

Legal Problems of the Poor Get Increasing Attention

"You know," commented a recent Law School graduate last year, "there is one course here entitled 'Legal Problems of the Poor.' Most of the other courses could be called 'Legal Problems of the Rich.'"

The arrival last January of Richard Sobol as associate professor on the faculty is a substantial addition to the increasing emphasis on the law of the disadvantaged in the School's curriculum.

Sobol teaches Race Relations Law, a seminar which last term comprised twenty-two students, eleven black,



Prof. Richard Sobol

eleven white. From the fall of 1966 until he joined the faculty, Sobol was Chief Staff Counsel of the Lawyers Constitutional Defense Committee in Louisiana, and he continues to be active in civil rights litigation in the South.

For materials in the seminar, Sobol assigned the entire record of *Hicks v. Crown Zellerbach Corp.*, one of the first full-scale cases tried under Title VII (Equal Employment Opportunity) of the 1964 Civil Rights Act. Sobol shepherded it through the complete course of litigation.

He believes the case warrants careful examination because it presents all the major Title VII issues and illustrates the practical problems of

handling them throughout the process.

Although he is engaged in issues involving human rights, he is convinced that lawyers can be effective only by learning the techniques of reading, writing, and procedure. Accordingly, he encouraged his seminar students to limit their research papers to specific procedural problems rather than writing grand essays on global issues.

It was this kind of knowledge which served Sobol so well in assisting Negro clients in Louisiana in cases ranging from parade picketing to harassment of poverty groups.

Some people there thought he succeeded too well, and he was finally arrested early in 1967 for practicing law without a license in what he terms "a tactical error" by Leander Perez, the district attorney for Louisiana's twenty-fifth judicial circuit. When he was arrested Sobol was presenting a post-trial motion in his defense of Gary Duncan, a Negro whose conviction for battery without trial by jury was overturned by the U.S. Supreme Court in *Duncan v. Louisiana* (1968). *Duncan* established the constitutional right to jury trial in misdemeanor cases involving substantial penalties.

Although they initially tolerated the northern lawyers defending civil rights workers in the summers of 1964 and 1965, Southern courts soon began to enforce unauthorized practice statutes more strictly. Sobol's arrest was one example of such discouragement. Another was the rule promulgated by the U.S. District Court for the Southern District of Mississippi that a non-resident lawyer could be involved in only one case every twelve months in the district.

Sobol immediately filed suit, seeking declaratory judgment that the right of non-resident lawyers to practice in association with a member of the state bar in non-fee civil rights cases was protected (1) by the First Amendment from harassment by such unjustified arrests and (2) by the Equal Protection Clause of the Fourteenth Amendment, because the state had no legitimate purpose in preventing needy civil rights litigants from obtaining such legal assistance.

The suit attracted much attention, and several amicus curiae briefs were

filed supporting Sobol's constitutional arguments. The three-judge U.S. District Court for the Eastern District of Louisiana, however, held that Sobol fell under the exception to the unauthorized practice statute which allows practice by nonresidents temporarily within the state (he'd been there nearly two years) if associated (even just nominally) with a member of the state bar. Although the court did not come to grips with the constitutional arguments in discussing Sobol's request that Louisiana officials be enjoined from prosecuting him (which was granted), the court did use language indicating that the constitutional arguments carry considerable weight. (The opinion appears as *Sobol v. Perez*, 289 F. Supp. 392).

Although the status of a constitutional right for out-of-state lawyers like Sobol to help local counsel in non-paying civil rights cases remains in doubt, this will not affect the future of the Lawyers Constitutional Defense Committee (LCDC), a non-profit charitable corporation organized in 1964 for "providing without cost and assisting in the obtaining of legal counsel to persons engaged in activities aimed at achieving the equal protection of law and other rights guaranteed by the Constitution of the United States and who are unable to obtain such counsel without assistance."

The LCDC's national office is in New York City. It established permanent staffs in Jackson, Mississippi, and New Orleans after its early experience indicated that temporary volunteer lawyers distributed throughout the southern tier were not sufficiently effective. Unlike the NAACP Legal Defense and Education Fund and the Lawyers' Committee for Civil Rights Under Law (instigated by John F. Kennedy and the American Bar Association), LCDC is an independent lawyers' committee.

