1973

March 2, 1973

University of Michigan Law School

RES GESTAE

Ann Arbor, Michigan University of Michigan Law School March 2, 1973

REHNQUIST

On behalf of The Executive Committee of the Ann Arbor Lawyers Guild: Rehnquist's Record by George Burgott and David Neuman

William H. Rehnquist, Associate Justice of the Supreme Court, will grace the law school with his presence next Tuesday, March 6, when he presides as chief judge of the Campbell Competition finals.

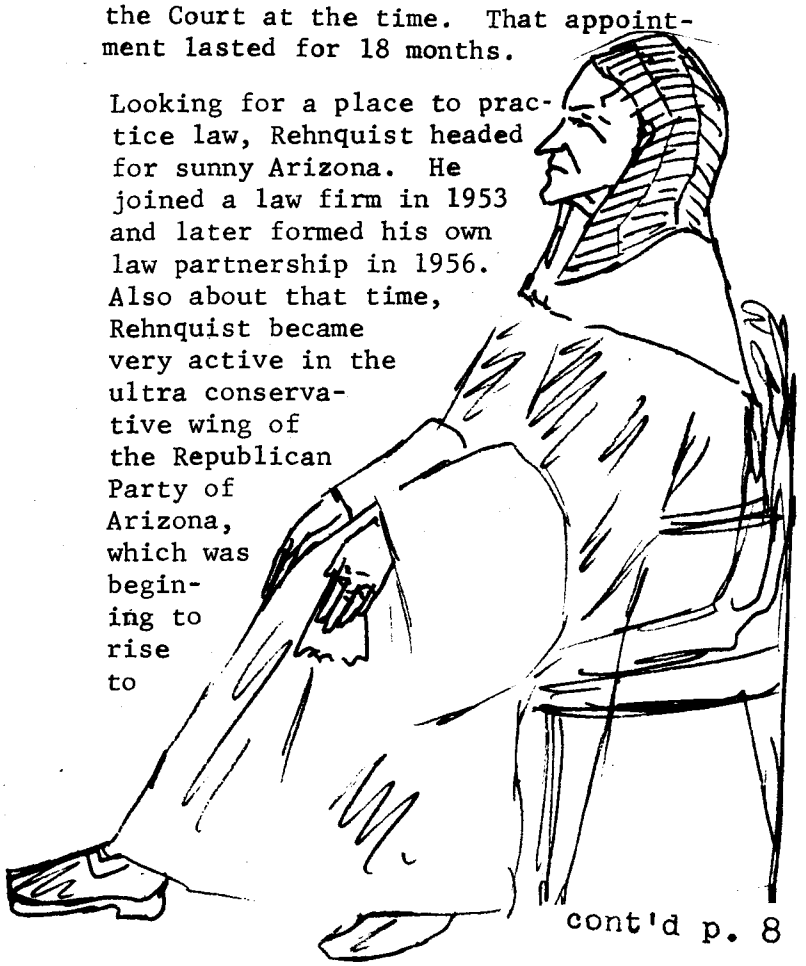
There was a day when such a person as Rehnquist could not have appeared on the University of Michigan campus without a lively greeting of protest from the many who disapprove of his political philosophy and actions. Times have changed, thanks in part to the actions of Regnquist and members of the Nixon administration, but Rehnquist will nevertheless receive an inwelcome when he arrives at Room 100 next Tuesday afternoon.

Law students and others whose civil and economic rights are jeopardized by Rehnquist's presence on the Court will picket and leaflet at the entrances to Hutchins Hall starting at 2:15 p.m. on Tuesday. All are invited to join in the unwelcoming activities planned for Tuesday, and to attend a meeting at 7:30 p.m. Monday, 116 HH, to make picket signs.

Rehnquist's recored, the highpoints of which are set forth below, provides ample reason for protest.

William Rehnquist graduated Phi Beta Kappa from Stanford University and graduated first in his class from Stanford Law School in 1952. As Nixon stated in his speech nominating Rehnquist to the Supreme Court, he was then "awarded one of the highest honors a law graduate can achieve." For those of you who don't know the honor to which he was referring, Rehnquist was appointed law clerk for Justice Robert H. Jackson, one of the more conservative members of the Court at the time. That appointment lasted for 18 months.

Looking for a place to practice law, Rehnquist headed for sunny Arizona. He joined a law firm in 1953 and later formed his own law partnership in 1956. Also about that time, Rehnquist became very active in the ultra conservative wing of the Republican Party of Arizona, which was beginning to rise to



cont'd p. 8

campaign statements

see page 6

LETTERS

To the Editors,

I object to the Res Gestae's high-handed and arbitrary editorial decisinn to refuse to print as one item the position statement of the Senate Reform Slate (SRS). The supposed rationale of the decision is the LSSS's "rule" against campaign tickets. Yet, nowhere in the printed Election Rules is there any prohibition against tickets. True, candidates must be listed on the ballot as individuals (Rule 14), but there is no rule prohibiting groups of law students from campaigning together on the basis of a common platform. Nor is there any rule prohibiting the Res Gestae from publishing joint statements of campaign principles.

The Res Gestae exists primarily to disseminate information of interest to the law school student body. It is not an arm of the LSSS. This "election issue" is not published by mandate of the LSSS, nor is its content regulated by the LSSS. This issue has no official status as an electinn document. Therefore, it is obvious that LSSS election rules are completely inapplicable to this issue.

