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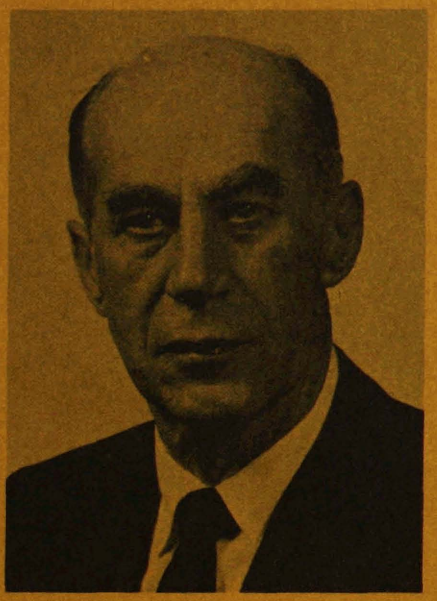
Professor Hobart Coffey Dies



Hobart Coffey, 73, professor emeritus of law and director emeritus of the law library at The University of Michigan, died on September 14 after a long illness (see page 16).

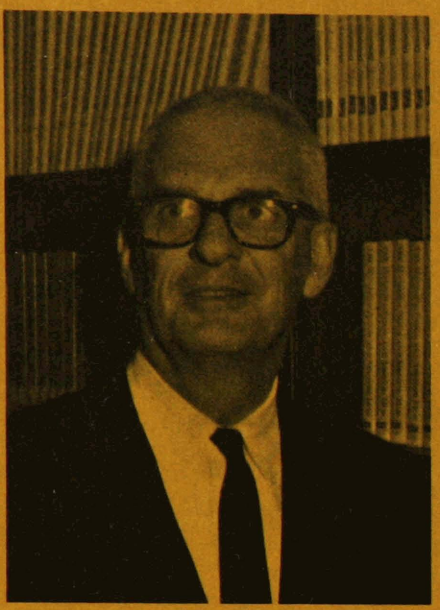
Prof. Coffey, who served on the faculty for 43 years until his retirement in 1966, first came to U–M in 1921 as an instructor in rhetoric, after three years of teaching in Ohio, Illinois, and Pennsylvania. In 1925 he was appointed assistant law librarian and assistant professor of law. He became professor and law librarian in 1926, and director of the law library in 1943. He taught domestic relations law and admiralty law.

After his undergraduate work at Ohio State University, he pursued further studies at the University of Pittsburgh Law School; the U–M Law School, where he received his bachelor of laws degree in 1922 and his Juris-Doctor degree in 1924; and at law schools of the Universities of Paris, Berlin, and Munich. From 1924–26 Prof. Coffey was a Carnegie Fellow in International Law.

From 1937 to 1939 Prof. Coffey was chairman of the Michigan State Board for Libraries in Lansing. In 1947–48 he was president of the Michigan Library Association, and first vice president of the American Association of Law Libraries. In 1948–49 he was president of the American Association of Law Libraries. From 1953 to 1960 he served on the domestic relations committee of the State Bar in Michigan.

Under Prof. Coffey's direction the U–M Law Library became one of the great libraries of the world. Starting with some 55,000 volumes in 1926 when Prof. Coffey assumed active charge, the collection grew to 330,000 in 1964.

Assistant Dean K. Yourd Dies



Kenneth L. Yourd, assistant dean of the Law School, died last October 17 in the University Hospital after a brief illness. He was 58.

U-M Law School Dean Francis A. Allen said, "Ken Yourd's administrative duties at the Law School were concerned primarily with the welfare of students. He brought to his duties professional experience, intelligence, and perhaps most important, a genuine interest in students and concern for their future careers. He will be greatly missed by the students and by everyone associated with the Michigan Law School."

A native of Marissa, Ill., Yourd received his bachelor's and Juris Doctor degrees from the U-M and another law degree from Harvard Law School. He held a variety of positions in law practice and business.

From 1941 to 1953 he was with CBS, serving in various capacities, including director of Network Business Affairs. During 1954–62 he was associated with the National Educational Television and Radio Center. He served as the Center's treasurer and counsel, vice president, and acting president.

He was appointed assistant to the dean of the U-M Medical School in 1962. In 1966 he was appointed to a comparable position in the Law School. In that position he assumed supervisory responsibility for the Law School placement office, the Lawyers Club, and operational responsibility for the program of student financial assistance. Last year he was promoted to assistant dean.

Yourd was admitted to the bar in the states of Illinois, Massachusetts, Michigan, and New York.

Locally he served as a trustee of the Washtenaw Community College and vestryman at the St. Andrew's Episcopal Church.

"Government in Urban Areas" Co-authored by Prof. Sandalow

Government in Urban Areas is the title of a book co-authored by Prof. Terrance Sandalow of the U-M Law School and Prof. Frank I. Michelman of Harvard Law School. The new volume was published this past January. Here are excerpts from the preface of the book.

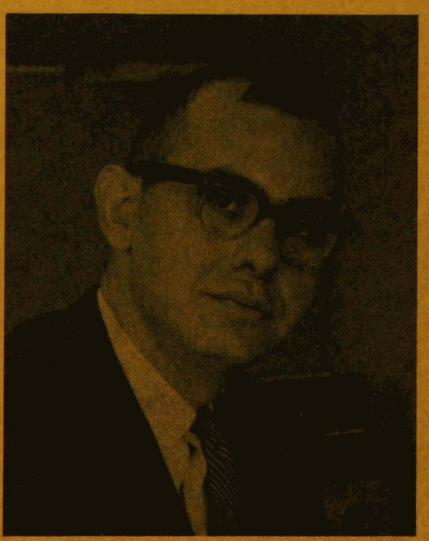
"Contemporary American lawyers are called upon to perform in a variety of roles: as advocates, in judicial and other forums; as counselors, for private interests and public agencies; and as the architects of institutions, both governmental and private. . . . The latter perspective is dominant in this book. The roles of advocate and counselor are not ignored, if for no other reason than the institutional designer's need to understand how advocates and counselors will respond on behalf of particular client interests to a proposed body of rules or procedures. But throughout the book we are primarily concerned with the lawyer's function in shaping the rules according to which the formal power to govern in urban areas is organized, limited, and divided among decision-making units.

"Several factors contribute to this choice of perspective, some of which are pedagogical and others of which concern the subject matter of the book. We share with many, perhaps most, students of urban problems a belief that public organization in the United States is inadequate to the pressing tasks which face the nation, especially those tasks which center upon the metropolitan areas now inhabited by two-thirds of the population. Alexander Pope's famous couplet—"For forms of government let fools contest; /Whate'er is best administered is best" —expresses, in our view, a limited and not very profound insight. The institutional framework within which public decisions are made often will exert an important influence upon the content of those decisions. Were it true that "whate'er is best administered is best," therefore, there would remain the difficult task of devising a framework for public decision-making which enhances the prospect of "administration" which will yield the "best" results according to whatever values command a social consensus. More fundamentally, governmental institutions vary greatly in their responsiveness to deeply held values concerning the process by which public decisions ought to be made. A mode of organization which sacrifices these values may be unacceptable however desirable the results it produces—if, indeed, the general "desirability" of results is a coherent concept apart from the acceptability of the process which yielded them.

". . . The inability of government to cope adequately with the rapidly changing conditions of American life — urbanization, technological advancement, the struggle for racial and economic justice—has produced a spreading belief that the existing structures of government hinder rather than assist progress toward solution of the problems created by these changing conditions. . . .

". . . The invention of institutional arrangements for the more adequate governance of urban areas poses an intellectual challenge of the highest magnitude. For that reason, and because of current ferment concerning governmental organization in urban areas, we believe that there is much to be gained from asking students to approach the study of urban government by exploring the problems involved in the design of an appropriate institutional framework.

"An emphasis upon the problem of institutional design provides us with an opportunity to deal with a pedagogical problem not uniquely related to urban government that concerns us. Historically, law schools have tended to focus upon courts, to the virtual exclusion of other law-making institutions of the society. The emphasis upon judicial opinions implicitly suggests that courts are, if not the only, at least the primary law-making institution of the society. We have attempted in this



Prof. Terrance Sandalow

volume to avoid that suggestion. The design of urban governmental institutions requires careful attention to the choices available to the constitutional convention, the legislature, and executive agencies, each of which shares with the courts responsibility for making and administering law. Many of the questions which the institutional architect needs to confront are likely never to arise for judicial consideration. They are no less appropriate a subject of legal study for that reason. . . .

"We have not . . . made any effort to avoid the use of judicial decisions, but only to avoid allowing the availability of judicial opinions determine the issues which students are asked to consider. We have attempted, instead, to identify the issues which require thought in devising a structure of urban government and, in dealing with those issues, to use the materials best suited to them.

". . . Throughout the book questions are raised or hypotheses suggested of the sort which we believe the skillful, institution-designing lawyer should be trained to find and formulate, but which perhaps cannot be fully explored or ultimately evaluated without empirical data which we have not generally tried to furnish (and do not pretend to have ready access to) or the use of cost-benefit analysis or more sophisticated techniques of policy evaluation which we have not generally tried to impart (and of which we do not claim a professional command). . . .

". . . What we have chiefly undertaken—and chiefly had in mind in selecting the various non-legal as well as legal materials which are found herein—is to open minds to issues and possibilities and to provide some theoretical framework for ordering and relating these. Thus, only up to a point, and a fairly primitive one at that, can the book appropriately serve as a guide to policy choice, as distinguished from a guide to pertinent questions about policy possibilities. The weaknesses and lacks—as well as, we are pleased to hope, the strengths and capabilities—of the lawyer's traditional equipment are here displayed for all to see and ponder. . . ."

Senator Speaks to Visitors

Senator Robert P. Griffin spoke before the Law School Committee of Visitors which held its annual meeting on October 31–November 1. Among the Committee's activities were small group discussions with faculty and students on such "atypical" curricular offerings at the Law School as "law and economics," "law and psychiatry,"

"law and sociology," and "international legal studies." The Committee also held a panel discussion on "The Impact of Clinical Experience on the Law School Curriculum: A Report and Evaluation."

A revised edition of the Law School Alumni Directory will be published soon. The 1970 edition will be similar to those published in 1941, 1951, and 1959 with alphabetical, geographical, and class listings.

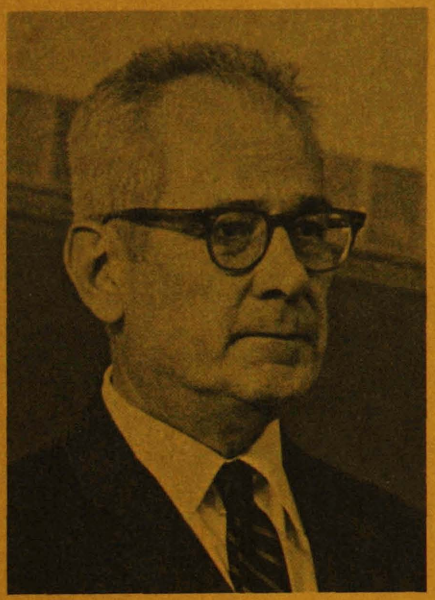
Last fall, order blanks, along with questionnaires, for the new directory were mailed to all Law School alumni. The directory's pre-publication price is $10.00 per copy, and orders must be received before March 1. Copies ordered after publication, or March 1, will be $12.50 per copy. The Alumni Directory Office is located at 344 Hutchins Hall.

Wirtz, Kurland Give Fall Lectures

Among the many speakers during the fall were former Labor Secretary Willard Wirtz (top of next column) and Prof. Philip B. Kurland (bottom) of the University of Chicago.

Wirtz delivered the 18th William W. Cook Lectures on American Institutions in October. "Politics of Change" was the theme of a series of four lectures. Individual lectures were entitled "Tyranny in the Dialogue," "The Machinery of Government," "Five Cases of Controversy, 1961–68," and "Inventing the Future."

