Notre Dame Law Review

Volume 45 | Issue 1 Article 1

10-1-1969

From the Editor's Desk

Notre Dame Law Review Editors

From the Editor's Desk—

Commencing with Volume 45, the *Lawyer* will assume a quarterly format once again. A budgetary squeeze, currently being felt by the entire University community, is partially responsible for the change. The selective service system, which has seriously depleted the ranks of our third-year editors and which has prevented the return of other members of the second-year staff, is also partially responsible. The course of studies in London, Notre Dame Law School's Year Abroad Program, has attracted a very large number of our best law students away from the law review and must be counted the principal factor necessitating the change of format. In an effort to tap latent reservoirs of talent and to broaden the base from which review members may be drawn, the *Lawyer* this year instituted a writing competition open to all members of the second-year class. Though all were invited to earn review status through the program, response from the student body was negligible. The net result: the *Lawyer* has neither the funds nor editors nor staff personnel to maintain a six-issue publication schedule. We anticipate that this change will be only temporary. With the law school's large-scale expansion program already under way, with the coming of larger and more talented student bodies, and with the completion of the proposed Law Center, the law school may one day be able to support both the London Program and a first-rate law review. In the interim, those of us who remain with the review continue dedicated to the production of a volume that, if it lacks the size of former volumes, will sacrifice nothing of the quality characteristic of the *Lawyer*. We also hope to be able to supplement our quarterly publication with the traditional symposium issue, though funds for the symposium, formerly the gift of a philanthropic foundation, are not available and though the University has declined to subsidize the publication of a symposium.

In this issue of the *Lawyer*, the first to be published from relocated editorial offices in the law school's old TV lounge, we are pleased to present a comprehensive and incisive analysis of the role of English literacy in American law. "English Literacy: Legal Sanction for Discrimination," by Arnold Leibowitz, traces the history, traditional justifications for, and present impact of state and federal limitations on the rights of non-English-speaking Americans. While the article treats of linguistic discrimination against Americans of many different backgrounds, including Mexicans, Indians, Orientals, and Western Europeans, special attention is given to the plight of Puerto Rico, which occupies a unique niche in American federalism and is of particular concern to the author, a former General Counsel of the United States Commission on the Status of Puerto Rico.

Mr. L. S. Tao, noted authority on alcoholism and the criminal law and holder of advanced legal degrees from Indiana, Harvard, and Cornell universities, contributes "Alcoholism as a Defense to Crime" to this issue of the *Lawyer*. Mr. Tao's article details the nature and symptoms of chronic alcoholism, considers the conduct that is properly symptomatic of alcoholic addiction, and examines the traditional posture of the criminal law when an alcoholic stands accused of various classes of crime. After discussing the role of traditional

insanity tests as these relate to alcoholism, Mr. Tao concludes that recognizing alcoholic addiction as a defense to the crime of public intoxication is proper and "would not necessarily call for fundamental changes in the existing rules regarding intoxication as a defense . . . ."

The National Labor Relations Board, according to Robert J. Hickey, an attorney formerly with the Board and author of "Declaratory Orders and the National Labor Relations Board," has been remiss in its reluctance to use the declaratory process to determine questions of jurisdiction, representation, and unfair labor practice. Champion of the private citizen who must struggle through the morass of administrative decisions, regulations, and law in order to determine his rights in the field of labor relations, Mr. Hickey believes that agencies such as the Board have an affirmative duty to assure that private parties are clearly apprised of the law affecting their decisions to act. As the declaratory order can clarify the law applicable to a party before he acts and can resolve disputes before the necessity of imposing penalties arises, simplicity, economy, and a greater measure of industrial stability can be achieved, according to Mr. Hickey, if some of the arbitrary restrictions surrounding the declaratory order are removed.

After several years of nonparticipation, the Notre Dame Moot Court has again engaged in the National Moot Court Competition. The team, composed of Messrs. James Harrington, Robert LaRusso, Robert Quinlan, and Richard Slawson, traveled to Louisville, Kentucky, in early November for the regional eliminations. Though defeated by a strong University of Kentucky team, the Notre Dame representatives turned in an admirable performance, and the entire law school may be justly proud of their efforts.

The enthusiasm and interest generated by the national argument have encouraged the Moot Court to look forward to its national participation next year. Meanwhile, the annual Moot Court Competition at Notre Dame has been scheduled for February 21, 1970. The members of the team that argued at Kentucky will then have an opportunity to perform before a distinguished panel of judges, soon to be announced.

In a decision of extraordinary interest to American financiers and students of securities regulation, the United States Court of Appeals for the District of Columbia Circuit has outlined the problem areas involved in the maintenance of bank commingled investment accounts. The *Lawyer* is undertaking an extensive and comprehensive analysis of the case, *National Association of Securities Dealers, Inc. v. Securities and Exchange Commission,* Nos. 20,164, 21,661, and 21,662 (D.C. Cir., July 1, 1969), and looks forward to the publication of a multi-student project treating the full spectrum of legal problems attending the commingled investment accounts.