Issue No. 12 (October 1970)
Editorial

The Appeal urged the Student Bar Association for two years to get off its aspirations and function for the law student. The S.B.A., until last Spring's elections, declined to do so, and continued to vend decals, beer, and mimeographed final exams. The only apparent justification for the Association's existence was Law Day--its Annual Good Deed.

The S.B.A. has changed, has shed its apathetic cocoon for a different garb--service to the law student. It seeks to lead in the image of most other student-oriented organizations, to represent the law student, but primarily to offer to him that which his curriculum neglects--"the Real World out there."
The premiere offering this semester was William Kunstler, attorney-at-law, author, controversial national figure. The Editors recognize many others have precisely these characteristics: The President, the Vice-President, William F. Buckley, Jr., to name but three on the Right. It is expected that the S.B.A. would strive as diligently to attract these men. The point being that attracting relevant attorney-spokesmen is part of the S.B.A.'s raison d'être, the void in one's legal education that one pays the association three dollars to fill.

But with all the comedy-timing of Pearl Harbor, the Dean (initially condemning even the possibility of an appearance as "academically disruptive") shunted the affair into the two second floor lounges—with the result that Kunstler stood Samson-like in the doorway separating the lounges, and directed his remarks to the doorjamb that they might be heard in both rooms. Questions asked in one room could not be heard in the other, etc. The S.B.A., in daily machinations with the Administration had requested use of the Moot Court Room. Appeal denied.

The Appeal fails to comprehend the distinction between some disruptive uses of the Moot Court Room, and others. Last year the Joel Allen hearing raged on for days in that chamber, and the Viet Nam Moratorium forum met there.

Given that the S.B.A. polices its events so that law students alone partake, and given that the Professors whose classes were feared to be decimated that afternoon had no objection, and given further that classes were not decimated--The Appeal prays that in the future the Student Bar Association will be able to spend more of its time in obtaining controversial law-oriented speakers than in obtaining room clearance for those speakers.

![](image)

**WHAT MORE COULD YOU WANT?**

You could probably even fit **ALL THE MALE S.B.A. MEMBERS WITH LAST NAMES STARTING WITH "Q" IN HERE TO SEE MR. KUNSTLER!**
THE STAFF FOR 1970-71

Editor-in-Chief: Jay Robert Larkin
Managing Editor: Peggy Tuke
News Editors: Tom Leslie
John Lobus

Associate Editors: Dick Boyle
Jim Todderud

Contributors: R. Bruce McLean
Phil Graham
Gregory Smith
Valerie Tarzian
Bill Pell
Mike Schaefer
Alphonso Manns
The Hon. Thomas Zieg
Ronald Payne
Bruce Wackowski
Joel Mandelman
Jay Cook
Tom Clancy

Faculty Advisor: Philip Thorpe
Cartoonist: Jim Todderud
Alumnus Advisor: Vic Streib
Poet-in-Exile: Stan Levco

Special Assistance and Sincerest Thanks:
   Dean Wm. B. Harvey
   The Secretarial Pool

The Appeal is published monthly at 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.
Alice-in-Legal Land; or "It is as I say it is"

[The following comments were gleaned from William Kunstler's speeches at the Law School and the I.U. Auditorium, and are offered completely out of context, with no editorial comment save that one editor thought they ought to appear in our humor section.]

We maintained decorum in the Chicago courtroom; Charles Manson's actions are a completely different matter.

My goal is the complete destruction of the corporate state.

Putting a shotgun to the head of a judge is at least an option.

Every criminal trial is political; we ought not have political trials.

I want sympatico juries--volunteer juries of freaks; many jurors work for Bell Telephone.

Steal--but not from the movement--if you steal enough you'll be a financier.

Question: Mr. Kunstler, what would you have us replace this oppressive system with?

Answer: I don't know--something I think we once had. We can't bring Bob Fassnacht back. Some of us ____ him; some of us did not. We can't also make up for the fact, that the police, warned some 18 minutes in advance regarded it as a crank call, and did not clear the building. They received a six-minute notice and reacted to that, but it was too late. But those are the imponderables of life and we can't really rehash them at this point.

In Defense of the Socratic Method

[From Fuller, On Teaching Law, 3 Stan. L. Rev. 35, 40 (1950)]

John Smith on the third row is reciting on a case, and has got the facts confused, or he has misread the Restatement section in the footnote. A dozen hands are up, and a dozen eager faces reflect the desire to close in for the kill. The professor delays the moment of slaughter and deliberately passes over the volunteer matadors in order to call on Dick Jones in the tenth row. The professor knows from previous experience that he can count on Jones not to set Smith right, but to introduce a new misconception that will transfer the error to a still deeper level of confusion. Jones performs according to expectation. More hands go up as more of the class comes to share the illumination, taking it from an inner flame or from the whispered coachings of neighbors. The whole discussion is lively and stimulating; everyone is put on his mettle and seeks to show his best capabilities.
JURISPRUDENCE AND POLITICS
Elements of Power, Repression, & Racism

Ronald B. Payne

The American Constitution, conceived as a document to insure equality, has, since its inception, been an interpretive misfit; an idealistic and brilliant piece of ambiguities; a document which has been a source of power for some, and a source of repression for others. Inextricably bound, the legal and political systems of America have unceasingly rationalized and prostituted the Constitution into elements of power, repression and racism.

The Constitution was a declaration that the new Republic would be a nation based on laws. To serve this end, three branches of government were created. The people were to "elect" the President and Congress; the President, with consent of Congress, was to appoint the Judiciary; and the Judiciary was to review the acts of Congress. Theoretically, it was a fairly democratic arrangement, and, if it had been carried to its logical conclusion, would have been indeed commendable. In fact, however, the political and judicial arms of the Constitution, for the most part, have historically been used to benefit greedy oligarchs, i.e. slave owners and giant corporations; to repress racial groups and dissenters, i.e. the Indians, the Blacks, the Mexicans, the Japanese (WW II), young whites (Chicago, Kent State, etc.); and to carry on unjustifiable wars, i.e. Viet Nam.

To discuss all the areas of power and repression would demand more space than "The Appeal" can allow. Thus, a spot light on power and repression as it relates to racism and Blacks will be my main concern. This aspect of power and repression has been consistent throughout history; has been with us from the beginning (1620) as a major source of "irritation", and, no doubt, will be with us to the end.

For the Black man in the 19th Century and in the 20th Century as well, the Constitution has been administered by hypocrites and barbarians. Slavery was proof enough that a monumental inconsistency and sickness pervaded the entire relationship of the Constitution and those elements of power found in the legal and political process.

Eugene V. Rostow, Professor of Law, Yale University, has stated:

Fundamental conflict over the legal position of the Negro was a basic element in the constitutional system launched in 1787, and variant forms of that conflict have been key factors in almost every stage of its development since .... The question of rights, privileges, and immunities for the Negro has been a crucial factor in determining the underlying alliances of the political order throughout our experience as a republic....

