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QUAD BRIEFS

Reed to Return as Director of I.C.L.E.

John W. Reed, Dean of the University of Colorado Law School, has been named Director of the Institute of Continuing Legal Education effective July 1. The Institute is co-sponsored by The University of Michigan, Wayne State University, and the State Bar of Michigan. Reed will also hold appointments as professor of law at both Michigan and Wayne State.

The institute which Reed will head was established in 1960 and provides one of the nation's largest programs of continuing education for lawyers. Last year, it offered 36 programs in special fields of legal practice, attended by nearly 9,000 lawyers from throughout the country. Reed will succeed E. Donald Shapiro, who has resigned to become director of the Practicing Law Institute of New York City.

Prior to assuming his post as dean of the Colorado Law School, Reed had been a member of the Michigan Law faculty for 15 years. In 1963–64 he was a visiting professor at the Yale Law School. Reed is a 1942 graduate of the Cornell University Law School and also holds the S.J.D. degree from Columbia University.

Professor Reed is a specialist in the field of evidence and he will do some teaching in the regular programs of the Law Schools at both Michigan and Wayne State in addition to his work as director of the Institute.

John W. Reed

During his previous appointment at Michigan, Professor Reed served for six years as Chairman of the Board in Control of Student Publications, and was also chairman of a faculty-student committee which proposed reorganization of the offices of student affairs. The report of that committee has been widely quoted as the "Reed Report."

Cooper, Three Emeritus Professors Pass Away

The Law School has been saddened by the deaths during the current academic year of Professor Frank E. Cooper and Professors Emeriti John B. Waite, Burke Shartel, and Laylin K. James.

Cooper, professor at Michigan for the past 22 years, had taught regularly until the day of his death, February 16, even though he had been in poor health for some time. He had been a member of the Detroit Law firm of Beaumont, Smith, and Harris since graduating from the Law School in 1934.

Cooper was an authority on legal method and administrative law, having served as a consultant to the Hoover Commission and as a member of several important committees concerning regulatory agency law.

"Professor Cooper was a man of rare quality," Dean Francis Allen said recently. "He combined a scholarly and an active career with unusual success, and each aspect of his life supplemented and strengthened the other. He will be greatly missed at this school."

Professor Frank E. Cooper

Professor Emeritus Waite died at La Jolle, California, at the age of 85 on October 14, 1967, ending a career closely identified with the Law School.

Waite received his law degree from

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Professor Yale Kamisar, publications chairman, University of Michigan Law School. Student Editor: George A. Dietrich; contributors: Sam Tsoutsanis, Dick Sawdey; photographers: Gordon Conn, John Laughlin. Edited in the University Publications Office.

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Associate Dean Joiner to Leave After Twenty Years' Service; Will Assume Deanship of Wayne State Law School

After devoting his energies to the University of Michigan Law School for the past twenty years, Associate Dean Charles W. Joiner is leaving. Since December 1, 1967, Joiner has been Dean Designate of Wayne State University's Law School and has divided his time between Detroit and Ann Arbor. On June 1, he will assume his new duties on a full-time basis.

Joiner's association with Michigan began in 1947 when he joined the law faculty as an assistant professor after having practiced in Des Moines since 1939. He has accomplished many things in his years here.

When the procedure curriculum was greatly reorganized immediately after World War II, Joiner was largely responsible. The old courses consisted of: Common Law Pleading, Judicial Administration, and Trial and Appellate Practice. When the changes were made, they were forward-looking and oriented toward the needs of modern practice.

A complete reorganization of courses and teaching materials was involved. The three new courses were: Pleading and Joinder, Jurisdiction and Judgments, and Trials and Appeals. These changes stood for nearly twenty years—until the present seniors were given a full year Civil Procedure course as freshmen.

Soon after Dean Joiner arrived at Michigan, he turned his attention to the practicing lawyer's need for a continuing legal education to keep him abreast of the many new developments and trends since his graduation. To this end, Joiner staged advocacy institutes here from 1949 to 1959.

At first the programs drew small audiences, but they grew larger each year. Because of the ever-growing success of what had amounted to an extra-curricular activity for Joiner, he was able to persuade the law school to formalize and structure the programs. This occurred in 1960 when E. Donald Shapiro became Director of the Institute of Continuing Legal Education.

Much of the value which Joiner ascribes to this project came about when members of the bench and bar were made to realize that the University was intensely interested in upgrading the profession, not solely concerned with training law students.

The rejection of a job offer as dean of another law school spurred Dean Joiner in the mid-fifties to work on a project of which he is especially proud. The offer was rejected because Joiner did not feel he was quite ready to become a dean. He felt he wanted to do other things first—such as push hard for procedural revision in Michigan.

He got a resolution through the Michigan Supreme Court, State Bar, and State Legislature which established a Joint Committee on Michigan Procedural Revision. Lawyers, lawmakers, and judges all participated in the work of the committee whose chairman and reporter was Dean Joiner.

After this work was completed Joiner labored hard to get the resultant bill through the legislature. He met with success in 1961 when the Revised Judicature Act and a new set of Michigan Court Rules were passed, effective as of 1963.

Believing that law students would benefit from greater exposure to court room proceedings, Dean Joiner exerted his efforts toward the creation of the Washtenaw County Adjunct Courtroom in the second floor of Hutchins Hall. There, students could see the "real world" in the courtroom downtown over a television screen.

Concerned about the application of Canon 35, which prohibits broadcasting from a courtroom, Joiner was able to get a special court rule making the room in Hutchins a part of the Washtenaw County Court. Still fretful that some would be disturbed by this arrangement, Joiner invited some of the leaders of the American Bar Association to the Adjunct Courtroom in 1960.

Associate Dean Charles W. Joiner

His participation in bar association work — both state and federal — has been a special joy to Dean Joiner. Uneasy about the effects specialization could have on the legal profession, as chairman of the ABA Committee on Specialization in the mid-fifties, Joiner urged the adoption of certain regulations setting standards for claims of legal proficiency and providing new books in which lawyers could announce themselves as

specialists. Though approved in principle, the details could not be worked out at that time and thorny problems generated by this project remain a concern.

Dean Joiner has been a member of the ABA Standing Committee on Ethics for the past seven years. He regards his role there as gadfly of the group, resisting any attempts to put forth pat solutions to problems. Additionally, Dean Joiner is a member of both the Civil Rules and Evidence Committees of the Judicial Conference of the United States.

This willingness on the part of a highly competent faculty to make itself available to students to discuss work after class shows when the students get out into practice. It accounts for the fine success our students have had after they have graduated

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When it comes to the classroom aspect of Joiner's stay at Michigan he says he has always enjoyed teaching—though recognizing a shortcoming (he tends to talk too fast). "I remember the first class I taught in law school," Joiner said. "I prepared for it up one side and down the other and came out all hopped up. I went home and received a phone call from a student who said, 'Mr. Joiner, I just want you

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I believe the urban problems are the most important ones of today. There is no reason why a law school cannot be built on the strengths it acquires by being located in a city like Detroit.

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to know that we like you, stutter, stutter, but you talk too fast.' Click."

In commenting about the faculty here, Joiner observed that he has watched professors go from poor, thin, struggling, very able young men to old, heavy, even more able, nationally renowned men. "It's been not only their avoirdupois, but the size of their homes that has grown," said Joiner.

Joiner feels the faculty here is very highly motivated toward getting involved with and helping the students. "This willingness on the part of a highly competent faculty to make itself available to students to discuss work after class shows when the students get out into practice. It accounts to some degree for the fine success our students have after they have graduated."

Joiner's decision to take the deanship at Wayne Law School was influenced by his belief that "the urban problems are the most important ones of today. There is no reason why a law school cannot be built on the strengths it acquires by being located in a great metropolis like Detroit."

