Editorial

VETOATION WITH REPRESENTATION IS TYRANNY

In early March, Phi Alpha Delta and B.U.C.A. sponsored an open forum drawing together, for the first time, all six candidates for I.U. Student Body President. Dean Harvey, in his welcoming address, directed some remarks to the eight law students present—suggesting that the Law School's malady of "student standoffishness" be remedied.

On Wednesday, March 25, Jay Larkin, Tom Hagan, Bruce McLean and Bob Kullgren had "their day in court." The group rallied-forth like so many Quixotes, asking only that the Student Body Constitution and Election Code (passed by the Student Senate) procedures be followed in electing the next student body president. The news media appeared to have already decided the outcome, and the Student Supreme Court (for the first time acting on something more substantial than a traffic violation) had "finalized" the election. The four Law Students had read the slippery word "finalized" to mean "determined" or "certified"—something the Court clearly had no right to assume under either the Constitution or the Code.
Acting on behalf of no candidate (and especially not Parker or Morrison) the group overnight became subject to heaped abuse, late-night telephone calls, split-second political "deals," ad nauseam. "Someone" tried to convene the Court (a) in the middle of Tuesday night, (b) at 3:00 A.M. Wednesday morning, (c) at the previously announced hour of 2:30 on Wednesday afternoon.

The four brought a class action (on behalf of 150 parties plaintiffs) for a Writ of Mandamus to compel Dave Murphy, S.E.C. Chairman, to perform his "constitutional and statutory duties" of checking for fraud in the election--a course which arguably had been closed to him by a court acting "ultra vires" on Monday night and "finalizing" the election.

The Court denied the writ "as untimely filed" and (in the same sentence) "ordered" Dave Murphy to begin performing his duties, and admonished him for "playing games with the Court" and determined that he should never again appear before that supreme body. There are two possible excuses for this decision and the decision of Monday night, March 23: (1) the Court either had not read/did not understand the Student Body Constitution, or (2) Student Election Code. But then neither did the Daily Student (which tried in vain to understand the proceedings) nor the Courier Tribune nor Channel 8 in Indianapolis (which nonetheless had a pretty filmclip). They cannot be blamed, for The Appeal does not understand the decisions either nor an election in which out of 29,000 students only 5,300 vote, and about 2,320 elect "representatives for all."

The Appeal humbly suggests that student government be abolished.

Given that the students have the tools (toys?) of effective self-government, and given that they have inevitably misused them, we of The Appeal suggest (as per George III/Eldridge Cleaver) that it be abolished either by its present executive or its Kangaroo Court with or without the bad advice and scent of the Student Senate.

If not, we suggest that the Administration act charitably, and administer the death-blow itself.

THE STAFF

Editor-in-Chief: Vic Streib
Managing Editor: Jay Larkin
News Editor: Peggy Tuke
Associate Editors: Pat Glynn and Ray Robison
Contributors: Nathaniel Hamilton, Jim Heupel, Ronald Payne, Bill Pell, Steve Trattner and Bruce Wachowski.

The Appeal is published monthly by the Student Bar Association of the Indiana University School of Law, Bloomington, Indiana. The views expressed in articles and editorials do not necessarily reflect the views of the Administration, Faculty or Student Body. Opinions expressed are those of the writer, who alone is responsible for content and style. Unsigned editorials reflect the views of the Editors. Permission is granted for reproduction of any article or any part of an article appearing in The Appeal, provided credit is given to both The Appeal and the author if the article is by-lined.
GRADE REFORM

by Douglass G. Boshkoff

The editors have asked me to write a short piece for The Appeal and, after some discussion, we have chosen the topic of grades. Since various revisionary proposals are currently being studied by a student-faculty committee, I shall try to restrain myself from voicing any conclusions concerning the desirability of changes in the present system. Instead I will briefly sketch out some of the issues which might be of concern to reformers. The topic is a complex one and I hope my readers will forgive the over-simplifications that space limitations force me to make. I shall, however, voice a firm opinion on one point. Proposals for grade reform are often made without careful articulation of the alleged faults in the current system. This is unfortunate since various faults lead to various revisionary proposals and a lack of clarity in the complaint often leads to a poorly thought-out remedy.

Criticism of grading falls into three general categories. Some students do not challenge the basic principles of the grading system but seek improvements in evaluative technique while others feel that evaluation has no educational merit. A final group of critics focuses not on the alleged inaccuracy of the current system nor on its lack of educational merit. Rather these critics attack the recording system through which the students' performance is presented to the outside world. I shall discuss each of these various groups of criticism.

Some students probably believe that the grading system is bad because it is inaccurate. It may, for instance, be argued that the current system does not grade the whole law student. It only tests a certain type of achievement. Character and diligence, for instance, are attributes which may be important in the practice of law. I believe that some of my colleagues do, in fact, include class attendance as a component of the course grade. Apart from this practice, law school professors generally do not seek to test separately for the characteristics I have mentioned. I am not sure that here there is a widely-voiced complaint. A response to such criticism might be specific grades for those characteristics which are not a part of the grade in a particular course.

A common student complaint is that the law school tests achievement only once a semester or once a year. Presumably, this leads to some inaccuracy in the final grade. The remedy for this is more frequent evaluation. It would not be beyond the realm of possibility for the law school or for individual professors to institute a series of weekly quizzes. Beside providing more frequent evaluations for students I assume the weekly quizzes would induce somewhat better class preparation. Any proposal for increasing the amount of evaluation which occurs during the year must take into account the additional demands this would place on faculty time. Either other faculty services would have to be curtailed, additional faculty would have to be hired, or part of the grading would have to be turned over to law students, which would be a departure from traditional practice.
Finally, the students may attack the accuracy of the grading system because they believe that the written final examination with a time limitation penalizes certain students that write or think at a leisurely rate. Other students may have trouble with written expression as contrasted with verbal expression. Responses to this type of criticism would have to involve papers, take-home examinations or oral examinations. We might have to give up some of the anonymity of the number examination system. And unless all students were required to submit to the same type of additional evaluation, there would be the problem of comparing unlike types of examinations in assigning a grade for a particular course. If one student took a written examination and the other student wrote a paper, it would be difficult but not impossible for the professor to compare their respective performances.

The second general attack on the grading system questions whether grades have anything to do with education. These students would prefer to abolish grades or to attenuate the grading process to the point of meaninglessness. The argument here may be that the current grading system is bad for students and bad for faculty. From the student's point of view they are motivated to learn not by the intrinsic value of the subject-matter but by the grade they expect to achieve. The assumption is that they will learn more without the anticipation of grades. Others may argue that grades are bad because they create a tension between teacher and student. If the instructor did not have to evaluate the student he might be able to establish a relationship which would permit him in fact to teach the student a great deal more than under the current system. An optional ungraded program can prove to be of questionable advantage to the student who finds himself at a competitive disadvantage with other students from this school in seeking employment. A mandatory ungraded program for all law students would eliminate any possible local competitive disadvantage but might injure us in the market place when compared with students from other universities. The argument that the instructor is damaged by the grading system can be met by either abolishing grading across the board or by turning over evaluation of students to persons other than the professor teaching the course.