9 Utah Law Review 841

This, essentially, is recognition of the fact that Blacks have been and will be a recurring source of legal and political morality.

In the U.S. Commission on Civil Rights Report, Participation 179 (1968),
it was stated:

"We may lament the fact that, increasingly, protest is taking place outside our established political and legal framework in forms which are frequently destructive and defeating. But our laments are likely to sound hollow and to be unavailing if we do not take steps which will make possible a response to just grievances within our established political and legal process."

These are not idle words from an idle report. The basic idea has been expressed by many who have been in the system and have become aware of the distortion that exists. A prime example of such persons would be William Kunstler, defending attorney for the "Chicago 7". A man, who up until he was 41, was a bona-fide member of the traditional legal system. Now, as a dissenter of that system, disbarment hangs over his head and the threat of incarceration dogs his heels.

Kingman Brewster, President of Yale University, has expressed the feeling that a Black man, (such as Lonnie McLucas or Bobby Seale) cannot get a fair trial in this country. If this is so, it is because the complex (guess which one) cannot afford such a concession of justice. Noam Chomsky, noted contemporary commentator, explained the position of the Justice Department on the court's deciding on the question of the legality of the war. In a recent Department of Justice Brief on the war question, according to Chomsky, the argument was made that to hear such an unprecedented case might lead to an adverse decision against the government and would discredit the government and bring on anarchy. In other words, it would be against the public interest to declare illegal an unjust war.

The concern is of even greater importance if focused on racism. Nathaniel R. Jones, former Assistant Genral Counsel, National Advisory Commission on Civil Disorders, in commenting on the role of the lawyer and the law in bringing about necessary legal reforms, said:

"If lawyers, who certainly see the legal problems more frequently and with much greater intimacy than any other segment of our society, fail to raise their voices for reform, who else will?...the only way that ghetto residents are going to develop respect for the judicial process [and] to respond affirmatively to the cries of law and order...if for lawyers to take the lead in fashioning legal remedies that are relevant to the problems of the poor and are readily available for their use and protection...."

46 Denver Law Journal 56

Some may be put on the defensive by criticisms of the system, or by charges of racism and repression directed against the system. Others may dismiss certain complaints directed against the system as eccentric and isolated. However, viewed in the most logical approach, one cannot deny that a system exists, and that a majority controls it. Those that control have privileges the minority doesn't have. Obviously, the minority is going to press for their rights, and in the process, wrongs and deficiencies will be exposed; the status quo defended and friction will naturally flow. Cynicism and disinterest results. Solving this disinterest and cynicism is indeed a problem to be solved. But, nevertheless, it is a problem that must be solved.

Daniel H. Swett, a member of the Anthropology Department of San Francisco State has framed this issue in terms of a built-in cultural bias in the legal system. He cites such examples as the inability of judge and jury to understand
background factors pertinent to the res gestae of a case. Juries conform to the dominant cultural characteristics of the jurisdiction of venue resulting in the stacking of juries. (27 Guild Practitioner 190, 1968)

Perhaps a view of history as it relates to institutionalized racism is necessary at this point. When one considers the immense impact of common law on the American legal system, it is interesting to note the fact that the American Republic in 1787 rejected an English common law ruling prohibiting slavery, Somerset v. Stewart, 1 Esp. 24, 98 Eng. Rep. 499 (K.B. 1772). After a slave escaped to England from his American master, the slaveowner attempted to haul him back. The case was heard before the King's Bench, Lord Mansfield declaring, "...the state of slavery is of such nature, that it is incapable of being introduced on any reasons, moral or political [without positive law]." No positive law on slavery existed and the slave was subsequently freed.

The Constitution itself was a compromise on the slave issue, as evidenced by:

1) Art. I, sec. 2 which designated Blacks as 3/5 of a person for tax purposes.
2) Fugitive slave provisions of Art. IV, sec. 2 denying the rule of the Somerset case.
3) Art. I, sec. 9, supported by Art. V denying Congress the power to prohibit the slave trade until 1808.

Hamilton himself said, "Without this indulgence, the union couldn't have possible been formed."

It is hardly necessary to talk of George Washington's or Thomas Jefferson's slaves nor the events of the first 60 years of the 19th century which had as their basis slavery i.e. 1820 and 1850 compromises. However, I think it noteworthy to discuss the judicial and historical miscalculation and blunder committed by Justice Taney in his infamous opinion of Dred Scott v. Sanford, 19 How. 393, 15 L.Ed. 691 (1857), which, according to Robert Cushman was "...probably the most notorious opinion] ever handed down by the Supreme Court and certainly brought the prestige of that institution to an all time low." (Cushman and Cushman, Cases in Constitutional Law, 1968, p. 1129.) In finding that a Negro, "...whose ancestors were imported into this country and sold as slaves" were not citizens and thus had no remedies in the courts, closed any legal alternatives to civil war. The political alternatives were lost long before. Thus, at a time when this nation, more than ever, needed a guideline to resolve a social evil, the judicial system failed. Maybe civil war was the only way the issue could have been resolved, but history would deal less harshly with Justice Taney if his opinion would have been otherwise.

Subsequent to the war, three constitutional amendments were passed and a civil rights act was passed. Reconstruction promised a bright new future for democracy. However, the political process, hand-in-hand with the legal system took regressive measures in the late 70's and early 80's, which served to disenfranchise Blacks and institutionalize racism. The Hayes Tilden Compromise of 1877 was a co-optation of democratic principles, and the Supreme Court decision of the Civil Rights Cases of 1883, 109 U.S. 3 (1883), declaring the public accommodation section of the 1875 civil rights act unconstitutional was a sell-out to white-racist backlash, ignorance, repression, violence, and "law and order." Then of course there was the immoral and undemocratic decision of Plessy v. Ferguson 163 U.S. 537, 16 S.Ct. 1138 (1896) which denied Blacks equal protection of the laws.
The first 54 years of the 20th century weren't especially pleasant for the Black man. Lynchings, blatant Union discrimination, segregation, legal and political repression et al., were all part of those "good old days." 1954 was a turning point. The enactment of the 1964 Civil Rights Act was also a start. However these provisions served only to unlock the cages. It did little to affect the attitudes of the society who, 50 years earlier had placed the Blacks in mental, legal and political chains. Only the riots could do that.

Today there is still cause for concern, believe it or not. Selection of juries, bail procedures, due process, police brutality, and the urban situation with its de facto segregation are matters for deep meditation and effective action. Spiro Agnew's exhortations have serious implications. Nixon, and Attorney John Mitchell by association (you can include Marsha, too) are using the legal and political process for less than liberal ends. One mustn't exclude the McCarran Act which has the latent potential for activating concentration camps. The "no-knock" and "preventive detention" provisions are constitutionally very shaky. The disproportionate rate of arrests, black prisoners, and institutionally approved killings is evidence of repression.