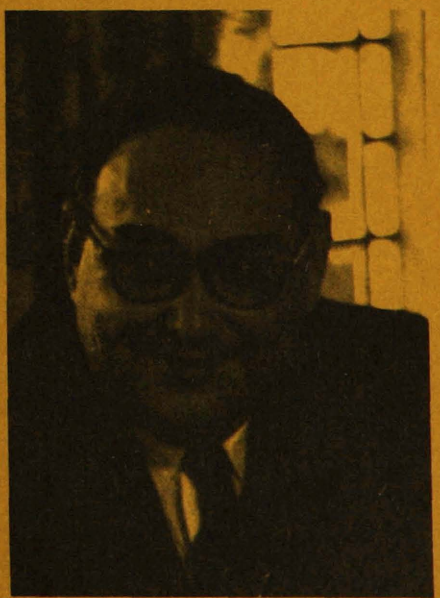
Wirtz was appointed secretary of labor in 1962 by President Kennedy and served in that position throughout the Johnson administration. Before his cabinet appointment he had



served in a succession of public posts at the federal and state levels. He became one of the nation's leading labor arbitrators and was a well-known teacher of labor law and labor relations at Northwestern University.

Kurland, well-known scholar of constitutional law and the U. S. Supreme Court, presented the Thomas M. Cooley Lectures in September. His theme was "Politics, the Constitution, and the Warren Court." The five-lecture series dealt with "Myths and Realities," "The Congress, the President, and the Court," "Federalism and the Warren Court," "Egalitarianism and the Warren Court," and "Problems of a Political Court."

Kurland is the editor and founder of the influential "Supreme Court Review." He has taught at Indiana University and Northwestern University, and since 1953, at the University of Chicago.



Cramton Named to State Post

Prof. Cramton, Gov. Milliken, and David Dykhouse

Professor Roger C. Cramton of the Law School has been appointed to the Administrative Law Commission by Governor William G. Milliken to review Michigan administrative law and to make recommendations for improvements.

Professor Cramton, an expert on administrative law, was involved in the drafting of the new Michigan administrative procedures act, which becomes effective on July 1, 1970. The Administrative Law Commission is intended to ease the transition to the new statute by reviewing problems in the application of the act as they arise and making recommendations to the Governor for their solution.

David J. Dykhouse, Jr., U-M alumnus and legal adviser to the Governor, is Chairman of the new Commission, and Cramton is Vice-Chairman.

The executive order creating the Administrative Law Commission states that "There is a great need for the Governor . . . to be advised by an impartial body which will review proposed changes in administrative law, recommend additional changes, where needed, observe the operation of administrative law and procedure in practice, and conduct a continuing review of administrative law."

"Modern Criminal Procedure" Has 'Weighty' New Edition

The increasing size of successive editions of *Modern Criminal Procedure: Cases, Comments & Questions,* and the frequency of the revisions of these teaching materials, evidence the continuing rapid changes in the field and the growing attention being given it in the law schools.

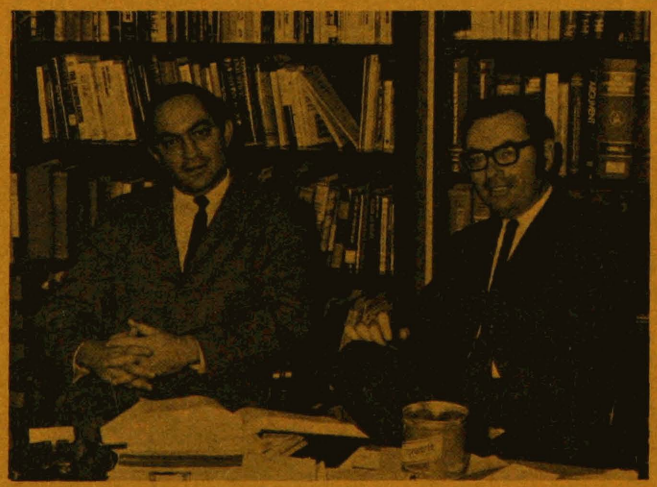
The first edition, published in the fall of 1965, contained 13 chapters and was 565 pages long; the second edition, published only a year later (*Miranda* had come down in the meantime), contained 17 chapters and 880 pages. The third edition, published last fall—with Professors Jerold Israel of the U-M Law School and Wayne LaFave of the Illinois Law School joining the original team of Livingston Hall of Harvard and Yale Kamisar of the U-M Law School—contains 29 chapters and 1,456 pages. Moreover, points out Professor Kamisar, thanks largely to new co-authors Israel and LaFave, not only is the third edition much larger but the cases more carefully edited and the comments more tightly written.

None of the authors has weighed the monumental third edition, but Solicitor General Erwin N. Griswold has. In a recent speech stressing the vast amount to be learned about criminal procedure nowadays, he illustrated his point by turning to the new Hall, Kamisar, LaFave, and Israel materials: "It is a remarkable, and literally a weighty volume. I put it on the scales and it weighs nearly six pounds. . . . Clearly there is a great deal which can be learned by the current generation of law school students about criminal procedure."

Although the first two editions dealt mainly with the constitutional dimensions of criminal procedure, the new edition of *Modern Criminal Procedure* contains many chapters which are primarily non-constitutional in thrust—for example, the decision whether to prosecute; preliminary hearing; jurisdiction and venue; joinder and severance of counts and parties; and post-trial motions and appeals. Probably the two most interesting new chapters are "General Reflections on the Police, the Courts and the Criminal Process," which examines (1) tensions between police and racial minorities, (2) various means of controlling and influencing police power and discretion, (3) the impetus for (and resistance to) "judicializing" the criminal process; and "The Administration of Justice in the Wake of Civil Disorders," which considers riot curfews, mass arrests and general searches, bail and "preventive detention," and the role of defense lawyers, prosecutors, and judges generally in times of crisis.

As in the previous editions, in addition to the exhaustive Notes and Questions, the authors have greatly enriched the case materials with extensive extracts from illuminating and stimulating books, reports, articles, and speeches. Because of the current concern over the need for legislative attention to problems in the administration of criminal justice, they have frequently included proposals growing out of such recent law reform efforts as the American Bar Association's Standards for Criminal Justice and the American Law Institute's Model Code of Pre-Arraignment Procedure.

In their efforts to make maximum use of the most recent writings in the field, the authors checked out and ran down every report or rumor of forthcoming articles, books, and studies pertaining to any topic of criminal procedure. Thus, in preparing the new edition they were able to study, profit by, and select extracts from manuscripts or galleys of various then-unpublished works. Much of the materials in the "civil disorder" chapter, for example, is based on a *University of Chicago Law Review* study of the April 1968 Chicago disorder and various reports by the National Commission on Causes and Prevention of Violence and the District of Columbia Committee on Administration of Justice under Emergency Conditions, none of which appeared in print



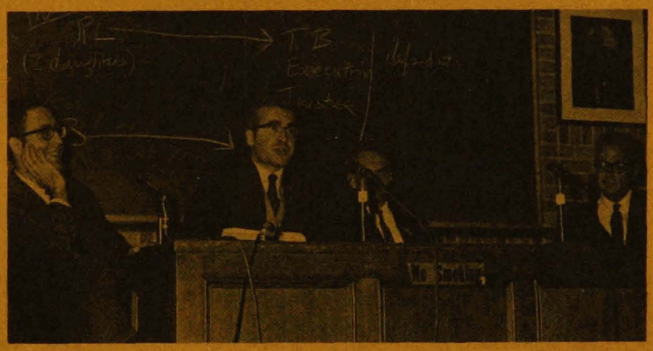
Prof. Israel (left) and Prof. Kamisar

until weeks or months *after* extensive extracts from them were "reprinted" in *Modern Criminal Procedure*.

Although the book went to press in March 1969, on several occasions thereafter the authors ripped out "old" materials and replaced them with cases handed down by the U. S. Supreme Court while the book was in the process of printing. Thus, they managed to include all the significant criminal procedure cases of the 1968–69 term except three handed down the last day of the term. As resourceful as they are, the authors of *Modern Criminal Procedure* have yet to figure out a way to obtain drafts or galleys of forthcoming Supreme Court opinions.

Moratorium Activities at School

Last October 15, the national day of moratorium against the war in Vietnam, activities in Ann Arbor included a rally in Michigan Stadium, a flashlight parade, and a full day of discussions about the war and related problems.



Among the notable programs arranged at the Law School were two symposiums. One of them dealt with "Role of Institutions in Political Decisions," and had on its panel six Law School faculty members (l. to r., next col.), Charles Donahue, Jr., Terrance Sandalow, Stanley Siegel, Robert L. Knauss, Joseph Vining, and Theodore J. St. Antoine.

"The Power Structure and the War" was the topic of the other symposium. Its panelists were (photo above), Prof. Stanley Siegel, Prof. Arthur Miller, former Labor Secretary Willard Wirtz, and Victor Perlo.

Prior to the moratorium, the University's Faculty Assembly adopted a resolution urging all faculty members and students to feel free to participate in the moratorium activities. No part of the University was officially closed, however. Classes were held as usual, unless individual arrangements to the contrary were made.

Graduates Studying Abroad Under Various Fellowships

Law School graduates of 1969 who won fellowships to study abroad are focusing their efforts on projects which shed light on critical legal and social problems in the United States today.

Sam L. Abram is working on a comparative study of the rules and remedies of urban administrative agencies in the United States and the United Kingdom. He is supported by a grant from the Law School's Ford Foundation funds for international legal studies. His project centers on local school administration and is being carried out primarily at the London School of Economics at the University of London.

Also at the London School of Economics on a Law School Ford fellowship is Benjamin J. Abrohams, who is studying criminal law procedures in connection with mass arrests. He was one of the authors of the May 1968 *Michigan Law Review* article which was devoted to the administration of justice following the 1967 riots in Detroit.

Ralph Fichtner won a German Academic Exchange Service (DAAD) grant from the Federal Republic of Germany to study the protection offered to minority stockholders under German and U. S. corporations law. He is studying at the Max Planck Institut of Public and International Law in Heidelberg.

