

11-18-1970

The Adversary (Vol. 3, No. 7, November 18, 1970)

Southern Methodist University School of Law

Follow this and additional works at: <https://scholar.smu.edu/lawadversary>

Recommended Citation

Southern Methodist University School of Law, "The Adversary (Vol. 3, No. 7, November 18, 1970)" (1970).
The Adversary. 12.
<https://scholar.smu.edu/lawadversary/12>

This Book is brought to you for free and open access by the Law School History and Archives at SMU Scholar. It has been accepted for inclusion in The Adversary by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

3A
C1

RECEIVED

NOV 25 1970

S. M. U.
LAW LIBRARY

THE ADVERSARY

SOUTHERN METHODIST UNIVERSITY SCHOOL OF LAW

Vol. 3, No. 7

DALLAS, TEXAS

November 18, 1970

A.J. Thomas Receives First Atwell Chair

The field of law is remarkable for its innumerable exceptions to the general rules. Professor and Mrs. A. J. Thomas are a special exception to the generally accepted view that it is impossible to live and work with the same person twenty-four hours a day, seven days a week, 365 days a year. In an attempt to discover the key to their successful relationship, The Adversary sent three interviewers armed with a tape recorder to the couple's office.

Professor Thomas and wife, Ann VanWynen Thomas, who teaches in the Department of Political Science at SMU, are an exciting, scholarly couple. The two have worked extensively in the field of Constitutional Law and International Law. Both are well-read, widely-travelled, and genuinely witty individuals, who "very often differ" but find a tremendous capacity for joint scholarship. Each consistently commands the respect and admiration of every member of the academic community.

Professor Thomas was recently named by the SMU Board of Trustees as the first person to occupy the William H. Atwell Chair of Constitutional Law. This chair was endowed by a gift of \$600,000 from Dallas attorney Webster Atwell and his wife, Laura Burgher Atwell, in memory of Mr. Atwell's father, who served as a federal judge in north Texas for 32 years.

Professor and Mrs. Thomas reside at 3404 Stanford in a smartly remodelled house, which A.J. observed was formerly "typical Dallas Cape Cod," although "we don't know what it is now." In addition to a black wrought-iron fence, the homestead is guarded by the couple's two white poodles, Lord Winchester and Lord Buckingham. Practically every weekend, the Thomases try to slip away to their community property on Lake Texoma, where Mr. Thomas has been known to practice his own version of the Good Neighbor policy by mowing the adjoining two acre tract--owned by the US government.

When they are not teaching, researching, travelling or relaxing in their house, the Thomases enjoy entertaining, particularly the foreign
(Cont'd page 3)

BARRISTERS SELECT SEVEN

Congratulations to the following new members of the Barristers:

- Robert Dennis Batson
- Bruce Allan Cheatham
- David Allen Ives
- Robert Ingram Knopf
- Philip John Pfeiffer
- Ellen Karelson Solender
- Jack Christopher Spillman

UNOFFICIAL GRADES RELEASE

Grades for the fall semester will be released unofficially prior to the formal grade reports only as follows: A preaddressed post card for each course in which a grade is desired to be known must be turned in to the Records Secretary in Room 20, Storey Hall, by Friday, December 18. NO CARDS WILL BE ACCEPTED AFTER THAT DATE. As course grades are received, they will be mailed.

Financial Aid Statistics Reviewed

Professor James R. Craig, Chairman of the Admissions Committee, which also handled student financial aid, has released to the Dean's office a summary of financial assistance granted to students for the current year:

Total of FIRST-YEAR financial aid	\$72,100
Number of students enrolled in first-year class	176
Number receiving aid--other than Sumners scholars	48
Sumners scholars	6
Total	54
Percent receiving aid	30.7%
Average award to first-year students receiving aid	\$ 1,335.19
Total of SECOND-YEAR financial aid	\$53,900
Number of students enrolled in second-year class	151

(Cont'd page 4)

EDITORALLY: cut the crap, not the grass

Marijuana "is not a narcotic . . . does not cause physical dependence as do heroin and other narcotics . . . no direct cause-and-effect link between the use of marihuana and narcotics has been found."