The only rules which should affect this issue are those of the editors. Such rules were published in last week's issue of Res Gestae. They specified that each candidate could submit a maximum of 100 words. There are seven candidates on the SRS slate, and these students submitted a joint statement of about 500 words. Thus there is no problem of excessive length--we were cumulatively entitled to 700 words. Res Gestae's own publication rules specified nothing about common statements. Only after we submitted our statement were we told, ex post facto, that it could not be printed as a whole. The primary reason given was the "senate rule against tickets." Yet, as we have seen, there is no such rule, except as it applies to the ballot.

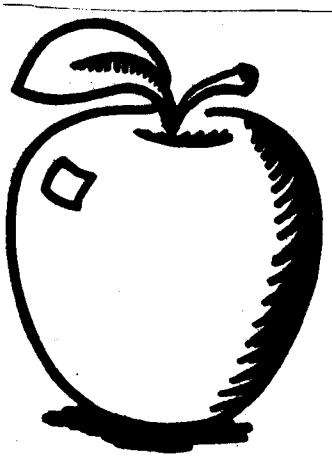
I doubt that, if the SRS places joint campaign posters or other joint handouts in the law school, the LSSS would remove them because they violate any rule. Similarly, I doubt that the presentation of our statement in R.G. would be censored or tampered with on account of any rule other than the whim of the editors.

I can only conclude that some of the editors of the RG are so opposed to the philosophy of the SRS that they will go to any lengbh to obfuscate, rather than disseminate, information which everyone has a right to know. Personally, I doubt that the SRS platform is at all controversial. But if it is significant enough to warrant its suppression through contrived editorial techniques, then it is the very sort of thing that the RG should publish in a coherent fashion for the information of our students.

/s/ Barry F. White

/ In the past the campaign statement format for senate elections has been that each office is listed and then the statements of those who are running for that office are run side by side so that readers will be able to compare the candidates for that office with one another easily. This format is determined by the RG staff.

RG could physically accomodate longer statements from any given candidates. However we have adopted a policy of uniform length in the interest of fairness to all candidates while providing a common forum for informing student/voters. In the past when attempts were made to multiply the space of one candidate for an office by trying to double up with a candidate for another office, it was decided by the staff that allowing such a multiplication of space would be unfair to the other people in the race. For the foregoing reasons we felt obligated to decline the request of one particular group to combine their individual statements into one large statement. --Eds. /



EDITORIAL

It is not difficult to guess that something is written between the lines of Curriculum Committee Report #3, which appeared in last week's R.G. It is hard to discern, though, just what is written.

The Committee recommended basically a return to the "case club" pattern of two years ago with second and third year students filling the functions of senior judges and junior clerks. Now, however, first year participants will receive two hours of credit for their labors and their upperclass mentors will get seminar credit. Formal supervision is relegated to an Assistant Dean and the position of Instructor is eliminated. Finally, the hours load of first year students is jiggled with and there are rumblings about a "traditional, but redesigned" legal process course to fill the void left by the deletion of Con Law I from first year required courses.

Discontent with the present Writing & Advocacy program is apparently widespread and annoyingly diffuse. Unfortunately, the Curriculum Committee recommendation really doesn't address this confusion. The entire proposal is couched in the language of curriculum reform, pedagogical sincerity and hopeful experimentation. The ostensible impetus is to make the first year writing experience somehow "better."

And yet, the recommendation tends in the direction of a contraction of student benefits, a downgrading of the writing experience and a move toward a less expensive program. A healthy dose of candor would have helped the Committee report in this regard.

If the Instructor program has proven too costly to continue then that may be sufficient reason to eliminate it and to seek more economical alternatives. There is some cause to believe that one reason the first year program had to be cut-back is the budgetary difficulties occasioned by the withdrawal of federal monies from the Clinical Law Program. If this (or a similar fiscal stricture) is the real problem, then the responsible parties ought to be explicit about it, i.e. at least if they wish to entertain dialogue on the matter.

No one doubts the importance of the Clinical Law program, but, if the quality of the first year writing program is to be the trade-off for allowing Clinical Law to survive at Michigan, then how that balance was struck should be explained. Could it be that the novel and glamorous Clinical program, the darling of curricula, which still serves relatively few students, was overweighted against the always troubling, friendless, but invaluable first year writing exercise. For many law students, their first year research productions, inexpert as they are, are significant, memorable undertakings, and a welcome respite from first year courses. In addition, all students have to go through that particular mill. The substitution of a less well supervised alternative for the existing first year program may detrimentally affect more people than is imagined.

We would have expected that a proposal to improve the first year writing program would entail devoting more resources to the endeavor not less, the hiring of more and even better qualified instructors rather than their elimination, the call for greater faculty involvement not deferral to a titular supervisor. All of this may be, of course, whistling in the dark, but, suffice it to say that the Curriculum Committee's recommendation served to shed little light.

-- J.J.S.

VIEWPOINT

/RG spoke to two of this year's instructors to learn what they thought of the newly-revised writing program. In essence, they said the following: /

No one can seriously dispute that the present Writing & Advocacy course is replete with flaws. Complaints about its present structure by this year's instructors were, in fact, instrumental in bringing about the re-examination of the program which has led to its revision. We do think, however, that the revision has gone in the wrong direction.

cont'd p.8

NOTICES

PETITION TO SAVE LEGAL SERVICES

The UM Legal Aid Society has drafted the petition below to be sent in the form of a telegram to Michigan's and other influential Congressmen, in an attempt to have enough pressure placed on the Administration to stop the harrassment and program terminations Alan Houseman described in RG last week. If you agree with the sentiments expressed in it, please PRINT your name on one of the forms posted in the halls or in 217 Hutchins. We want to send the telegrams Friday afternoon, so if you wish to put your name on, do it before then.