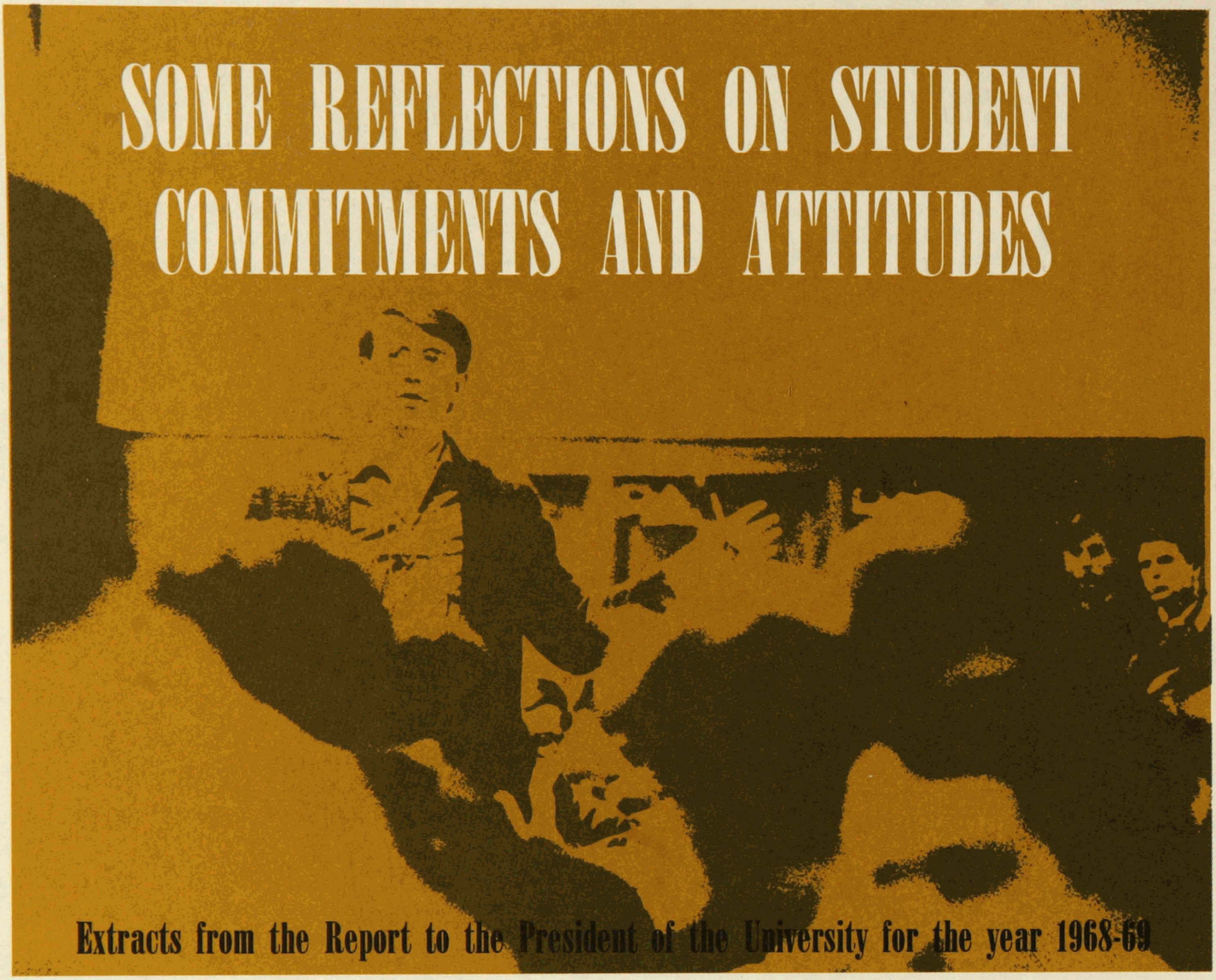
Cornelius (Neil) Keane is examining church-state relations and their effect on personal liberties in Northern Ireland and the United States. He is working at Queens University, Belfast, as the recipient of the exchange fellowship between that university and the University of Michigan Rackham School of Graduate Studies.

The harmonization of tax and fiscal laws of European Common Market countries is the subject of Richard Shell's work at the University of Amsterdam and the Netherlands Bureau of Fiscal Documentation. He is also supported by funds from the Ford Foundation grant to the Law School for international legal studies.

In spite of severe cuts in the program, Robert Wells received a Fulbright-Hays fellowship. He is studying the effects of U. S. fiscal policies on Central American relations at the University of San Jose, Costa Rica.

Warren Grimes, who last year was required by military duties to postpone going to Heidelberg on a DAAD fellowship, has this year gone to the Max Planck Institut there to study and do research on international business problems.

SOME REFLECTIONS ON STUDENT COMMITMENTS AND ATTITUDES



Extracts from the Report to the President of the University for the year 1968-69

by DEAN FRANCIS A. ALLEN

It is significant, I think, that for the first time in the Fall of 1969, the Law School will have a student body composed almost entirely of persons whose experience with institutions of higher education has been confined very largely to the period following the first dramatic instances of organized student protest which erupted at Berkeley in the academic year 1963–64. Most of those who will begin their third year of law studies in the Fall of 1969 were college freshmen in 1963–64. What has happened since that time? Optimistic dreams of the success of the civil rights movement withered and died on the campus, to be followed by events sufficiently identified by names like Watts, Newark, Detroit, Washington, D. C., and Chicago. Political and social leaders deeply admired by students were murdered: Dr. Martin Luther King, the two Kennedys, Medgar Evers, and other civil rights workers. The Vietnam War festered. And all the while protest on the campuses overshadowed almost every other aspect of university life.

The present student body is thus the product of a Time of Troubles on the campuses. Indeed, most of the students have observed the universities in no other circumstances. That these special experiences have bred somewhat special attitudes in the students is surely to be expected. Among other things, these events and this environment have created in many sensitive young people a more intense, more personalized, and perhaps more accurate sense of the crises of this time than can be achieved by most persons of more advanced years. The cry of the students for more effective avenues of communication is thus soundly based, whatever reservations one may have about the particular modes of communication advanced and supported by some student groups.

On the other hand, it would be a serious error to romanticize the present situation. Student commitments and attitudes that now reveal themselves in the law schools as well as in other parts of the university are, after all, the result of very special and, to some extent, confining experiences. A period of crisis is not

an ideal time to engender in students either tolerance for or understanding of those intellectual values which constitute the basis of liberal education and of its specialized form known as legal education. Much unease has been created in the public at large by the numerous instances of violence and disruptive tactics associated with student protest on campuses across the country. This concern is surely understandable; and when such episodes occur, they must be confronted and contained by university administrations. Yet one may wonder whether, in the long run, the more serious problem is, not law and order on the campus, but the possible triumph of attitudes and values which, in some instances, seek to convert the universities into political pressure groups to achieve social objectives variously defined, which are essentially non-intellectual or even anti-intellectual in character, and which if they prevail in their more virulent forms will incapacitate the universities from performing the functions that are uniquely theirs in the years ahead. There is an irony here that can hardly be escaped. Is it possible that the primary threat to the intellectual values which underlie any genuinely educational undertaking is posed today by some members of the most, and perhaps the best, educated generation in history?

It is clear, of course, that the attitudes and assumptions I am discussing are not entertained by all students in the universities, certainly not by all students in the Law School. Those who hold to other values, however, have proved remarkably reluctant to voice countervailing views. Moreover, the attitudes I am discussing are intellectual attitudes rather than political or social positions. Students with very different social philosophies may reveal similar intellectual proclivities. Thus the law student of strong professional commitments may reveal the same impatience with theory or the same skepticism of rationality displayed by the student whose primary objective appears to be the reform or elimination of existing social institutions.

In the paragraphs that follow I propose to identify some of these attitudes and assumptions.

Attitudes toward "The Word." "In the beginning was the Word," said St. John. Whatever the meaning or significance of this assertion as a theological or cosmological proposition, it contains a fundamental truth about liberal education and legal education. The universities of the western world have been dedicated for a millenium to the production of basic intellectual skills and the nourishment of values that derive from and support these skills. These capacities and values, because they are fundamental, may be said to be the beginning of education. Because they are never fully mastered, they may also be regarded as a continuing end or objective of liberal education. The skills and values to which I refer are those of reading, writing, and reasoning, a strong repugnance for the abuse of rhetoric, and a dedication to the arts of reasoned articulation. The acquisition of such capacities has never been easy, and there is nothing new about the complaints of students who are subjected to the disciplines these skills impose. What is perhaps new on the campuses, and certainly in the law schools, are the frequently expressed doubts of students about the importance of these skills, or at least of their primacy, and a resistance to educational programs designed to foster them.

The student attitudes to which I refer are expressed in a variety of forms. One of these most frequently expressed among some law students is a vocal impatience with meticulous classroom analysis of the reasons advanced by a court or agency to justify its result in a particular case. The only thing that matters, it is said, are the realities of power; the reasons are a disguise and a camouflage; those who indulge in such efforts at reasoned articulation are simply engaged in a cosmetic function. Students holding to this hard line are likely to be unimpressed by the observation that a sound idea persuasively developed is itself a source of power, and one that lawyers in particular have traditionally exploited, often to the substantial advantage of the community.

There is also a soft line. Thus it is sometimes implied that the strenuous disciplines of reasoned articulation need not be endured by those seeking lives of involvement in social action: what is most necessary to correct the ills of our time is moral commitment, purity of motive, and abundant energy. One does not condemn moral commitment by suggesting that effective social action also demands the application of disciplined intelligence. After observing and participating in reform efforts for over two decades, I am impressed by how frequently the Children of Darkness prevail over the Children of Light, even in situations in which the former represent no clear preponderance of political and social power. As I have stated to several entering classes of first-year students, one reason for this is often that the Children of Darkness, unlike their adversaries, have learned to do their homework.

It is clear, of course, that many student attitudes of this sort reflect modern currents of thought that are explicitly anti-intellectual, which exalt unreason, and which the students now on the campuses had no part in creating. In this century the attack on rationality has become a leading feature of speculation whether in literature, philosophy, politics, historical research, or even in the law itself. Oddly enough, the cultivation of rationality is an ideal under weighty pressure on the campuses, and this pressure comes by no means from the students alone.

No one, of course, could deny that grave sins have been committed in the name of reason. One needs to be rational about his rationality. This surely requires a sensitive recognition that man does not live by reason alone, and that other aspects of human experience and personality can be ignored only at peril. It is also true that in the modern world we have placed scientific technology and

other products of human rationality in the service of ignoble social, economic, and military goals. Yet one might surely urge that the indicated response is not the embracing of unreason, but the creation of new goals. Despite the modern indictment of rationality, I confess that I know of no society that foundered from a surfeit of reason, and that I observe no imminent peril of that condition developing in our own society. However this may be, I am clear that lawyers cannot surrender fidelity to the ideal of rationality and the skills of reasoned articulation without sacrifice of the distinctive functions they are called upon to perform in this society, and hence their reason for being.

"Relevance." One of the more regrettable phenomena of American life is the reckless destruction of useful language. Madison Avenue is a prime culprit, but residents of university campuses have contributed more than their fair share to the slaughter. Indeed, our intellectual landscape is cluttered with the dead husks of words, drained of meaning, and useful only as slogans calculated to stifle thought rather than to advance it. Thus, on the campuses we avoid "confrontations" by "meaningful dialogue," all in the interests of "participatory democracy." One must add "relevance" to any such list of recent campus slogan-words.

Because no one is likely to covet or defend irrelevance, one might wonder what purpose such a slogan serves. It would be an error, however, to conclude that all student talk about relevance of curriculum and instruction is devoid of substance. Social changes are, in fact, taking place which affect the relative importance of subject matters, and the changes typically occur more rapidly than do the institutional responses. Moreover, modern students, like students of other periods, are interested in the world of their own time. Good teaching has always identified these interests and, wherever possible, exploited them. It is unfortunately true that some teachers, including some in the law schools, have been slow to grasp these pedagogical opportunities.

Nevertheless, the cry for "relevance" has its disquieting aspects. In many cases it reveals the willingness of students to impose upon themselves (and their fellows) quite arbitrary limitations on what they will consent to become interested in. "Relevant" knowledge, as understood by these students, is only that which is immediately and obviously applicable to some (but by no means all) problems of current importance. One of the difficulties with any such simplistic approach is that social change, whether the product of evolution or revolution, is effected for the most part, not by devices that are totally new, but by new applications of old ideas and devices. A lawyer who denies himself thorough knowledge of the old devices, therefore, is likely to deprive himself of any role in effecting social change except that of an agitator. There is a second problem: students who hold to such conceptions of relevance doom themselves to early obsolescence. In the flux of these times the one thing clear about any body of knowledge perfectly adapted to today's problems is that it will be outmoded tomorrow. An educational program designed for persons whose active careers will extend well into the twenty-first century needs to anticipate and prepare for tomorrow's problems. This in turn requires that a significant part of a great university's or law school's program be designed to keep the present at arm's length, so that thought can be taken of the future. One of the heaviest costs of current campus unrest may well be that it has coerced so much of the attention of the universities to the crises of the moment that consideration of tomorrow's problems is being neglected. As a result we are likely to be as unprepared to meet the problems of the next decade as we were to deal with those that now threaten to engulf us.

"A sound idea persuasively developed is itself a source of power . . ."