Communist propoganda? Statement by a local "effete snob" or "long-hair?" No, sorry. The above may be found in Public Health Service Publication #1829, published by the U.S. Department of Health, Education, and Welfare in MARCH, 1969.

The American Public Health Association (APHA) met in Houston, Texas, on October 28, 1970, and unanimously adopted a resolution calling for the exclusion of marijuana from laws governing narcotics.

And in November, 1970? Laws concerning the possession and sale or transfer of marijuana remain--archaic and unrealistic in virtually all jurisdictions. Just as one must tolerate the occasional need for a Nixon or Eisenhower "rest period," one must respect the sluggishness of the judicial and legislative processes when the governing move too quickly for the masses. But enough time has passed; a change in narcotics laws is long overdue!

Alcohol, tobacco, and grass all provide similar experiences which most people need. (Granted, there are some who are "naturally high" and need none of the above.) Laws concerning marijuana must conform to lenient, realistic laws regulating the sale and consumption of alcohol, and age 18 should be the cut-off point.

--fbv

Transfer Student Urges Grading System Change

by Richard Grishom

Grades . . . the images appear instantaneously. Uncountable nights, miserable nights of fighting to pack it all in, pleading to someone to return the lost and wasted hours. The infrequent joy and satisfaction, the stoic but tolling disappointments. The bitterness--"I just needed two more points . . . two points . . ." And also long sometimes equally miserable hours trying to evaluate the work of a possibly unknown student, wondering what he meant, whether it's a 69 or a 70, a 62 or a 63, wondering what effect it will have on his life, wondering if there's enough stamina to look at one more paper.

Grade reform will not relieve the role of student or professor of all the pain and pressure. In fact, the possible dangers of reform dictate that the question be approached carefully. Almost all law students have had the number grade ingrained into them by 16 years of its rigors. Students all too often approach work for the grade. And students and professors, not to speak of recruiters, want as much precision as possible in the evaluation of work. But systems can be devised that allow for these factors.

A 62 or a 63, a 69 or a 70, an 80 or an 81. One point the difference between success or failure. Such precision is simply not possible and should not even be attempted, given the major effects it can have on a student's life, not to speak of a professor's nerves. Sure the system has been around for a long time, but these one-point increments had no more significance years ago than they have now. If a student is not doing acceptable work, a professor will know it. And a letter grade reflecting this decision is as precise and indicative as a 60. Of course, there will be borderline

(Cont'd page 4)

WHERE DID ALL THE FACULTY GO?

Where have all the faculty gone?

Long time passes.

Where have all the faculty gone?

Long time ago.

Where have all the faculty gone?

Gone to graveyards everyone.

When will they ever learn?

When will they ever learn?

What a feeling of despair at the Land's End party last Saturday. Having been billed as an opportunity for students to meet informally with the faculty, it was indeed disappointing to see only three faculty members present--Professors C. Morris, Kennedy, and Steele. These men deserve praise for their desire to communicate as individuals with the students.

The opportunity for student participation in the

governance of the Law School has been greatly expanded in the last few years. Students now sit on all faculty committees, participate in the rating of professors for tenure, and are listened to and consulted on some of the issues which they raise. However, at times the committee meetings become tense. Friction develops, and students and faculty talk at each other without really communicating. To alleviate some of these problems, the SBA made a concerted effort to arrange an informal meeting of the minds. Needless to say, this goal was not attained.

Every faculty member was personally invited by a member of the SBA. Of course, it is understandable that some had to be out of town. But I find it hard to believe that only three members of the faculty were in town on Saturday night. As one per-

(Cont'd page 3)

students. As many as fifty different dishes have been served at one party. When questioned as to how they find time to prepare and space to store so many treats, Mr. Thomas remarked, "We have a freezer and occasionally prepare something and put it away for our next soiree." Asked who is the better cook, Mrs. Thomas laughingly replied, "I'll start something and he'll mess around and make it a little better, and I don't like what he's done so I'll throw a little more in it. By the time we both get through, the pot's pretty good." Immediately Mr. Thomas quipped, "All you have to do is throw wine in!"