A third set of objections to the current grading system focuses not on its alleged inaccuracy nor on its impact on faculty-student relations. Rather it is argued the level of grades at the school is wrong. Criticisms of this type may look to the grading practices of a particular professor who is regarded as being too rough or to the overall grades of the law school which may be regarded as giving the student an abnormally low graduation average when compared with grades of other schools. Students who make these objections should be aware that law school grades serve two functions. They establish the rank of a student in his particular class and they establish the relationship between him and other graduates of the law school, past and future. Grades conceivably could be required to adhere to a particular norm. I can imagine a system under which each faculty member gave a specified percentage of his class A's, B's, C's, D's and F's. There would be no attempt to make a qualitative judgment. The only judgment expressed by an A might be that the student stood in the top 20% of his class. In fact, we might give each student a grade which was his rank in the class and permit him to graduate without any specific grade point average. His record in law school would consist only of the average of his rank in all his classes during the three-year period. But if grades are required to adhere to any particular norm, then it is impossible to reflect the fact that the performance in one class or in one year is particularly distinguished or particularly abysmal. I am not arguing that we ought to be concerned with comparisons between the class of 1965 and the class of 1970 or between the class in contracts and the class in creditors' rights. But if we are concerned with these comparisons, then standardization of grades is not possible.
Recently students have been voicing the opinion that they are handicapped in their attempt to secure employment by the alleged low level of averages at this school. This complaint deserves investigation. If we find that our averages are substantially below those of our competitors, we ought to consider the wisdom of an increase in average. Students, however, should not assume that an increase in average will mean that the grading at the law school would be any less rigorous. We might, for instance, ask the faculty to aim for a median grade of B in each class. This would increase our graduation averages substantially. It need not necessarily mean that more students would graduate. An increase in the median grade might be coupled with an increase in the required graduation average to 2.5 or even 3.0. I take no position on this proposal but simply mention the possibility to point out that the question of standards within the school and the expression of these standards to the outside world are separable issues.

Let me close with a comment that is only partially facetious. There seems to be a general assumption that grading in law school is not a very productive activity. Thus, proposals for attenuating or abolishing the current system probably are received with substantial favor by many students and at least some faculty. Nevertheless, I am bothered by the nagging thought that what we may need is not less grading and easier grading but more and tougher grading. Law students generally find the first year interesting and the balance of legal education a relative bore. Many explanations may be offered for this phenomena. I merely note that one radical difference between the first year of law school and the second and third years is the fact that it is very difficult to flunk out after the first year hurdle is passed. Is it possible that we are wrong in thinking that teaching by threat and terror is a bad method? Might not the second and third years be much more exhilarating if we established a quota of failures for those years? How would students react to a grading system which eliminated an additional 10% of the second year class and 10% of the third year class? To our current way of thinking such a system seems so outrageous that a negative reaction is instinctive. But in this age of experimentation we ought to keep our minds open to all types of suggestions. Perhaps such a real possibility of failure would put the thrill back in legal education.

ADVICE FROM THE FRESMEN TO SOCRATIC PROFESSORS

by Bruce Wackowski

"The Platonic Socrates was a pattern to subsequent philosophers for many ages. What are we to think of him ethically?.. He is dishonest and sophistical in argument, and in his private thinking he uses intellect to prove conclusions that are to him agreeable, rather than in a disinterested search for knowledge. There is something smug and unctuous about him, which reminds one of a bald type of cleric... Unlike some of his predecessors, he was not scientific in his thinking, but was determined to prove the universe agreeable to his ethical standards. This is treachery to truth, and the worst of philosophic sins."

A History of Western Philosophy, pp. 142-143 by Bertrand Russell

Speaking as one not susceptible to gastric malfunctions when faced with the slings and arrows of outrageous questioning, the above criticism of the Socratic method seems a more severe condemnation than embarrassment potential. After all, how much may one's dignity be affronted in a College Bowl atmosphere, where he
fails to come up with the properly memorized word or phrase in an instantaneous response? At least little intellectual dignity is insulted by this Grocho Marx secret word theory of education.

However, when otherwise capable professors are "falling behind schedule" they tend to revert to just such a pattern and leave their students with a profound dearth of insight. If we are to believe professors, it is the intensity and manner in which the material is studied, not the volume of material, that is the crust of our legal education.

Students are not blameless, for just as the Platonic Socrates' straw men sat on their brains and mumbled "Most decidedly so," and "So it seems," and one thousand and one other ways of manifesting assent without thought, so students are letting their professors get away with this type of Socratic nonsense.

---

**WHY B.S.L.A.?**

by Alphonso Hanns

The justification for establishing a Black Student Lawyers Association and an office to facilitate its efforts at the Indiana University School of Law (Bloomington) arises from the horrendous situation in which the black man finds himself in modern society. This situation demands that black people play a more active and effective role in determining their destiny and in improving upon their human conditions. This organization's existence is also justified by its intention to function within the purpose of this law school, and we assume that purpose is to produce more, proficient lawyers.

If the present state of racial discord and human strife that impedes the advancement of this nation is to be resolved, this institution as well as many others will have to reexamine the resources available to them, evaluate them thoroughly, and employ those which can meet the needs of its environment. The need for well-trained black lawyers in this nation is evident by the vacuum of dedicated, effective leadership in black communities. Fewer than one percent of this nation's lawyers are black. This law school has been one of the least productive in this all too important area. It is for these reasons that the association offers to engage actively in the law school's recruitment program.

Even though the black law student must strive to think and write like a lawyer, he must continue to be a black man in thought and spirit. It is imperative that the black student evaluate his situation and search for methods and solutions which will reach out to the black community in order for him to find direction and meaning in his legal career. He must express contemporary black thought in his academic environment and associate them with the legal structure and legal education to generate a greater enthusiasm among its scholars for finding legal solutions to black problems. The black student must advance with those resources available to him and insure that the accomplishments which are achieved to meet the needs of black people are not only those of the institution in which he thrives but also the manifestations of his own efforts and labor. He must be in a position to articulate and promote the needs and goals of black students, to vitalize human dignity, and to encourage an attitude of professional competence among his brothers and sisters.
It is felt that the law school should be a forum from which human thought can transcend into the vitals of this nation and take the form of action leading to a truly civilized culture. For these reasons, this organization was founded. As a chartered member of the Black American Law Student Association, we join with other black law students around the country to exercise our influence on the "American law schools to use their legal expertise and prestige to effectively bring about changes within the legal system responsive to the needs of the Black Community."

The proposed office would function as a communication center to relate legal matters to the black experience, to establish programs and organize projects which would relate to the community, to serve as a source of information for and contact with prospective black law students, and to effect coordination with the university black student organizations and the Black American Law Student Association. By working in these areas it is felt that the association can contribute significantly toward the betterment of this law school, the community as a whole, and the education of its membership.