Cooley Series to Publish "The Oracles of the Law"

John P. Dawson's *The Oracles of the Law* is to be published in April of this year in the Thomas M. Cooley Series. The book is much expanded from the five lectures given in March 1959 at the University of Michigan Law School by Professor Dawson, who was on the Michigan Law School faculty from 1927 to 1958 and who has been at Harvard Law School since that time. The Thomas M. Cooley Lectureship was established for the purpose of stimulating research and presenting its results in the form of public lectures.

In the foreword to the forthcoming volume, Allan F. Smith, U-M Vice-President for Academic Affairs and former Law School Dean, lavishes high praise on this scholarly work:

"Probably the ideal goal of historical and comparative writing is to create a document which functions both to provide new insights into the past simply for the sake of understanding and to provide perspective which casts light on current issues and illuminates potential future courses of action. Seldom does a book achieve the goal as well as that which Professor Dawson has produced. But then, seldom is there an author so admirably equipped as he to undertake the task. As teacher and student, as scholar and administrator, his work has been marked by thoroughness without pendantry, and a sense of relevance which few can match.

"The definition of the role of the judiciary within a legal system is a matter of concern throughout the world, and nowhere is the question more vigorously debated than in the United States. For those who would seek meaningful perspective, *The Oracles of the Law* is surely a prime source, for it searches out the societal effects of varying philosophies and causal relationships between the assumed judicial roles and the achievement of both stability and flexibility within the judicial system. It probes the realities by comparing the verbal articulation of judicial role with actual judicial action, for it is clear that judicial activism can occur covertly as well as overtly, with proper and deferential lip service to notions of stability."

Orders for this book can be sent to Professor William J. Pierce, Editor of Michigan Legal Publications, The University of Michigan Law School, Ann Arbor, Michigan 48104. The price of the book of approximately 600 pages is $15.00. No charge is made for mailing if your check, payable to The University of Michigan, accompanies the order.

COOPER, continued

Michigan in 1907 and returned five years later to begin a distinguished teaching career which spanned forty years at the Law School. His primary interest lay in the field of criminal law. From 1920 to 1931 he was Editor of the *Michigan Law Review.*

Many generations of law students will recall "J. B." Waite, popularly known as "Jabby," as a stimulating and demanding teacher who used the classroom primarily as a vehicle for developing analytical precision and sharpness.

Burke Shartel died at San Diego, California, on January 15, 1968, at the age of 79. He attended both the Literary College and the Law School at Michigan and joined the faculty in

1920, remaining a member until his retirement in 1958.

Many generations of law students recall Professor Shartel as an extraordinarily effective teacher. During a major part of his teaching career he taught sections of the first year Property and Criminal Law courses and a second-year course in Rights in Land. He achieved a special distinction in the Seminar in Legal Methods, which he initiated and developed primarily for the benefit of graduate students preparing for a law-teaching career.

During the years following World War II, Shartel's contributions assumed a new dimension. In the wake of the German collapse and at the initial stages of the program to rebuild a new constitutional structure, he was invited by the State Department to deliver lectures to, and hold discussions with, groups of German law students and teachers in various parts of Germany. Later he served as a guest professor at the Universities of Heidelberg and Munich. These experiences and associations in turn stimulated his interest in programs whereby German law students came to the Law School for graduate study, a program in which Professor Shartel took a leading role.

Laylin James, a member of the Law School faculty for thirty-three years, died at Alpena, Michigan, on November 29, 1967, at the age of 74. He, too, was a graduate of the Law School, receiving the J.D. degree in 1923, and joining the faculty six years later.

In his course in Corporate Organization the students worked with documents and materials drawn largely from the files of leading law offices and governmental agencies. He made effective use of the "problem method" of instruction in the course, long before there was general recognition of the merits of that technique of law teaching.

In the classroom James was a vibrant and dynamic teacher. He aroused and excited his students, offered and invited intellectual challenge, engaged in animated debate, and encouraged an attitude of healthy skepticism.

Law School Receives $60,000 Grant From O.E.O. for Legal Aid Training Program

The Office of Economic Opportunity has announced a grant of nearly $60,000 to the University of Michigan Law School for the conduct of a seven-week training program for 50 recent law school graduates. Those attending the program will work for one year thereafter in various OEO-funded legal aid clinics throughout the United States.

Under the direction of Professors Robert J. Harris and James J. White, the training will consist of a five-week summer program this year followed by two one-week programs during the course of the year following the summer training.

"The goals of the program are to attract young and able lawyers to the poverty law field and to introduce them to some of the knowledge and skills which a lawyer needs effectively to represent to the poor," Professor White explained recently.

The program will be a sister to that conducted under the direction of Professor Howard Lesnick in the summer of 1967 at the University of Pennsylvania Law School.

It is hoped that the Michigan program will concentrate less on substantive law and teach more about working with militant poor groups and developing basic skills, such as interviewing and trial technique.

Professor Harris emphasized: "We picked these skills because a young graduate's first trial tends to be frightening to him. Client interviewing, while less frightening, deserves attention because it occupies so much of the poverty lawyer's day and, we suspect, usually is done badly, espcially when the lawyer is a middle-class white and the client is a poor Negro."

Tentative plans are for a curriculum which will follow much the outline below. Approximately 25 classroom hours devoted to substantive law areas:

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Washtenaw County Legal Aid Clinic

Are the Scales of Justice Evenly Balanced?

remarks by Professor Yale Kamisar at a panel discussion of the Criminal Law Section of the American Bar Association, Honolulu, August 9, 1967

The topic for today seems to be a perennial favorite at meetings such as this one. Over the years, the question has often been asked in one form or another, and over the years the answer of almost all law enforcement officials and, I think, most members of the bench and bar, is the same—the scales *are* heavily, horribly, tilted in favor of the defendant. Only the names of the cases seem to change.

Four years ago, the topic of the Criminal Law Section Roundtable was: "How Do We Live with Mallory, Mapp and Wong Sun?" Superintendent O. W. Wilson spoke for most prosecutors and police, I am sure, when he charged that "in the name of protecting individual liberties, we are permitting so many technicalities to creep into our system of criminal justice that . . . crime is overwhelming our society." (He didn't bother to explain why the crime rate in Chicago was dropping sharply at that very time.)

Five years ago, the question discussed at the Criminal Law Section Roundtable was: "Is the Public Getting Due Process?" The three panelists were Edward Silver, a past president of the National District Attorneys Association (NDAA)—who spoke of the "great advantages possessed by the criminal" and the pressing need to "restore the balance between due process and law enforcement"—Keith Mossman, Executive Vice President of the NDAA—who warned "There has never in the history of this country been a greater need for effective law enforcement. This country can no longer afford a 'civil rights binge' that so restricts law enforcement . . . to the point that [it] breaks down"—and J. F. Coakley, widely known as the "dean of American prosecutors"—who maintained that "the pendulum has swung far to the left."

Eleven years ago, the topic for the Criminal Law Section was: "Are the Courts Handcuffing the Police?" Three of the four speakers were Mr. Coakley, again; Chief Carl Hansson, past president of the International Association of Chiefs of Police; and Professor Fred Inbau, author of many manuals on police interrogation. Guess what conclusions they reached!

Eleven years ago, neither *Mallory* nor *Mapp* had yet been decided, let alone *Escobedo* or *Miranda*. Consequently, the panelists concentrated their fire on *People* v. *Cahan*, a 1955 California case, which excluded illegally seized evidence from state prosecutions. Chief Hansson pointed out that *Cahan* had aptly been called "the 'Magna Charta' for the criminals." Mr. Coakley reported that it "had broken the very backbone of narcotics enforcement."