"As law students at the University of Michigan, we wish to express our distress at the current attempts by the administration to destroy programs which have been of great benefit to poor persons, particularly the legal services program. We strongly urge you to bring whatever pressure you can to stop the arbitrary termination of programs and the impounding of funds. Further we urge the immediate passage of a legal services bill which would remove the program from political control and ensure that poor people have available the same range and quality of legal representation as those with high incomes. It is urgent that you act now or the program will soon be effectively destroyed."

Joint Writing Competition entries not selected by either the Journal or the Law Review in the Joint Competition will also be considered in the Journal's regular selection process, details of which will be announced in April.

Center for Law and Social Policy

Mr. Richard Frank will be interviewing students who would like to go to the Center for Law and Social Policy in the Fall Term, 1973. Mr. Frank will be interviewing students he did not interview on his last visit (November 1972).

Mr. Frank will have a group meeting to discuss the work at the Center on March 5 from 10:00 AM to 10:45 AM in Room 138 HH.

Interested students may sign up at the Placement Office for an appointment on March 5 from 10:45 AM to 2:00 PM.

Material on the Center is available in Room 333 HH.

ABA/LSD

There will be a general meeting of the ABA-LSD on Thursday, March 22nd at 4:15 PM in RM138HH.

At this meeting the LSD REP will report to the membership and there will be an election of the LSD Representative and the Assistant Representative.

All LSD members are invited to attend and should bring their membership cards so that they may vote in the election.

Those who wish to run for LSD REP and ASST. REP should contact by the evening of March 19th either:

BRIAN BAYUS, LSD REP 971-3297
or
DON DUQUETTE, ASST REP 769-7685

Anyone interested in working for a true-to-life operating agency on a part time volunteer basis should contact Bo Abrams. The agency is the Wayne County Air Pollution Control Board, they are badly understaffed and need legal assistance. Contact Bo by leaving a note with your name and phone number on the Environmental Law Society's office door, 112 LR. A meeting of interested persons will be held the week after vacation. If a liasion is created, the program might continue next year.

Restatement Of EXODUS

THIS WEEK'S FOCUS: 1:89B, 2:302

As you will recall from last week's episode, a great number of people lived in Egypt who did not really fit in with the system. The Egyptian administration said, "Come, let us deal shrewdly with them, lest they multiply, and, if war befall us, they join our enemies and fight against us and escape from the land." Therefore they set taskmasters over them to afflict them with heavy burdens and made the people serve with rigor, and made their lives bitter with hard service.

The people were naturally uptight about this, but weren't sure what to do about it. Although Egypt wasn't the greatest place to be, they knew that if they put in their time and followed orders that they would all soon be on the golden gravy train.

It came to pass that as they searched for an answer, one Moses, son of Corbin, and of the house of Langdell, decided that he would lead the people from Egypt to a "promised land." And the people relied on his promise, for he held out the offer of a new life, free from oppressive traditions inflicted by the Pharoah and his court, and there was mutual assent. (Well almost. Some of the people felt it might be better to stay put for awhile and have a representative brought in from the promised land once a week, and since they were led to believe this was their only option, it was done. But for the most part the people regarded Moses as a saviour and a large section committed themselves to follow him.)

And Moses, quaffing the heady brew of his people's adoration, went to the Pharoah and boldly said, "Let my people go. Let them throw off the straight-jackets of your traditional system, because you are not preparing them well for the life hereafter."

The Pharoah and Moses didn't see eye to eye, so Moses tried a few tricks, but when they didn't work, he announced that he would lead his people to the promised land anyway. He gathered his people together, along with what little Property they retained, and set out on the journey. Some of the people wanted to bring with them keepsakes and souvenirs, like casebooks, but Moses said, "Cast them aside, lighten your load--we'll have problems enough without them."

Now the very arrogant manner that made Moses the darling of his people gave the Pharoah great pain, and he sent his army after the emigrants to bring them to justice. And when the people saw that they were about to be trapped between the sea and the army, with only Moses to protect them, they said, "Verily, this is a big test, it could be our final hour."

But Moses said unto them, be not afraid, and even as he spoke the sea parted before him and a way was opened before them. The people followed Moses through the escape he had created for them, and rejoiced that he had not let them down.

But even as they marveled at his courage and integrity, Moses ran on ahead of them and closed the waters upon them, and the people were crushed. Immediately thereafter, the Pharoah's launch pulled up alongside the bank and Moses boarded it, and together the two surveyed the scene, and the Pharoah said, "It is good." And Moses said, "I guess we got rid of those troublemakers." And Moses made his way swiftly back to the other side, where the Pharoah showed his pleasure by giving Moses a free year's pay and thirty Hessian slaves. And all that lived were as happy as they had been to begin with.

—jm

LSSS STATEMENTS

The following are the candidates for office on the Law School Student Senate and their statements if they wished them to be included.

The Student Senate election will be held on Tuesday, March 6. All students are urged to vote.

The candidates are listed here in alphabetical order within office.

BARBARA KLIMASZEWSKI -- PRESIDENT

Barbara Klimaszewski, candidate for President, and Don Shaw, candidate for Member-at-Large, submit this combined statement of our views to give the student voter a better understanding of our perception of issues and priorities.

A basic issue of this campaign is the role of the LSSS. The primary function of LSSS should be to provide a nucleus around which the Law School community can organize to achieve its goals. The LSSS can help the Law School community recognize its problems as community problems, not just the problems of isolated groups or individuals. For example, (See D. Shaw's statement under Member-at-Large)

RICHARD MELSON -- PRESIDENT

We would be more willing to fund a conference on a current topic in law which will benefit the entire law school than to pay for convention junkets by officers of an organization. We would allocate funds for a picnic at which new, married students would have the opportunity to meet other married students before we would give money to an organization with a small number of members so they can have a private party.