In closing, we reiterate in stronger and less sophisticated terms (with all due respect to the relationships of employer and employee, elder and youngster, parent and child, teacher and student) that the association deplores the production of gutless, obsequious, exploitative, selfish, castrated "Toms."

THE BLAND LEADING THE BLAND

by Dick Boyle

"The streets of our country are in turmoil. The universities are filled with students rebelling and rioting. Communists are seeking to destroy our country. Russia is threatening us with her might and the republic is in danger. Yes, danger from within and without. "We need law and order."


This particular quote came from none of these people although all have spoken and/or written similar sentiments within recent months. It is largely fear stimulated sentiments such as these which have led many people to seek a convenient scapegoat and the most prominent one available is perhaps the "Warren Court."

We no longer have the "Warren Court" technically but its philosophy is still pervasive and many undoubtedly feel that if that philosophy could be changed we would begin to reverse the ills enumerated in the introductory quote (by Adolph Hitler, incidently, in 1932, as quoted in Douglas, Points of Rebellion at 59.)

The obvious method to be followed in restructuring that philosophy is for the President to replace "liberals" with "strict constructionists." The problem seems to be in finding a Southern Republican strict constructionist acceptable to Strom Thurmond who has also demonstrated sufficient judicial competence to make him palatable to the rest of the Senate.

In Peltason, Fifty-eight Lonely Men (1961) at 24, Judge Wayne Swain is mentioned with some admiration but Judge Carswell's name never appears although the
Judge Carswell's incredible record of unanimous reversals is not only the worst in his circuit but one of the worst in the entire South. For all cases, he has been reversed approximately 65% of the time compared to 30-35% for other southern federal judges. His reversal record on civil rights cases is even worse, once again compared to a 30-35% reversal rate for other federal judges in the South. This somewhat less than illustrious record undoubtedly represents an asset rather than a liability to the judge's supporters; even the Justice Department was amazed, however, when, upon requesting copies of the judge's speeches or writings, they were informed that none existed (unless you wish to count that 1940 segregationist political diatribe--about which the less said the better).

The Federal Court in the South for the past 10-15 years has represented a legal sanctuary to Southern Blacks. It is the one governmental body in a sea of hostility where Blacks feel they have a chance of a fair hearing—a chance to have their claims dealt with uninfluenced by the fact that the decision-maker depends on white votes to retain his position. This federal sanctuary has not been provided in Judge Carswell's court. Thus, he is in favor with such influential molders of the Nixon "Southern Strategy" as Strom Thurmond. Senator Thurmond calls Judge Carswell a "conservative and independent judge who is a strict constructionist with the U.S. Constitution." That is a euphemistic code in the South which, when translated, means an emphasis on "lawnorder" and a slowdown or reversal on civil rights. In the context in which it is used, it can only be interpreted as anti-black, anti-student protest, and anti-Bill of Rights and that is the way it is understood in the South. It is just as obvious a euphemism as "States Rights" and "State Sovereignty" when used by George Wallace and Lester Maddox and it is just as clearly understood.

It is irrelevant that Nixon may not intend "strict constructionist" and "balance on the court" and "conservative" to equal a slowdown or reversal of civil rights enforcement—what is critical in the communicative process is not the intended meaning but the understood meaning.

Segregation devices in the South have come in a wondrous variety. One of the most popular concerns Judge Carswell's role as a "Country Club Incorporator." All over Alabama specifically and the South in general, public recreation facilities have been closed (e.g., parks, golf courses, swimming pools) and private ones have risen on their ashes. The most common alternative in Montgomery and in small surrounding towns is the phenomenon of the "Private" YMCA. The appearance of these bright shiny new "Y's" has coincided with the demise of the public facilities. They have been located within easy access of the white suburbs and if the National YMCA makes any integration noises, they can (and do) simply disaffiliate and become a YMCO. Of course, Montgomery has its "Black Y" near the decaying inner city (separate and unequal) but no pretense is made of integrated membership in any of the six (5 white and one black) branches.

The incorporation of a private white country club after the closing of the public golf course to avoid integrating it is merely another and highly common device to continue segregation under color of private property rights. For Carswell to plead innocence of any such motive is straining credulity to the breaking point. His "incorporator" role and the character of his unanimously reversed civil rights decisions tend to indicate his willingness to accommodate bigotry and to charge fearlessly into the nineteenth century.
Senator Roman Hruska's now-famous apologia in defense of Judge Carswell's alleged "mediocrity" has become something of an instant classic of "foot in mouth" disease and perhaps requires no repetition... but we'll risk it:

"Even if he were mediocre, there are a lot of mediocre judges and people and lawyers. Aren't they entitled to a little representation and a little chance? We can't have all Brandeises and Frankfurters and Cardozos and stuff like that there."

It stagers the imagination to consider the amount of political rationalization which such a statement requires. If, however, Hruska was honestly sincere in his comment, then I'd say the "mediocre people" have about as much representation as they can stand in the person of Senator Hruska.

In the space of less than a month, the certain confirmation of Carswell has deteriorated to the point that the President feels required to put his prestige on the line again and beat the bushes for party loyalty and political debts. Some of the reasons for this decline have already been noted. One piece of well-organized lobbying not mentioned was the well-publicized petition signed by several hundred law school deans and faculty members which appeared as a full-page advertisement in papers all over the country. This united front of opposition from the academic legal profession apparently made a greater impression on the fence sitters than any other single factor.

As the question was posed in the March 27 issue of LIFE, "Does Nixon have to staff the court with Carswells?"

The Bloomington Courier-Tribune in their lead editorial on March 26, 1970, discussed the Carswell nomination without really taking a position but seemed to indicate that while "a distinguished and sensitive man on the bench" is what is needed to restore public confidence in the court and the rule of law, perhaps there are simply no men around who can meet the demand. The editorial concludes, "So, the formula of Sen. Roman Hruska that, "We can't have all Brandeises, Frankfurters, and Cardozos" on the high court is probably accurate: Such men will not often be found in the lower courts."

Not often perhaps but they do exist even within the narrow confines of Nixon's basic criteria of Southern Republican WASP.

Frank H. Johnson, Jr., is the Federal District Judge for Southeast Alabama. He was appointed in 1955 by President Eisenhower. He is a native Alabamian, a Republican, and a judge of unimpeachable integrity who, in his Montgomery courtroom--just a few blocks from George Wallace's statehouse--has demonstrated his courage and his commitment to the principles of the U.S. Constitution over a period of 15 years in the front lines of the civil rights battles.