What can be done? What is being done? Alan Merson, Associate Professor of Law and Director of Urban Legal Studies at the University of Denver Law School has suggested:

1) Adequate legal representation for the poor
2) Institutional reform and innovation
3) Legislative revision
4) Community legal education

The Denver Law School sponsors and gives credit to student participation in Model City community projects, legislative internships, and paralegal training of the community (46 Denver Law Journal 97). Indiana Law School, even though it offers no credit, sponsors participation in Monroe County Legal Aid Society and one can become involved in the Bloomington Tenants Union. I'm sure clinical courses, and independent study or work can offer constructive avenues of action. Law students in the Chicago area helped immensely on William Kunstler's "Chicago 7" brief and students in Detroit will be helping him research "pre-emptory" challenges.

Robin M. Williams, a noted sociologist has observed:

The holders of an advantaged position see themselves as a group and reinforce one another in their attitudes; any qualms about the justice of the status quo seems to be diminished by the group character of the arrangements.

This insensitive security should be modified and the aloof idea of "class privilege" minimized to overcome the repression, the racism, and the abuse of power in the legal and political process.

XXXXXXXXX
"McCloskey"

It's no big secret that Frank McCloskey is looking forward to Nov. 4, the
day he can return to law school to get a little rest.

McCloskey, a 31-year-old senior, is one of two Democrat nominees for joint
state representative from Monroe, Lawrence and Brown counties—and his campaign
has taken him to such unlikely and exotic events as the Persimmon Festival in
Mitchell, and the Annual Fish Fry in Williams, since the May primary. McCloskey
and Democrat Robert Piercy oppose incumbent Republicans Stephen Ferguson and
Maurice Chase in the state representative's contest, with the top two vote-getters
winning General Assembly seats.

The heavy personal appearance schedule for McCloskey has been necessary to
negate the decided publicity advantage now enjoyed by his two incumbent opponents.
Yet, for McCloskey, it isn't a simple matter of attending every public and semi-
public function in the three-county area. Frank is also enrolled as a full-time
law student and works as a law clerk at the Bloomington firm of Rogers, Gregory
and McDonald.

McCloskey, a former newsman in Bloomington, Indianapolis and Chicago, lists
tax reform and environmental control as the two biggest state issues in Campaign
'70. But he also stresses that Indiana's problems in the areas of education,
mental health, prison reform, highway construction and patronage must be positively
dealt with by the next General Assembly.

McCloskey, who lives with his wife Roberta and their two children at 401
S. Mitchell in Bloomington, is critical of the alleged accomplishments of the
Whitcomb Administration.

"It is appalling that an administration which enjoys majority support in
both houses of the General Assembly has been unable to pass even one piece of
significant legislation," he says. "The Whitcomb Administration has demonstrated
its total disregard for the people of Indiana by its failure to push for needed
reforms—and in some instances by its negative positions toward progressive action."

McCloskey cited defiance of court orders by the Governor and State Auditor,
the Governor's refusal to call a special session of the General Assembly, and the
Administration's refusal to push for cost-of-living welfare increases as examples
of negative action.

Of course, McCloskey is not engaged in the campaign for the General Assembly
himself. Several concerned groups—the largest of which is Citizens for McCloskey—
have supplied money, manpower and organization toward Frank's legislative bid.

Citizens for McCloskey is headed by Bloomington attorney Harold "Skip" Harrell,
and has campaign headquarters at 106 E. Kirkwood. Other officers of the organization
include law students John Segal, campaign coordinator; Greg Smith, promotions
coordinator; Jim Mulroy, polls manager; Cliff Holleran, finance manager; and Phil
Graham, publicity coordinator. About 25 persons are currently active in Citizens
for McCloskey.
In addition, a new group, Republicans for McCloskey, has been formed recently. Jay Larkin, editor of The Appeal, is chairman.

At the beginning of the campaign, McCloskey was rated a definite underdog by political analysts. But McCloskey and his organization continue to work—and as Campaign '70 nears its "moment of truth" Nov. 3, the contest for state representative may indeed by "too close to call."

PHIL GRAHAM

If you would like to get involved in the McCloskey campaign, please fill out the form attached below and drop it in the box provided in the lobby. Any help, in any capacity from baby-sitters to poll-workers, will be appreciated.

I would like to help the McCloskey campaign. Please contact me at the following address:

ADDRESS:________________________________________________________

PHONE:____________________________________________________________

I will work election day___________. All day__________________________

I cannot work election day, but will help prior to that__________________

I would like to help distribute literature______________________________

I will donate money____________________

________________________________________

NAME
WHITHER S.B.A.  
by Dick Boyle

In recent years, the Student Bar Association has been known primarily as a sponsor of football beer mixers, exam sales, Christmas dance, and Law Day. With the exception of the Christmas dance, we will continue to sponsor these activities since they are important to many students and they constitute a legitimate service which S.B.A. can provide.

These activities have never, however, sufficiently satisfied the individual who says, with some justification, "Why should I join S.B.A.? I don't like beer and I don't go to football games and even if I do, what have you done for me lately? Why should I help subsidize your ego trip and support a 'do-nothing organization?"

Complaints of this type, particularly from blasé upper-classmen, have helped to keep the S.B.A. a relatively ineffective pressure group without a broad enough base to speak with any validity "for the student body" in a representative sense.

Our major objective thus far has been to broaden our membership base to enhance the validity of our claim to be a group "representative" of the interests of the student body both "in house" and "out house". The results indicate some success. Last year the membership base was below 50% of the student body. This year it already exceeds 75% largely as a result of an interested 1st year class and some frankly experimental uses of power. The feedback we receive will indicate whether we should recommend some of the same techniques in the future or whether they should be dropped as counter productive.

The Law Block ticket exchange is a very definite service and a saver of considerable time as anyone who has stood in line to exchange his own coupons will testify.

The post-game mixers are fun and cheap for those 100+ or so who regularly take advantage of the 50¢ entry fee to unwind after a tough week.

The S.B.A., at the request of the administration, has appointed several students to be members of faculty committees of direct relevance to the student body. The individuals appointed are not all members of S.B.A. but they have all indicated their willingness to participate actively and take the time to represent the best interests of the student body in critical areas of evaluation, curriculum, scholarship policy, administrative policy, etc. If you have a contribution to make in one of these areas, take it to the student representative whose name is posted inside the glass bulletin board.

William Kunstler's appearance in the law school for the exclusive benefit of law students is precisely the type of event which we feel the S.B.A. should initiate and sponsor. Obviously our budget doesn't allow a "first effort" at bringing major controversial figures to the Law School but wherever and whenever we can, we will continue to ride "piggy back" on some other organizations funding and bring in individuals whom we feel would be of particular interest to law students. In keeping with the FCC's "equal time" principal, we have agreed to sponsor Judge Frank Dice, Republican candidate for Indiana Supreme Court Judge, to speak on the new Indiana Judicial amendment to be voted on this Fall. By the time this issue is out, he will have already appeared on the afternoon of the 15th of Oct. in the Law School (---either in the Moot Court Room or the Lounge...)
Early in October, we will help to sponsor a Legal Careers symposium open to all but particularly for the benefit of those students now interviewing. Attorneys representing widely varying types of law practice will speak briefly and answer questions. This should be a valuable session-particularly for those who are considering starting out by themselves.