JAMES SCHIBLEY -- PRESIDENT

And now a message from the real world...

"Said the circus man, oh what do you like best of all about my show--the circular rings, three rings in a row, with animals going around, around, tamed to go running round, around, and around, round, around they go . . .

And here you sit, said the circus man, around in a circle to watch my show; which is show and which is you, now that you're here in this circus show, do I know? Do you know? . . .

Said the round exuberant circus man, hooray for the show! Said the circus man."

--Theodore Spencer

Vote Schibley--You know where I stand.

NEILDA C. LEE -- VICE PRESIDENT

BARRY WHITE -- VICE PRESIDENT

We believe that student senate funds can be more effectively used than at present and that greater benefit from their use can be achieved. If elected, we pledge that the law school student body will receive more for its money.

/ Mr. White also requested that the following statement accompany his campaign statement. -- Eds./

Due to Res Gestae technicalities, the Senate Reform Slate has not been allowed to submit its platform in its entirety. Therefore, the platform has been divided into seven sections to comply with Res Gestae rules. The following candidates are in agreement with the entire platform and represent a separate plank under each of their names, to be read in the following order: 1. DeGabriele 2. Hair 3. Latanich 4. Melson 5. Nicholls 6. Rosenthal 7. Wh

cont'd p. 13

ethics, schmethics

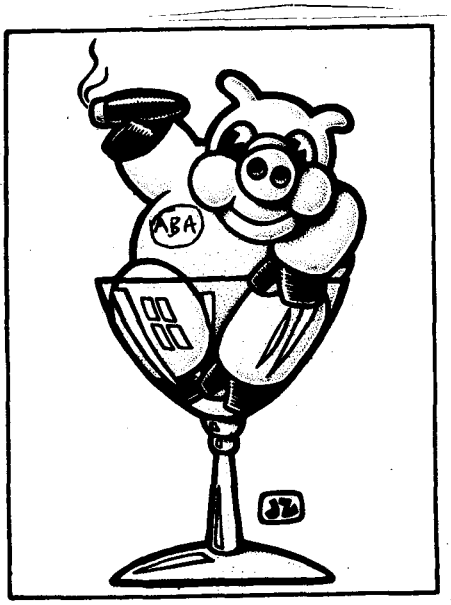
by Gil Bass

The last publication of the American Bar Association's Code of Professional Responsibility is prefaced by a high minded statement of how a free democratic society depends on justice and the rule of law which it ties, of course, into a mandatory maintenance of conduct. Essentially what it is saying is that the angelic standard of the "lawyer" can be enforced against the lawyer whenever such conduct is deemed to be below a certain ethical standard. The ethical standards are set forth in the Canon's which follow although the preamble denies that the ethical considerations are mandatory or even enforceable. It becomes apparent that the code like the discipline and practice of law are political considerations addressed to a certain group of lawyers. The establishment of a code of conduct is one consideration, but because of the detailed nature of the provisions of the Cannon's, conduct is clearly prescribed as to what whoever wrote the provision deems necessary to keep others in line.

Each Cannon is neatly followed by "Disciplinary Rules." The longest section of discipline is given to the section of Cannon, A Lawyer Should Represent a Client Zealously Within the Bounds of the Law. Zealously but not too zealously. Why separate consideration must be given to spell out to a lawyer that he must not break the law while representing a client is not made clear.

One thing that seems to be most impressive is that all the Ethical Considerations, neatly labeled "EC" 1-1, 1-2, etc. do not pose what would normally be thought of in a philosophical sense as ethics relating to a moral standard or turpitude, but, rather, a neat package of activities so that a lawyer won't pick up too much work and meet himself coming from a place to which he is on his way i.e. helping people who may be against each other or don't like one another. Husband and wife or insurance company and injured party, the lawyers stay between the two so they will be to at least hate each other after its over. It would seem more simple to allow negotiation or arbitration standards to apply more often. It is becoming more and more clear that the more arbitration and negotiation the less the courts will be stuck with overcrowded dockets. Social progression would seem to favor a situation where parties have a meeting of the minds with as little friction as possible. At any rate, the fact that the publication is full of annotations on how to best defend against any charges of breaking a Cannon gives the lawyer an equal chance if he can afford a malpractice attorney for himself. The good intention of the Code and its social consciousness are clearly demonstrated by the fact that the Code of Ethics has been completely aborted in favor of a newly adopted one which hasn't been annotated yet but seems like it is going to be accepted like its predecessor because of its certainty and purpose.

(Gil Bass is a third year student at Wayne State University Law School.)



cont'd from p.3

Instead of placing even greater burdens and more responsibility on the third-year students (the present "senior judges"), many of whom--in the face of the countless other demands on their time--already feel themselves to be overworked, we think the wiser course would have been to retain four full-time instructors and to attempt to work out some of the problems which have arisen within the current set-up.

Nearly everyone concedes that the optimal program would involve an even larger number of full-time instructors (all law school graduates, preferably with one or more years of experience working as a lawyer) who could work directly with smaller groups of students on problems requiring legal research and writing. Such a program could also explore the "legal process," giving students an introduction to the trial process, the analysis of judicial opinions, etc.

Moot court experience might or might not be connected with the program (it might, for example, remain the domain of the senior judges, who would function completely apart from the writing program itself.) A program of this kind currently operates very successfully at other schools, and we have no reason to believe that it would not do so here. A good program, for one thing, probably would attract even better applicants for the instructorships than programs to date have been able to do. Such a program would, of course, require greater expenditures on behalf of the writing program than those made now (and even more than next year's program, which is projected to cost substantially less than the present one.)