In contrast to Judge Carswell, Judge Johnson has consistently handled major constitutional issues and his court has represented the voice of the Federal government in Alabama. He has decided major constitutional questions in all areas of civil rights, school integration, reapportionment, desegregation of Alabama jails and prisons, free speech, student's rights, poll tax, etc., and all without a single reversal. He was on the bench for Martin Luther King's Montgomery bus boycott; he authorized the Selma to Montgomery march, and presided over the Viola Liuzzo trial in which an all white jury convicted three Klansmen of her murder.
Judge Johnson's expertise as a constitutional scholar and his devotion to the Bill of Rights have not endeared him to the Wallace "not so silent" majority but they have earned him a national reputation as one of the several federal judges obviously qualified by experience, record, and judicial temperament to fill a Supreme Court vacancy. Most recently mentioned favorably in TIME and LIFE, Judge Johnson was the subject of a TIME cover story in 1967 which explored his record in some depth and contrasted him with his classmate at the University of Alabama, George C. Wallace.

I am neither a Southerner nor a Republican but I unhesitatingly and enthusiastically endorse Judge Frank H. Johnson, Jr., as a potential Supreme Court Justice. Insofar as he is a personal acquaintance, I freely admit my bias. However, I neither ask nor expect you to accept uncritically my admitted personal biases. I do ask that you make your own evaluation of his judicial calibre by reading three of his recent decisions involving major Bill of Rights issues.

The first is Dickey v. Alabama State Board of Education, 273 F. Supp. 613 (1967) which concerned the expulsion of the editor of a student newspaper who violated a school rule prohibiting editorial criticism of the governor or state legislature.

The second is Brooks v. Auburn University, 296 F. Supp. 136 (1969) which was a free speech issue concerning rules of the Auburn University's president to the effect that student organizations could not invite a speaker who could reasonably be expected to advocate breaking of the law (Rev. William Sloan Coffin who had spoken at over 300 colleges and universities without incident). Judge Johnson held that these rules constituted blatant political censorship in violation of the First Amendment. It may seem strange that this fairly obvious issue needed to be decided in 1969 but remember that we are operating in the heart of "Wallace country". . . if you haven't lived there, it's hard to appreciate the significance of that fact.

The third case is a recent "haircut" school regulation issue. Judge Johnson's opinion in Griffin v. Tatum, 300 F. Supp. 60 (1969) is articulate and well reasoned and his civil libertarian philosophy is well stated in the following excerpt from Griffin, supra at 62,

"In short, the freedom here protected is the right to some breathing space for the individual into which the government may not intrude without carrying a substantial burden of justification. Thus, one may not walk nude down the median strip of a busy highway. But until one's appearance carries with it a substantial risk of harm to others, it should be dictated by one's own taste or lack of it."

As the commercial goes, "I recommend him to your attention."
"Law--Bridge to Justice" is the national theme for this year's Law Day to be held May 1. The S.B.A. is the local sponsor of Law Day, and a committee under the direction of Chuck Weinraub has planned the activities.

Three major speeches will be the focus of the Law Day program. The initial speech will be given at 1:00 P.M. in the Moot Court Room by Craig E. Pinkus, Executive Director of the Indiana Civil Liberties Union. He will speak on the national Law Day theme.

Frederick E. Rakestraw, former member of the Indiana Supreme Court and Chairman of the Indiana State Bar Association Committee on Legal Ethics, will deliver an address on the new Code of Professional Responsibility. He will speak at 3:00 P.M. in the Moot Court Room. Both speeches are open to the public and admission is free.

The concluding activity will be the annual Law Day Dinner. This year the dinner will be held at the Holiday Inn at 7:00 P.M. with a cash bar preceding it at 5:30 P.M. Tickets for the dinner will cost $3.25 per person and will be on sale the week of April 20 in the law school lobby. The dinner is open to law students, law faculty and members of the Monroe County Bar Association.

Featured speaker at the dinner will be Wilbur F. Pell, nominee to the Seventh Circuit Court of Appeals. He will speak on the national Law Day theme. In addition, Order of the Coif will be announced and the Gavel Award and the S.B.A. President's Award will be presented.

S.B.A. ELECTIONS

Student Bar Association elections are scheduled for the last week in April this year. Nominations for candidates for the five major offices will be taken during the preceding week. The offices being contested are President, Vice-President, Secretary-Treasurer and Representatives for the Junior and Senior Class. The offices of President, Secretary-Treasurer and Senior Representatives are open to third year S.B.A. members (i.e. a 1971 June or August graduate) who are in good scholastic standing and will be in residence for the entire 1970-71 school year. The offices of Vice-President and Junior Representative are open to all second year students who are members of S.B.A. and are in good scholastic standing. In order to be eligible to vote, students must be S.B.A. members. The nominations and election will be conducted by the S.B.A. Election Committee, chaired by David Meyer.
The next Indiana Bar Examination is scheduled for July 9-10, 1970, with a filing deadline of May 9. Those eligible to take this exam are those who have graduated or are scheduled to graduate from law school prior to September 15, 1970. For those who take the bar before their graduation date, provision will be made so that their exams will not be graded until after proof of graduation is presented. In April, representatives from the State Board of Law Examiners will be here to discuss with all interested students the procedures and techniques of taking the Indiana Bar Exam.
I.U. Law Journal--To be or not to be?

"In other words, where there is communication without need for communication, merely so that someone may earn the social and intellectual prestige of becoming a priest of communication, the quality and communicative value of the message drop like a plummet."


Honesty is the best...

Two professors were asked why they didn't sign the petition urging defeat of Judge Cerswell's nomination. Their responses were predictable:

Baude: "As a Constitutional Law teacher, I feel it is best that I withhold my judgment until I have read all of Carswell's opinions."

Birmingham: "I withheld my judgment because Mr. Baude did."

Reminds me of the "Ziegism": "The truth will out if one is clumsy."

Description of the Day:

'This place makes Catch 22 look like the Roman Senate at its best.'

Frank McCloskey; March 12, 1970; 10:05 A.M.

Excuse of the Day:

'I'd write an article for The Appeal but I can't find a Gilbert's on it.'

Jim Redwine; March 23, 1970; 11:27 A.M.
SUGGESTION BOX SALUTATIONS

(Ed. note: Space limitations restrict us to printing only three of the many suggestions we have received this month.)

PRESENT SITUATION: I write to inform anyone who has not had the misfortune to walk through the ground floor of the library about a problem which afflicts those of us who "live" there. The pipes in the ceiling bang every five minutes, lasting from 10 to 40 seconds. They don't rattle; they don't rumble; they BANG!

The problem isn't such a great one when the heat is turned off (i.e., during the sixth and seventh weeks of December), and often we can move to carrels upstairs which are not in use. But during finals and the weeks before tutorial memoranda, moot court briefs and seminar papers are due, the people with carrels upstairs are using them. Unless someone can discover a way to seat two people at a carrel, I imagine we will have to use our own.

CRITICISMS: Have you ever been in a submarine while depth charges were going off overhead? Cowered in a Vietnamese village during an air strike? Sat inside the "World's Biggest Drum" during a Purdue half-time show? If you have, you might have some idea of what it's like to have a carrel on the ground floor. You professors, so snug and cozy in your third floor offices—how would you like to do research while Buddy Rich played a concert on your ear drums?