One can go back much further than 1956 and cite many distinguished speakers to the same effect. Away back in 1905, William Howard Taft, who, of course, was to become President, and then Chief Justice, of the United States, complained bitterly about the large number of peremptory challenges the defense had; pummeled the courts for their "unduly tender" interpretations of the protection against unreasonable search and seizure and the privilege against self-incrimination (some 20 years later, in the *Olmstead* case, he was to practice what he preached by finding nothing in the fourth amendment which placed any limits at all on federal, let alone state, wiretapping and electronic eavesdropping); branded criminal prosecutions "a mere game in which the defendant's counsel play with loaded dice"; argued that nothing but a restoration of the balance "will prevent growth in the number of lynchings in the United States"; viewed with alarm the 500% increase in murders in the last 20 years; and concluded—and I repeat, this is 1905—

Professor Yale Kamisar

> "I grieve for my country to say that the administration of the criminal law in all the states (there may be one or two exceptions) is a disgrace to our civilization. We are now reaching an age when we cannot plead youth, sparse civilization, newness of country, as a cause for laxity in the enforcement of law." *The Administration of Criminal Law,* 15 Yale L. J. 1, 11 (1905).

To go back even further, at the Sixth Annual Meeting of the ABA in the year 1883, Professor Simeon E. Baldwin, one of the giants of the legal and teaching profession, pled for an end to the "false humanitarianism" which had led us astray so that "the state, in its judicial contests with those whom it charges with crime, [will be given] once more an equal chance":

> "If, then, we would make the punishment of crime as certain here as it is in Europe—I might almost say, as it is in Mexico or China—let us abandon our attempt to fight it without the use of the ordinary weapons that lie at hand; without asking the man who, of all the world, knows best what the facts are, to tell us about them . . ."

It has well been said that the best defense is a good offense. The scales of justice *were* tilted in 1883—in favor of the prosecution. The administration of criminal justice *was* "a disgrace to our civilization" in 1905—but not for the reasons cited by Mr. Taft. Rather, for such reasons as the widely prevalent "third degree" which the Wickersham Commission disclosed decades later.

Surely we don't want to swing the pendulum back to 1883 or 1905. Do we even want to swing it back *a few years*—to a time, the very recent past, when many policemen were given no instruction whatever in the law of search and seizure and didn't give a hoot about the fourth amendment, because the illegally seized evidence would be received by the courts? To a time when there were no constitutional limits whatever on electronic eavesdropping? To a time when a suspect was not entitled to consult with a lawyer even though he specifically asked for one, and could afford one? To a time when, in some states at least, an indigent defendant had to try his own felony case? To a time when, in many states, an indigent could not obtain *any* appellate review of admissibility and sufficiency of evidence and other alleged trial errors because he could not afford to pay for the stenographic transcript of the trial proceedings?

I suggest that now, as in the past, much of this talk about "the scales being tilted heavily in favor of the defendant" and "the need to restore the balance" hides present serious deficiencies in the criminal process *from the defense viewpoint.* Indeed, the defendant's purported procedural advantage over the government is one of the major arguments advanced to resist pretrial discovery, and thus prevent the defense from cutting down the great advantage the government's immense facilities and resources give it.

How can we take seriously cries of leading law enforcement spokesmen such as New York District Attorney Frank Hogan that the prosecution has been dealt a long series of crippling blows by the Warren Court when we learn, quite casually in a recent magazine piece:

> "Once the New York D.A. decides you are guilty of a felony, you are. As of June 23, the Office had prosecuted to a conclusion this year 2,182 people accused of a felony. Seven of them—one-third of 1 percent—had been acquitted. Seventy-two had been convicted by juries, and 2,103 had entered a plea of guilty to something (not necessarily the full original indictment)." Mayer, *Hogan's Office Is A Kind of Ministry of Justice,* New York Times Magazine, July 23, 1967, p. 7.

How can we believe that the pre-*Miranda* confession law "worked just fine" when as late as 1965, in New York City alone, six murder charges were dismissed against suspects who had given detailed "iron-clad" confessions to the police? (One of the suspects, by unusual chance, had the perfect alibi of having been in jail when the murder occurred. See New York State Civil Liberties Union Legislative Memo No. 13, Feb. 1, 1966). Indeed, how can we be content with *Miranda* when the New York Legal Aid Society, which represents 70 percent of all the defendants in Manhattan, reports that in the first six months after *Miranda* less than twenty "subjects" of police interrogation requested its aid? . . .

The "presumption of innocence" . . . is rarely taken seriously by those participating in the criminal process and never less seriously than when the defendant seeks liberal discovery procedure.

The government possesses what Edward Bennett Williams has aptly called "the most superb engine for discovery ever invented by the legal mind—the grand jury." It enables the prosecutor to question anybody with any knowledge of the facts before trial and to do so in secrecy and with virtually no holds barred. For, of course, neither the accused nor his lawyer has any right to be present, or to object to procedures in the grand jury room. The government, of course, also has crime labs, vast identification files, and the enormous investigative resources of detectives and police departments.

In this regard, surely, the scales are heavily tilted in favor of the government. Yet generally the defendant cannot get as a matter of right (as opposed to the prosecutor's arbitrary discretion) results or reports of physical or mental examinations, scientific reports and tangible objects—to say nothing of statements from, or even the names of, prospective government witnesses. The one *potential* pretrial discovery institution on the scene which might have helped the defense—the preliminary hearing—is almost invariably cut off by such tactics as "continuing" the hearing until the grand jury has returned an indictment—at which point the preliminary hearing is by-passed. Moreover, if the defendant utilizes his own usually very limited investigative resources he discovers, typically, that any prospective witness he locates has already conferred with law enforcement officials—and been "advised" not to talk with the defendant or his lawyer.

Among the so-called procedural advantages of the accused is his "presumption of innocence," but this is rarely taken seriously by those participating in the criminal process and *never less seriously* than when the defendant seeks liberal discovery procedure. Indeed, opposition to such procedures rests largely on the assumption

that the accused is *guilty until proven innocent*—that the accused, being a depraved criminal, may suborn perjury and intimidate government witnesses if he knows anything about the government's case in advance of the trial —that the accused doesn't need liberal discovery procedures because *he did it and already knows all the details.*

There has been much complaint about recent developments which aid only the guilty, but it is obvious that the *innocent defendant* is the one who suffers most from the traditional, restrictive approach to criminal discovery. He may not even be aware of the identity of the witnesses against him or the nature of the misleading testimony which has produced the unfounded charge against him. If a false or misleading story is not revealed until trial, the defense lawyer is ill-prepared to break it down on cross-examination. He needs facts, not intuition. He needs time to turn up other witnesses or some tangible evidence which refutes the government's version.

Too many prosecutors are not disclosing *at any stage of the criminal process* information which may have a crucial or important effect on the outcome. Only this past Term the Supreme Court upset a murder conviction (carrying a death sentence) where the prosecution had knowingly misrepresented paint-stained shorts to be shorts stained with the victim's blood, *Miller* v. *Pate,* (1967); and struck down three rape convictions (carrying death sentences) because, according to the principal opinion written by Justice Brennan, police reports not part of the record indicated that one of the three alleged rapists had not had intercourse with the girl at all; according to Justice White, the state might have suppressed evidence proving the alleged victim was a nymphomaniac; and, according to Justice Fortas, the prosecution had failed to disclose information, known to it, that one month after the alleged rape, the girl had filed and dropped rape charges against another, attempted suicide as a result of this second incident, and been hospitalized for psychiatric examination. *Giles* v. *Maryland,* (1967). Why, in an era when the criminal defendant is supposed to be getting every conceivable break, did it take so many years for these defendants—all of them sentenced to death—to get post-conviction relief and why did they have to go all the way to the Supreme Court of the United States to get it? . . .

> The courts have not . . . downgraded or degraded law enforcement officials. The American people have . . .

