I have to talk."

"Talk, then. I'm listening."

"But you're not. You're condescending."

"No. Don't project your complexes. They're enough trouble to you inside anyway."

"I think you like to hurt me."

"I think you like to be hurt."
(She blinks away a tear)

"Is this what you wanted? Feel strong now?"

"Save it for someone who doesn't know you as well as I do."

"You don't know me. You don't want to know me. What is it you're so afraid to find?"

"I'm just tired of looking."

"Looking is loving. Can't you see that?"

"I see that love is nothing. A fantastic compliment, no more no less. Just the way 'I like you' used to be in grade school. Say it enough and we would need a new word. 'How do I 'glug' thee? Let me count the ways.'"

"A cynic knows the price of everything and the value of nothing."

"A man said that. I'm surprised you're willing to quote it."

"I think you're surprised I read it. And did you miss it? Is that why it bothers you?"

"I thought we were talking about love."

"I am talking about love. You're still talking about you."

"God I hate it when you get like this. It just galls me."

"Truth is like that."

"This is ridiculous. We are talking about nothing. We're wasting our time. You're beginning to make me feel incoherent. I'm going. That's all there is to it."

"You're a coward."

"Well a thousand deaths means a thousand lives. And I've no more time to spend on this one."

"You never spent any time of this one. You never let this one be."

"Yes, we have no Nirvana. Don't give those eastern explanations."

"Then how about a western one? Your life was supposed to be with me. A woman. You have to let me be a woman. You have to let me be that. You can't hang it over my head. When you do that, I'm gone. Can't you understand that?"

"I let you be a woman. Christ, a woman is what I wanted."

"You have to accept what I say a woman is. I should think you would want it that way. I'm not blind. It is enough trouble trying to decide what a man is. What you are. Let's each find out. Then we can look for the third thing together."

"And looking is loving?"

"And looking is loving. I want to love you. I do love you. But you have to let me do it."

"I don't know why I can't believe it. It would be better. But Donne poems are only that, poems. I want to read them, but I can't live them. Neither can you."

Neither could Donne. He wrote them.

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"But Donne said, 'For God sake hold thy tongue and let me love!'"

"Donne said a lot of things."

"Donne felt a lot of things."

"Donne would never have seen you the way you want to be seen. Or the way you must be seen."

"Donne saw right for his time. Donne wrote, and said, and felt, right for his time. Let's write, say, and feel for our time. For now."

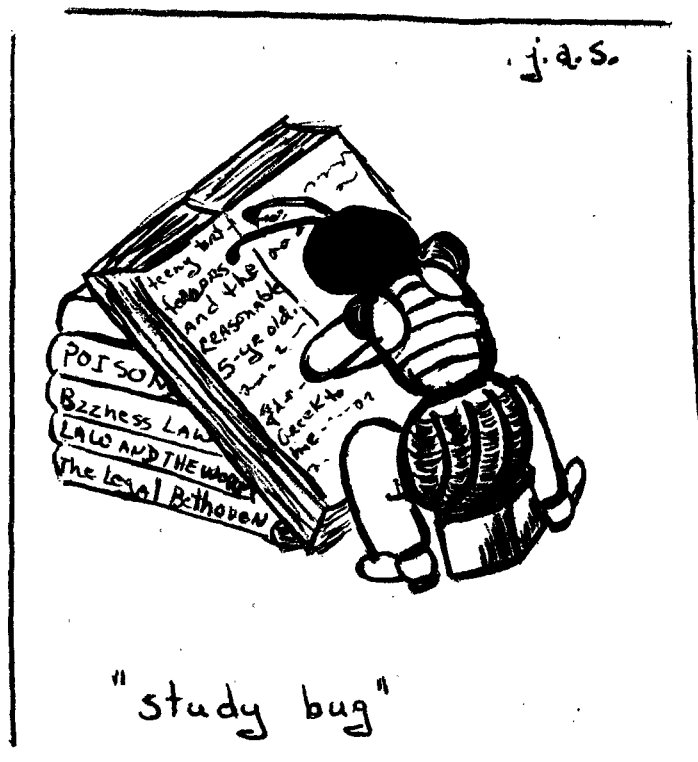
"What time is it? 'Now', everywhere? I wish we knew."

"Let me buy you a drink and we'll talk about clocks."

(He smiles) "I'm not that kind of guy. Are you that kind of girl?"

"Well let's find out what kinds there are." (She laughs and opens the door)

"I'll get my jacket."



NEWLYWED 2L BY-PASSES REVIEW

By Bob Weber

FROM THE HARVARD LAW RECORD

This letter begins, "It gives me a great pleasure to invite you, on the basis of your academic record, to join the Board of Editors of the Harvard Law Review." These words represent a calling to one of the most prestigious publications of any school in the country. Early last July, Timothy J. Finn, 2L received such a letter.