SUGGESTED IMPROVEMENTS: Admittedly, the situation would be expensive to remedy (although money was found when the law school so desperately needed a wall to separate the lobby from the stairwell). Nevertheless, Betty Furness would probably be pleased if the catalogue were to contain a warning to prospective students that they have one chance in three of getting a carrel at which they cannot study.

PRESENT SITUATION: I have Tarlock for Property II. He is not only incompetent as a first year course instructor, but his choice of a second year textbook was negligent.

CRITICISMS: He will never address a question directly. This, combined with a difficult text, makes the acquisition of any concrete principles or policies of property almost impossible.
SUGGESTED IMPROVEMENTS: Have Dan Tarlock enjoined from ever again teaching a Freshman course. He is a progressive intellectual whose talents could be much better utilized in an upper class course, subsequently avoiding the stifling effect he has on first year students.

PRESENT SITUATION: The Appeal slings diatribes at the school here concerning a lack of relevancy (notably, Mr. Payne).

CRITICISMS: Doesn't this beg the question--people who live in glass houses...

SUGGESTED IMPROVEMENTS: Be relevant and worthwhile yourself, dammit!

SUGGESTOR'S NAME: Freshman class in its entirety.

(Ed. note: The frightening thing is that this spokesman for the "freshman class in its entirety" (what a leader!) may someday be a member of the bar.)
THE APPEAL
HAS THE HONOR
OF PUBLISHING THE
"STATE OF THE LAW SCHOOL"
ADDRESS DELIVERED BY
DEAN HARVEY
ON MARCH 26, 1970, AS AN
ADDENDUM TO THIS ISSUE
I am pleased to have again the opportunity to report to the students and, in the same message, to the faculty and friends of the School of Law on developments over the past year. The period since my last report in April, 1969, covers a remarkable diversity of experience within the University and the School of Law. Within that diversity is much that is encouraging and in which we take justifiable pride. There are also, however, certain sources of concern. I shall try to deal candidly with all significant developments.

421 students enrolled in the School last September, giving us the smallest Fall semester student body since 1963. Three factors serve to explain this sharply reduced enrollment. Dominant among these was the Selective Service system which no longer accords any protected status to the law student. The second factor was the substantial fee increase which became effective throughout the University in September. I shall comment somewhat more fully on the implications of the fee structure in a few moments. The third factor was a policy decision within the School to make a modest upward adjustment in our admission criteria. On admission policy, as well, I want to comment somewhat more fully.

Applications for admission to the School in September, 1969, were up by about 12% over the preceding year. Even more encouraging, however, was the improvement in the quality of credentials presented by many applicants. The mean and median undergraduate averages and LSAT scores of the 171 first year students who enrolled in September were the highest in the history of the School.* Had not Selective Service and the fee increase operated to restrict enrollments, it seems reasonably clear that we would have filled our normal first-year class of 225 with students of comparable quality. Over recent years we have placed considerable stress on this kind

*The mean undergraduate grade point average is 2.78 and the median is 2.77 on the 4.0 scale. The mean LSAT score is 571 and the median 576, both around the 75th percentile nationally.
of development, so as to improve the quality of the classroom experience, curtail the heavy academic attrition at the end of the first year, and strengthen our contribution to the profession. Continuing improvement in the admission credentials of our student body provides encouraging evidence of development in the School and of its growing ability to attract able young men and women. We believe the effort to improve the quality of our student body sufficiently important to justify its continuation, even in a period when constraints such as the draft and fee adjustments may produce a short-term reduction in our student population below the maximum of 550 imposed by the size of the Law Building.

May I give you a few more facts about our current first year group? Seventy-eight percent of the class are residents of Indiana, though in it 15 states are represented. The diversity of the class is suggested also by the fact that it includes graduates from 45 colleges and universities throughout the country. I am also pleased to note that the number of women in the class increased to 10.

Our Student Recruitment Committee, under the chairmanship of Professor Tarlock, with generous support from the Indiana University Foundation, conducted again this year a program of visitation to undergraduate colleges. Ten members of the faculty visited thirty-two colleges and universities in the Mid-west and East. We have several objectives in this visitation program: to provide general counselling on opportunities in the legal profession and specific information on the program in this School, to assure that we will attract an appropriate share of the best talent entering law school each year; and to provide in each class the kind of socio-cultural and economic diversity which we believe contributes greatly to high quality legal education. Through counselling undergraduates in their colleges we hope to provide a useful service to prelaw students, to the profession itself, and, of course, to our own School in its effort to achieve greater excellence.

The general social concern of recent years to open opportunities for a better life for all citizens speaks with special urgency to the institutions and practitioners of the law. We are keenly aware of the fact that the unavailability of legal services renders meaningless for many the rights and protections supposedly granted them by the law. In no segment of our society is this problem graver than in the Black community. That problem will be moved closer to solution only if the number of qualified Black lawyers can be increased steadily and substantially. Sharing this perception of the problem and its solution, the American Bar Association, the National Bar Association, and the Association of American Law Schools have joined in the establishment of a national organization -- the Council on Legal
Education Opportunity, or CLEO -- to mobilize resources, stimulate recruitment of minority group students, and design programs to facilitate the orientation of students to law school. Our faculty has undertaken to support the national CLEO program and to coordinate our efforts with other participating law schools in the Mid-west Region. Last Summer we participated in the regional CLEO Institute held at the University of Iowa; during the coming Summer we will join in sponsoring a comparable institute to be held at Wayne State University Law School in Detroit.

When members of our faculty have visited undergraduate institutions this year and last, they have made special efforts to identify promising Black students with a potential interest in law and to acquaint them with needs and opportunities in the profession and in this School. Also Professor Getman and Mr. Ronald Payne, one of our students, participated early this month in a Mid-west Minority Group Recruitment Conference held at Northwestern University. The last report from our Admissions Office indicates that we now have 25 applications for admission from Black students and that we expect perhaps 15 more. While these figures are encouraging, it seems highly unlikely that we will have anywhere near 40 Black students in our 1970 entering class. The principal reason for the probably substantial disparity between the number of applications and the number of actual enrollees lies in the cost of legal education here and our extremely limited scholarship resources, about which I will comment more fully later.

May I turn now to developments within the faculty?

In June, Professor Jerome Hall will end his active association with Indiana University and will be accorded the rank and title of Distinguished Service Professor Emeritus. Professor Hall's first association with Indiana University began in 1924 -- just one year after he received his J. D. degree from the University of Chicago. With a break from 1929 to 1937, during which he taught in other universities, Professor Hall has devoted his entire professional life to this University. His achievements as teacher, scholar, and professional leader are great. They have brought to him, and through him to this School, recognition and respect throughout the world. In September, Professor Hall will take up a new appointment on the faculty of the Hastings College of Law of the University of California. We shall miss him here, but he takes with him our affection, our esteem, and our warmest good wishes for the next phase of his distinguished career.