A rather unusual breed of the Aggie, Mr. Thomas went to the University of Texas for his Bachelor of Laws degree and then to the University of Michigan for his Master of Laws and Doctor of the Science of Law Degrees. Mrs. Thomas is a graduate of the University of Rochester, the Texas Law School, and holds a Master of Laws degree from SMU. Each has had extensive experience with the Consular Corps of the U.S. State Department.

Professor and Mrs. Thomas have co-authored nine books and numerous articles and book reviews. The most recent joint venture is the Legal Limits on Chemical and Biological Warfare, which developed out of a contract with the U.S. Arms Control and Disarmament Agency to do a full study of indirect aggression and subversion.

Mrs. Thomas felt that the Spanish edition of The Organization of American States (1968) was the most challenging book, but "the one that was really fun" was The Dominican Republic Crisis of 1965, written for the Hammarskjold Forum (1967), for which the Bar of New York asked them to prepare the working paper and appear for discussion of the problem with Adolph Berle and Wolfgang Friedmann.

The Thomases are presently seeking a publisher for a theoretical study on the

definition of aggression in International Law. In April the couple has been asked to come to N.Y. to give a lecture on the OAS Human Rights Commission at the New School of Social Sciences.

The last trip abroad was two summers ago when they toured England and the Netherlands, where Ann was born. "On my next sabbatical, we hope to go abroad and teach for a year in Europe or work in the Hague."

Al Ellis

son commented, perhaps the rest were at home writing books. Whatever the reason, it is hoped that the SBA will not give up and that the faculty will be more responsive next time. Only through effective communication on both formal and informal levels can we ever hope to really learn.

Analysis: American Law: The Case for Radical Reform, John P. Frank. MacMillan, 192 pages.

Review by Doc Hale

John P. Frank assesses the urgent situation confronting the American courts of justice. The system is allowing itself to be strangled by an unmanageable case load.

The author combines portions of various lectures given while a law professor and attempts to use them as points of departure for discovering a solution to the dilemma.

Mr. Frank draws on his own experiences (a nationally prominent attorney) to illustrate the problems of a legal system in which delays, backlogs, postponements, etc., unreasonably draw out litigation for years. Statistics and the opinions of authorities such as Charles Wright, former Justice Tom Clark and former Chief Justice Earl Warren further substantiate the author's viewpoint.

The crisis is portrayed as timely and one necessitating drastic changes. Pessimistically, every proposed solution has thus far proven unworkable or ineffective.

If the U.S. is to prevent its system of justice from "bloating into immobility," Mr. Frank earnestly believes that more than mere "tinkering" with procedure must be done. A re-evaluation of what is to be expected from law and the courts must be achieved. Twentieth century know-how must be infused into the legal system. One must contemplate "radical reform" in order for the rule of law to survive.

Mr. Frank does not espouse solutions, but rather identifies the problem and proposes points for consideration. (Cont'd page 6)

 **THE ADVERSARY**

SOUTHERN METHODIST UNIVERSITY SCHOOL OF LAW

Editor-in-Chief F. Burns Vick

Associate Editor Jim Lemmon

Staff Members: Al Ellis, Doc Hale, Jim Hockert, Evelyn Hudson, Harry Najim, John Pitts, Bill Ruhe, John Stone

Published by the students of the Southern Methodist University of Law at Williams & Graham Lithographic Service and the School of Law Print Shop, Dallas, Texas.

Letters from readers are encouraged. Each must not exceed 250 typewritten words. The Adversary is published biweekly on Wednesday and copy deadline is the Friday preceding each printing. Views offered are not necessarily those of the paper.