The first-year students we talk to invariably tell us how much they enjoy the writing program and how valuable they find handling the research and writing arising out of a "real" problem (particularly one they find interesting). Needless to say, this sort of experience is an extremely valuable aspect of legal education. Conversations with our students also reveal much dissatisfaction with the case method and the similarity of approach they find in their courses--with the exception of the writing program. In light of this sort of response to the (admittedly troubled) current program, it seems to us that someone should be giving careful consideration to possibly re-ordering priorities to allow the shift in funding which an improved writing program would require.

RENQUIST
cont'd. from p.1

power in the state. A lawyer who knew him in Arizona told Martin Waldron of the New York Times (October 28, 1971) that:

> Unlike a lot of Arizona politicians who tried to follow the public thought, Rehnquist really is a deep philosophical conservative. He apparently just sat down and thought it out and decided intellectually that he is against anything liberal.

By the end of 1957, Rehnquist had become a major spokesman for the conservative movement in Arizona. On September 19, 1957, Rehnquist made his first major political speech, before the Maricopa County Young Republican League. In it, he denounced the 'left wing' of the Supreme Court - Warren, Douglas, and Black - stating that they were making "the Constitution say what they wanted it to say." He described Chief Justice Warren as a "fine California politician," but not much of a lawyer. After all, "he was 58th out of 65 in his law school class." (He probably didn't make Campbell competition, either.)

In its December 13, 1957 issue, the US News and World Report interviewed Rehnquist concerning the Supreme Court. He attributed its liberal political philosophy to the "unconscious slanting" of material reaching the Justices by the Court clerks, most of whom were observed to be to the "'left' of both the nation and the Court". Some of these "liberal" points of view of the clerks were: "extreme solicitude for the claims of Communists and other criminal defendants, expansion of Federal power at the expense of State power, and great sympathy toward any government regulation of business."

Throughout the 1960's Rehnquist continued to practice law in Arizona, and also

cont'd next

continued to remain active in the Republican Party. In 1964, Rehnquist came to public attention for his outspoken opposition to a public accommodations law pending before the Phoenix city council. The law would have made it illegal to discriminate in public accommodations on the basis of race, a law very similar to federal legislation soon passed with overwhelming support. In his statement to the City Council, Rehnquist said:

> The ordinance summarily does away with the historic rights of the owner of the drugstore, lunchcounter or theater to choose his own customers. By a wave of the legislative hand, hitherto-private businesses are made public facilities, which are open to all persons regardless of the owner's wishes... It is, I believe, impossible to justify the sacrifice of even a portion of our historic individual freeedom for a purpose <u>such as this</u>."

In 1967, Rehnquist once again came to public attention with his opposition to a voluntary "Integration plan" proposed by the superintendent of the Phoenix Schools. The changes proposed were minor, and were (primarily) in response to public opinion against segregated schools. The issue had been brought to the forefront by a carefully researched article in the <u>Arizona Republic</u>, exposing the extent of the segregation, the detrimental effects on the minority student population, and outlining possible remedies. Surveys showed that children with Spanish surnames averaged only about 6 years of education, while Blacks and Indians averaged 30% less education than whiltes. In addition, achievement levels in the white schools were much higher than in the other Phoenix schools.

To remedy this situation, the school superintendent proposed voluntary desegregation with students paying their own transportation costs, and educational exchanges between schools - actions much like those HEW officials and federal judges had considered meaningless "tokenism" in Southern school districts. Even these proposals, however, were too much for Rehnquist. In a letter to the <u>Republic</u>, he wrote:

> We are no more dedicated to an "integrated" society than we are to a "segregated" society; we are instead dedicated to a free society, in which each man is accorded a maximum amount of freedom of choic in his individual activities. Those who would abandon it [the neighborhood school concept] concern themselves not with the great majority for whom they claim it has not worked well. They assert a claim for <u>special privileges</u> for this minority, the members of which in many cases <u>may not even want</u> the privileges the social theorists urge to be extended to them.

During the time Rehnquist was active in the Republican Party, he became friends with Barry Goldwater and Richard Kleindienst, who had been state Republican Party Leader, and national field director for both Goldwater's presidential campaign in 1964, and Nixon's in 1968. Consequently, when Kleindienst was appointed Deputy Attorney General in the Nixon administration in 1969, he brought along Rehnquist to Washington. Rehnquist was appointed Assistant Attorney General in charge of the Office of Legal Counsel in February, 1969. This Office interprets the Constitution and Federal statutes for the President and the Attorney General, and gives legal advice to all departments of the government.

In his tenure as Assistant Attorney General, Rehnquist was often the Administration spokesman on police surveillance and other issues of criminal law. Rehnquist, for example, defended the constitutionality of the President's waging war in Indochina, including the 1970 incursion into Cambodia, the President's orders barring disclosure of many government documents, and the mass arrests of peaceful demonstrators by Washington police. He also strongly supported the Nixon law-and-order package, including 'no-knock' entries, pre-

cont'd next page

trial detention, wiretapping, and electronic surveillance, often stating that the Supreme Court had gone too far in protecting the rights of the accused.

Rehnquist's especially strong defense of wiretapping and other government surveillance is a matter of public record. His bold assertions of almost unlimited executive prerogatives in these areas are in striking contrast to his reluctance to employ governmental power against discrimination. For example, in March, 1971, Rehnquist told the Senate Subcommittee on Constitutional Rights that he vigorously opposed any legislation which would restrict the government's ability to gather information about American citizens. He stated that government "self-discipline" was the answer to all the complaints against the abuses of governmental information gathering. He told Senator Sam Ervin, Jr., the chairman of the committee, that although it would be "inappropriate" and a "waste of taxpayers' money," it would not violate the senator's rights for the government to put him under surveillance.