Three new appointments to the faculty already have been made for the coming academic year, and others remain under consideration. Professors Nicholas White and Bryan Underwood will come to us after a number of years in the active practice. Professor Richard Jones will
receive his law degree in June. While a young lawyer in the strict sense, he brings to us nine years of experience as a Senior Appellate Conferree in the Internal Revenue Service. These three appointments will strengthen greatly our teaching staff in Property, Local Government, Corporations, and Taxation. In addition, we shall be able to adjust immediately to Dean Thorpe's move to full-time teaching, through Professor White's service as Assistant Dean for Administration and Professor Underwood's assuming responsibility as Assistant Dean for Student Affairs.

It is most appropriate at this time, I think, to say a special word of appreciation for Mr. Thorpe's three years of service as Assistant Dean. As our new administrative arrangements suggest, Mr. Thorpe has borne administrative burdens beyond the call of duty, and during some terms his teaching duties have reached the full-time level. All of us wish him every satisfaction as he turns to full-time teaching.

As all of you know, the faculty has been deeply interested in a far ranging and fundamental examination of our curriculum. This interest reflects awareness of the accelerated pace of change in our society, the proliferating demands for traditional legal services, and the new kinds of lawyer roles which require new skills and insights. As a first phase in the proposed study, the Curriculum Committee this year has concentrated on the first-year program. This has seemed an appropriate starting point, not because our developed dissatisfactions are strongest in the first year, but because that part of the curriculum makes a claim to being truly fundamental -- a claim that has been recognized by the fact that we have required the first year course of all students.

The curriculum study has not progressed far enough yet to permit a report to you in significant depth. Our first step was to seek information from the faculty on the coverage of the first year courses, the teaching methods used, and the educational objectives envisaged. We also sought their judgment on the necessity of various bodies of instruction as fundamental components of a sound legal education. We have made clear in an interim report to the faculty that we will need their continuing active support and cooperation in identifying those areas of the curriculum needing reform, in working out imaginative experimentation, and in diversifying approaches to meet the variety of needs presented by today's law students. Plans have been made also to assure student contributions to the study and assessment of the curriculum.

I wish I were able to report that we now see at hand or at least dimly on the horizon the grand curricular design which will meet the challenges of today and tomorrow and enlist the solid enthusiasm of all students and faculty. Candor requires the admission that the processes of change
will be slow. There are several legitimate reasons why this should be so and some others which are effective constraints on rapid development, whether legitimate or not. May I mention a few of these?

What we seek is reform in a basic, functional sense. Such reform will not necessarily mean the disappearance of all or even most of the traditional structure of teaching and learning. Indeed, I suspect that our study will tend to validate much that we have done in the past and are doing now. Nevertheless, we cannot ignore the sense of disquiet over legal education that is felt by many teachers and is reflected clearly in student attitudes and levels of commitment. Many of us believe that this disquiet grows out of features of legal education that will not be eliminated merely by repackaging and rescheduling the traditional areas of instruction. We need to break significantly new ground in our perception of the subject-matter responsibilities of a good law school and of useful techniques for developing the full range of professional skills. We need to provide for enlisting the fuller involvement of students in their own education. We may need to develop new degree programs for students with specifically professional, paraprofessional or subprofessional objectives, perhaps requiring less time than the current six-semester course. At the same time, we probably need to develop more substantial, interdisciplinary programs for other students. We may need to abandon traditional curricular packages through much of the second and third year, relying more fully on programmed instruction for information conveyance and independent research and clinical experience for critical skill development.

When one considers the range of possible changes encompassed within significant curricular reform, the pattern of constraints becomes clearer. A significant deterrent to curricular reform in the law schools is provided by the American Bar Association's current standards for accreditation. These standards also must be subjected to a critical re-examination and revision if they are to support rather than impede creative innovation in the law schools. Other restraints on curriculum development are imposed by the traditional set of expectations addressed by the practicing bar to the law schools. These restraints are only cautionary, however; they do not preclude change. As we reform ourselves, we must be careful to retain the understanding and the support of the Bar. Finally the economic constraints on curriculum development are significant. Reform will require an infusion of financial support for legal education far beyond traditional levels.

For all these reasons, I cannot assure you that major reforms will be implemented here or in any law school in the immediate future. I can assure you, however, that we will move the effort ahead with as much
dispatch as our other obligations, our imagination and creativity, and our resources will permit.

While fundamental reform of the curriculum is under study, a number of smaller but nevertheless important changes have been made. This year the faculty removed the requirement that each student take a course in Comparative Law, International Law, Jurisprudence, or Legal History. We will continue to offer instruction in these important areas and will encourage students to study them. We believe, however, that we no longer need the coercion of a degree requirement.

A number of new course offerings have been approved this year. Recognizing the growing need for lawyers to work across disciplinary lines, the faculty recently authorized a course to introduce law students to social science methodologies and to various mathematical applications of possible utility in legal research and analysis. A new elective course in Military Law will be offered next year. Our offerings in the Property field will be enriched by a new course in Land Finance Law and a seminar in Resource Planning. Also next year, the School of Law and the Graduate School of Business will launch a new four year program leading to two degrees -- Doctor of Jurisprudence and Master of Business Administration. Formerly the programs leading to these degrees required five years of study. The integrated four-year program will permit a 20% reduction in this period and provide, we believe, a richer educational experience.

Discussion of curriculum development may call to your mind the question of student involvement in various aspects of study, planning, and decision-making within the School. You will recall the general meeting last Fall in which Mr. Levy, Mr. Stewart, Professor Pratter and I discussed this matter. The result of that meeting was a remission of the question of student involvement to you. I indicated at that time that the faculty was receptive to indications of student interest and that we would await your proposals on those aspects of policy making in which students want to play a role and on procedures for selecting student members for committees and other deliberative bodies.

That meeting did not precipitate a rush of student activism in the School. I make no criticism of the lack of such activism, for I can see readily some perfectly valid reasons why you may consider your existing commitments sufficient. On the other hand, I do want to recognize, and express my appreciation for, several indications of student interest in selected aspects of the School's policy and program. An informal committee of students and faculty has been exploring some possible modifications of our grading system. The Law Journal editorial staff is
participating in an important study of the Journal's role in the School and in the community and its mode of operations. Another informal student committee has been involved in discussions of new clinical programs. Students have continued to meet with candidates for faculty appointment whom we have had here for interviews. The recently organized Black Student Lawyers' Association offers the prospect of a number of creative involvements in developing aspects of our program. Out of an incremental, largely student-motivated approach will come, I believe, increasingly significant student involvement in the development and improvement of the School.