"My immediate reaction was apprehension, because I knew that it was an enormous amount of work, but I knew that I had to give it a try because the Review is so highly regarded," recalls Finn. Tim resigned from the Law Review about 10 days before classes began.

Why exactly did Finn, who thinks of himself as "very ambitious," resign from the Law Review. An analysis of the events of the summer provides some answers. When he received the invitation, Finn was working for a law firm in his home town of Cleveland, and a wedding date for him and his girlfriend Lynde had been set for August 24. The reaction from the firm was predictable; they were suitably impressed, but Lynde described her reaction as being "happy at first that Tim could do so well, then, sick to my stomach."

Plans for marriage left unaltered, Finn returned to Cambridge on August 9 to attend introductory meetings for the Review. He said that it was an imposition to leave his job early, chiefly because he needed the money. Finn's first real inkling that he wouldn't enjoy Law Review came at a rather unlikely event—a get together softball game. "Most of the guys seemed out of place on a softball field," remembers Finn.

(SEE FLEA PAGE 22)

For the next two weeks, Finn was occupied with Review work, which included "preliming," which is the process by which the Review scans topics in order to select those subjects which would be relevant, interesting, and informative for its many readers. Also, he was given a day-long Blue-Booking quiz, which consists of correcting the form of numerous legal citations according to the Blue Book method. Finn was exposed to "sub-citing," that is, checking the footnotes of articles submitted to the Review for accuracy.

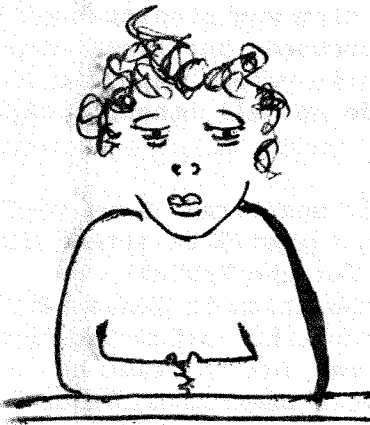
With regard to his tasks in general, Finn commented, "Someone is going to have to pay me to do it, beyond the compensation of the Harvard Law Review. Although I realize that much of the work is necessary, it is often laborious, tedious, and not terribly creative or even intellectually stimulating." Finn was working eight to ten hours a day during this period.

On August 23, Tim went back to Cleveland. Tim and Lynde were married August 23, and immediately returned to Cambridge. On their way back, the couple discussed their future. Forty hours a week on the Review, in addition to classwork, did not seem to leave a lot of time for anything else. Finn felt that classes were very important, and did not want to jeopardize his performance in them, although he was aware that members of the Law Review generally regard classes as secondary to their Review work.

Finn also felt that it was important that he spend a significant amount of time with his wife, especially in their first years of marriage. Lynde herself said that she was quite willing to put up with the lack of attention, if Law Review was something that he really wanted. "What scared me the most about the whole thing," remarked Lynde, "was not the two years on the Review, but that Tim might get into a kind of work track, that he might go from the Law Review to a New York firm that would keep him working 70 hours a week, and he would be conditioned to it." For weeks before the invitation, they had "hoped to enjoy each other and Boston, and the Review made prospects of that look pretty dim," recalls Lynde.

"Possibly if the Review had more members," speculated Finn, "the work time could be reduced, and much pressure relieved, however, this might lead to reduced respect for the diluted Review."

Finn and his wife left for a week's belated honeymoon to Nantucket where, at a picnic, they met another ex-member of the Harvard Law Review. Only this one had long since gone on to slightly bigger things since his years on the Review. Supreme Court Justice William J. Brennan '31 said that he, too, had gone through much the same thing. In fact, Brennan, who was married during his years on the Review, felt that his problem was solved because he lived apart from his wife at that time. She wrote a newspaper in New Jersey, while he distinguished himself on the Law Review. Finn had to make what he termed, "a most difficult decision," but certainly having the concurrence of Justice Brennan helped to ease his mind.



jds.

(RANKINGS FROM PAGE 24)

1	Ohio State(7)	11	Texas Tech
2	Oklahoma	12	Penn State
3	Michigan	13	Arizona State
4	Alabama	14	Maryland
5	Auburn	15	Florida
6	Southern Cal	16	Arizona
7	Texas A&M	17	Miami(Fla.)
8	Nebraska	18	Tulane
9	Notre Dame	19	Georgia
10	Texas	19	North Carolina

Other teams receiving votes:
California, Temple, Miami(O.), Wisconsin, NC State, Pittsburgh, Houston, Oklahoma State, and Illinois.

BASEBALL POLL

Ranger Howie Bernstein and Rodney Q. Fonda are the winners of the World Series Poll. Last spring they correctly predicted the division winners, the playoff winners, and the Series winner. They therefore share the largest prize in the history of RG.