There is one further aspect of today's talk about "relevance" that should be noted. As a colleague of mine wisely observed, some of these assertions may represent an inarticulate groping by students toward an approach to law studies that much more directly and candidly considers the factual and social context in which the law operates: in short, a new "sociological jurisprudence." There are many on the faculty of this School who believe this to be a necessary and desirable development. I would be both humiliated and gratified if our students were to say: "The legal order prescribes measures and sanctions without knowing what measures are required or what the consequences of its action are. We face a crisis in the administration of justice of major proportions. We do not know how to solve it because in many respects we literally do not know what we are doing. Moreover, even yet we are not really trying to learn." I would be humiliated by the indictment, for it seems to me essentially true; but I would also be gratified, for such a statement would imply a willingness of the students to embark upon an intellectual adventure and to seek things not presently known. Too often, unfortunately, the cry for relevance does not signify a student's desire to probe the unknown. On the contrary, it may constitute a demand for instruction that is essentially propagandistic in nature, its purpose being to reiterate and reinforce certain propositions (mostly about the corruptions of modern society), all of which are perfectly well known

at the outset and the truth of which is assumed to be already fully established. Whatever virtues such instruction may possess as religious ritual or group therapy, it has no perceptible relation to liberal or professional education.

"Moral Commitment." No survey of student attitudes can sensibly exclude notice of the moral commitment and moral revulsions of many modern young people, including many now enrolled in the law schools. It is no part of my purpose to deny that much of their moral indictment of American society has point and bite, that evils have been brought to light toward which those of us who are older have displayed a formidable tolerance, and that by identifying evils and dramatizing their existence, young people have provided the dynamics for reform and correction which perhaps could not, or at least would not, have been produced in any other way. Much of whatever is hopeful about the present resides precisely in the dedication and concern of those making up the student population of the campuses.

Other generations, however, have been required to learn a painful truth: namely, that every distinctive attitude that men may take toward the world is accompanied by pathologies to which that attitude is peculiarly vulnerable. There is now sufficient evidence to indicate that the present student generation is not exempt from the operation of this principle. The pathologies to which moral fervor is peculiarly susceptible are fanaticism and self-righteousness. It is not my purpose to enumerate the social perils associated with these illnesses; but if it were, there is no age, including the present, that could not be called upon for demonstration of the misery and havoc which are the consequences of religious, moral, and political fanaticism. One of the products of the moral convictions of many students is a strong egalitarian surge. Almost by definition this encompasses a deep suspicion of and hostility to the notion of the elite, whether of wealth, social position, intellect, or talent. The distressing tendency of most elites to attend more assiduously to the privileges than to the responsibilities of their members makes this attitude at least intelligible. There is one form of elitism, however, which these students appear to embrace rather than reject, and that is moral elitism. Yet the examples of Geneva and Puritan New England hardly generate a greater confidence in the concept of the moral elect than in other kinds of aristocracies.

Intellectual endeavor, like other forms of human activity, possesses a moral dimension. This is a fact apparently overlooked by a good many modern students. When Holmes spoke of the necessity of a man's being willing to re-examine "his own first principles," he was not simply describing an embellishment attractive in a cultivated gentleman. He was, on the contrary, speaking of a moral commitment upon which all intellectual activity worth the name is based: Resist the placing of blinders on the mind. It is here that fanaticism of any variety reveals its radical incompatibility with the requirements of the intellectual life, and (I believe) those of a professional life. One who undertakes to live by these rigorous requirements suffers certain losses in moral certainty, but he also avoids the persistent temptation to substitute moral certainty for the hard work of investigation and demonstration. The real question is whether the modern student who resists addiction to fanatical messianic visions is nevertheless capable of retaining his morale for the hard and discouraging work of reshaping his society. This, of course, is a question that is put to us all, not only to the students. I believe that a good part of the future of law schools, universities, and society turns on how this question is answered.

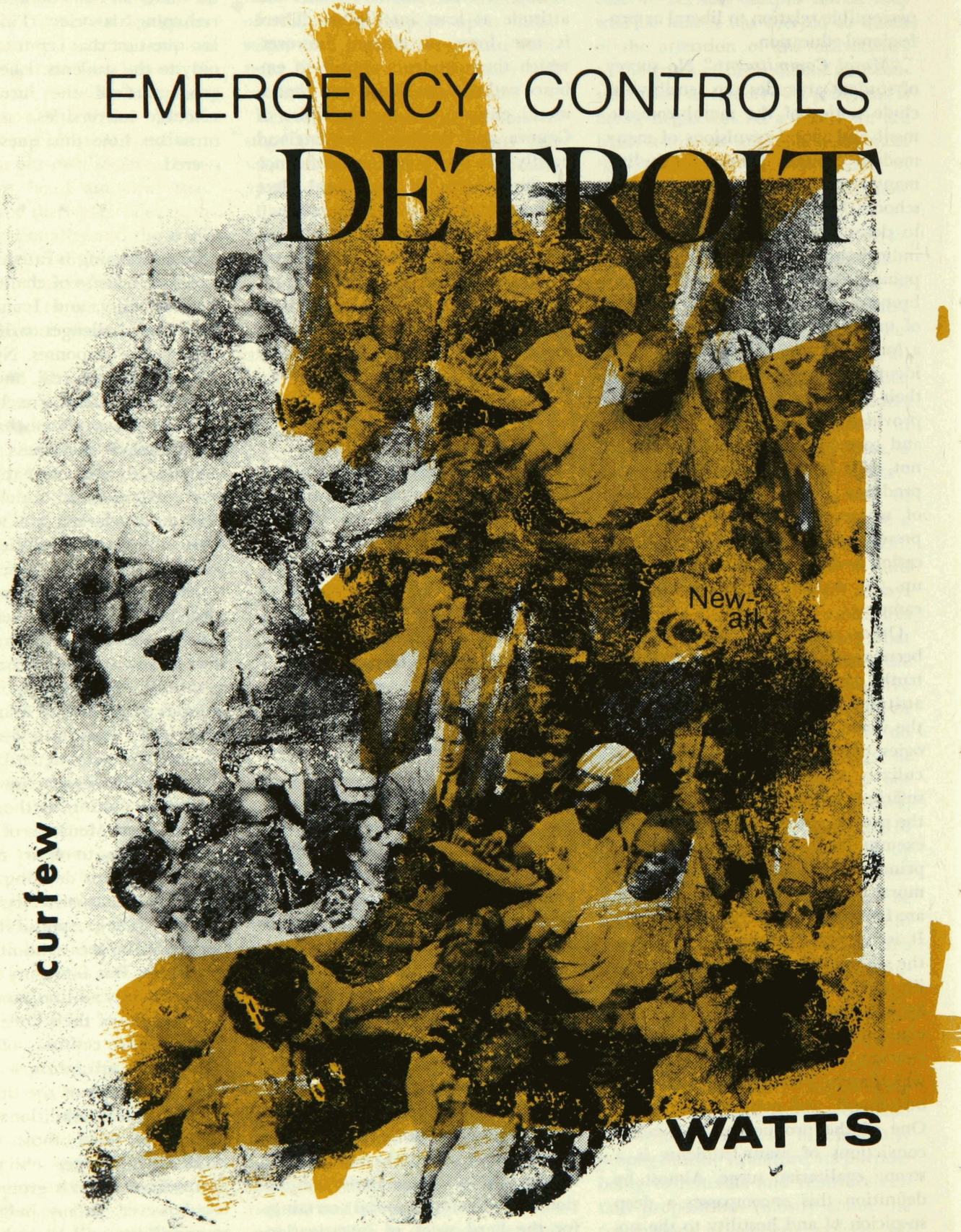
"For many teachers it is not a happy realization that a substantial part of their 'relevance' for the present consists of resisting rather than advancing some of the main tendencies of the time, and of upholding the traditional intellectual values that those tendencies imperil."

* * *

The foregoing is intended to communicate a sense of challenge rather than calamity, and I am confident that the challenges will engender constructive responses. Nevertheless, the problems are real, and they lead me to the rueful conclusion that faculties of law schools have not yet outlived their usefulness. The intellectual attitudes of many law students, expressed in widely differing degrees of clarity, are among the most important realities in law teaching today, and pose a specific *teaching* responsibility upon the faculty, different in some measure from those associated with graduate instruction in the past. These new responsibilities are likely to prove onerous to some of us. Many of those who elected a teaching career did so to serve in the vanguard of society and derive the satisfactions obtained from contributing to the unfolding of a new era. Members of law faculties continue to bear critical responsibilities for devising the mechanisms of constructive social change. Indeed, these responsibilities have never been so great and numerous as at present. But for many teachers it is not a happy realization that a substantial part of their "relevance" for the present consists of resisting rather than advancing some of the main tendencies of the time, and of upholding the traditional intellectual values that those tendencies imperil. No larger obligation has been visited upon a group of teachers, however. In my judgment, the responsibility will be embraced and performed.

EMERGENCY CONTROLS

DETROIT



SOME COMMENTS ON RIOT LEGISLATION

Excerpts from a speech delivered on June 17, 1969, as part of a TV-Workshop Lecture Series on The Officer and The Law, under the auspices of the Institute for Community Development and Services, Continuing Education Service and School of Police Administration and Public Safety, M. S. U.

by Professor Jerold H. Israel

Many of the legal problems presented by an inner city riot involve general legislation with which you are all familiar—e.g., provisions relating to the law of arrest, police interrogation, and the definition of such substantive crimes as larceny from a building, breaking and entry with intent to commit a felony, etc. We do have, however, a small group of statutes that are aimed specifically at the suppression of riots. Our discussion today will concentrate primarily on these special "riot statutes."

Riot legislation tends to fall into two categories: (1) laws creating special criminal offenses relating to riot-connected activities, (2) laws defining the emergency power that may be employed during riots. As between these two types of legislation, I believe, for reasons that will be developed later, that the second type is far more significant. It should be emphasized, however, that appropriate legislation of either type plays a comparatively minor role in proper police control of riots.

The Kerner Commission Report, which devotes several chapters to the need for improved police procedure in controlling disorders, includes only a few comments concerning appropriate riot legislation. The major police problems, as the Commission noted, involve such matters as improved communication systems, maintaining community cooperation, coordination of operations with the fire department, and development of better techniques of crowd control. Other reports have reached the same conclusion. They recognize that the passage of appropriate riot legislation is important, but it is not a matter of highest priority. Nevertheless, the fact of the matter is that the legislatures in most states have been far more prompt in providing new riot legislation than in enacting legislation designed to meet most of the other needs listed by the Kerner Commission. Perhaps this is due to a distinct "advantage" riot legislation has over the enactments needed to effectuate more immediate priorities —it generally costs far less. . . .

Most of our new riot legislation in Michigan falls in the first of the two categories mentioned previously—statutes creating special substantive offenses. Prior to 1968, the offenses of riot and incitement to riot were punishable as common law offenses and considerable confusion existed as to their content. The Public Acts of 1968 included legislation defining both offenses. C.L. 752.241, 752.242. An additional provision made it unlawful to incite or exhort another to engage in specific dangerous crimes (e.g., arson, murder) or any felony or circuit court misdemeanor that may endanger life. C.L. 750.157(b). Another provision, C.L. 752.543, prohibited an "unlawful assembly for the purpose of riot." Still another, C.L. 750.241, made it a felony to "knowingly and willfully hinder, obstruct, endanger or interfere with any person who is engaged in the operation, installation, repair or maintenance of an essential public service facility" during a riot. It also imposed felony liability for in-

"The 1968 statutes do not even attempt to meet the most pressing legal problems relating to riot control, for these problems lie in the realm of procedural rather than substantive law."

terference with a fireman during the performance of his duty.

Whether the 1968 enactments constituted an appropriate response to the substantive law problems presented by civil disorders is open to question. Without doubt, the criminal provisions especially related to riot activities were in need of more precise definition. Some would argue, however, that the new provisions do not supply truly adequate definitions. Others have questioned the appropriateness of the penalties provided in these provisions. One point, I suggest, is clear. The 1968 statutes do not even attempt to meet the most pressing legal problems relating to riot control, for these problems lie in the realm of procedural rather than substantive law. They concern such matters as police authority to make arrests, control crowds, and obtain evidence for convictions.