Rehnquist reiterated this them a short time later, on March 15, 1971, before the Maracopa County, Arizona, Bar Association:

> Occasionally some law enforcement official is going to follow the wrong man, but it would be a mistake to regard the error as a violation of a man's civil rights ...The critics of government lack consistency...The critics blasted the Secret Service because they didn't stop Oswald from planning and committing President Kennedy's murder. They wanted to know why it wasn't prevented. When the army was naive enough to pursue this line of thinking and began preventative investigation, it came under attack."

Rehnquist was also a primary Administration spokesman for denouncing anti-war demonstrators. For example, in a New York Times article of May 2, 1969, Rehnquist was quoted as saying:

> I suggest to you that this attack of the new barbarians constitutes a threat to the notion of government of law which is every bit as serious as the 'crime wave' in our cities...the barbarians of the New Left have taken full advantage of their minority right to urge and advocate their views as to what substantive changes should be made in the laws and policies of this country.

In a later speech in North Carolina on May 5, 1970, Rehnquist defended mass May Day arrests, where hundreds of innocent bystanders were arrested and held without charges, as an application of "qualified martial law."

On October 21, 1971, Rehnquist, along with Lewis Powell, Jr., were nominated as Associate Justices of the Supreme Court. In his nominating speech, Nixon stated that he was following his pledge to appoint judicial conservatives who would "strengthen the peace forces as against the criminal forces in our society."

The Senate Judiciary Committee heard testimony November 3 and 4, 1971, concerning its recommendations for confirmation or rejection. Of major concern was Rehnquist's civil rights and civil liberties record. Little opportunity was gained, however, to question Rehnquist on the questions of strong police practices. He alternatively asserted an attorney-client privilege was based on the shaky legalism that he was the lawyer for the Attorney General and the President in his role of head of the Office of Legal Counsel. This privilege normally encompasses only confidential material, not personal

cont'd next page

views of the attorney on issues, but Rehnquist asserted it throughout the hearing.

When Rehnquist's civil rights record was examined, the claim was made that he had obstructed voters in the poor and Black districts of Phoenix in various elections in the early 1960's. He denied that he had done so, although he did act as legal counsel for "challengers" appointed by the Republican Party. (Each party in Arizona appoints "challengers" to make sure all persons voting are qualified to do so). The claim was that as a challenger Rehnquist had intimidated unsophisticated, qualified voters into not voting, concentrating in poor and Black areas of Phoenix. However, no direct witnesses were willing to testify to this.

Rehnquist recanted his opposition to the public accomodations law before the Committee because it has been "widely accepted." In addition, he said he had been wrong to place the freedom of businessmen to exclude customers above the "strong concern the minorities have" about equal access to public places. He did continue to oppose the busing of school children to achieve racial balance.

On November 23, 1971, the Committee approved his nomination by a vote of twelve to four. On December 10, 1971, the Senate voted 68 to 26 in favor of confirming the nomination.

Since his appointment to the Court, the Honorable William Rehnquist has done justice to his prior record, if to no other cause. In addition to dissenting in the Court's recent abortion decision this term, Rehnquist took notable positions in the following cases decided during the 1971-72 term:

Wright v. Council of City of Emporia 407 U.S. 451, 336 L. Ed. 2d 51, 92 S. Ct. 2196. City's establishment of separate school district held properly enjoined on ground that its effect would be to impede progress of dismantling racially segregated county school system.

Rehnquist dissented (dissent was written by Burger and signed by Blackmun, Powell, and Rehnquist) on the ground that since the record did not support the conclusion that the city's operation of a separate school system would frustrate the dismatling of the dual system which had existed, the District Court abused its discretion in preventing the city from exercising its lawful right to provide for the education of its own children.

Peters v. Kiff 407 U.S. 493, 33 L. Ed. 2d 83, 92 S.Ct. 2163. White defendant in state prosecution held to have standing to challenge in federal habeus corpus proceedings alleged systematic exclusion of Negroes from grand and petit jury service.
Burger, joined by Blackmun and Rehnquist, dissented on the ground that although persons could not be constitutionally excluded from juries on account of race, nevertheless a conviction should not be set aside on the basis of such racial exclusion, absent a demonstration of prejudice to defendant or absent the basis for presuming prejudice which obtained where defendant was a member of the excluded class.

Moose Lodge v. Irvis 407 U.S. 163, 32 L. Ed. 2d 627, 92 S. Ct. 1965. Decision, in an opinion by Rehnquist, that state's action in regulating and licensing private club's sale of liquor was insufficient state connection to warrant award of injunction prohibiting racial discrimination to Negro guest served by club. (Comment: In a more recent Supreme Court case, the state's connection in regulating liquor licenses was held sufficient to warrant interfering with "offensive"sex shows.)

Milton v. Wainwright 407 U.S. 371, 33 L.Ed. 2d 1, 92 S.Ct. 2174. Decision (by Burger): Admission at trial of confession, made by incarcerated defendant to police officer posing as cellmate at time when defendant had been indicted and had retained counsel, held harmless error.

cont'd next page

Dissent by Stewart, Douglas, Brennan and Marshall on the ground that the police officer had been unconstitutionally planted in the petitioner's jail cell and that the confession, the introduction of which was not harmless, had been obtained in violation of the petitioner's right to assistance of counsel.

Argersinger v. Hamlin 407 U.S. 25, 32 L. Ed. 530, 92 S.Ct. 2006. Federal Court held to require that in absence of knowing and intelligent waiver, no person may be imprisoned for any offense whether classified as petty, misdemeanor, or felony, unless he was represented by counsel at his trial.