To turn to still another area: now that *Gideon* is on the books a question which is bound to command wide attention in the near future is, what constitutes the "effective assistance of counsel?" This year, Professor Abraham Blumberg, a sociologist as well as a lawyer (one with 18 years experience in criminal law, including defense and prosecution practice), has raised some very disturbing questions about the "effectiveness"—indeed, the basic function—of the average defense lawyer. On the basis of a sociological survey which shows that a very high percentage of guilty pleas are induced by defense lawyers, Blumberg concludes that the administration of criminal justice is not really structured on the adversary model which the Supreme Court's decisions presuppose, but that the primary loyalty of at least the "lawyer regulars," (those defense lawyers, including public defenders, who represent the bulk of defendants), is to the criminal court "system" on which they depend for their professional existence. "As members of a bureaucratic system," he observes, "the defense lawyers become committed to rational, impersonal goals based on saving time, labor and expense and on attaining maximum output for the system. For the defense lawyer this means choosing strategies which will lead to working out a plea of guilty, assuring a fee, and shrouding these acts with legitimacy." . . .

To put it mildly, this study raises further doubts about how much the scales of justice have really tilted in favor of the defendants. . . .

Finally, I think few, if any, will argue that the many touted procedural advantages of the accused are evident in misdemeanor courts. I think I can say flatly that the administration of criminal justice in most of our misdemeanor courts is "a disgrace to our civilization" in the year 1967. . . .

The courts have not, as many of its critics claim, downgraded or degraded law enforcement officials. The American people have—by viewing lawmen as little more than garbage collectors and utilizing our criminal codes as society's garbage cans—thus further burdening an already overburdened group of police and prosecutors with a lot of trivial stuff—"junk," if you will—which prevents them from concentrating on their primary tasks.

Gallup polls reported in 1963 that when persons were asked to name the top problems in their community from a list of 39, juvenile delinquency was second in frequency of selection—exceeded only by complaints about local real estate taxes. . . . Therein lies the story.

The late Will Rogers used to say the people of Kansas will vote dry as long as they can stagger to the polls. If he were around today, I suspect he would note that the American people are prepared to do anything to win the war against crime—except pay for it. Not the least reason for coming out against "coddling criminals" and for stiffer sentences, stop and frisk laws, law enforcement tapping and eavesdropping, etc., is that proponents feel such measures *won't require* an increase in taxes.

> The American people are prepared to do anything to win the war against crime—except pay for it.

Last year, New York City told a National League of Cities survey that it needed 6,000 more officers, an increase of almost 25%. The average need for increased manpower reported was 10%. Only one of four cities provide police with 200 hours of classroom instruction—considered a bare minimum by the International Association of Chiefs of Police. Less than one of three cities answering the National League of Cities Survey had

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Slum Dweller's Guide To Capitol Hill

Excerpts from a lecture delivered by Associate Professor Joseph L. Sax for the Mott Adult Education Program of the Flint, Michigan, Board of Education, on November 2, 1967

Talk is cheap under the dome of the nation's Capitol, and hardly a week goes by without a report on some "new and imaginative" scheme for dealing with the problem of slum housing. Each is dutifully reported in the press, usually under dramatic and prominent headlines; indeed, if headlines were houses, there wouldn't be a slum left to dwell in. For example, during the last year newspaper readers saw the following prominent captions: "Breakthrough in the Slums"—"Life Insurers Give Rent Subsidy Plan Boost of $1 Billion"—Senate Approves Model City Funds of $537 Million"—"Protestants Join In Housing Drive"—"Newark Catholics to Aid Slum Dwellers"—"The 'Worst Block' Is No Longer That" —"West 114th Street Gets A New Face"—"Instant Rehabilitation Proves Instant Success."

The impression thus created is that enormous amounts of money are being poured into the slums, and that technological breakthroughs are producing results never before thought possible. The facts are rather less encouraging.

In April, 1967, the New York Times prominently featured the following story on "instant rehabilitation."

> Mrs. Willie May Grier's four children burst into their new apartment yesterday and their cries of delight echoed through the freshly painted halls of the ancient tenement. . . .
>
> Forty-eight hours earlier the tenement at 633 East Fifth Street had been a decaying hulk of crumbling plaster, broken windows, leaky pipes and moldering garbage.
>
> But through a revolutionary engineering process called "instant rehabilitation" the building had been outfitted with entirely new walls, floors, window frames, appliances and electrical and plumbing systems. . . .

Six months later the same newspaper carried another article with the headline, "Value of Instant Slum Repair Doubted." Buried at the back of the paper, it reported that the cost of rehabilitation per unit on the project written up in April had been "about $25,000 a unit, or several thousand dollars more than new construction." The earlier story had carried estimates that the units would be rehabilitated for about $11,000. The tentative conclusion—remarkable in light of the earlier story—was that "thus far the costs do not appear to justify the rehabilitation of old-law tenements. It says tenements will always provide insufficient light and air, tiny rooms, and cramped building arrangements."

At least as important as the foregoing is a fact that is treated rather more casually than it ought to be in reports of these rehabilitation programs. They are not massive attacks on the slum housing problem, but demonstration programs, financed by quite limited demonstration grants. For example, Mrs. Grier's rehabilitated apartment was produced by stacking monies from a series of special subsidies one on top of the other. The exact amount of governmental subsidy infused into this one project is difficult to calculate, but it is a quite considerable sum, and no doubt considerably more than the basic $25,000 per unit spent on rehabilitation. The issue, of course, is not whether such experiments are desirable; certainly they are. The point is that such projects *are* experiments; they do not denote a congressional readiness to cope with the 6 million seriously deteriorated

Professor Joseph L. Sax

housing units in the United States. That job will require the building or rehabilitating of nearly 500,000 units a year, a commitment which will require annual appropriations in the billions.

Yet last year Congress appropriated only $20 million in new money for rent supplements, and for the current year they actually cut the program back by 50%—to only $10 million in additional money. Other low cost housing programs are similarly underfinanced.

While appropriation figures tell a great deal about the kind of commitment Congress has made to housing the poor, they by no means tell the full story. Indeed, the average newspaper reader probably thinks we are moving out of the era of reliance on government funding and into an era of greater reliance on investment by private enterprise. That is precisely the impression that seems to have been created by the publicity given to the recent pledge by major life insurance companies to invest $1 billion in the slums. If you were somewhat surprised to read that those most conservative of investors, the insur-

ance companies, were about to pour so substantial an amount into housing which private investors have always avoided like the plague, it's no wonder. For no investor in his right mind would put money into building low cost housing, and the fact is that there has been virtually no privately built and financed low cost housing in America for many years. The life insurance companies agreed to do nothing so courageous—or, from an investment standpoint, so foolhardy; they simply agreed to provide mortgage money for slum housing *if* the Federal Housing Administration would insure the mortgage so that the risk of loss would fall on the federal government and not on them. One reason they had not previously made any such offers is that until very recently the FHA, itself a very conservative institution, would not as a matter of policy insure slum properties. The reason for FHA's unwillingness to insure was the obvious one that such properties are poor investments—and, if low cost housing is to be kept in decent condition, they are virtually certain to default.

What brought about the change was no new willingness on the part of either FHA or the insurance industry to go into the business of financing and insuring losing enterprises, but rather the fact that the rent supplement program would provide enough federal subsidy to make possible the building of some decent housing for low income people which, with the federal supplement, they could afford. Thus FHA becomes willing to insure properties that Congress is willing to subsidize, and the insurance companies become willing to invest in properties that FHA is willing to insure. The point is that all this machinery comes into operation only if, and to the extent that, Congress is willing to appropriate rent supplement money. Thus so long as Congress keeps the rent supplement program on its present token budget, nothing substantial is going to happen even if the insurance companies offer $100 billion for slum investments.