Prior to the November elections, we plan to conduct a straw vote of the law student body concerning the Hartke-Roudebush senatorial race which has generated considerable national interest. If it can be arranged, we may also have the 2 candidates for county prosecutor in to speak and answer questions just prior to the election.

Later in November, we intend to have Dale Noyd, currently on the faculty at Earlham, former USAF Captain court martialled for refusing to obey a direct order to train jet pilots in advance gunnery. His report of his modern day legal odyssey through the military and federal courts of this country is a fascinating mini-course in federal jurisdiction. This program should be of particular interest to all veterans and those who are subject to an active duty stint following (or during?) law school.

We are open to suggestion as to what, if anything, to replace the Christmas dance with. Let your representatives know what you would like. Banquet? Speaker? Other?

It's a little premature to be outlining the 2nd semester but one event planned early is a program of as yet undetermined nature to be given by Dr. Gebhard, the head of the Institute for Sex Research. This is being referred to as the "Porno Fair" but may turn into something a little more prosaic such as a panel discussion on pornography with the local prosecutor and a criminal law professor or an analysis of the President's Commission on Pornography Report. At any rate, whatever the format, Dr. Gebhard has committed himself for a program early in the second semester and it should generate wide general interest.

Law Day will be the big "planned" event of the second semester. By starting early, we hope to obtain some speakers of stature who will have genuine drawing power with law students.

This list is neither exclusive or exhaustive but we hope it will provide a partial overview of some of the year's S.B.A. activities. We don't want a routine year. We don't want bland, drab, grey, prosaic programs and we don't want to be known as your "do-nothing" S.B.A. Our thanks to Bill Kunstler for helping to erase that old image and our thanks to you for your interest.

xxxxxxxxxx
A CASE OF MURDER

by Joel Mandelman

(The writer was a Legal Intern in the office of the Kings County (N.Y.) District Attorney, this past summer. He participated in the prosecution of this case.)

2:00 P.M., Saturday, March 30, 1968 — in less than 30 minutes two people would die. In less than half an hour Frank Laudati would slaughter his wife and his little boy, chopping them to pieces with a hatchet.

There would be no screams, no cries of pain and terror . . . . and no witnesses. There seldom are in murder cases. There would be few clues, no finger prints on the murder weapon, no notes, no blood stains on the accused's clothing, no understandable motive. Nothing to link the accused with the crime, nothing on which even to base an indictment, let alone a conviction, except for . . . . three confessions.

Three times that day Frank Laudati would confess to the awful events which took place in his apartment that Saturday afternoon, almost as though telling about it would somehow make two battered corpses and three blood-drenched rooms disappear.

First he would go to Manhattan, to FBI headquarters on East 69th Street, where he would attempt to hold a press conference, after telling the agent in charge that "his story was bigger than Joe Valacchi." Amazingly, the press would come. A television crew from CBS, and reporters from the Daily News showed up. Declaring that press attendance was not sufficient, he would refuse to talk to reporters, refuse to leave the building, whereupon the local police were called, and he'd be taken to Lennox Hill Hospital, a few blocks away.

There a snap diagnosis of schizophrenia would allow him to be transferred to the psychiatric ward at Kings County Hospital.

There, at about 7:00 P.M. he would bable to a startled nurse the first of his horrifying requests. . . that the police be sent to his apartment, so that his other three sons "wouldn't see the mess in the house;" that two bodies were to be found in the back bedrooms.

The police were immediately called, the bodies discovered. Two detectives would then go to the hospital to question the killer, who was not told that they had already been there. Laudati's story would match the gory sight found by the police. The bodies, the partially washed away blood stains on the walls, the floor, and the beds, the blood stained hatchet underneath his son's deathbed.

He was then taken to the 60th precinct, where an Assistant District Attorney would take his formal confession, for the record, for the third time.

*   *   *
The story began in January of 1968 with the police being summoned to the Laudati household, to break up a violent quarrel between Laudati, and his second wife, Blanche. Frank had repeatedly accused her of cheating on him, of being unfaithful. Later he would tell doctors that he had killed her, not because of her alleged adultery, but because there was a Mafia-Communist conspiracy to enslave them, and that this was the only way in which they could be saved. They were both ordered to appear in Family court the next day. Frank would then begin to undergo the first of many psychiatric examinations. On March 18, a Family Court psychiatrist would find that Frank Laudati was NOT psychotic. Twelve days later two people would be dead.

During the month of April two teams of psychiatrists would examine him. All would rule him a paranoid-schizophrenic, that he could not confer with counsel, that he was insane at the time of the killings and the confessions.

Months would pass. Laudati would refuse to be labeled insane, refuse to plead that he was not guilty by reason of insanity, insist on standing trial for his crimes.

In July the grand jury would indict Frank Laudati on two counts of murder. In August of 1968 other doctors, at Kings County Hospital would rule that "he was psychotic immediately after the murder (thus invalidating the confessions) that he was now competent to stand trial."

Another year would pass. In January of 1970 a Huntley hearing would be held, to determine if in fact the confessions were valid, if in fact Frank Laudati was sane at the time he confessed, thus making them admissible as evidence.

The Huntley hearing would last five months, take over 800 pages of testimony. At its conclusion Justice Thomas Cullen would hold the confessions admissible as evidence, would hold Laudati sane at the time he confessed.

This coupled with his refusal to allow his court-appointed lawyers to enter a plea of not guilty by reason of insanity would lead to a complex legal problem during the trial.

Last year the New York Court of Appeals ruled that if insanity had become an element of the case, if it had been raised indirectly, inferentially, by the testimony or evidence, the judge was required to charge the jury on insanity as a defense, even if it were not directly raised as an issue, even if the defendant had specifically requested that this not be done.

This raised a problem for the District Attorney. If insanity were not raised as a defense it would not be possible to put on the stand the three psychiatrists who would testify that either Laudati was sane, or a malingering, because the issue had not been joined by the defense.

Yet insanity would be running around the courtroom, the orphaned stepchild of a defendant's confession, a nurse's testimony that he was in a straight jacket for eight hours, and a detective's statement that Laudati repeatedly spoke of a communist-mafia conspiracy to enslave the souls of his wife and child.
It would take three solid days to pick a jury. Thirty-eight peremptory challenges would be used along with over sixty challenges for cause before 12 jurors and 3 alternates (one more than normal for a murder case) could be sworn.