Of course, the scope of these powers is related generally to the scope of the substantive criminal law. What constitutes a permissible basis for an arrest depends in part upon the definition of the substantive offense. But most substantive "riot offenses" do not greatly expand the scope of the activities prohibited by the substantive criminal law; they tend more to increase the level of penalties for acts that would otherwise be prohibited under the general criminal provisions unrelated to riot. Such increases may be appropriate, and, in some instances, by raising misdemeanors to felonies, they may have considerable impact on arrest authority. But the primary legal problems presented by riots concern such "control" and "investigatory" techniques as curfews, area-wide searches, blockades, and preventive detention, and the legislative answer to these problems lies in the second category of riot legislation noted above—laws carefully defining the nature and scope of executive emergency powers that may be exercised during disorders.

I should emphasize at the outset that not all of these techniques are necessarily desirable, but insofar as the legislature does deem them appropriate, they are more likely to survive constitutional attack if specifically authorized under limited conditions by "emergency-power" legislation. Moreover, insofar as certain techniques are deemed inappropriate, the employment of such techniques is more readily prevented if they are carefully excluded from the scope of the authorized emergency powers.

An illustration of the need for emergency legislation is provided by an analysis of the legal problems presented by curfews. In the absence of a riot or similar emergency, an extensive curfew would most certainly be unconstitutional. The curfew could not be sustained simply because it eased police work, reduced crime in a general sense, and saved the city money. The nature of the individual liberty restricted by the curfew—the liberty of movement from place to place—requires greater justification for a curfew than a rational relationship to the preservation of the general health or welfare. Admittedly, that right is not specifically recognized in the Constitution, but it has frequently been recognized as a specially protected liberty by the United States Supreme Court (with reference to interstate movement) and various state courts. Thus, even very limited curfews imposed under normal circumstances, such as those commonly imposed on juveniles, have had difficulty before state courts. Moreover, insofar as the curfew is framed so broadly to prohibit the assembly of persons for political discussion (and most riot curfews have that effect) it imposes a clear burden on First Amendment rights.

It seems clear, therefore, that a curfew as extensive as that imposed during riots could only be sustained on the basis of some extraordinary compelling interest that would override an otherwise protected constitutional liberty. The prevention of mass violence—potentially even a threat to the basic operation of government—would be such an interest. Indeed, the imposition of a curfew in such a situation can be justified as designed to preserve liberty of travel by enabling the government to restore the order necessary for general usage of the streets.

Of course, judicial recognition of the emergency authority to impose a curfew need not rest on legislation, but legislation would probably make such recognition much more likely. A court generally will have less difficulty accepting a legislative directive granting an officer specific powers during an emergency than accepting a position that will establish the inherent authority of the officer to impose "emergency controls." Executive action pursuant to legislation starts off with the advantage of operating on the basis of the combined authority of both of the branches of government. Moreover, by its very nature, the legislation will tend to set some limits on the executive's authority and will thus reinforce judicial review of the executive action. A court may well fear that recognition of an "inherent" executive authority will either lead to uncontrollable executive power or place the court in the intolerable political position of constantly being viewed as a "Monday morning quarterback" in reviewing the executive's action. It therefore may be less reluctant to accept the emergency authority of the executive where legis-

"No riot curfew legislation, to my knowledge, deals . . . with such matters as the breadth of the curfew. . . . The curfew . . . in 1967 included . . . the suburbs and extended as far as Washtenaw County."

lation defines the nature and scope of that authority since such legislation should ease the burdens of judicial review by at least providing an appropriate springboard for such review.

For these reasons and others, several cases indicate that legislation, if appropriately framed, may permit even the highest executive, i.e., the governor, to take action that might not be acceptable if supported only by some general theory of inherent emergency powers. And, in the case of lesser officials (e.g., mayors, police chiefs, etc.), where there is a potential conflict with greater executive authority, specific legislation will usually be essential. In the curfew area, at least, this factor has been recognized by several states that have sought to supplement any inherent executive power with specific legislative authorization.

The usefulness of such legislation varies, however, largely in accord with its specificity. State statutes differ considerably in defining the type of "emergency" or "disorder" that may permit imposition of a curfew. Some are so loosely drawn as to provide little if any guidance. None, to my knowledge, deal specifically with such matters as the breadth of the curfew. May it, for example, extend substantially beyond the immediate riot area? The curfew imposed by Governor Romney in 1967 included all of the Detroit suburbs and even extended as far as Washtenaw County. The Michigan curfew may have been based on the likelihood that the riot would spread to certain of these areas, but, in other cities, the extension of the curfew to suburbs has been based largely on other considerations.

Some persons have favored a "total-community" curfew on the ground that a curfew limited to the riot area will give rise to cries of discrimination, which, even though unjustified, may worsen police-community relations. Others have favored total-community curfews on the ground that society as a whole is "responsible" for riots and therefore all society should bear some of the inconvenience and restriction of liberty caused by the riots. Both positions have been attacked as inconsistent with the recognition of liberty-of-movement as a basic individual right. Surely, it is argued, there is no greater justification for restricting liberty of movement to promote better police-community relations than there would be to restrict freedom of speech to promote that end, yet numerous decisions indicate that restrictions on otherwise proper speech for such purposes clearly would be unconstitutional. Similarly, while the suburbs constitutionally may be forced to bear the financial burden of riot in terms of taxes, there is no suggestion that constitutional rights can be restricted on the same basis.

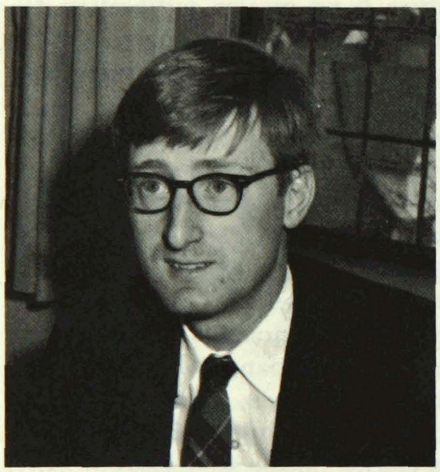
Another justification advanced for area-wide curfews rests on considerably less controversial grounds. With a curfew imposed in the suburbs, fewer officers will be needed for regular police work in that area and officers usually stationed there can be released for service in the riot area. The primary objection to this argument has concerned the validity of the assumption that a curfew is needed in order to release officers for riot service. I have heard it suggested, for example, that officers could easily be transferred from suburbs to inner city without a curfew and that this alleged justification for area-wide curfews has been employed largely as a "cover" for submitting to "political pressure" based on the other grounds noted above. . . .

Current Michigan legislation does authorize the imposition of a curfew by the governor (M.C.L. § 10.31). Unlike other states which rely largely on general "martial law" provisions, Michigan has long had a specific emergency power provision [possibly because the legal status of qualified martial law is subject to question under *Bishop* v. *Vandercook,* 228 Mich. 299 (1928)]. While this provision, C.L. § 10.31, is more specific than that found in most states, it has its limits. Although mentioning the curfew, it offers little guidance as to the scope of the curfew. No guidance whatsoever is offered with respect to such riot control techniques as blockades, area searches, and preventive detention. They have not been specifically rejected or accepted by the legislature. While the constitutional validity of the individual application of such techniques must be left for judicial decision, the propriety of employing such techniques should not be left strictly to the judiciary. Constitutional limits are not necessarily the limits of appropriateness. Moreover, there are restrictions that can more appropriately be imposed by the legislature than courts. If area searches ordinarily should be permitted only upon warrant, the legislature can more properly decide if such warrants should be issued only by circuit court judges. Similarly, if preventive detention of persons charged with felonies is constitutional during a riot, the legislature still must consider whether appropriate lines cannot be drawn to restrict preventive detention to persons charged with certain offenses that present more serious threats than others. . . .

The failure of the legislature to deal with these matters is understandable politically, but whether this omission is also justifiable in terms of the legislator's duty to the public may be quite a different matter.

Some Comments on The Class of '72

by Matthew P. T. McCauley
Assistant Dean, Admissions



Most readers of this publication were at one time admitted to the University of Michigan Law School. Presumably most of our readers feel that getting admitted was a good thing, and would be interested in knowing what sort of people are following in their footsteps. In years gone by the admissions officer could simply rely on the increasing number of applicants to produce a higher average undergraduate record and a spectacular average score on the Law School Admission Test (LSAT). This year the first-year class has very good grades and test scores, but there is more to the story than just the crush of numbers.

There *was* crush of numbers. In 1969 the Law School not only accepted more students than it ever had before, it turned down more applicants than it ever had before. The post-war babies of 1947, the crowd which made it necessary to build a new junior high several years ago, arrived at the doors of the Law School only to find that there were no plans to erect temporary buildings in the Quadrangle and that gaining admission was as competitive as it had ever been. Michigan had a 25 per cent increase in the number of candidates.

The draft was the factor which made 1969 an unusual admissions year, and which made an increase in the normal number of offers of admission necessary. With draft calls high, and with law students very draftable, it was clear that the Law School had more formidable competition than Harvard or Yale for the attention of the class of '69, and that we would have to accept two men to find one who was either a veteran, an asthma sufferer, or a girl. There are presently approximately 430 students in the first year, but at one time as many as 600 had signified their intention of enrolling by making a $50 deposit. The great majority of those who were not able to enroll were drafted or enlisted.

It should not be thought that because the Law School had to accept more students than usual that the qualifications of the class which enrolled declined. The contrary is true, and one shudders to think to what astronomical heights the averages for the class would have been driven had the draft not played its role. The grade point average of the class (GPA) is an even 3.2, the best it has been in the history of the school. The median LSAT score, 628, was only four points less than the median in the class of '70, the last class to be accepted before the draft law began to draw so heavily on the college seniors. The LSAT score is well above the median of 610 of my own class of 1967, than which, I had thought, there could be none better. If the class were the size of law school classes in the past, the mean GPA would be 3.31 and the mean LSAT score would be 646.

The class of '72 differs from previous classes in ways other than by being smarter. There are, for example, fewer Ivy Leaguers than there were in previous editions, a fact which can be viewed in one of two ways. Assuming that Michigan has always attracted the marginal Harvard man, and as an old Harvard man myself, I should say that I do not feel marginal and am not sure where I came out in this argument, one can say with no regret that the weaker students from the Eastern schools were just beaten out by the bright kids at Wittenberg or DePauw or Wisconsin who are now appearing in greater numbers in our class. A turnaround seems to have occurred in 1967 when the school offered admission to only 82 of the 215 applicants from Harvard, Yale, and Princeton who applied, whereas in 1966, 128 of 223 had been successful. We are still hearing from our old suppliers—225 applied from those three schools in 1969—but their students are less certain to get in.

One can view the situation less favorably and argue that the Yale underachievers often did very well at Michigan and that even when they did not they added a certain panache to the student body which will be missed. It is too early to know whether we have a trend to deal with or whether we are just finding that the Easterners were all drafted—for the time being it appears that fewer Michigan lawyers will be announcing their nuptials in the *New York Times*.

People may differ on what students

from Olde Ivy added to Michigan but few, I think, will be displeased to note that the school has continued to become a truly national school, insofar as the origins of its students are concerned. California, the country's most populous state, this year supplied us with 13 students. This may not affect traffic in Los Angeles but it makes California our seventh largest supplier. California only sent us three students in 1966 and five in 1968 and it may be that the existence of a scholarship solely for Californians has had the desired impact on the inhabitants of that western province. We are beginning to attract students from the old South (two each from Georgia, Louisiana, and South Carolina) and to have a few Texans around the place. Now if only all of those graduates we have in Hawaii and Alaska would say a kind word on behalf of the old school.