Powell, joined by Rehnquist, concurring in the result, disagreed with the court's holding that absent a knowing and intelligent waiver, no person could be imprisoned unless he was represented by counsel at his trial; would hold that the right to counsel in petty offenses is not absolute but that trial courts should have reviewable discretion to determine, on a case-by-case basis, whether assistance of counsel is necessary.

Furman v. Georgia 408 U.S. 238, 33 L. Ed. 2d 346, 92 S.Ct. 2726 Imposition and carrying out of death sentence held to constitute cruel and unusual punishment, at least under certain circumstances.

Separate dissents by each of the 4 Nixon judges, in all cases but one signed by the other three. Rehnquist's dissent emphasized the need for judicial self-restraint, stating that the most expansive reading of the leading constitutional cases did not remotely suggest that the Supreme Court had been granted a roving commission to strike down laws which were based upon notions of policy or marality suddenly found unacceptable by a majority of the Supreme Court.

Brooks v. Tennessee 406 U.S. 605, 32 L.Ed. 2d 358, 92 S. Ct. 1891. Tenne ssee statute requiring accused to be first to testify for the defense, or not to testify at all, held unconstitutional, violating right against self-incrimination and due process.

Rehnquist dissented, on grounds that the statutory restriction did not rise to constitutional dimensions.

Cruz v. Beto 405 U.S. 319, 316 L.Ed. 2d 263, 92 S.Ct. 1079. State prisoner's complaint against Texas prison official, alleging religious discrimination against Buddhist prisoners, held to state a cause of action.

Rehnquist dissented: In striking a proper balance between the plaintiff's equal protection rights and the extensive administrative discretion which must rest with correction officials, the rule of deference to administrative discretion should be applied.

Branzburg v. Hayes & U.S. v. Caldwell 408 U.S. 655, 33 L.Ed. 2s 626, 92 S. Ct. 2646. Decision by White & the Nixon Four: Requiring newsmen to testify before grand juries held not abridgement of freedom of press.

Laird v. Tatum 408 U.S. 1, 33 L.Ed. 2d 154, 92 S.Ct. 2318. Decision by White and the Nixon Four: Allegations in federal court action of chilling effect on 1st Amendment rights of Army's system for surveillance of citizens, held not to present justiciable controversy.

Johnson v. Louisiana 406 U.S. 356, 32 L. Ed. 152, 92 S.Ct. 1620. Louisiana constitutional and statutory provisions authorizing verdict by 9 of 12 jurors in certain criminal cases, held not violative of due process or equal protection. (Another 5-4 decision, White joining the Nixon judges in the majority.)

Gelbard v. United States 408 U.S. 41, 33 L.Ed. 2d 179, 92 S.Ct. 235. Federal statute held to justify witness' refusal to answer questions before grand jury, where questions were allegedly based on illegally intercepted conversations.

Rehnquist dissented, and his dissent was signed by Burger, Blackmun, and Powel

PETER ROSENTHAL -- SECRETARY

In order for the student senate to operate most effectively, coordination between the various senate committees is necessary. There must be better coordination of activities than there has been in the past. For example, a movie and a mixer should not be scheduled for the same night as happened on February 23rd. We are fully aware that no matter how funds are allocated and what activities are planned, full benefit cannot be realized without the necessary cooperation and hard work on the part of the officers and members of the senate. We all pledge, that if elected, we will devote a substantial amount of our time to the senate.

ROSELLA WILLIAMS -- SECRETARY

LOU ROBERTS -- SECRETARY

TERRY LANANICH -- TREASURER

The senate should continue to give substantial support to a wide range of student organizations. The priority for the allocation of funds to student organizations should be based upon two criteria:

A. Whether the entire student body, rather than just the members of the organization, will potentially benefit from the organization's use of senate funds.

B. The extent of positive influence which will result from use of senate funds.

DOUG WATKINS -- TREASURER

The allocation and supervison of student funds remains one of the most important functions of the Law School Student Senate. Because law students have many diverse interests and because the funds available are limited, the budgeting process must be sensitive to these interests. The alternative is misallocation of these funds and frustration of the wishes of law students. In order to minimize misallocation, reform of the budgeting process by in-

con't next page

BELLA MARSHALL -- BOARD OF GOVERNORS

DALE W. NICHOLLS -- BOARD OF GOVERNORS

We believe that the senate should not allow student funds to be used for the support of outside political causes. Our reason for this has nothing to do with our own personal beliefs, which among the members of the slate are diverse. Rather, it is our position that the resources of the senate can be better and more efficiently used to provide support for a cross-section of activities which cumulatively benefit the law school community and which enable the members of the community to exercise their professional capabilities for the benefit of others.

MARY RINNE -- BOARD OF GOVERNORS

BILL STREET -- BOARD OF GOVERNORS

DAVID DeGABRIEL -- MEMBER-AT-LARGE

We believe the primary function of the student senate is to provide support for and promote social and educational activities. The senate should use its resources to promote films, speakers and seminars, intramural sports, dances, sherry hours, and other similar activities in which a large proportion of the student body has traditionally been willing to participate. Student senate funds should be allocated in a way that the highest utility and greatest benefit for the whole student body can be achieved.

CHARLIE HAIR -- MEMBER-AT-LARGE

We have issued a common campaign statement and are running on a common slate because we share essentially the same philosophy about what the function of the student senate should be and the way the senate should operate.