The trial would last for over a month. Ironically, most of the case would be argued outside of the jury's presence. They would never hear the legal clashes over the admissibility of the confession, over the propriety of calling the chief nurse of the Kings County Hospital psychiatric ward. They would never know of the chilling possibility (later disproven) that the police had bungled the investigation, or that the defendant claimed to have an airtight alibi, but refused to tell about it in open court.

Two months prior to the start of the trial, Laudati would write his lawyer a letter asserting his complete innocence. He claimed he'd gone out for a walk along the Coney Island boardwalk, gone back to get the family because it was such a nice day, and to his horror, had found the battered bodies, gone into shock, and the next thing he knew he was in the Kings County Hospital where no one would listen to his tale of dead bodies. In desperation, he claimed, he concocted the additional fact that he had been the killer, solely to get someone, anyone, to listen to him.

It was a lovely story, but it was just that—a story. And he refused to testify to it on the stand. He merely wanted the letter introduced as evidence, which obviously could not be done. Secondly, everyone testified that the police had been called as soon as he arrived at G Building, and began his horror tale. There was no 8 hour delay in calling the police, as he claimed. Thirdly, why did he continue to tell the story at the police station, after he knew that the bodies had been found? He would never say.

At about the same time he wrote the letter, the defense had filed a Bill of Particulars, requesting copies of any lab reports, the results have any tests that had been run on Laudati's clothing, to see if there were traces of human blood on them. A few weeks later, the answer would come back—no such tests were conducted! How could the police have forgotten so vital, and so seemingly obvious a piece of evidence?

On July 29, less than 15 minutes before the People were to begin their summation, the District Attorney would inform the Court and defense counsel that the lab report had been found, that tests had been run and the results were positive: human blood!

The D.A. moved to reopen the case. Defense objected. Under New York law one cannot introduce into evidence that which you have denied exists in a Reply to a Bill of Particulars. Defense counsel, however, had already told us that they planned to make the non-existence of the lab report the keystone of their summation. (It had to be; they had nothing else to talk about.) How could they argue a point which they knew to be untrue? The DA further requested that defense be prohibited from commenting about the alleged non-existence.

Again, for the eighth time in a four week trial, the jury would be sent home, having spent an entire day in Court, without having heard a single word of testimony, or argument.
The next afternoon Justice Cullen would rule the lab report inadmissible, and refuse to grant prosecution's motion to bar comment on its absence.

The Judge's charge would last nearly two hours. The jury retired at 4:30 P.M. Less than 90 minutes later they would return. The foreman, a high school social studies teacher would softly announce the verdict: Guilty, of murder. Both counts. The maximum sentence: 25 years to life. Sentencing to be later this month.

The irony of it is that before the trial began, the D.A. had offered to let Laudati plead guilty to manslaughter in the first degree, with a trivial 7 year sentence. It was his hope that once Laudati arrived in prison, the doctors there would rapidly decide he was insane, and have him committed for the rest of his life. Unfortunately, the defendant figured the same way and refused to plead. He announced he'd rather go to the death house (there is no death penalty in N.Y. anymore) than be labeled insane. (Now that he's been convicted after 3 years, this is probably what will happen anyway.)

xxxxxxxxxx

Address Made to Freshman Law Students
September 14, 1970
Alphonso Manns

On behalf of the Black Student Lawyers' Association I welcome you to the School of Law.

During the last academic year the black law students organized themselves into a socio-political group. (I might insert here that the association is a chapter of the Black American Law Student Association which is a national organization). We felt the need to participate in the decision making processes which affect the lives of black people. You may wonder, "Just what does that mean?" It means that the condition of the black man in this country is affect-ed by the socio-economic-political decisions made by our leaders in every walk of life, and that black people as an important ethnic entity in this country should actively engage in these processes to seek their legitimate needs.

Activitism in the pursuit of legally protected objectives is a virtue which extends beyond the selfish motivations which normally direct us. It is the academic achievement which prepares us to deal with complex and sensitive problems. It is the spirit of militancy which provides us the courage and perseverance to continue. It is the compassion and understanding which brings about the coordinated effort to produce a better world for us all. It is diligent work, not rhetoric, which gets things done.

In order to provide for effective black leadership it is imperative that more qualified, proficient, and dedicated black lawyers be produced. The crucial policies developed in our government are made by lawyers. Where else should our leader of the future begin to polish themselves to deal with problems of today and of the future, other than in the educational institutions in which they are presently thriving?
We encourage the black law student to join B.S.L.A. We do not discourage black membership in the other student organizations in the law school. We welcome the exchange of thought and ideas. It is hoped that the projects and activities of this organization in the coming years will not only benefit the black law students, but the law school as a whole and the community in which we live.

S.B.A. Activities

The Student Bar Association began its speaker series this year with the appearance of Chicago Seven Attorney William Kunstler in the Student and Faculty Lounges at 1:30 on October 7. The nature of the Kunstler appearance was based on a question-and-answer session with law students and preceded an appearance in the main University Auditorium sponsored by the Union Board. Kunstler appeared at the Law School for a token honorarium paid from S.B.A. funds.

***

The S.B.A. is also providing two extra copies of the Indiana Daily Student in the Student Lounge this year. Occasionally these are placed in the S.B.A. box instead of being distributed onto the tables. Students should feel free to remove these and read them in the Student Lounge.

***

First-year representative elections took place on October 9. One representative from each of the two first year sections was selected. Winners were Gary Brown from Section I and Robert Scott from Section II.

***

Acting on recommendations from the S.B.A. the following students were appointed to student-faculty committees for 1970-71.

Committee on Administrative Policy:
Bruce Wackowski and William Replogle

Curriculum Committee:
Bruce McLean and William Skees

Student Recruitment Committee:
Greg Silver and Ben Small

Committee on Teaching:
Neil Irwin and Steve Sherman

Admissions Committee and Scholarships Committee: (Separate this year)
Alphonso Manns and Steve Paul

Student Conduct Code Committee:
Robert Long and Martin Klaper
KUNSTLER AT LAW SCHOOL

William Kunstler, the civil rights lawyer and political activist who defended the Chicago Seven last year, made a 60-minute appearance at the I.U. Law School Wednesday, October 7. Prior to his address in front of a packed auditorium in the first of the Union Board's Emphasis series, Mr. Kunstler spoke to approximately 250 law students from the doorway of the two faculty lounges. Half the time was spent as a question and answer period, with most questions pertaining to Mr. Kunstler's political goals and methods of reaching them. There was no violence.

LAW SCHOOL CALENDAR, 1971-1972

Dean Harvey presided at a student body meeting Thursday, October 8, to discuss the law school academic calendar for 1971-72. Assistant Dean White presented the University's new program and alternative plans available to the law school. They were assisted by Professor Pratter, who explained the consequences of each schedule.

The University's new fall semester, consisting of 15 weeks of classes, begins August 30. However, it condenses the examination period into three days, December 20-22. Its second semester begins around January 12, ending May 8, and again with a three-day examination schedule following.