I talked to a large number of the candidates in the past year, with puzzling results. The majority of the people I talked to were well groomed, polite, and interested in Law School. They could all have met a client without making him fear for his life. Almost none of the people I talked to had any idea what sort of lawyer he wished to be, or at least he was not willing to confide in me out of fear that I preferred one sort of career or another. Thus I could not find out if an interviewee was likely to return to a small town or if he would out-perform his dismal college record because he had a clear goal in mind.

Some of the people I liked best in interviews were the most unusual people, such as the man from Alaska who said he would have to sell dog sleds if we did not admit him. Characters such as these are interesting for reasons which have little to do with law school however, and I feel that the zoo model for building a class, taking one of every sort of specimen, has little to recommend it. Personal chemistry can of course be a factor in an interview. Although I try to remain calm and bland the dog sled man and I got along, and I did not find the playwright who wanted to go to law school so that he could meet clients and get ideas for new dramas congenial. Others might feel this is the very sort of man we need.

The Law School's great benefactor W. W. Cook once said (in one of the few things which he said which is not carved in stone somewhere on these premises): "Now, the improvement to my mind of the law schools can be brought about only by raising the standards of admission, scholarship and character; especially character, and by that I mean strong personality with intelligence and principle." (Brown, *Legal Education at Michigan,* 757). To date no one has had the audacity to declare himself a judge of personality or character, and admissions standards have concentrated exclusively, and with great success, upon identifying those candidates with the greatest intellectual promise. This in turn has had the effect of reducing the number of graduates the school sends forth to areas where the intellectual rewards might be few, although the chances to be of service might be greater in these areas than they would be in the heady atmosphere of the corporate board room.

This admissions-placement relationship threatens to change in the future, however, as bright young men become more concerned with some form of social service. If there is one characteristic which I noticed about the young men and women to whom I spoke in the year past it is their determination to be involved, and to make an effort to put their ideals into practice. I am a cynical person, and I am well aware that there is a good deal of humbug in the lofty statements which the C-plus student relies on to make him stand out from the herd, but the number of times I heard people profess their intention to improve our cities compels me to the belief that a number of the new breed of law students are serious, and that they may stay with the effort even after moustaches have gone out of style again.

That idealism is sweeping the country, and that affluence has allowed people to consider turning down the highest paying offer they get confident that there will always be work for a bright Michigan lawyer, is not really a concern of the admissions office. I mention it only in the hope that our alumni will begin to consider ways in which this great enthusiasm can be put to best use in their firms and companies. For, while it is inevitable that three years of law school will make the class of 1972 more pragmatic and practical, it seems to me that it would be a great loss to the nation and the profession if they were simply forced to put a price on their hopes for a better world as if no accommodation between idealism and the practice of law were possible.

The following figures furnish answers to the questions I am most frequently asked:

First-year applications: 2,826
Size of freshman class: 430
Number of states represented: 38

States most heavily represented:

Michigan (160), Ohio (41), New York (38), Illinois (34), Indiana (20), Pennsylvania (16); California (13), Missouri (11), New Jersey (11), Wisconsin (11), Connecticut (8), Maryland (8), Florida (7), Massachusetts (7), Kansas (6), Iowa (5), Virginia (5), Oklahoma (4), Texas (4).

Number of colleges represented: 129
Colleges most heavily represented:

U-M (98), MSU (31), Cornell (14), Notre Dame (11), Pennsylvania (11), Wisconsin (9), Harvard (8), Wayne State (8), Georgetown (7), Indiana (7), Northwestern (7), Princeton (7), Univ. of Rochester (7), West Point (7), DePauw (6), Illinois (6), Yale (6), Kansas (5), Purdue (5), Stanford (5), Western Michigan (5), Wittenberg (5).

Number of Blacks in freshman class: 17
Number of women: 28
Number of veterans: 59
Median LSAT: 628 [89th percentile]
Median GPA (4=A): 3.20

Hobart Coffey

MEMORIAL ADDRESS

An address by William B. Harvey, Dean of the Indiana University School of Law, at a memorial service held for Professor Hobart Coffey at the First Unitarian Church in Ann Arbor, on Friday, September 19, 1969.

Hobart Coffey had been a member of the U-M Law Faculty from 1922-66.

Dean Harvey, a U-M Law graduate, was a member of this faculty from 1951-66.

Our friend Hob Coffey died on Sunday, September 14. On the death of a friend it is especially appropriate that we meet and share our cherished recollections of him. Together, we neither sit in mournful silence, nor mark his going with outpourings of grief. A gentle and compassionate man who touched our lives with kindness, understanding, and warm companionship, achieved the satisfactions of honorable work well-done, of friendship and respect well-earned, and, in the fullness of years, he died. Without exception, my recollections of Hob are happy ones; some of those recollections I want to share with you today.

I knew Hob for more than 20 years, first as my teacher, then as a professional colleague, but most deeply as a friend.

I had only the course on family law—or Domestic Relations as it was then called—with Hob. His administrative duties in the Law School left him little opportunity to teach. Yet I recall him as an excellent teacher—meticulous in his preparation, lucid in presentation, demanding of his students, and much inclined to enliven his classes with a salty wit.

During the celebration of the Centennial of the Law School, some waggish committee decided to put out a booklet of photographs of the faculty, most of them of the candid sort. Usually a member of the faculty rated only one photograph, but Hob had two. One was taken while he was teaching, seated behind the desk in a classroom. The photographer caught him, happily, with a quite characteristic expression. His head was turned slightly to the side, the chin well raised, and he looked upward with a beatific smile on his face. The identifying caption, based, I assume, on a comment made in his admiralty course, was "Some captains named their ships after their favorite women!" For Hob the law was not an arid, impersonal system. It was a fabric of intensely human material to whose infinite variety and richness he could respond with interest, insight, and often amusement. As many legal memoranda and opinions left in his files indicate, however, he was also a skilled, disciplined professional.

The gulf between teacher and student in a large law school is wide and deep. Through most of his career, Hob bridged that gulf more successfully than most teachers of his time, for he liked and respected young people. I came to know Hob well, however, only after I returned from practice and joined the faculty of the Law School.

Hob's contribution to the Law School was unique, for it was his responsibility to develop and administer the library on which all of us—students and faculty alike — depended. The magnificent collection in the Michigan Law Library today

is a splendid memorial to the imagination and dedication he brought to the tasks. His achievement could be illustrated readily by accession rates, gross holdings, and other indices, but I put aside dry figures for a personal illustration. When I became interested during the late fifties in legal developments in Africa and other less developed areas, I frequently needed relatively obscure works on primitive law or colonial legal systems. In the early stages I usually assumed that my need could be met, if at all, only by a patient search of specialized libraries and by borrowing. Yet on innumerable occasions I found that Hob had bought the work for the Library many years before, out of typically small original printings or on the rare book market. Through his imagination, foresight, and diligence in urging and serving the needs of the library, qualities grounded in his own love for books and appreciation for the scholarship his duties left him little time to pursue, the Law Library became what it is today.

I will not stress his professional achievements—though they are great. My thoughts are more of the quality of the man. He recruited for the Library a dedicated and competent staff whom he treated with respect and consideration. He was interested in them as individuals; he shared their problems; and he viewed their foibles with gentle amusement. Once after he discovered that the stack marker in the canon law collection was spelled "cannon," he nursed his secret for weeks in gleeful anticipation of the reaction of some of his associates when they discovered the error.

On another occasion when he encountered the annual difficulty in reserving a few offices in the Legal Research Building for emergency use later in the year, he decided that the task would be far easier if all offices appeared to be assigned. To the fictional occupants of the reserved offices he attached proper names, deciding after mature consideration to use for the purpose the names of the 12 apostles. The scheme worked, and Hob had several opportunities during the year to agree with the observations of others that indeed Mr. Matthew or Mr. Bartholomew was rarely in his office and did not appear too diligent in his work.

Hob was a student of the Bible and his reading of the King James version and the ancient catechisms was reflected in his choice of words and the cadence of his speech. To indicate that he would be unavailable in his office for a few days, he once posted on his office door a Biblical citation. The diligent who checked the reference would have learned that, properly interpreted, it revealed that Hob had gone fishing. During another absence he simply posted a photographic blow-up of an announcement he had discovered in an 18th century journal which went something like this: "Being overwhelmed by the burden of my duties, I am constrained to repair to my dwelling and to remain there until I regain my customary composure."

These small episodes illustrate Hob's most pronounced and endearing quality—a wry, detached, whimsical, but always gentle humor. It made conversation with him a delightful experience, it relieved the tedium and ponderousness of faculty meetings; it warmed his relations with his colleagues in the library and in the faculty. His humor and wit were as readily directed toward himself as toward others, and they will forever brighten our recollections of Hob. As one friend has said, "Anyone who doesn't have a Coffey remark to cherish is the poorer for it."

Many of my own fondest memories of Hob come from fishing trips a group of us regularly made to Canada. Hob was a relaxed, even casual fisherman, but he caught his share or more. In recent years when failing health made it impossible for him to be with us, Hob remained in a special sense in the group, for we frequently recalled that special mixture of wit and wisdom which filled his conversation.

With these outings too I associate other recollections of Hob which reveal qualities we took perhaps too much for granted in the special community of the Law School: a courtliness and grace, a warm interest in all kinds and conditions of people, and a considerateness that never suggested condescension. Those qualities were also revealed in many acts of private charity and support, the extent of which not even his close friends knew.

Hob was a complex, many faceted man. My own recollections can suggest, at best, a partial view. Some of you would recall and stress his professional contributions during 40 years of devoted service to a great University. Others would speak of the sympathy and support he gave his staff and his sensitivity in meeting institutional needs while providing opportunities to the young, the disadvantaged, and the oppressed. Out of our collective awareness we could compile a large but not exhaustive account of his generosity to the aged, the lonely, and the needy. But with all this, we would not have described the whole man. There was, in Hob, an ultimate sense of privacy, an inner reserve, that all of his friends recognized and respected.

Hob Coffey is dead. The iron will that sustained him without complaint through his final years of failing health has been discharged. Yet with those of us who knew him and for those who will continue to benefit from his labors, Hob still lives.

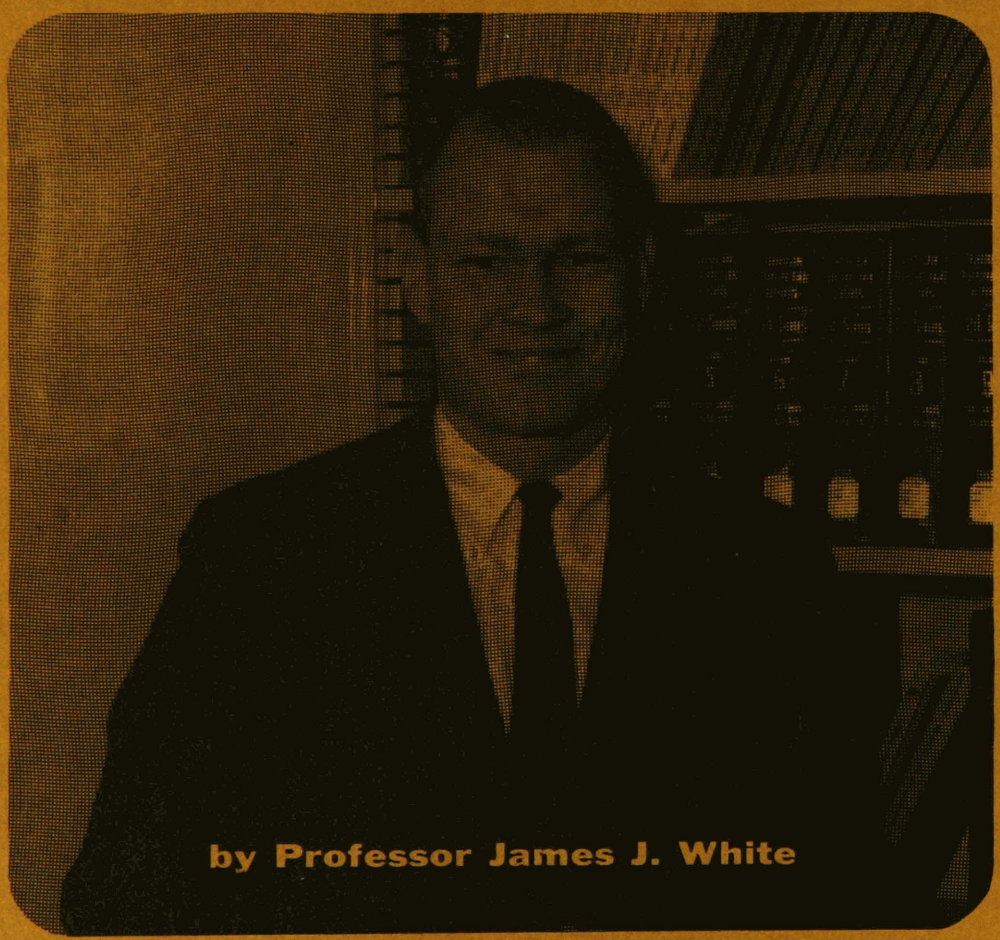
As long as students and teachers of the law work in this University, Hob will live;

As long as friends and acquaintances find joy in recalling his gentle, humorous, and wise words, Hob will live;

As long as men value human compassion and quiet, unpublicized acts of kindness toward others, Hob's spirit will live.