Moreover, even when and if money is made available, it is by no means clear that investment is going to go into the area of greatest need—support of the very poor, large, working families; who are often problem families. Even an investor who is made secure through government guarantees is likely to have a tendency to seek out those properties which will present the least problems in terms of management, maintenance, and default. Good evidence of this pressure for investor conservatism was provided last month when a congressional committee took FHA to task in a very harsh way for agreeing to insure some properties that had a high risk of default; that such an event should have occurred at this stage, before programs for large scale amounts of low cost housing have even begun, is most revealing of what the future holds. That this is no mere hypothetical problem is demonstrated by the fact that the first installment under the insurance industry's $1 billion pledge was a mortgage commitment of $4.5 million by the Prudential Insurance Company to finance a *middle income* cooperative housing development in New Jersey, with rentals as high as $150 per month. Moreover, the project is to be built in an area where urban renewal has cleared and dispossessed thousands of poor families; in discussing the project the state commissioner of community affairs admitted that many of the families in the area to be cleared might not be able to afford the rents in the new project.

Investor conservatism also invites scepticism about current proposals to induce private industry to enter the low cost housing business through the use of economic incentives. Since it hardly seems likely that the Congress will be eager to pick up the cost of large numbers of defaults, the pressures will be considerable to select as the buyers or tenants of proposed new housing those people who are reasonably likely to have moderately good, stable incomes, secure jobs, and a relative absence of personal or social problems. This is probably as good a definition of the middle class, moderate income group as one could find. It is hardly likely to include those millions with incomes around or under $3,000 a year, and with the other common indicia of poverty—although those are precisely the people with the most intense housing problems. Everything points to another form of the Prudential Life Insurance New Jersey project.

This, at least, is what Senator Brooke was worried about when he rose on the Senate floor to discuss Senator Percy's bill to promote home ownership among the poor by subsidizing construction financing.

The great need in the slum housing area is not going to be met until Congress gives that problem a much higher priority in its scale of values than is presently the case.

> . . . in order to obtain the anticipated results, prospective homeowners will have to be employed, or employable at comparatively high wages. Many of the poor, who perhaps need retraining, education and incentives the most, will be unable to participate in or benefit from this particular program . . .
>
> My concern is that the homeownership program is being presented as one which, in a relatively short period of time, will become self-supporting. Frankly, I do not see how it will ever be possible for the program to be self-supporting, given the present economic, social and psychological realities.

Moreover, proposals designed to lure business into the slums present another problem which has thus far received no significant attention. How are we going to assure that industry continues to pursue proper goals once it gets into the slums. It is neither necessary or even particularly likely that the conduct which maximizes profit for those who operate slum housing will also be

conduct which meets the housing needs of the poor. Indeed, the two goals may often come into conflict. The same investor attitudes to which I pointed earlier are no less relevant here. The pressures to serve non-problem families with stable jobs and secure income will still be present. And what guarantees have we that the apartments will be adequately maintained? Or that rent levels will be kept as low as possible consistent with the requirements of the program? Or that excess profits will not be made? Or that appropriate standards for tenant eligibility will be maintained?

It is no answer to these questions to say that the statute or contracts will deal with such issues; one must never forget that no law is any better than the effectiveness of its enforcement machinery. We should know by now, out of experience with myriad government contractors in every area, that only rigorous, and rigorously enforced, regulation will thwart the temptation to put the profit motive above concern for the public interest. Nor, unfortunately, are even the largest and most reputable firms so filled with patriotism or a desire to serve the public that they can be left with only the language of a statute or regulation to guide their conduct.

Thus, we must ask what arrangements are going to be made to supervise and regulate those subsidized entrepreneurs who will operate housing for the poor? To do the job adequately, in light of the hundreds of thousands of units that are proposed, there will have to be a substantial bureaucracy. And that bureaucracy is going to be created and adequately staffed and financed only if the Congress has a deep commitment to assuring that the housing built is in fact operated to meet the needs of poor—precisely the commitment which we have not yet seen. Nor is that commitment going to arise simply because Congress is willing to subsidize the profit-seeking housing industry. Indeed, ironically, everything in the plan which is designed to make the housing industry an ally of the poor suggests that such power might very well be brought to bear to minimize regulation.

The danger is particularly great because the failure adequately to staff a regulatory agency is one of the least publicly visible acts of a legislature, and because there is nothing which industry likes less than a substantial government bureaucracy looking over its shoulder. At least in areas like defense there is sufficient congressional commitment to the ultimate goal to provide a strong counter-force to the self interest of government contractors. Ultimately defective rifles will be brought to public attention, and Congress will act to see that the military forces are adequately equipped. But how much will Congress really care if yet another housing program goes astray, and funds are channeled away from the poor toward the middle class? Not much, if the past is any guide to the present.

My purpose in making the preceding comments has not been simply to find fault in the ideas of others, for that is always an easy thing to do; nor is it to sound a note of hopelessness. Rather my intent has been to elaborate a single, but very important, point: The great need in the slum housing area is not going to be met until Congress gives that problem a much higher priority in its scale of values than is presently the case. Private enterprise cannot and will not substitute for that needed congressional commitment; indeed, to the extent that private enterprise is brought into the housing area in pursuit of profit, you can expect it to continue to pursue that goal unabatedly. In short, I think that the poor can depend on no one but themselves to produce the motivation to move Congress from rhetoric, model programs, and inadequate financing, on to the massive appropriations that will demonstrate a commitment to meeting the enormous needs we now have. I do not say that a coalition between the poor and private enterprise is useless; I do say that it is both dangerous and questionable.

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The difficulty in obtaining the necessary congressional commitment inheres in a vicious circle of non-action, in which those who presently own and operate housing for the very poor cannot economically provide adequate dwellings and still earn the profits which alone make such a business a satisfactory investment. At the same time, those very people—slumlords—are permitted to operate without any serious interference or control by the public officials whose job it is supposed to be to enforce laws requiring decent housing for every citizen. Because those who enforce the laws do not want to drive the slumlords out of business, thinking this will only intensify the problem of the poor, the laws are inadequately enforced. As a result, the slumlords remain to provide some sort of housing, and Congress does not perceive a crisis in housing.

This is the vicious circle which only the poor themselves can be expected to break, and it can be broken only by the enhancement of their political and economic power. . . . Tenants unions negotiating collective leases, rent strikes, and other such devices will help. Even more helpful, as I have argued in detail elsewhere (Sax & Hiestand, *Slumlordism as a Tort,* 65 Mich. L. Rev. 869), will be a concerted effort by the slum dwellers to assert in the courts the right to reparation for the illegal living conditions to which they have been subjected. With a modicum of judicial cooperation the assertion of this right can become a powerful political tool. Through it pressure can be put on the slumlords either to maintain

adequate conditions in their apartments or to pay damages—not in token amounts, but in the thousands of dollars—to the tenants whom they subject to deplorable and illegal conditions. The medium for achieving this result could be a court action for damages by the residents of slum housing, alleging that by subjecting them to living in such conditions, which are already outlawed by the housing codes, the landlord has committed a serious civil wrong for which he must pay.

If a number of such suits were to succeed, the cozy stalemate which now exists might well be broken. Slumlords who thumb their noses at ineffectual housing code

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enforcement—with average fines of less than $15—would find themselves in a desperate situation. And it would be nice, for a change, to have the pressure on them, rather than on their tenants. It might very well then be they who would run to the legislatures urging that rent subsidy money be appropriated to permit them to do necessary repair work. . . .

In conclusion, my message is this: Give the poor a little legal power, and then you will see things happen. The alternative is more fiddling in Washington and, as recent events in Detroit should poignantly suggest, this is no time for fiddling.