By 100% unanimity of those voting, the law students last year decided to continue the ten day exam period. Consequently, the law school cannot possibly adhere to the I.U. calendar regardless of its choice of alternatives. Consideration must be given for ABA requirements, school requirements, available facilities, off-campus housing, grade reports, conflicting schedules, registration, etc., when applying a schedule for our school.

Although publicized for two weeks prior to the date, only twelve students attended the meeting. Dean Harvey said the matter will be considered by the faculty in a few weeks, with final determination before the end of October.

THREE NEW MEMBERS OF FACULTY

Mr. Richard Jones, a 1970 graduate of the Arizona State University School of Law, is the most recent addition to our faculty. The J.D. was Mr. Jones' third degree, having already obtained a B.S. and M.S. in accounting. Mr. Jones worked for Arthur Anderson & Co. in Chicago before deciding to enter law school, first
at Loyola of Chicago and then Arizona State. Partially through the encouragement of his dean, Mr. Jones bypassed several opportunities with law firms to pursue a teaching career. He was sold with I.U. the first time he met the faculty. Perhaps because he recently survived the ordeal himself, Professor Jones would like to see law school become more tolerable for first year students by eliminating what he sees as abnormal impediments to learning. At present, he is teaching corporations.

The new Assistant Dean for Student Affairs is T. Bryan Underwood, who is also teaching gift and estate tax. Mr. Underwood graduated from Ohio State University Law School and practiced law as a partner with a firm in Canton, Ohio. After several years, Mr. Underwood sought something more challenging to himself and at the same time more beneficial to others than private practice. He turned to the teaching of law and administrative work, picking I.U. through his impressions of what he depicted as a young and progressive faculty. Mr. Underwood sees I.U.'s reputation ascending yearly, but feels additional funds are necessary to continue this progress. More money could draw students of diversified backgrounds, granting them a better chance to pursue their careers without having loan repayments as their overriding concern.

Mr. Nicholas White is I.U. Law's new Dean of Administrative Affairs. After 14 years of private practice, Mr. White, a graduate of the University of Cincinnati Law School, has turned to the academic environment. Observing that private practice can eventually transform a lawyer into a businessman, Mr. White felt teaching would offer a better opportunity for the research and writing of law which he enjoys. In choosing Indiana over other schools, Assistant Dean White appreciated the diversity and abilities of our faculty. However, he would like to see more faculty to permit smaller classes, allowing the school to take advantage of new ideas and approaches to teaching law. Mr. White is also teaching property this semester.

**********

MARTINDALE-HUBBELL IS MISSING

More than one hundred irate second and third year students have issued a request to whoever has removed the second volume of the 1970 Martindale-Hubbell to return it to the library immediately. This volume contains the listings of firms in Illinois and Indiana and has been missing for more than one month. As a result of this situation, the remaining recent directories have been placed on reserve behind the control desk and must be formally checked out to be used within the library. This type of sandbagging (some might use a stronger term for it) is inexcusable since it results only from one person's being too lazy to copy the names of the firms in which he has an interest and totally deprives other students interested in permanent jobs or summer clerkships from having any access to the valuable information that Martindale-Hubbell is designed to provide. And if one is writing to all the firms listed therein, one is really in trouble.

**********
SENIOR LUNCHEON

The Union Board sponsored a luncheon honoring senior law students on October 2. This luncheon allowed students to meet with faculty members, administration and prominent alumni. It also allowed students to receive a brochure detailing methods of encouraging giving to Indiana University from future clients expressing such a donative interest.

The following is a letter to alumni concerning a project honoring Professor Emeritus Jerome Hall:

Forty-two years of teaching Criminal Law and Jurisprudence have brought Professor Jerome Hall an international reputation for legal scholarship equalled by few in the distinguished history of American jurisprudence. He has had an incalculable impact on thousands of law students by the force of his personality and the high quality of his teaching.

As you are probably aware, Dr. Hall retired in June from the Law Faculty of Indiana University and has accepted a teaching position in the Hastings College of Law of the University of California in San Francisco. We think that this is the appropriate moment to honor him for his scholarship, his devotion to teaching, and for his immense contribution to the Indiana University School of Law. Therefore, we intend to commission a portrait to be done by an artist of Dr. Hall's choosing. When completed this portrait will hang in the School of Law as a token of the affection and respect of his former students and colleagues.

We sincerely hope that you will wish to be a part of this project by contributing a portion of the cost. Contributions can be made by (insert details furnished by I.U. Foundation).

The suggestion for this solicitation came from a number of Dr. Hall's students who are still in law school. We join with them in urging you to be as generous with your contributions as Dr. Hall has been with his invaluable teaching and counsel, to several generations of students.

Yours sincerely,

William B. Harvey, Dean, I.U. School of Law
Leon H. Wallace, Former Dean
George Gavit, Pres., I.U. Law Alumni
Richard Boyle, Pres., Student Bar Assoc.

* * *

This is a mailing being handled by I.U. Alumni Assoc. and will go to all I.U. Law Alumni (about 2500). We hope to get approximately $1,000 but the project will go with somewhat less with additional funds as needed from I.U. Foundation and (as possible) S.B.A. I.U. Foundation has set up a special tax deductible fund for contributions and students may contribute but this is aimed at alumni.
[See "Alice-in-Legal Land," page 4.]

[See photo, back page, Herald Telephone, October 8th "Left to Right, Mrs. Nancy Salmon, William Kunstler, Mark Haggerty, I.U. student, Dean William B. Harvey of the I.U. School of Law."]

The following is taken from the first page of what is thought to be the longest transcript ever made in legal history. (ed.)

People of the State of New York, Plaintiff

v.

Y. de S., Defendant

***

(After reading of the indictment charging the defendant with murder, specifying the scene of the crime to be second base in Yankee stadium before a sellout crowd)...

THE COURT: Mr. Prosecutor, you may call your first witness.

Mr. S.: As its first witness, the State calls Aaron Aardvark.

***

The following is an excerpt from the articles of incorporation of a Chicago based association. (ed.)