It is for these reasons that today I cannot mourn, nor can I express the grief of loss. I was privileged to know, to love, and now to cherish the memory of a fine man. I would simply pray that the God of all-encompassing love will receive and sustain him.

The Anatomy of a Clinical Law Course



by Professor James J. White

Excerpts from a paper delivered at a conference on clinical practice at the University of Chicago, November 1, 1969.

In the spring of 1969 the faculty approved "Clinical Law" on an experimental basis. I had asked the faculty to authorize a course for six or eight semester credit hours but the faculty consensus was that four hours was sufficient time to be devoted to such an experimental course. On the optimistic assumption that a student gives 40 hours of his time for each semester credit hour that he receives, we concluded that a student should perform 160 hours of work in the clinic to receive his four-credit hours.

We offered the course as part of the eight-week summer term in 1969, opening it to any student who had completed his freshman year. Ten students were chosen by lot from the 25 who applied for admission to the course. As part of his 160-hour work commitment, the student was required to attend a series of evening seminars and several meetings with county officials. Except for an occasional appearance under the supervision of one of the staff attorneys at the Washtenaw County Legal Aid Clinic, all of the students' clinical work was done under my supervision and, with a few exceptions, I was the counsel of record in the cases handled by the students in the course.

All of the cases for the class work came from the caseload at the Washtenaw County Legal Aid Clinic, an OEO-supported neighborhood legal office located in downtown Ann Arbor approximately three quarters of a mile from the Law School and a block from the local courts. At the outset of the course I assigned each student six divorce cases, a bankruptcy case, and at least one "miscellaneous" case. The choice of several divorce cases as a course starting point served two purposes. It gave the students interviewing practice under supervision, and it gave them an opportunity to appear in court and examine a witness in a noncontested matter. Other cases were chosen simply because they were available in sufficient numbers or, in some instances, because they offered unusual and interesting issues. . . .

During the course each student submitted a daily time sheet. These time sheets show the amount of time put in on each task for each client every day during the course and one can distill a great deal of data on the student experience from them. When the course is completed, nearly all of the students will have devoted in excess of 200 hours to course work. This work will have been performed on behalf of 97 clients, 32 of whom have received more than 10 hours of student labor at this writing writing and several of whom have received more than 100 hours of student work. It developed that the course ran heavily to litigation and by the time the work is completed in late 1969, the students in the course will have conducted at least five jury trials, four nonjury trials, and half a dozen contested motions. This is all in addition to the 15 or 20 noncontested divorce cases and two dozen noncontested divorce motions. The chart which follows is a composite of the students' work; it gives a general picture of the distribution of their time among the various areas into which the course cases fell.

The chart gives some interesting indications about how our plans did and did not work out. Note that approximately one quarter of the total student work was devoted to divorce.

Name	*Divorce Action*	*Landlord Tenant*	*Bankruptcy Action*	*Welfare Soc. Sec.*	*Cons. Cred.*	*Criminal*	*Meetings*	*Misc.*	*TOTAL*
Antola	44½	33	5½			105¾	27	2½	218¼
Baumann	59¼	54¾	10½		21¾	12½	21½		180
Clark	25¾	105	15	27	8½		10		191¼
Cook	52¼	9	10¾		64	26¾	15¼		178
Huck	22½	100½	12½			7¾	21¼		164½
Irwin	28½	19	¼		27¼	52	33¾	1½	162¼
McMahon	84	20	10¾			39¾	21¼		175¾
Padgett	58	6¾	2¼			127	10		204
Rockman	30½	52½	4½	4½	51½		17¾	2	163¼
Sutton	59¾	2½	1		10¼	54¼	32¾		160½
TOTAL	465	403	73	31½	183¼	425½	210½	6	1,773¼

This includes time spent interviewing the client, discussing the interview with the teacher, preparing pleadings, and appearing in court. It developed that many of the divorces were in a dormant state and could not be completed until after the course was over; in others the clients drifted away or chose to drop the divorce proceedings. Note also the large amount of time spent on criminal cases. Although we did not have sufficient criminal cases available at the outset to assign one to each student, eight of the ten students eventually took part in a criminal or quasi-criminal case. These ranged from misdemeanors (contributing to the delinquency of a minor; contention in the street) through traffic cases (wrong right turn) to the defense of a paternity suit brought by the state on behalf of an ADC mother. Because they presented truly adversary proceedings, dealt with something of obvious importance to the client, and moved along with much greater speed than the usual civil case, criminal cases attracted a substantial amount of the students' time and interest. The chart also shows that we landed several sizeable landlord-tenant cases but that we had insufficient bankruptcy and welfare cases to give each student an adequate exposure to those areas. Only one welfare case, (and it an atypical one dealing with social security benefits to the aged) and only three bankruptcy cases developed fully during the course.

As cases were settled or became dormant, we attempted to assign new cases to students with an eye toward giving them an experience in all of the areas in which we had cases available. The chart shows that we were not entirely successful in this endeavor and it should be equally obvious that except for the initial divorce exposure we were quite unable to give cases to the students in any planned order.

In a typical case the student would not conduct the initial interview, for we would get the case from the clinic director only after it had been accepted and the clinic director and I had determined that it was a case suited to the course needs. Upon receiving a case the student lawyer would contact the client, conduct a second interview, and then commence the appropriate action. He was free to talk with me when he thought that necessary and commonly we would have a discussion at the outset to determine the appropriate action. If that action involved the drafting of an answer, complaint, or any other document, I would go over a draft of that document with him and both of us would sign it.

In the courtroom the students conducted the examination of all of the witnesses in noncontested divorce cases and, with one exception, made all of the arguments in both the contested and noncontested motions. In jury trials our general pattern was to permit the student to make the opening statement and to conduct the direct examination of our witnesses; I would then conduct the cross-examination of the opposing party's witnesses and make the closing argument. . . .

"These legal aid cases also teach the bitter lesson that even powerful legal doctrine is often impotent before an intransigent judge or disingenuous witness."

The cases which the students handled were full of lessons, lessons both for the critical examiner of clinical courses and for the students who participated in the cases. In the following discussion we will consider some of the former lessons, those about clinical courses and their educational value. For the moment consider a few random things which a student participant in some of these cases might have learned. First one gets a revealing look at the judicial machinery in motion in several of these cases. He sees that even the most "summary" of proceedings, an eviction, takes three months or more from beginning to end, and he is astounded to find that one must prepare and file at least 15 and occasionally as many as 21 separate documents to take a noncontested divorce from start to finish. Such a student might be stimulated to ask himself why the machine could not be made to move faster and to operate with a lesser input of paper.

Second, these cases expose a student to a magnificent menagerie of documents and processes which seldom appear in person in the law school curriculum. These are jury instructions, questions for voir dire, motions, and affidavits to support such motions. If he has done his job correctly, the student will have considered the possible uses of voir dire (To get information? To give it? Both?) And as the judge mumbles down his list of instructions while the earnest and bewildered Mrs. Jones looks up from the jury box, a thoughtful student might wonder whether those instructions really influence the jurors' behavior in the way intended.

These cases also teach the bitter lesson that even powerful legal doctrine is often impotent before an intransigent judge or disingenuous witness. The experience of one case (in which a criminal defendant testified that he had not received the *Miranda* warnings and the police testified that they had given them) should cause the student to ask about the utility of the *Miranda* doctrine in the face of almost certain police testimony that the requisite warnings were given. The students in another case (in which the judge refused to rule that a prior dismissal was "with prejudice") surely wonder why the judge did not even listen to their apparent-

ly irrefutable argument that a dismissal which does not specify whether it is with or without prejudice is presumed to be with prejudice and therefore to foreclose further consideration of issues which could have been raised in the dismissed case.

Finally the cases pose some knotty ethical questions: If the answer to a question would clearly be privileged (if the privilege were asserted) may the cross-examiner nevertheless put the answer before the jury by the way he phrases the question? "Miss X is it true that you reported to your Doctor on February 17, 1968, that your last menstrual period had commenced on December 19, 1967?" The plaintiff's failure to appear on the second day of a paternity suit spared us our moment of truth on that question. Would you have asked the question in the form suggested?

It is indisputable that there was much to be learned both for the student and for the critical observer of clinical courses in this summer's experience. Let us pass now from the examination of the unrelated tidbits of knowledge which individual students might have acquired to ask what generalizations, however tentative, one can draw from this summer's experience.

. . . Another lesson on mechanics which the course taught was the difficulty (at least for this teacher) in evaluating student performance in the clinical context. I offered the course on a graded or a pass-fail basis at the students' option. Only three out of the ten students chose to take it on a pass-fail basis. The problem in determining grades arose partly from the fact that I was unable to view the student work objectively after I had worked side by side with each of them for eight weeks and partly from the fact that the students' experience was so diverse that there were very few tasks which all of them performed. The problem was pleasantly compounded by the fact that each of the students was remarkably diligent and none could be identified as a sloth to whom a lower grade might appropriately be assigned. After much agony I gave each of the students in the course an "A." If I were to offer it again, I would require that the students take it on a pass-fail basis.

A final conclusion on the mechanics of the course, and a most important one, is that clinical law courses are very expensive. The Law School budget supported the Michigan course by paying my salary and that of my secretary for the eight-week term. In fact I devoted all of my working hours to the course for the eight weeks during the summer and will eventually have devoted at least an additional two weeks of working time to the course when all of the cases have been closed. The expense inherent in a 10-1 student-teacher ratio is amplified by the demands which the course makes on the teacher. The course makes all of the physical and emotional demands that trial practice makes on a trial lawyer. I found myself worrying over cross-examinations, over missed trial opportunities, and about improper rulings in quite the same way that one might worry on behalf of his own clients in private practice. Because of the irregularity of court calendars and the almost constant attention which the students on various cases required, I found that I was able to devote no time whatever to several research projects which I had in progress during the course.

"... the cases with which we dealt raised questions of frightening complexity and great practical difficulty."

Although the cost per student could have been reduced somewhat by raising the number of students to 15 or perhaps to 20, I am clear that I could not have supervised more than 20 students without seriously degrading the quality of the supervision. As it was, I was not able to supervise all of the court appearances which the students in the course had. Make no mistake, therefore, clinical law, properly done, is an expensive proposition. It is expensive first because it requires a low student-teacher ratio and secondly because it requires even more of the teacher's time and energy than a traditional course for a comparable number of credit hours would require.