Report on the 1967 Meeting of the Committee of Visitors of the University of Michigan Law School

The sixth annual meeting of the Committee of Visitors of the Law School was held in Ann Arbor on November 2–4, 1967. In keeping with the times this might be characterized as a year in which the Committee sought to establish its identity. In its closing session the Committee exhibited general agreement that it did not assume the position of an overseer or claim for its general membership any competence in the field of education. The reticence on this score was so complete that the function of group expressions of any nature, whether to express commendation or concern, was belittled and no formal resolutions were adopted.

However all who participated could be expected to agree that the Committee is an instrument of communication and that, to a high degree and through a lively and widespread exchange of ideas among the participants, it fulfilled that function with respect to its contacts with the faculty and administration of the Law School. It may be that practical and effective ways can be suggested and developed for establishing more significant contact between the Committee and the students at future meetings. Also it is to be hoped that impressions gained by, and information furnished to, members of the Committee can be shared, through its reports and by conversations with other alumni.

The current Committee is composed of 41 members, each elected for a two-year term. Although successive terms are possible it has been the practice to elect new members as rapidly as practical. Those whose terms have been completed are encouraged to continue as "Committee Alumni" and presently are 45 in number. About 30 current and 13 committee alumni members were in attendance sometime during the 1967 session. Each Visitor pays his own expenses and a registration fee to defray costs of the session, but more striking evidence of the interest in the meetings is shown by the distances traveled by most of the members and the time devoted by them to the meetings. The November 1967 attendance literally represented a span from Maine to California. Alan R. Kidston of Chicago, who is President of the Board of Governors of the Lawyers Club, served as Chairman of the meetings.

The afternoon of Thursday, November 2, and morning of Friday, November 3, were devoted to individual visitation in classes and with faculty members. Those Visitors who are members of the Board of Governors of the Lawyers Club spent Thursday afternoon attending its regular annual meeting.

The first Committee business meeting was held on Friday afternoon. Dean Francis Allen called attention to and supplemented his report to the President of the University for the year 1966–67 which had been furnished to the Committee. He reported that all Michigan colleges

and universities had been obliged to adapt to appropriations insufficient to meet the costs of additional enrollment. This resulted in an increase of tuition fees to $1,500 per year for nonresidents and $620 for residents. Financial assistance from funds administered by the Law School amounted to $426,880 and was shared by 649 students. About $165,651 was made available from other sources such as the G.I. Bill and the need for additional assistance is urgent and pressing. The entire research program of the Law School and the salaries of half the secretarial force are paid for by the Cook endowment and other private sources. Without these resources the Law School would not have the freedom and flexibility which have enabled it to respond to current demands. For example, a private gift of an alumus, Jason L. Honigman of Detroit, will permit the establishment of a second student-edited law journal, dealing with the subject of practical law reform.

It now is obvious however that the Law School is in need of substantial additional capital funds. In order to recruit and retain a faculty of top quality additional endowed chairs should be established. Harvard Law School has a greater number of endowed chairs than do all of the colleges and graduate schools of The University of Michigan. The sum of $500,000 is required for each such endowment.

Lawyers Club

The Lawyers Club, that is the portion of the quadrangle containing the dormitories, the dining hall, the lounge, and their related facilities, has been renovated at a cost of about $400,000 in recent years with funds borrowed from the University. A conservative estimate indicates that another $800,000 is required to complete the task of restoring the Club to first-class condition without regard to the necessity for early replacement of furnishings, most of which date to the opening of the buildings. Funds for these purposes are not appropriated to the University, it being legislative policy that such facilities should be self-supporting. Until recent years no adequate accrual for depreciation had been charged to the operating expenses of the Club. When electric circuits became inadequate, plumbing wore out, the elm trees began to die, and other problems of physical age and, to some degree, functional obsolescence demanded attention there were insufficient funds with which to meet them. Current room and board charges have been advanced in each of the last three years in an effort to meet rising operating costs including *current* depreciation. The portion of these charges available for *current* depreciation has not met the budgeted figure and is being applied toward the cost of the heretofore deferred capital maintenance. This problem was noted with concern in the 1965 Committee Report. Various possibilities for a solution have been explored and specific recommendations can be anticipated soon.

Associate Dean Charles Joiner (appointed Dean of Wayne State University Law School since the meeting) and Professor Joseph R. Julin have been making a study of the needs for additional Law School buildings. Without any increase in enrollment, the present Library building and facilities are becoming inadequate. At June 30 there were 365,989 volumes in the library collection, of which 15,655 had been added in the preceding fiscal year.

It is obvious that if these pressing needs are to be met sources of substantial private giving must be identified and contacted. The assistance and advice of all alumni to this end is solicited by the Dean.

Following the Dean's report the Committee split into four small groups for discussion with faculty members of curriculum problems and planning in the areas of (1) Federal Tax Law, (2) Corporate Law, (3) Procedure, Trial Practice, and Evidence and (4) Anti-Trust and Trade Regulation. The presiding Committee members for these groups were, respectively the Honorable Norman O. Tietjens, Chief Judge of the Tax Court; John S. Tennant of New York; Thomas V. Koykka of Cleveland; and Allen C. Holmes of Cleveland. A common theme appears to be part of each report subsequently made by these men for his group. It is that the curriculum, or the students elections from the curriculum, do not include some courses of study which the practitioners in the field regard as quite important. . . .

First Things First

Specifically, the Tax group commended the responsible faculty members for their restraint in establishing a curriculum which was not so extensive as to encourage the student to ignore the fact that before he can do effective tax work he must be a good general lawyer. It was concerned however that over 40% of the students limit their tax study to the course dealing with tax problems of the individual and do not take the course dealing with basic tax principles affecting business.

Having explored the possibilities with the faculty and thereby identified the obstacles, the Corporate Law group nevertheless was disturbed that only eight hours, excluding seminars, were devoted to this field. It was pleased with the content of the courses and the emphasis on the problem approach to teaching instead of the lecture or case method. The group heartily approved the current requirement that the student have preparation in basic accounting before taking courses in corporation law.

Providing "Practical" Experience

The Procedure, Trial Practice, and Evidence group had wrestled again with the traditional question as to what the Law School can do by way of providing clinical or "practical" experience to the law student. The Legal Aid program and the closed circuit television arrangement between the Law School and the local court which have now been in operation for a few years are aimed in that direction. The group agreed that the faculty was correct in continuing to place emphasis on basic theory and reason which the student then can extend to the peculiarities of his particular problem and jurisdiction.

The group on Anti-Trust and Trade Regulation recommended intensive effort to add to the faculty in this area and that consideration be given to requiring a

basic course in economics as a prerequisite to admission to anti-trust studies.

Friday's meeting concluded with a spirited discussion on the subject of "The Teaching of Professional Responsibility and Legal Ethics," which had been made a topic for the session at the suggestion of Albert F. Donohue of New York. In the closing meeting on Saturday morning this discussion was resumed. It would be impractical to attempt a full report on the discussions. They did illustrate very well the potential of the Committee as a vehicle of debate and communication. . . . The Committee had been furnished with a copy of the Proceedings of The Asheville (N.C) Conference of Law School Deans on Education for Professional Responsibility held in September 1965 and a memorandum of statements from Law School faculty members of the extent to which their courses deal with legal ethics and professional responsibility.

Should Professors take Positions?

Comment was directed to defining the subject to be taught; that is, whether it should deal with a fixed code of ethics or should explore possibly broader areas of affirmative professional responsibility. Several expressed concern over the fact that there is no separate course on the subject. The history of a Legal Ethics course at Michigan was discussed and the belief stated that it had been of negligible value and effect. Different views were presented as to whether the professor should take a position as to what represented a proper exercise of professional responsibility in a given situation or should simply encourage thought and discussion on the questions presented by such a situation. Two Committee members, Glenn Coulter of Detroit and Benton Gates of Columbia City, Indiana, are members of the American Bar Association Committee which has studied the Code of Ethics of that Association and will recommend its complete revision within the next few months. Both suggested that with respect to that subject any curriculum attention to it should await adoption of the new Code.