First. (Omitted)

Second. (Omitted)

Third. The purpose of the Corporation shall include, but shall not be limited to, those acts or activities for which corporations may be organized under law.
LIST OF COURSES BEING OFFERED FOR THE SPRING SEMESTER, 1971

<table>
<thead>
<tr>
<th>Course</th>
<th>Instructor</th>
</tr>
</thead>
<tbody>
<tr>
<td>B502 Contracts II (2 secs.)</td>
<td>Prater, Birmingham</td>
</tr>
<tr>
<td>B511 Criminal Law (2 secs.)</td>
<td>Dwockin, Schornhorst</td>
</tr>
<tr>
<td>B522 Property II (2 secs.)</td>
<td>Nolan, White</td>
</tr>
<tr>
<td>B534 Procedure II (2 secs.)</td>
<td>Grauebaum, Sherman</td>
</tr>
<tr>
<td>B543 Moot Court</td>
<td>Germain, Martin, Tarzian</td>
</tr>
<tr>
<td>B634 Constitutional Law</td>
<td>Birmingham</td>
</tr>
<tr>
<td>B640 Military Law &amp; Military Justice</td>
<td>Sherman</td>
</tr>
<tr>
<td>B691 Seminar in Clinic in Juvenile Problems</td>
<td>Hopson</td>
</tr>
<tr>
<td>B692 Seminar in Clinic in Post Conviction Remedies</td>
<td>Schornhorst</td>
</tr>
<tr>
<td>B700 Seminar in Corporate Taxation</td>
<td>Birmingham</td>
</tr>
<tr>
<td>B716 Seminar in Injuries to Relations</td>
<td>Birmingham</td>
</tr>
<tr>
<td>B717 Seminar in Insurance</td>
<td>Birmingham</td>
</tr>
<tr>
<td>B728 Seminar in Suretyship &amp; Mortgages</td>
<td>Birmingham</td>
</tr>
<tr>
<td>B730 Antitrust Law II</td>
<td>Birmingham</td>
</tr>
<tr>
<td>B739 Criminal Procedure</td>
<td>Birmingham</td>
</tr>
<tr>
<td>B745 Seminar in Conflict of Laws</td>
<td>Birmingham</td>
</tr>
<tr>
<td>B723 Seminar in Evidence</td>
<td>Birmingham</td>
</tr>
<tr>
<td>B751 Seminar in Family Law</td>
<td>Hopson</td>
</tr>
<tr>
<td>B754 Seminar in Legislative Appropriation</td>
<td>Wallace</td>
</tr>
<tr>
<td>B764 Seminar in Resource Planning</td>
<td>Tarlock</td>
</tr>
<tr>
<td>B765 Seminar in Welfare Law</td>
<td>Popkin</td>
</tr>
<tr>
<td>B767 Seminar in International Civil Procedure</td>
<td>Fedynskyj</td>
</tr>
<tr>
<td>B770 Seminar in Comparative Law</td>
<td>Wagner</td>
</tr>
<tr>
<td>B780 Seminar in Estate Planning</td>
<td>Underwood</td>
</tr>
<tr>
<td>B786 Seminar in Products Liability</td>
<td>Dickerson</td>
</tr>
<tr>
<td>B791 Seminar in Antitrust Law</td>
<td>Brodley</td>
</tr>
<tr>
<td>B793 Seminar in Commercial Law</td>
<td>Schwartz</td>
</tr>
<tr>
<td>B799 Seminar in Constitutional Law</td>
<td>Baude</td>
</tr>
</tbody>
</table>

***

B706 Credit Research

All examinations Monday, May 25 (Morning)

Except B706 Credit Research (Which may be arranged)

xxxxxxxxxxx
AN INTRODUCTION TO LEGAL WRITING STYLE

By Tom Dolatowski

Obviously, due to the difficult transition from undergraduate schools, all first year freshmen law students should have early exposure to the intricacies of the legal writing style. Without extensive orientation, the student is likely to either lose his sanity or his eyesight. The fol

---

1. If policy were a factor to be considered in evaluating the style, it would be found illegal since it is plainly unconscionable. For an unconscionable opinion see Wood v. Lucy Lady Duff Gordon, 222 N.Y. 88, 118 N.E.214 (NYPP 1917); see also Doug Browne whose former typist is experienced at translating unintelligible jibberish into legalistic gobbledygook.

2. See footnote 4 infra.


4. The truth is that nothing is obvious. The word was once used by Professor Harry Pratter when a chemistry T.A. questioned Harry's sincerity at a symposium on legal aspects of the Viet Nam War. Harry jumped up and rattled off some obscure Latin phrase. Our resident Latin scholar translated the phrase and to this day swears that it means "obviously, you are a schmuck." It was never determined, however, whether the translation was an application of the plain meaning rule, the golden rule of construction or merely an humpty dumpty ipse dixit.

5. Commonly known as a pain in the proverbial status quo ante.

6. Also referred to as the bearded wonder of the S.B.A.

7. Discussion of these concepts will be deferred to your course in legislation, since only F. Reed Dickerson knows exactly what they mean. However, for the logical approach see Regina v. Ojibway, 8 Criminal Law, Quarterly 137 (Toronto 1965). It can be found at page 512 of the legislation text.

8. A committee was formed, headed by former Assistant Dean Thorpe, to investigate the function of this group. Thorpe is no longer Asst. Dean, but is now teaching full time. The committee subsequently determined that the S.B.A. did not protect student interests.


10. To provide for all contingencies, the editor (or was it Spiro Agnew?) has requested that I preface the word "freshman" with the words "first year." He said, "Once spring rolls around they may have to return for a second freshman year."
11. One thing that will always remain obvious is that a freshman is not considered a law student until the light turns on sometime during his first year of study. It was once claimed that the air conditioning in the building was turned on prior to the first 90 degree day of the year. I have it from a reliable source, however, that the day it was turned on Bloomington had its largest snowfall ever. For an in depth treatment of turn-ons see People v. Woody, 40 Cal. Rptr. 69, 394 P.2d 813 (1964); cf Lason v. State, 12 So.2d 305 (1943).

13. See fn 9 supra.

14. A professor at Harvard was once accused of teaching by a radical student. The A.B.A. got wind of this deplorable situation and heavily censored the school for not having the required number of faculty members in residence as writers.

15. Those of you on the accelerated program will learn to despise this word during your three years at I.U.

16. See A.B.A. standards for the exact definition of "three years" as it relates to law school attendance or, if you have 3 or 4 hours to kill, see Dean Harvey.

17. No dummy, you don't have to write Foundation Press for an appointment.

18. This is obviously an incorrect statement since all law students are somewhat disoriented to begin with, though generally not as far out as most profs. See Generally.

19. See fn 17.

20. For a detailed discussion of this term see Dobrowolski v. Coletti, 19 P.A.R. 2d l. (1969), where a Polish attorney practicing in an Italian ghetto in New Jersey (the statehouse) was disbarred for being antipasto in violation of Title II of the Omnibus Crime Control and Safe Streets Act of 1968. U.S. Attorney General John Mitchell commenting in the amicus brief he filed for the state of New Jersey said, "If there is anything that is ominous (sic) it is a Polish attorney." Was that polished or Polish Martha? See student note 19 Zgoda 22 (1969) for an extensive, but shortsighted analysis of the case.

22. Due to the extensive treatment of the subject matter in the footnotes, the irrelevant portions of the text have been prospectively overruled sub silentio and deleted by the editor.
Lance

Lester

How did your grades come out last semester, after all the trouble on campus?

Oh, I got a "P", an "S", a "W" and "I" and a "Z".

I can understand most of your grades, Lance, but what the hell did you get the "Z" in?