A chain of experience prepared Sobol for his victories in civil rights litigation. He describes himself as career-determined: "My father was a lawyer in New York City, and it was always understood that I was going to go to Columbia Law School and be one, too." And he did, after a B.A. from Union College in 1958.

At Columbia he bore down hard

the first year, winning a James Kent Scholar award as one of the top five in his class. In the following years, he devoted much time to the Law Review. In his senior year, in addition to serving as Notes and Comments Editor of the *Columbia Law Review*, he did research in constitutional and criminal law for Professor Herbert Wechsler, Chief Reporter for the American Law Institute's Model Penal Code.

"Law Review is a very internal thing," Sobol commented. "When you're on it it's hard to realize the world isn't waiting for each issue. But the chance to write, think, and then rewrite completely several times in day by day collaboration with three different editors is invaluable." He thinks this opportunity should be opened to more students by establishing other journals—such as Michigan's *Prospectus: A Journal of Law Reform*.

When Columbia Professor Paul R. Hays was called to the bench of the U.S. Court of Appeals for the Second Circuit in 1961, Sobol became his law clerk.

From the clerkship, Sobol went to Federal Trade Commissioner Philip Elman as a special assistant for several months and then joined the Washington firm of Arnold, Fortas & Porter. There the writing was different from the scholarship of the Law Review, and required analyzing and phrasing from the client's point of view. Sobol also became acquainted with the inner sanctums of large corporations like those he subsequently challenged in the South.

Demanding and dedicated, Sobol finds law students generally entertain too many diversions and do not realize that law school is designed to teach analytical method, not case law. "Law students simply never believe we really want them to read a case for its reasoning, not its holding. See the issue, list the questions, set out the considerations relevant to the answers, understand the alternatives and implications—that's the student's job. In some ways it's harder work than that done by 99 per cent of practicing lawyers."

ABA President Speaks At U-M Convocation

Law students' public responsibility in future years will be far more demanding than ever before, according to the president of the American Bar Association.

Speaking at the University Law School Honors Convocation last month, William T. Gossett of Detroit told the future lawyers that they have "an obligation to participate actively in the process of bringing the law into accord with new realities, responsive to new needs and in league with new opportunities.

"We have here at home problems that might impinge upon the dignity of our lives; and they tend to diminish those qualities of freedom and security that we justly associate with life under the rule of law."

For example, Gossett said, the legal profession must bring about a proper balance between the use of new technology and the protection of privacy and freedom of the individual. Another example, he said, is the due process of law. "It should be the concern of all Americans, but it is overwhelmingly the concern of lawyers."

More than 230 U-M law students were honored at the ceremony in the Rackham Building.

Miller Co-authors Treatise On Federal Civil Procedure

Professor Arthur R. Miller has undertaken an exhaustive eight- to ten-volume commentary on federal civil procedure in collaboration with Prof. Charles Alan Wright of the University of Texas law faculty.

The first volume was published by West Publishing Company last month. It provides an up-to-date analysis of the first six Federal Rules of Civil Procedure and contains a history of procedure in the federal courts. Subsequent volumes, planned to appear at the rate of one or two a year, will also be structured on the basis of the Federal Rules.

The last two volumes of the set will deal with federal subject matter jurisdiction, venue, *res judicata*, and the *Erie* doctrine.

The volumes on civil practice will be accompanied by three volumes on federal criminal practice by Professor Wright, which have already been completed, and one volume on appellate practice.

The new treatise will be one of only two multivolume treatises on federal judicial procedure, inasmuch as the existing Barron and Holtzoff work will be discontinued.

Professors Miller and Wright have organized their discussion in the hope of facilitating readier use by courts and practitioners. Their effort has been to create an analytical research tool which will have a healthy impact on the construction of the Federal Rules, rather than simply an encyclopedic statement of civil procedure.

Prof. Miller, affectionately known as "Superprof" at the Law School, has enlisted the research assistance of several students in the project to aid him in researching cases on federal procedure and in preparing drafts of the commentary



Prof. Robert J. Harris, a Democrat, was elected mayor of Ann Arbor in the April 7 election. Reporting on the election results, the **Ann Arbor News** said, "Democrats staged the most fantastic political upset in the city's history and in the process gained complete control of the City Council. Robert J. Harris led the list of almost unbelievable results . . ."