Republican Tactics Backfire In Ohio

by Jim Hockert

It seems that the efforts of the Republican party were far from as successful in the recent election as was hoped (in spite of all claims). The visits of Nixon & Co. did manage to squeak an important victory in Tenn. but in other parts of the country efforts were fruitless.

In Ohio, the Republican party appeared to have latched onto the Kent State happenings in an attempt to twist the findings into a political lever. As the Chicago Daily News so aptly described the special Grand Jury's findings ". . . the students did attack National Guard bullets with their bodies."

Republican party chairman, Seabury Ford, indicated that a strong law and order policy should be advocated. After all, ". . . it stopped the riot," he noted.

The Republican party tactics apparently did not succeed. The entire University community was up in arms about the statement and apparently not without other supporters.

The voters elected Giligan (D) to the Governorship and indications are that he will demand another investigation.

The voters' suit succeeded but the real question is how could the special Grant Jury have found the way it did? Who is being influenced where and for how much? There seems to be a dire need for a few nonpartisan lawyers to police the investigations.

GRADING SYSTEM INEQUITABLE, from page 2

cases on all levels. The decision may be hard to make, but the number is no more helpful than a letter. The decision must be made, and it's little comfort for a student to know that his 69 was in fact a borderline case. The numbers do not
(See next column)

Number receiving aid--other than	
Sumners scholars	46
Sumners scholars	4
Total	50
Percent receiving aid	33.1%
Average award to second-year students receiving aid	\$1,077.99
Total of THIRD-YEAR financial aid	\$36,600
Number of students enrolled in third-year class	154
Number receiving aid	48
Percent receiving aid	31.2%
Average award to third-year students receiving aid	\$850.00
Total Law School aid	\$162,600.00
Total number receiving aid	152

The above amounts do not include compensation paid students for special work, work under grants, or amounts received by students from independent agencies such as state scholarship funds, private foundations, and other organizations.

GRADING SYSTEM INEQUITABLE, Cont'd

give more accuracy than a letter system.

Numbers encourage the unnecessary competition, the worrying whether you'll get enough of those acidly-fought for, insignificant points to raise you a few rungs on the mystical class ladder to keep you off probation. It encourages recruiters to make life-determining decisions on the basis of a questionably important index.

We're trying to become lawyers. That's saying a lot. We know that. It's important to us. We want to live up to the responsibility. Someone give us that much credit. The motivation is there--if becoming a lawyer (and passing the bar exam) is not enough to make us work, then maybe our admissions program has been letting in the wrong people. And if competing for these points makes us better lawyers, then perhaps there are some who have overestimated the profession. If the numbers detract from that motivation, if they obscure its importance and unnecessarily interfere with it, what is there to fear of another system that might operate more beneficially?

I want to say reform could give professors a system that is more workable. I've taught before, and I believe that. But perhaps they should speak for themselves.

And what of the recruiters? If we admit the questionable value of the numbers, we shouldn't worry. They will find ways to determine the students with the greatest potential. The admiration due to the ones on the top of the heap should not deny that there may be others who will be equally brilliant lawyers. In many cases a person's extracurricular work, his interests, his passions are equally important. And recruiters should be encouraged to give these factors due consideration.

So, as a start, consideration should be given Mr. Vick's suggestions in The Adversary concerning a letter system. And to the comments of Mr. Ellis and Miss Hudson about pass/fail. Or at least evaluate the existing number system to see how it works.

DUE TO THE COMPLICATIONS OF FINALS, THE NEXT ISSUE OF THE ADVERSARY WILL NOT BE PUBLISHED UNTIL 1/20/71.

DISC: A Billion

Dollar Boondoggle

(Ed. Note: reprinted in part from Ralph Nader's Public Interest Press Service Bulletin, second edition, October, 1970; article by Tom Stanton, Harvard Law Review, 1970.)

DISC is a billion dollar program currently under consideration by Congress as a part of the 1970 Trade Bill. One billion dollars is more than five times what we spend on the entire federal judicial system. President Nixon vetoed the 1970 education bill because, in his view, it was \$453 million too much. DISC will cost twice as much. As Ralph Nader wrote to Senate Long of the Finance Committee recently, DISC is a billion dollar boondoggle.