The mention of the student effort to extend our clinical programs prompts a somewhat more general comment on this type of curricular development. While some kinds of clinical programs can operate effectively without special rules on the practice of law -- Professor Hopson's Clinic in Juvenile Problems being a good example -- most of them require some relaxation of the rule prohibiting practice by other than fully admitted attorneys. After extended discussion with the State Board of Bar Examiners, members of the Supreme Court, and officers of the Indiana State Bar Association, we were able to get from the Supreme Court in mid-1969 a workable rule on limited practice by third-year students involved in approved clinical programs in the law schools of the State. It was quite clear throughout all discussions, however, that the ultimate effectiveness of the new rule would depend on our success in marshalling enough time of fully-admitted lawyers to provide the requisite supervision of students.

Obviously we will encourage and welcome participation in our programs by practitioners. It has seemed to me quite clear, however, that we must look to our own faculty for the major share of the supervision required in our instructional program. For that reason I have sought from the Supreme Court a companion rule to the new rule on student practice which would facilitate the admission of members of our faculty, all of whom have been regularly admitted in some state, to the Indiana Bar. As yet, I have been totally unsuccessful in this effort. The economic and temporal barriers erected by the old rule governing admission on foreign license strongly discouraged applications for admission by faculty members. Indeed, the old barriers have now been raised. An amendment to the admission rules, adopted by the Supreme Court early this year, makes it more difficult for members of our faculty to be admitted. May I indicate briefly the operation of the old rule and the impact of the recent amendment?

The former rule authorized admission to the Indiana Bar of a lawyer, duly admitted in another jurisdiction, who had had five years of
practice, who affirmed that he intended to engage in the full-time practice in this State, and who paid an admission fee of $250. By interpretation of the rule, full-time law teaching was equated to practice. Consequently, a lawyer, for example, who joined our faculty after four years of practice in Chicago was eligible for admission in Indiana after one year of teaching -- his period in actual practice being tacked to his year in teaching to make the required five year period.

Because the five-year requirement seemed unduly stringent as applied to lawyers coming to Indiana to join the faculty of an accredited law school and also because the $250 admission fee was a serious deterrent to a law teacher interested in admission in order to support the instructional program of his school, not for his personal gain, I recommended to the Board of Bar Examiners a new rule which would authorize the admission to the Indiana Bar of any person duly admitted in another state who holds a professorial rank on any approved law faculty in the State on payment of an admission fee of $25. The Board declined to recommend to the Supreme Court this rule, which would have facilitated substantially the admission of law teachers. The Board give assurances, however, of its continued interpretation of the foreign license rule so as to equate teaching with practice.

The recent amendment, which was adopted by the Supreme Court without recommendation from the Board of Bar Examiners, deals explicitly with law teaching as a basis for admission to the Indiana Bar. It seems to provide quite clearly that teaching and practice are not to be equated for admission purposes and that only five years of teaching in Indiana is a discrete ground for admitting the law teacher. Two or three illustrative cases will make clear the restrictive aspects of the new rule:

1) Assume the appointment to our faculty of an outstanding teacher-scholar who has served for fifteen years in a distinguished law school in another state. Only after five years of teaching in Indiana would our new appointee be eligible for admission to the Indiana Bar.

2) Recall the more typical case mentioned earlier of the young lawyer who joins our faculty after four years of practice in Chicago. Under the new rule his practice experience seemingly would be totally lost as a basis for admission and he would be required to teach in Indiana for five years before being admitted.

3) Finally, suppose a lawyer who has practiced in Ohio for 15 years before joining an Indiana faculty. If he applies for admission here within
two years of his arrival he is eligible for admission under the foreign-license rule. If he delays his application for admission for two years and a day, however, he is no longer eligible under the basic foreign-license rule, which requires practice for at least five years of the seven years immediately preceding his application. In these circumstances he could seek admission as a law teacher, but only after three more years, that is, after five years of teaching in Indiana.

I have not been able to understand the reasons for the recent amendment. It complicates significantly our problem of developing new clinical programs utilizing the new student practice rule, since it makes much more difficult the provision of adequate supervision of students. I am hopeful, however, that, as the Court gives further attention to this collateral aspect of its rule, a modification to aid us will be made.

Thus far in this report I hope I have communicated to you a sense of continuing development of the School -- development of higher quality of student body, faculty, and program. In certain areas, progress has been slower than we would have liked, but the sense of on-going progress is nevertheless clear. I would like to turn now to a number of problems which cause me great concern as I try to project the development of the School into the Seventies.

The School of Law is affected deeply by the budgetary stringencies imposed on the University in this biennium. As a partial response to inadequate legislative support, the Trustees sharply increased student fees at the beginning of this academic year. These developments produce two serious concerns which I want to discuss with you: first, budgetary constraints which make virtually impossible significant improvements in the staff, facilities, and program of the School; second, the almost prohibitive cost of legal education for many students in the School.

American university law schools have traditionally provided an extremely inexpensive form of education. A few professors, two or three classrooms, and a relatively modest library were enough to put a school in business. Classes were large, faculties small, large and expensive equipment unnecessary, the curriculum narrowly professional and relatively stable, and the research interests of faculty and students either non-existent or happily satisfied in the law library. This model of a law school still exists in many places. In most universities it continues to structure the assumptions of university administrations on funding legal education, and, since all lawyers received their legal educations in such institutions, it doubtless also reflects the Bar's understanding of the financial needs of law schools.
In fact, however, this law school model is an anachronism today. The model fails to respond to the educational needs of students, to the scholarly interests of faculty, and to the social needs for more and better-educated lawyers.

In a recent article bluntly titled "Financial Anemia in Legal Education: Everybody's Business", Dean Bayless Manning of the Stanford Law School discusses the historic model and contrasts it with the needs of the law schools today -- needs created by developments within the schools themselves as well as in the society they serve. I wish all of you would read Dean Manning's article. * Because it is immediately relevant to our own situation, I will mention briefly some of the developments he discusses.

Dean Manning points to the development of new areas of law and new categories of teaching and research which call for attention in the law schools. He discusses the developing perception that teaching and research of acceptable quality must relate legal rules, doctrines, and institutions to the insights and methods of the social sciences. He stresses the almost frightening volume of "law" being generated today in legislatures, courts, and administrative agencies, and the demands this makes on a law teacher simply to remain abreast of movement in his field. Developments within the law schools themselves also demand modifications of the traditional law school model. The ever-growing quality of our student bodies and the range and complexity of the materials to be studied call for more small-group instruction and more individual-student research. In our law schools today are many students with legitimate educational needs far beyond the ambit of a narrowly professional curriculum. Student interest in more clinical education, often shared by teachers and practitioners, calls for a level of staffing much closer to that of a good graduate school than of the traditional law school. And legal research now ranges far beyond the musty quiet of the law library. It frequently involves a necessary component of empirical field investigation to throw light on the actual shape of the problems with which law must deal and on the actual operation of legal institutions.