PAUL R. GAVIA -- MEMBER-AT-LARGE

SHIRLEY A. POWERS -- MEMBER-AT-LARGE

cont'd next page

Candidate Campaign Statements

Cont'd from p.6

JOHN ROELS -- MEMBER-AT-LARGE

The thing which has bothered me most about this year's senate has been its lack of formal contact with the Student Body. Most of us never know what the Senate has discussed or is going to discuss at any given meeting; most of us are never asked what we think about a particular Senate problem. If elected I propose to help establish and maintain a Senate information board which will contain such items as each member's phone number; the date, time, and place of the next Senate meeting; an agenda with explanations regarding key issues; and a copy of the past meeting's minutes. In addition, I would urge the Senate to take periodic surveys on the Student Body's relative interest in such things as speakers, mixers, movies, curriculum reform, and current political and social issues of Senate concern. Hopefully these two suggestions would help inform both the Senate and the Student Body.

DON SHAW --- MEMBER AT LARGE

(con't from B. Klimaszewski statement under President) the policies of three of the offices most affecting students, financial aid, admissions, and placement, have divided the community in the past. The Senate must be actively involved in efforts to make the placement office serve the needs of the community in such areas as summer job placement, part-time jobs, placement of students' spouses, and providing interviewing employers representing a broader and more realistic selection of job opportunities.

We feel that the actual number of students involved in an issue or organization is not nearly as important an indicator of its value as the goals of the group, and the importance of the issue to the community.

DOUGLAS J. WALLIS -- MEMBER-AT-LARGE

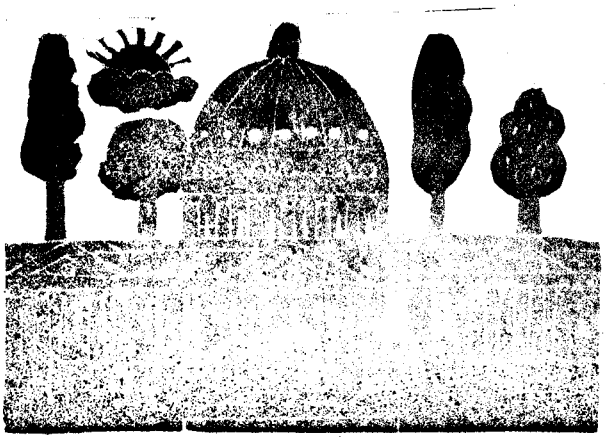
As the candidate of the Pinball Players Party I will do my best to fulfill the objectives of our platform:

1. At least two more pinball machines
2. One new Fussball game
3. Better ventilation in the game room and TV room
4. Five footballs to be kept at the Lawyer's Club Desk
5. A dollar bill changer in the game room
6. Board games, newspapers and magazines available from Lawyer's Club Desk
7. A nasty letter to the government of Mexico for banning "electro-magnetic machines"
8. Boxes for players under 5'6" to stand on to be kept nearby
9. More receptions with wine and invitations to residence halls other than Martha Cook
10. "Munchies" to go with the beer served at mixers
11. Government in the tradition of George Washington Plunkett of Tammany Hall

WATKINS - con't

creasing student input and control is essential. To accomplish this, a survey of student preferences, similiar to the one taken for the pass-fail option two years ago, needs to be taken before the next budget is completed.

I believe my accounting background and experience as Asst. Controller for Int'l Leisure Corp. will enable me to shape the coming budget in accord with student desires.



FIRST-YEAR WRITING AND ADVOCACY PROGRAM: APPLICATION TO BECOME SENIOR JUDGE

A. Generally

On the facing page is an application for a position as senior judge for next year's freshman Writing and Advocacy Program. The success of the program depends in large measure on the quality of the senior judges who are to staff it. After applications are received, a rather intensive screening process will take place to assure the best possible personnel. Those who are ultimately selected will have to commit themselves to active year-long commitment in the program, but there is no commitment involved in filling out an application form at present--it should be considered a means of expressing interest.

B. What the Job Involves

1. A brief description of the new program. The new program will carry two hours of credit (one per term) for the freshmen. The personnel involved will be (1) an assistant dean, who will have general supervisory authority; (2) senior judges, who will be the chief teaching personnel; (3) junior clerks, who will assist the senior judges; (4) case club advisors, who may if they wish take an active part in the operations of their club, in cooperation with the senior judge and junior clerk.

The program is expected to include library exercises, practice in writing memos, briefs, and other legal documents, and practice in oral advocacy. Senior judges will be compensated for their instructional activities and will receive two hours credit per term for participation in the Legal Education Seminar described below.

2. Functions and duties of the senior judges. The senior judges will concurrently enroll in a legal education seminar. The seminar will meet approximately once a week, and will be conducted by the assistant dean with the aid of members of the faculty. The seminar will concentrate on problems of teaching law with emphasis on the problems of senior judges in the freshman program.

Judges will be expected to meet with their freshman students on a regular basis. Hours will be set aside in freshman schedules to assure the availability of convenient meeting times. Weekly meetings will involve instruction in library use, research, writing, and advocacy; dissemination of problems; discussion of current writing assignments; and related matters.

Problems and topics for writing assignments will be written by the judges (with the cooperation of case club advisors if it is offered) unless the faculty of a particular section decides in favor of section-wide problems. If so, arrangements will be made between the faculty and judges for that section. The assistant dean will have a general supervisory duty with respect to the appropriateness of the freshman assignment and the adequacy of judges' performances. A reasonable degree of autonomy and innovation for judges will be encouraged. Details of the program may be varied.

Application for Position of Senior Judge for 1973-74*

NAME _____

ADDRESS _____

PHONE _____

Grade Point Average _____

Extracurricular Activities _____

_____

_____

_____

Writing Experience (e.g., research assistant, summer clerkship, etc.) _____

_____

_____

Honors _____

_____

_____

Mention any matters not listed above that are relevant to your qualifications for the job.

*Applications are due by 12 noon on Friday, March 10. Applications should be left in the mailbox of the Presiding Judge outside the Caseclub Office (Room 234 H.H.).