The DISC proposal is designed to improve our balance of payments by virtually exempting U.S. exporters from U.S. taxation. Tax-wise companies will be invited to set up dummy corporations, called Domestic International Sales Corporations (DISCs), to receive their foreign sales income. These shell corporations will not be subject to tax as long as they fulfill a multitude of technical requirements. A DISC's accumulated untaxed profits can then be placed at the disposal of the parent company by means of intra-company "loans" at low interest rates.

The large corporate exporters and tax law firms have been studying the DISC proposal since last year. They are the beneficiaries of the proposal. Indeed, DISC will primarily benefit the 100 largest corporations which already have the lion's share of the export trade. Only the benefactors--the American public--remain unaware of the billion dollar gift they are making.

This is not an unusual happening in tax law. One of the most notorious examples in the 1954 Tax Code was Sec. 1240, which granted a \$2 million tax loophole to
(Cont'd page 6)

Surratt Discusses Frustrations of the Legal System

Interview by John Stone

"If there's anything both hippies and law-and-order advocates agree on, it's frustration with our legal system," says SMU Law School's youngest professor, in a wide-ranging interview.

"And both of them have a right to be."

At 27, Rod Surratt began his duties in August because, he says, he'd always wanted to try teaching and because SMU's offer was "too good to resist."

Although many people mistake him for a student because of his youthful looks and quick smile, Surratt is master in his classes where he drills his students in the fundamentals of torts and evidence. A campus political veteran, he was once Baylor's student body president and later an honor student and comments editor of the law review at the University of Texas Law School.

"Students in law schools today are more aware of social issues," he notes, "and that's good."

"Lawyers need to know our profession's fundamentals--how to draft a will or how to try a lawsuit--but we also need a broader social vision if we're going to contribute more meaningfully to solving legal and social problems," he continues.

"One thing we need to pay critical attention to in law school is training lawyers who'll be able to shape a more flexible and responsive legal system," he stresses.

No fence-straddler, Surratt knows what he believes and why.

He takes issue with what old-timers call "youth's disrespect for the law nowadays," asserting instead that "Disrespect for law isn't increasing. Students question laws more, but that's not the same. We shouldn't panic just because students question some aspects of the system."

Despite Nixon's troop withdrawals, Vietnam continues as a catalyst for student unrest, feels the lanky attorney.

"There's no doubt about it," he argues. "Society at large probably supports the President's efforts more than they oppose them, but the attitude towards the war remains exactly opposite on most large college campuses. The politically-active college student looks around and almost everyone he knows vocally opposes our Vietnam involvement. These students sincerely believe that most concerned Americans oppose the war, but it still drags on. So it shouldn't be surprising that they've become increasingly cynical about the value of working through the system. Although they're often naive, the reasons for their disillusionment are at least understandable."

But students aren't the only ones frustrated with the legal system, he adds.

"Many adults think, for various reasons, that our legal system has let them down. For instance, supporters of law and order get upset because long time periods can elapse between arrests and trials of a criminal defendant," he declares, "and I share their concern."

"The fault doesn't necessarily lie with our courts and judges. I'm sure there aren't any easy solutions, but something is wrong with a court system when we have to tolerate such delays," alleges the former law clerk for the U.S. Fifth Circuit Court of Appeals.

Surratt also condemns what many young people call the law's hypocrisy, particularly with drugs.

"While you can smoke tobacco with impunity, you can get a long prison sentence for possessing marijuana. I realize many people think marijuana is extremely harmful to users, but there doesn't seem to be much firm evidence that it's any more harmful than tobacco or alcohol. So I can

(Cont'd page 6)

understand how some young people are appalled at a legal system that sends them to jail merely for possessing marijuana," he remarks.

The youthful counselor takes a definite stand on a sensitive social question--whether it's ever morally acceptable to break a law intentionally.