Dean Manning makes the perfectly valid point, which I would re-emphasize, that it is impossible to construct a model for the modern law school within the parameters of an old-fashioned budget. The level of support for legal education from the university's own resources must be raised, and new sources of significant funding must be found.

I believe these views have general validity in the American law school world. At this University, however, they have special urgency. During recent decades, the School of Law has not shared fully in the support which has permitted many units of the University to achieve real excellence. In 1966, a decision to build a loftier mansion was made by the University administration with strong support from the law faculty. In the years since 1966, financial support for the School has been increased substantially, but the level of need remains significantly higher. The progress we have been able to make has remained, as before, within the traditional law school model. It has been limited to improving a conventional law library, to moving faculty salaries somewhat closer to equity, and to permitting a modest amount of faculty growth. I do not underestimate these developments or their impact on the quality of this School. To me it is a source of enormous satisfaction and, I believe, justifiable pride to experience the intellectual vigor and commitment of our faculty, to realize the growing quality of our student body, and to sense a widespread appreciation of these developments. The fact remains, however, that the advent of support which will permit us to move effectively on a new law school model still lies in the future.

What are the areas of need at this time? Resources must be found to permit growth of the faculty and to improve faculty salaries. If they are not found, not even a holding operation will be feasible; we will lose our best teacher-scholars to other schools. The law library must be radically strengthened and resources found to support faculty research. New physical facilities must be constructed even to accommodate routine growth of the library collection and to bring the seating capacity of the library up to the minimum standards set by the Association of American Law Schools. Those facilities are even more urgently needed if we consider the need for faculty growth, library enrichment, and program innovations.

I wish I could give you a confident report on prospects for marshalling the financial support the School needs for its growth to real excellence. As I have indicated earlier, we are feeling in this biennium the financial pinch imposed by the last legislative session on the entire University. In addition, however, within the University framework, as in society at large, the case for an expanded role of law still needs to be made effectively. Just as legal services for the poor and governmental support for legal research encounter political obstacles, so we confront problems in convincing our colleagues that, despite external limitations, the 1966 impetus to legal education here should retain its high priority. No greater contribution could be made to this end than your own good work in the School and on the outside, some of which happily has been noted in the press.
Almost all law schools are now seeking to supplement their internal funding by private gifts of endowment capital or annual expendable contributions. We are making such an effort in this School but thus far with limited, although greatly appreciated, success. Some small endowment gifts have been received, as well as one substantial gift not yet ready to be announced. At the same time, our annual-giving program has slackened, perhaps because of emphasis upon the University's sesquicentennial fundraising. The most recent report I have received from the I. U. Foundation, covering 1969, shows receipts in the annual-fund drive approximately 35% under the 1968 level. Clearly we must increase our effort to communicate our need for resources to alumni and friends of the School and to enlist their support.

As I suggested earlier, I am deeply concerned not only about resources allocated to development of the School, but in some respects more concerned about the recent sharp increase in the cost of an education here. I do not question the judgment of the administration and Trustees which brought the fee increase into effect. As I stated publicly during the fee protest last Spring, there was no real alternative following the action of the 1969 Legislature on University financing. We need to make clear, however, the very special impact the new fee structure has on this School, special, that is, among all the post-baccalaureate programs of the University. We have no significant external source of fellowship funds. Teaching assistantships, fee remissions, contract research funds, private and public fellowship opportunities, which serve to a great extent to cushion the impact of the fee increase for other graduate students, have little relevance in this School.

In order to assess our position after the fee increase, I have gathered some comparative data on costs. I found these data deeply disturbing. Let me illustrate.

A student from Indiana who entered this School last September has paid in fees, in addition to his maintenance cost, $864 for the year. If he entered any one of a number of other excellent state law schools, even as a non-resident student, he would have paid significantly less. For example, at Illinois he would have paid $484; at Texas, only $435. The economic disadvantage of Indiana residents who want to study law in their own state university becomes even clearer if one compares the instate fees here with instate fees charged by other good state university law schools. Compare our $864 fees with Michigan's $880, Virginia's $443, University of California at Berkeley's $330, Illinois' $181, or Texas' $135.
While the overwhelming majority of our students come from Indiana, we have been making an effort, as I noted earlier, to diversify our student body. The economic deterrents to success in this effort are tremendous, however. A non-resident member of our entering class this year paid fees of $1984. Among the schools he could have attended with savings ranging from $234 to $1549 are Harvard, Michigan, Northwestern, Berkeley, U.C.L.A., Iowa, Virginia, Illinois, and Texas.

One need not reflect long on these comparative data to appreciate the position in which the current fee structure places this School. It faces the risk of being available only to the economically elite even among Indiana residents. For the non-resident the School has almost been priced out of the market. Without a major scholarship, which we can provide in only a few cases, there are strong economic inducements for the good student from another state to remove Indiana from the list of schools he will consider seriously. If economic factors limit our student body entirely to Indiana residents, I cannot avoid the conviction that our School will be the real loser.

Once fee levels have been set, it is rarely, if ever, a live option to lower them. If we are to solve our problem, therefore, and make this School competitive on the national market, as well as open it to all qualified Indiana residents, the solution probably lies in increasing substantially our resources for scholarships to students who can demonstrate need. This year, however, our scholarship funds are far below the level of demonstrable need. If an appropriate inflationary discount is applied, the amount in prospect for next year is even less. In my judgment, therefore, we face a real crisis that should evoke a deep concern in the University administration, in our State government, among our alumni, in the law firms, corporations, and other employers who look to our School for young lawyers, and indeed in our society as a whole. The material support of all of these elements is essential if the problem of opening legal education opportunity at Indiana University is to be solved.

This is the fourth annual report I have made to the students, faculty, and friends of the School of Law. The period since I assumed the deanship in 1966 has brought great change in the School, the University, and the State. Only 40% of the faculty which will start the coming academic year were here when I arrived. The University itself has a new President and a new, still-evolving organizational structure. The state has experienced changes in attitude and leadership which have profound significance for Indiana University and for this School. My almost four years here
have provided me enormously stimulating opportunities for participating in the development and strengthening of this School. They have also enabled me to participate to some extent in the general intellectual and community life of the University. In both contexts I have had the privilege of knowing and working with colleagues whom I have come to regard with great affection and respect, and who have demonstrated in many ways their deep commitment to legal education of the highest quality at Indiana.

Our objective at Indiana University is to build a law school second in quality to none -- indeed, a school capable of providing national leadership in projecting a model for legal education of the future. It may be that our reach exceeds our grasp. While we cannot fail to be aware of the pervasive uncertainties created by limited resources, we face our tasks with hope and enthusiasm. Perhaps I can suggest our view by concluding with the reflections of one of my favorite literary figures -- "Ace" Shaw, the town gambler of Spoon River, who observed

I never saw any difference
Between playing cards for money
And selling real estate,
Practicing law, banking, or anything else,
For everything is chance.
Nevertheless
Seeest thou a man diligent in business?
He shall stand before kings!

Thank you for your interest and attention.