ELECTION RESULTS

<u>SECTION I</u>	
Dick Millard	83
Ken Hemming	51
<u>SECTION II</u>	
W. James Ellison	67
George Vinyard	62
<u>SECTION III</u>	
Ross Miller	74
Earl C. ntwell	55
<u>SECTION IV</u>	
Barbara Etheridge	104
Sumner Rosenberg	24
John Palmer	17

(COOK FROM PAGE 19)

Members of the U-M committee which selected Rawls as Cook visiting professor were Dean St. Antoine, Associate Law Dean William Pierce, Prof. Alfred F. Conard of the Law School, Prof. Sidney Fine of the history department, Angus Campbell, director of the Institute for Social Research, and Dean Frank H.T. Rhodes of the College of Literature, Science and the Arts.

All notices submitted to Res Gestae, must be typed or legibly written. The deadline is noon Tuesday of the same week.

MARGINAL "ARGIES"

JOE FENECH(No.1)
 STAN FORD
 KEN HEMMINGS
 R. RICHARD LIVORINE
 GEORGE PAGANO(No.1 1/2)
 JESSICA SEIGEL
 KURT THORNBLADH
 DOROTHY ("FBI") BLAIR

*EXTRA HELP THIS ISSUE FROM:
 ELLEN GAY
 RICK KAMINSKY
 SUE MACK
 HARRY ZELIFF*

ELECTION POLL

Next week RG will hold a special poll to determine which law student has the greatest political sophistication. The poll will be prepared by the RG staff in conjunction with Fonda Associates. The most important gubernatorial, senatorial, and congressional races will be included. Be sure and enter!!!! The prize is the equivalent of 11,000 July, 1966 Brazilian cruzeiros.



LEFTY'S LOSERS

Now that the RG top twenty poll is in full swing, the time has come for the bottom ten to get some press. Mr. Ruschmann has graciously agreed to pick the bottom ten for the remainder of the season.

TEAM AND RECORD

COMMENTS

- 1 Columbia(0-4)
Firmly entrenched
- 2 Wake Forest(0-6)
Last scored Sept. 21
- 3 Utah(0-5)
Uses prevent offense
- 4 Wichita St.(0-6)
Unexpectedly weak
- 5 Colgate(1-4)
Cavities on defense
- 6 UTEP(1-5)
Win over Utah hurt
- 7 Florida St.(0-6)
No longer losing big
- 8 Northwestern(1-5)
Reverting to form
- 9 Western Michigan(1-6)
Newcomer to Bottom 10
- 10 Army(1-5)
Bounced back from untimely win

Game of the week:

Holy Cross at Army

Rout of the week:

Ohio State at Northwestern

Upset of the week:

Bye over Wichita State

--Lefty Ruschmann

RG RANKINGS

RG is pleased to announce the employment of six additional experts: Craig Gehring of Michigan State, Tom Blaskie of Michigan, Howie Bernstein of Boston College, Lefty Ruschmann of Notre Dame, Jim Rodgers of Fordham, and Barry White of Rice. The RG ranking will be a composite of these experts opinions. First place votes will be listed. By a 5-2 vote it was decided to include teams on probation in the rankings, Gehring and Pagano dissenting,

(SEE RANKINGS PAGE 23)

FOOTBALL POLL

Sumner Rosenberg won the tiebreaker and is therefore entitled to the griddle goodie. His percentage was a fantastic .800. Even the common people did well averaging .540.

College

- TCU(28½) at Alabama
- Florida St.(14½) at Auburn
- Texas A&M at Baylor(10½)
- UCLA(3½) at California
- Yale at Cornell(14½)
- Harvard at Dartmouth(½)
- Duke(10½) at Florida
- Mississippi(7½) at Vanderbilt
- Illinois at Iowa(6½)
- Wisconsin at Indiana(17½)
- Kansas St.(31½) at Oklahoma
- Maryland at NC State(11½)
- Miami(Fla.)(10½) at Notre Dame
- Minnesota(24½) at Michigan
- Purdue(6½) at Michigan St.
- Oklahoma St.(21½) at Nebraska
- Ohio St. at Northwestern(41½)
- Oregon St.(20½) at Southern Cal
- Princeton(½) at Pennsylvania
- Penn St. at West Virginia(10½)
- Texas at Rice(16½)
- Texas Tech at SMU(6½)

Pro

- Green Bay(½) at Detroit
- Chicago(7½) at Buffalo
- Oakland at San Francisco(16½)
- Philadelphia at New Orleans(6½)
- Houston(14½) at Cincinnati
- Denver at Cleveland(7½)
- Baltimore(14½) at Miami
- Dallas at NY Giants(10½)
- Los Angeles at NY Jets(16½)
- New England at Minnesota(½)
- Washington at St. Louis(2½)
- Kansas City at San Diego(4½)
- Atlanta(10½) at Pittsburgh

Tiebreaker:

How many yards will Minnesota gain rushing and passing? _____

Name of entrant: _____

George A. Pagano

One out of every eight law students enters the RG Football Poll.