I got a "Z" in sex education when my girlfriend had twins—It was the highest grade in the class.
The Appeal will accept all letters pertaining to matters of general interest to law students. Such letters must be signed; however, the Editors will respect any desire on the part of the contributor to remain anonymous.

TO THE EDITOR OF THE APPEAL:

As a concerned alumnus of the law school, I wish to commend Dean Harvey for his handling of the Coonsler affair. Instead of treating Coonsler with dignity and respect, he gave him the "poor relative" treatment that he deserves. Some of the radical, weirdo students had the audacity to suggest that Coonsler be allowed to speak in the Sherman Minton Moot Court Room. Justice Sherman Minton was one of the finest, most scholarly members of the United States Supreme Court, and it would be a sacrilege to allow an out-law lawyer like Coonsler speak there. After all, how could Coonsler's comments be placed on a parallel with Professor Pratter's Freshman Orientation Speech (Copyright, 1942), Dean Harvey's State of the Law School Speech, and Dick Boyle's Welcome to the S.B.A. Speech? To suggest that this embarrassment to the legal profession should be treated civilly is ludicrous!

Out of simple curiosity (not respect, I assure you!) I attended Coonsler's talk in the lounges. This so-called officer of the court made all kinds of criticisms of the courts and the legal profession. He even suggested that lawyers not charge some of their clients any fee! After that comment, I stormed out of there and resolved to let the FBI, the CIA, and the ABA know what he had said. If I had been Dean Harvey, I would have thrown him out of the second floor window when he suggested that lawyers should live together in communes! In America? In Indiana? He should be arrested and thrown in jail for generally un-American activity.

Well, I'm sure you won't print this letter anyway. I've heard about The Appeal and its rabble-rousing tendencies. Therefore, I have sent a carbon copy of this letter to The Indianapolis Star. I just wanted to compliment the Dean on his actions. I realize that some of you liberal-radicals think he is two-faced, but I prefer to believe that he simply sees both sides of the issue.

Vic Streib
Class of '70

**************

Letters:

**************
The following is a letter that appeared in the Indiana Daily Student:

TO THE EDITOR:

In his address on October 7, Mr. William Kunstler spoke with passion and apparent conviction on many of the pressing problems of our time: the brutal and corrosive war in Southeast Asia and growing violence in this country, deep-rooted racism, intractable poverty, and stultifying materialism. We share but need not stress our own concern over these ills of our society. Rather, we wish to point out that Mr. Kunstler, by a grossly oversimplified analysis, may have invited developments he expressly rejects at this time. Also we want to state our fundamental disagreement with Mr. Kunstler in his assessment of the current role of the legal order and its potential for effecting desired social change.

We recognize fully that legal process does not necessarily lead to the right or the just solution. The legal order must stand judgment before the moral conscience of the community. The central deficiency in Mr. Kunstler's address is that he fails to recognize or to communicate the complexity of that moral judgment. Any individual who contemplates the violent interposition of his judgments against the established law is morally bound to seek first a profound comprehension of the objective conditions and realities of his society and of the probable consequences of an attack on the basic public order.

In our judgment Mr. Kunstler did not meet his responsibility as a moral teacher. By simplistic analogies to other revolutions and facile sloganeering ("There can be a morality in destroying a building") he risks diverting the operative idealism of students into tragic channels—tragic for the individuals involved but tragic also for the harm to viable prospects for social change. A close reading of Mr. Kunstler's address reveals that he does not counsel resort to violence now. But we fear that the impact of his remarks in the context of a political rally could be quite different.

We are in profound disagreement with Mr. Kunstler's belief that the dominant forces in our society have conspired to enforce on students and disadvantaged groups unquestioning compliance with the legal standards of a corrupt order. It is true that influential segments of our society oppose significant change. Nevertheless, ours is a diverse society in which many individuals and groups are moving effectively for reform in national priorities and policies. As lawyers and law teachers, we know that, despite their imperfections, law and the legal system are essential instruments for reform. Mr. Kunstler himself, in his long practice before the courts, has often made effective use of the means afforded by the legal system to bring about desirable changes and to combat injustice. Indeed his present condemnation of the legal system is protected by a central premise of that system—the constitutional guarantee of freedom of speech.

In some of his remarks on campus, Mr. Kunstler recognized that to achieve a more just society requires a revolution of consciousness. A revolution of consciousness is brought about by a change in awareness and understanding. It is the product not of violence and destruction but of the critical rationality whose cultivation is the distinctive task of universities. The revolution of consciousness is the truly moral precondition for the restructuring of our legal and political institutions. In this revolution, students can participate in good conscience, with passion, conviction, and the special flair of youth. In this revolution the young can affirm passionately and compassionately their humanity.
We stand on our conviction that counsels of violence, however sincerely felt, only strengthen resistance to change and make successful reform more unlikely.

Yours sincerely,

William B. Harvey
Nicholas L. White
Philip C. Thorpe
F. Thomas Schornhorst
Dan Hopson
William D. Popkin
Patrick L. Baude
Edwin H. Greenebaum
A. Dan Tarlock

Ralph F. Fuchs
A. A. Patouros
Richard A. Jones
T. Bryan Underwood, Jr.
Kenneth Germain
G. Tim Martin
F. Reed Dickerson
Douglass G. Boshkoff
Harry Pratter
W. J. Wagner

The following is a reply to the preceding letter:

TO THE EDITOR:

In the communicative process, the important element is what is understood or perceived, not what is meant or intended. Paraphrasing slightly, a close reading of the faculty letter reveals that it does not counsel resort to censorship now. But I fear that its implications within the context of a society rushing to the right could be quite different.

On balance, the letter is a very fair, unemotional and well-reasoned critique of Mr. Kunstler's remarks and speaks rationally to specific issues. It is a letter which I could probably sign myself because I have read it carefully, I know the men who have put their names to it, and I respect their intelligence, compassion, and dedication to needed change through legal process. Few outside the law school can say the same and the implications of the felt need to publish the letter may well be perceived in a way which many of the signers would not intend. Nowhere in the letter is it intimated that perhaps Mr. Kunstler should not have spoken at all--certainly not at the law school--and it would be a rare faculty member who would advocate that position. And yet, I suspect that it is precisely the implication which many readers will glean from a superficial scan. I think this is unfortunate because it implies less tolerance and more reaction in our faculty than I believe to be the actual case. It's a little like Nixon and Agnew saying, "That's not our pornography report." It comes across as a headlong rush to disassociate from an unpopular and unorthodox view. This is I think what will be generally perceived, not necessarily what was intended. I applauded many of these same faculty members who signed a public petition against Carswell last year and I respect their opinion in this case as expressed in a balanced, carefully-phrased letter.

Most of the signers would disclaim the label of reactionary but I forsee their letter being used by those who are--see Oct. 16 Indianapolis Star which quotes "in part."

Richard D. Boyle

**************************