"No one should be condemned for breaking a law if his purpose is to get into court to test the law's constitutionality," he muses. "Also, I can't condemn people who break a law to protest it, provided the protest is a peaceful one that doesn't harm people or destroy property, and provided the protesters are willing to accept their punishment for breaking the law."

Surratt's mood changes, however, at mention of terrorists' activities.

"Violence directed against government institutions or universities never solves problems," he contends.

He sees terrorists' activities as the end result of idealists becoming what they condemn. "These people with revolutionary ideas are not cowed or reticent about expressing their ideas," the jurist reasons. "Some of them sincerely believe there is no way to achieve reform through the system. So they think it's perfectly logical to strike back at our legal system directly because they believe it is an instrument of oppression."

"We simply can't tolerate violence," Surratt insists, "especially on college campuses. A college should be the scene of a free interplay of ideas, a place for persuasion--not coercion. Our commitment must be to rational thought. And violence compromises that principle."

The best way to head off violence, Surratt explains, is to make sure our system is dynamic enough to change when it needs to.

"Lawyers especially have a duty to try to mold a system that really accommodates reforms without civil disobedience or violence. When we tell people that violence is unacceptable, we must do everything we can to make sure that our system is responsive to criticism and new ideas."

DISC: TAX LOOPHOLE, from page 5

a large Hollywood producer. Sec. 1240 was written in inscrutable legal language which did not alert Congress to the fact that this was a personal provision designed so that only one influential taxpayer could obtain its benefits. But Sec. 1240 only cost \$2 million, for only one tax year. DISC promises to cost a billion dollars, year after year, for decades to come.

Yet almost no one in the general public knows about DISC. It shows, once again, that if powerful industry interests are able to mask their intentions in the complex language of a tax proposal, they can raid the U.S. Treasury with impunity. The public must prevent DISC welfare grants from becoming law.

*DEC. 4TH--LAST DAY TO WITHDRAW FROM CLASSES WITHOUT PENALTY.

*LIMITED ENROLLMENT COURSE ACCEPTANCES--POSTED SOMETIME AFTER THANKSGIVING.

RADICAL REFORM, from page 3

tion in a manner which challenges one to think in terms of radical change.

There is a prevailing sense of urgency in American Law: The Case for Radical Reform. The author articulately expresses concern that glutted courts must be relieved in order to avert an imminent breakdown of law. He believes that the only successful solutions are those which take into account a realistic re-evaluation of the purpose of law and courts in modern society and apply innovative readiness which has been used to solve other technical problems.

GALIMAUFRY

The use of explosives in order to tear down "the system" is self-defeating. It's cowardly. No democratic system can live that way. Society cannot permit it.

Mayor Lindsey of NY

But the federal government, I've concluded, is now an insufferable jungle of self-serving bureaucracies.

Chet Huntley, NBC

The real drama in the courtroom is the conflict between the witness' attempt to tell the whole truth, and the attorney's determination to elicit only those portions of it that are helpful to the client.

Sydney J. Harris

Those who take comfort in the solidity of our institutions no longer feel solid to me. Those who derive confidence from our "tradition" are, I think, falsely led, for our tradition of justice, equality, fraternity, mutual respect is mostly a tissue of affectionate memory, not reality functioning in our lives except here and there along the margins.

W. H. Ferry,
Critic, Author

(Ed. note: reprinted from the November, 1970, Student Lawyer Journal, LSD-ABA publication.)

Calendar of Events

NOVEMBER

- 18-20 Make reservations for PAD buses to Baylor game. \$1.75 per person. FREE BEER. Contact Gary Huselton, 528-1055.
- 19-20 SMU-PLI Venture Capital, Legal & Business Prob.
- 20 Pick up tickets for Baylor game--SBA office 8-12.
- 21 Homecoming PAD buses leave in front of library at 12:15 p.m. SMU vs. Baylor Cotton Bowl 2 p.m.
- 23 SBA meeting Rm 207 at 12:15
- 26-30 Thanksgiving break begins at close of classes
- 26 Thanksgiving--offices closed