The impression created by such a discussion will vary with each who was exposed to it. To some, it was one of great interest in the fact that students by their questions concerning the "relevance" of legal education to current social and political problems, law school facilities as evidenced by the Asheville Conference and practicing lawyers as shown by the request to put this subject on the agenda and by the earnest although widely diverse response to it are each saying to the others that the subject is one of real concern to them. Possibly this is an area where the answer can be found by identifying the questions that trouble the minds of those who seek to be educated and then seeking to provide them with, or guide them to, answers to these questions by any of the proven tools and methods of legal education in general.

The Saturday meeting also heard from Bruce P. Bickner, Administrative Editor of the *Law Review,* and Allan Field, President of the Student Board of Directors of the Lawyers Club.

Bruce reported that the former system of competitive tryouts among juniors eligible for *Law Review* membership had been abandoned because it had created an unhealthy situation. Currently those 35 students with the best grades in their first law school year will become and will continue as members so long as they show a good faith effort. Bruce reported that more constructive team effort has resulted.

Allan Field's report illustrated well the wide range of law-related activities sponsored by the students and the growth of what would appear to be a desirable and orderly participation in the regulation of their activities. He noted the existence of a faculty-student liaison committee and judiciary committee for dealing with student suggestions, complaints and discipline. He described the new student-initiated system for making room assignments in the Club and the anticipated necessity for denying space to December graduates who cannot guarantee occupancy of the space for the full school year. He described the student programs of arranging for speakers and panels on subjects of interest and of social activity. He noted that beginning in 1968 the Law School would be represented on a new graduate school student council. Finally he expressed the students' concern as to the necessity for maintaining and refurnishing the Club.

Dean Allen commented on the correspondence he has received on the question as to whether the J.D. degree should be awarded retroactively to all Law School graduates. He noted also that many useful suggestions had come to him by letter following the last Committee meeting and he urged its members to give him further individual suggestions and criticisms relative to the program for the Committee.

. . . At a Friday luncheon, members of the Committee and their wives had the pleasure of meeting and hearing from Robben W. Fleming, then President-Designate of the University and a Professor of the Law School.

What Kind of University?

Professor Fleming outlined the problems which he believes to be the principal ones facing the University. First is the question of what kind of university it shall be. He noted the tendency for it to become predominantly a center of graduate study because of its capacity for growth in that direction. Forty per cent of the present enrollment is in graduate work. One fact which he reported clearly identifies the Michigan Alumni Association with the "growth" enterprises of our time—the University leads all others in the country in the total number of degrees awarded each year.

The second problem facing the University is related to the first and is the question as to how to allocate resources within the University. He cited as an example the interplay and necessity for adjustment between plans to move the Engineering School to the North Campus and plans for a residential integrated literary college on that campus.

(Continued on page 17)

St. Antoine Joins Smith, Merrifield in Reorganization of Labor Law Casebook

Reorganization to help the student's awareness of "where he is" in the labor law course and an effort to include extra-legal materials earmark the revision of the present Smith and Merrifield *Labor Relations Law* casebook soon to be completed by U-M Law School Professors Russell A. Smith and Theodore J. St. Antoine, and Professor Leroy S. Merrifield of George Washington University.

"We have chronologized the organization of the book and included extra-legal materials such as articles by labor economists and sociologists in an attempt to make the work more functional," remarked St. Antoine recently.

The book has been separated into five parts in such a way that the student should be able to grasp more easily the inter-related areas in the labor law field:

1. Historical Introduction and Background
2. Workers' Rights in Organizing and Representation
3. Union Collective Action
4. Collective Bargaining (Contract Negotiation and Enforcement)
5. Internal Union Affairs

"We felt that the revision had to take account of at least four major developments in the field since the last edition, in 1960," St. Antoine explained.

In the first place, he said, the "Kennedy Board" brought about some significant changes in the labor-management relations field, especially in regards to organizational activities by unions.

"Secondly there have been important court developments in the area of contract enforcement, both of the collective agreement as a whole and of arbitration agreements more specifically," St. Antoine continued.

Thirdly there has been an extensive build-up of law dealing with internal union affairs since the passage of the Landrum-Griffen Act.

"Finally," St. Antoine concluded, "there has been a significant increase in public employee unionism in recent years. This book will probably include more up-to-date items on this area than any other casebook."

Aware that the 1960 edition has been widely used as a research tool by practitioners, but, at the same time, that the voluminous note material often overwhelmed the student, the revisers have attempted to strike a fair balance in the new work.

"We have tried to retain enough additional authorities so that the book will remain a good starting tool for attacking a labor problem, while being as selective on citations as was possible," St. Antoine explained.

It is hoped that this change will make the student more inclined to pursue outside sources because he won't be dismayed by the number of citations.

"As before, the casebook will be of considerable length," St. Antoine concluded. "We feel that, by including more material than can be covered in the normal course, we give the able teacher the opportunity to select the cases and areas which he feels are the most important."

Professor Miller Works on Procedure Treatise and Two New Casebooks

Many Law School faculty members are engaged in a wide variety of activities outside the classroom, but none exemplify this trait better than Professor Arthur R. Miller, whose interests encompass subjects as diverse as civil procedure, privacy, the proposed new copyright statute, and the impact of computers on our society.

Miller's experience in civil procedure includes all facets of that subject. He is a co-author of the multivolume treatise, *New York Civil Practice*. Currently, he is working on another procedure treatise and two casebooks, both of which are due for publication this spring. The first one will be designed for use in the required six-hour, first-year course in Civil Procedure. Professor Miller is authoring the book in conjunction with Professor John J. Cound of Minnesota and Professor Jack H. Friedenthal of Stanford. The authors intend their book to be more comprehensive than other current books in the field. They are also enlarging the use of textual materials and hypothetical problems, resulting in a somewhat lesser role for case materials.

Another aim of the book, which is to be entitled *Cases and Materials on Civil Procedure,* will be to provide the student with an overview of litigation early in the course so that as the details of the litigation process are later studied, he will better understand the context into which they fit. Prof. Miller feels that "the first-year student tends to get lost in detail due to the fact that he is studying material totally foreign to him and analyzing issues about which he has no moral commitment one way or the other." The casebook is aimed at alleviating this problem by confronting the student at an early point in the course with a summary of the judicial process.

Following closely on the heels of this book will be another to be entitled *Pleading, Joinder, and Discovery*. Prof. Miller is collaborating with Prof. Cound and Prof. Friedenthal here as well. The book is designed for a specialized course focusing on pretrial processes. Publication is expected early this summer.

Writing a treatise and two casebooks is not all that Professor Miller is doing outside the classroom. During the past two years he has been active in the revision of the Copyright Act and has testified before the United States Senate on computers and copyrights, as well as computers and privacy. Recently, he was appointed Special Rapporteur of a committee responsible for advising the United States State Department concerning the United States position regarding the amendment of the 1954 Hague Convention on Civil Procedure. The Convention is felt to be outdated because of its exclusive reliance on letters rogatory. The committee will work toward developing a

U.S. position for liberalizing the provisions for gathering evidence in foreign nations needed in domestic litigation.

Prof. Miller is well-qualified to work on international problems of civil procedure. He assisted in the revision of the United States Code provisions regarding international judicial assistance, the drafting of the Uniform Interstate and International Procedure Act, and the formulation of the provisions of the Federal Rules of Civil Procedure, which liberalized the procedure applicable to proof of foreign law.