How best one teaches what to whom is a question much asked but little answered. In the context of legal education the appropriate answer to that question has been a point of conflict for several centuries between advocates of clinical law in its various forms and advocates of classroom law. The following thoughts will do nothing whatever to resolve that conflict; they are offered only as the best guesses of a teacher and his students who have sampled a clinical law course.

Before one attempts to identify things which seem to be efficiently teachable and some which seem not to be teachable in a clinical law course, it is perhaps appropriate to ask the degree of legal difficulty, of challenge to one's analytical ability, which inheres in legal aid cases, the grist for most clinical courses. It is now gospel that the caseload of many legal aid societies runs heavily to divorce and is repetitive, dull, and uninteresting. One accepting that gospel might logically infer that cases taken from a standard legal aid caseload would not present legal problems worthy of a lawyer's intellectual inquiry. In the Michigan course we found that inference to be inaccurate and found rather that the cases with which we dealt raised questions of

frightening complexity and great practical difficulty. Consider the following questions which were presented by cases handled in the course this summer:

1. Is it a violation of the constitutional prohibitions on imprisonment for debt or of the due process or equal protection clauses to sentence an indigent (under the court's contempt power and without trial) to jail for six months for failure to comply with a court order to support his illegitimate child?

2. May a plaintiff in a paternity suit who has put the paternity question in issue by suing and who could be made to answer questions under oath relative to her conception, nevertheless assert the doctor-patient privilege to prevent the introduction of evidence about the time of her conception and the length and weight of her child?

3. Does the newly enacted "Michigan Tenant's Rights law" which authorizes a tenant to present "defenses" in an eviction action, mean that a lease is now to be read like a contract and that any substantial breach of that lease by the landlord frees the tenant from any obligation under it? Does a substantial breach by the landlord go only to a rent reduction or does it bar eviction as well?

4. Is a statute which makes it a crime for one to do any act which "tends to bring a juvenile under the jurisdiction of the juvenile court" void for vagueness under the fourteenth amendment?

5. Is it a violation of the federal law or of the equal protection clause for a federally subsidized cooperative housing project to operate under a tenant admission procedure which fills its housing with students who are "temporarily poor" to the exclusion of the local, "permanent" poor?

The cases dealt with in the course this summer raised each of the foregoing questions and many more which were equally thorny. Their solution demanded not only careful and thorough case analysis, but also interpretation of hastily drawn and imperfectly drafted statutes and a good deal of imaginative argument. Whatever the nature of the "average" legal aid case, our experience demonstrates that even the most casual selection process can cull a substantial number of challenging cases out of a standard clinic caseload.

Smashing headon into difficult legal problems may be highly stimulating but then so is a roller coaster ride and the question remains: What can one best learn and teach in a clinical setting? Consider first two things which our experience suggests are not well taught in a clinical context. The consensus of my students and me was that the students learned very little substantive law during the eight-week course. I had hoped at the commencement of the course that we might use the seminar format to give a rather broad instruction in landlord-tenant law, welfare law, and certain aspects of commercial law. Apart from our effort in the landlord-tenant area, we had no success with such projects. Of course individual students acquired a great deal of learning in the very narrow areas where they happened to do intensive research on specific cases. Unless one drew all or nearly all of his cases from a single substantive area (e.g. divorce) and supplemented the clinical work with substantial classroom work, teaching substantive law in a clinical course would be hopeless. Even if one so concentrated his cases and supplemented them, I am not sure that the clinic setting is an efficient one for teaching substantive legal principles. The cases are so diverse and the experience so unpredictable that the learning is necessarily haphazard and unsystematic.

"Exposure to legal aid clients --clients who are sometimes dirty, occasionally illiterate, and often disingenuous -- is just as likely to reinforce a student's negative views of the poor as it is to alter those views."

Second, I saw no evidence that the clinical experience teaches "social awareness." Some advocates of the clinical experience argue that the skin-flinted conservative can be made into a compassionate liberal by an eight or ten week exposure to legal aid practice. I saw nothing in my students nor have I seen anything in our volunteer students of past years which supports that thesis. It is my impression that the quality of legal work is quite unrelated to the student's political philosophy, and that exposure to legal aid clients—clients who are sometimes dirty, occasionally illiterate and often disingenuous—is just as likely to reinforce a student's negative views of the poor as it is to alter those views.

If it does not teach substantive law and if it does not teach social awareness, what then is the unique educational value of a clinical experience? The eight-week experience this summer suggests to me that the clinical experience is uniquely suited to learning and teaching of at least three kinds of things:

1. Standards of professional behavior.
2. Interviewing skill.
3. Trial practice.

The term "standards of professional behavior" is hopelessly ambiguous; I use it here not to describe the fundamental values with which a student comes fully equipped. Only a fool would suggest that even the most powerful law teacher could recast a 20-year-old liar or do much else about the fundamental values which his environment has instilled in him. Yet there are a variety of values of lesser magnitude, habits of performance and lawyer behavior, which students must somehow adopt before they become full-fledged law-

yers, and it is these to which I refer by the term standards of professional behavior. Some of these are the habits which we now attempt to inculcate in the first year: attention to detail, careful analysis, concise writing. It should be self-evident that one can have a greater impact upon the behavior patterns of his students in the clinical setting in which there is one teacher and only 10 students than he can in the classroom with 100 students. Because there are fewer students and because the clinical teacher is actually playing the lawyer role, he serves as a more intimate, realistic, and therefore more powerful model.

I found the students eager to understand their obligation to the client, to be given standards as to how much time and effort a lawyer owes his client. They were anxious to know how a good lawyer handles the difficult but low-paying case; how a lawyer properly resolves the many conflicts which can arise between his current client's interest and his own long-range interest. E.g., do I represent this plaintiff in his charge of police brutality and so alienate all of the police in the county on whom I must depend for testimony in personal injury cases? Do I take an appeal in this unimportant case and so make the judge my eternal enemy?

The course experience provided plentiful examples for learning proper lawyer behavior and its rewards. On at least four occasions students in the course won motions or cases because they were more careful, more diligent, and better prepared lawyers than their opponents were. One student's brief caused the opposing attorney to drop his motion for change of venue. If the opposing attorney had prepared as well as the student had, he would have won the motion. In another case a student caused a default judgment to be opened 11 months after it had been entered and after another lawyer had advised the client that the judgment could not be opened. In a third case diligent research uncovered a new and successful defense to a paternity suit. These and other experiences like them contain several lessons about lawyer behavior which were not lost on the students. As one student put it in his course evaluation: "Exposure to the rewards of . . . conscientious preparation is surely not premature."

Not only did the cases serve to inculcate the value of preparation, they also displayed the necessity for deviating from the local practice norms when that deviation was in the client's interest. In several of the cases which the students won they submitted memoranda of law in circumstances in which local practitioners would not have done so; in other cases they asked for things to which they were entitled (e.g. a jury trial in a traffic case, a bill of particulars in a misdemeanor case) which were not commonly requested in the community. Moreover I attempted to reinforce these lessons by pointing to the performance of some of the most able members of the bar in Ann Arbor and by inviting one such member to participate in a seminar discussion. I hope and believe that most of the 10 students in the course have carried away some clear ideas about acceptable standards of lawyer performance — of the way pleadings should look, of the kind of preparation one should undertake for trial, and above all about the necessity of "rocking the boat" when such behavior is appropriate to protect a client's interests.

"It appears that clinical law especially as practiced on behalf of the poor, will occupy the position in the law school universe of the '70s which was held by international and comparative law in the '60s and late '50s."

A second and quite different thing which can be taught in the clinic study is the skill of interviewing. No one will deny that we do a largely ineffective job of teaching interviewing in the traditional law school curriculum; mostly we ignore the problem. Its quantity and variety of domestic relations cases make the legal aid clinic a fertile place for interviewing training. We devoted only a small part of the Michigan course to interviewing; that work consisted of 1) my observation of one or more interviews by each student, 2) a discussion with the student of his interview after it had taken place, and 3) a seminar on interviewing conducted by a psychiatrist and myself.

The interviews which I observed presented a rich and taxing set of problems for the student-interviewer. In at least half of them the client was in tears at some point during the interview. Most interviews required the student to ask about intimate, financial, or sexual details of the clients' lives. After each interview we would discuss the client's case. (Does she really want the legal consequence for which she asked? Why didn't you ask her whether she had had sexual intercourse with her husband after the fight which she described?) Although this experience was even more of the blind leading the blind than usual, my impression is that the students became more sensitive to the job they were to accomplish in the interview and more skillful in drawing out the client and putting the client at ease. It would be an easy matter to devote an entire clinical law course to the systematic teaching of interviewing.

Trial practice is a final skill which can be readily taught in the clinic setting. When our course is completed, students will have conducted at least five jury and four non-jury trials, more than fifteen noncontested divorces and will have argued at least six contested motions. Each of the students will have examined a witness in an uncontested matter and

more than half of the students will have examined witnesses in contested matters before juries. More than anything else, the summer course turned out to be a course in trial practice. The cases with which we dealt exhibited all the pesky problems about which one would talk in a trial practice course: the importance of facts research, the drafting of pleadings, interrogatories and motions, the selection of a jury, the art of examining and cross-examining witnesses, of making opening statements and closing arguments, and many other problems of trial tactics.

If one were to hold out a clinical course as a full-scale trial practice course, he would have to overcome the inevitable scheduling problems which arise because of the settlement or adjournment of cases. And he would have to schedule at least some classroom work to insure that the students, whose trials would vary, had some exposure to problems which did not arise in their own trials. These problems of scheduling and of the diversity of student experience would be a small cost to pay for the stimulation inherent in doing real work on real cases.

One can identify a variety of other intangible educational benefits to be derived from a clinical course. Several of my students stated that two years of law school had dampened their initial desire to become lawyers but that the course experience of handling cases on behalf of real people had revitalized their interest in becoming lawyers. Surely, too, there are intangible benefits to be derived by the teacher. I am certain that I learned more this summer than any student did and I enjoyed the course at least as much as any of the students. (Although I did not volunteer this information to my students, one member of the class and I were jointly conducting the first jury trial for each of us one day this June.)

Students in the course, and other students vicariously, may derive benefits in their traditional law school courses from the clinical experience. On several occasions students who were taking evidence concurrently with the course were delighted to find that the principles which they had learned only a few days previously in evidence class were actually applied in trials. Another student who had just finished his freshman year commented with obvious amazement that much of what he had learned in civil procedure was relevant and indeed necessary for a lawyer to know. Surely a student who has handled a bankruptcy, bargained with a creditor, and represented a tenant in an eviction suit, will better understand traditional courses in creditors rights, commercial transactions, and landlord-tenant law and will have better and more incisive questions to ask. Indeed one of my colleagues who teaches family law has reported to me that legal aid students ask much more relevant questions and stand for less chaff than the ordinary student. Still it is unclear to me whether this value, this enriching of traditional courses by contribution of clinical experience, is a marginal one which occurs only infrequently or whether it is a phenomenon experienced by each student who has had a clinical exposure.

It appears that clinical law, and especially clinical law practiced on behalf of the poor, will occupy the position in the law school universe of the seventies which was held by international and comparative law in the sixties and late fifties. It promises to be the darling not only of our students but also of the foundations and the federal government and the latter two will doubtless entice all of us into a mindless and unbecoming scramble to spend their money. (A colleague of mine once opined that a law school would accept and operate a "skunk farm" if there were any money in it.) It will be hard utterly to waste that money, for even the most ill-conceived clinical program is worth something, but it will take more careful planning and more thoughtful and deeper analysis than anyone has yet offered to insure that such money is spent in an efficient and effective way. Notwithstanding the questions and doubts expressed above, I remain a wholly partial and largely irrational advocate of clinical law and offer the foregoing course description principally as a datum for the analysis of observers more objective than I.