O.E.O. Grant, continued

1. Consumer credit, garnishment, and bankruptcy
2. Landlord and tenant
3. Welfare
4. The new equal protection clause
5. Procedural problems of test litigation

Approximately 30 hours to training in the following skills:

1. Interviewing
2. Courtroom techniques
3. Lobbying
4. Dealing with group clients
5. Organizing

Specialists in problems of furnishing legal assistance to the rural poor will come to Ann Arbor to instruct lawyers going to rural offices.

"It is our current intention to divide the students into groups of five and to require each group to prepare a written solution to a substantial poverty law legal problem each week," noted White.

This is to be followed by a seminar session devoted to discussion of the proposed solutions under the direction of a practitioner with experience in such matters and an academician who is expert in the field touched upon by the problem.

Much of the teaching of substantive law will be done by members of the Law School faculty. Professors Frank R. Kennedy (Consumer Credit), Joseph L. Sax (Landlord and Tenant), Jerold H. Israel (Constitutional and Criminal Law), and Richard Sobol (Test Litigation), have agreed to participate in the program.

The interviewing course will be given by Richard English of the University of Michigan School of Social Work and courtroom technique will be taught by Sheldon Otis, a Detroit practitioner.

Thus far Messrs. Philip Colista (University of Detroit Urban Law Office), Charles Brown (Director, Wayne County Suburban Legal Services), and John Houston (Research Director, Neighborhood Legal Services, Detroit) have agreed to participate.

"We anticipate a heavy reliance upon persons actively involved in the practice of poverty law in Detroit and Chicago," White explained. "In addition to persons in this practice and representatives of groups affecting the community to be served, we hope to procure speakers, particularly in the area of landlord and tenant and consumer credit, who will effectively present 'the other side' in those areas."

New Professors to Join Faculty in Fall

Three young men with extraordinarily impressive credentials will join the law faculty this August:

Charles Donahue, Jr. received his B.A. degree *magna cum laude* from Harvard in 1962 and his LL.B. degree, with concurrent election to the Order of the Coif, from the Yale Law School in 1965. While at Yale he was the Article and Book Review Editor of the *Yale Law Journal.* Donahue was an attorney in the Honors Program with the General Counsel in the Office of the Secretary of the Air Force from July of 1965 until July of 1967. He presently is Assistant General Counsel of the President's Commission on Postal Organization.

John G. Kester received the B.A. degree from the University of Wisconsin in 1959, spent a year at Aix-en-Provence, France, as a Fulbright scholar at Universite d'Aix-Marseille, then entered the Harvard Law School, where he was elected President of the *Law Review* and graduated *magna cum laude* in 1963. Upon graduation, Kester spent two valuable and exciting years as law clerk to Justice Hugo Black. He currently is practicing law with a Washington firm while serving as a Visiting Lecturer in Law at Duke University Law School.

Donald H. Regan was graduated *cum laude* from Harvard College in 1963 and from the University of Virginia Law School in 1966 where he led his class, was elected to the Order of the Coif and served as Editor-in-Chief of the *Law Review.* He currently is a Rhodes Scholar working towards a degree in economics at Magdalen College, England.

SCALES OF JUSTICE, continued

electronic data processing equipment although most wanted it. In many cities because there are no, or not enough, civilian clerks, detectives type out their own reports—with two fingers. In even our largest cities, underpaid police moonlight as cab drivers, bouncers, or "guns for hire."

In most counties of more than 4/5ths of our states the job of district attorney is only a part-time occupation that supplements private practice. In many counties, the prosecution can't afford to go to trial too often—because there's nobody back there "minding the store"—he loses too much private business. Some years ago, when I taught at the University of Minnesota, I discovered there were several rural counties in that state where there hadn't been a criminal trial in 3 or 4 years—and if there was to be one, somebody from the state attorney general's office would have to handle it because the local prosecutor didn't deem himself competent.

Try to raise a police officer's salary to $10,000 a year; try to make the prosecutor's office a full-time job carrying a salary of $15,000 or $17,500 a year instead of the $5,000 or $7,500 the office pays now in so many places. Then see how many people who are "for law enforcement" and "against crime" run for cover.

At a minimum, an efficiently run probation service requires one officer to every 50–75 probationers, but it is not uncommon for probation officers to be assigned 300 or 350 cases. No wonder that last May, at a Department of Justice-sponsored "Lawyers Conference on Crime Control" I attended, Richard McGee, Administrator of the California Youth and Adult Corrections Agency, said that there is such a woeful shortage of personnel to supervise probationers and parolees that in general there just isn't any supervision—"the whole thing is a fraud on the American public which *thinks* there is supervision."

At the same conference, past ABA President David Maxwell, head of the Philadelphia Crime Commission, reported the encouraging news that Philadelphia's probation case load had been reduced from 150:1 to 100:1 —at a cost of a quarter of a million. But how many cities are willing to spend that kind of money to do that? Spend that kind of money to do anything in this area?

I haven't even mentioned the "roots" of crime—just the obvious need to strengthen the various services which "combat crime." We simply do not come to grips with the "crime problem" because most politicians and most citizens talk big, but *think small,* about this whole subject. Attacking the Supreme Court doesn't "cost anything," but it doesn't accomplish anything either—other than fulfill an irrational demand on the part of a frightened and disturbed public for simplistic solutions to enormously complex problems.

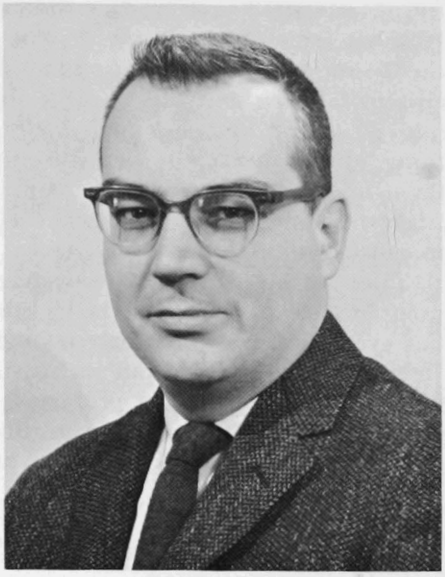
"Pilot" projects and "demonstration" and "model" programs are a big step in the right direction, of course, but even they are not nearly enough. As my colleague Joseph Sax has pointed out in his studies of slum housing, one doesn't solve big problems with demonstration grants. We don't have a demonstration farm program, or demonstration veterans benefits, or a demonstration military budget.

VISITORS, continued

Finally he expressed the view that the most difficult problem is how to maintain a viable community in the face of the divisive and hostile attitudes which quite obviously characterize all society at the present time. He stated that while this tension exists there must be a high degree of tolerance displayed and predicted that the University would be criticized for an apparent lack of discipline. However he made clear his recognition of the fact that in any organized society there must be some controls which represent the considered will of the majority and to which the desire for maximum individual freedom for members of a university community must give way.

At the closing business meeting Alan Kidston expressed for all the Visitors their sincere thanks to the University, to the Law School, and to their individual hosts and hostesses for a pleasant, informative, and stimulating session.

Jack White
Secretary to
the Committee



Professor B. James George, left, and E. Donald Shapiro, Director of the Institute for Continuing Legal Education, are leaving the Law School to become Associate Director and Director, respectively, of the Practicing Law Institute of New York City.

Campbell Competition finalists, left to right, James Goeser, Michael Cavanaugh, A. Patrick Giles, and G. Timothy Martin stand before Campbell Judges, from left, Francis A. Allen, Law School Dean; George Edwards, 6th Circuit Court of Appeals Judge; Carl McGowan, District of Columbia Circuit Court Judge; Frank McCulloch, Chairman of the National Labor Relations Board; and Theodore St. Antoine, Law School Professor. Goeser and Cavanaugh were the winners of the competition, held on March 7.

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