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IU School of Law: "Why Are You Here?"

By Greg Castanias

This is an essay about where you are, and where you are not. It is, in part, a story about my Spring Break. But in a bigger sense, it is a story about how we all come to be here, together.

The Indiana University School of Law is one of the top thirty law schools in the nation. The Gorman Report, master arbiter of the rankings, places our school twenty-ninth overall, besting such schools as Ohio State and Notre Dame. Our graduates have gone on to run for President (Wendell Willkie), sit on the United States Supreme Court (Sherman Minton), and compose “Stardust” (Hoagy Carmichael).

Those are old, dead people. And Indiana is still turning out some of the finest lawyers in the country. Yet, somehow, there is a prevailing feeling that a lot of us wish we were someplace else.

Perhaps you always wanted to go to law school at Indiana. If so, you are probably one of the few who are eminently satisfied to graduate with an Indiana degree.

But, more likely, you are one of the people who wanted to go somewhere else. Perhaps you wanted to go to Michigan, but you didn’t get in. Or perhaps you got into Yale, but as a small-town Hoosier, you simply couldn’t afford it.

This should be no surprise. Law school is an incredibly competitive race, and admission at the “prestige” schools goes only to the fastest few. And if you get past the admissions line, there’s always the matter of three more years worth of an enormous student loan debt.

So for whatever reason, you came to Indiana. Maybe it was your first choice; maybe it was your last choice. But you are here. And you are not at Michigan. Or Yale. Or Vanderbilt. You’re at Indiana, and you’re satisfied. Case closed. Right?

Not quite. While I have no empirical evidence for this proposition, it seems to me that many people around here are still down in the mouth about being at IU, with the attitude of “It’s not (preferred school), but it’s the best I could do.”

A large Indianapolis firm that I know of reinforces this attitude by refusing to hire first-years from Indiana (I’d name them in this space, but Mary Kay would kill me). They will, however, hire first-years from Harvard, Duke, Virginia, Michigan, Stanford, Vanderbilt, and the like. The message sent to Bloomington by this firm is that we can’t compete with the big guns, and that we’ll only be allowed to knock at the door once we’ve accumulated a year of grades. The boys and girls from Harvard, et al., get their jobs with no grades in hand.

While my first reaction to this firm’s hiring practices was to shout an enormous “Go [deleted] yourselves” from the rooftop of this school, perhaps an enlightened managing partner from the firm in question (you know who you are) will read this and understand that Indiana University is a wonderful law school which beats the big guns hands down.

Further, perhaps you are one of the dissatisfied (you know who you are). Read on, and perhaps you will walk away with a new attitude toward where you are.

Four thousand miles of driving over Spring Break took me to places as diverse as Jackson, Mississippi and Lewisburg, West Virginia. But the most enlightening portion of my trip was the opportunity to visit two highly regarded law schools: Duke and Virginia.

My friend Eric is a 3L at Duke and the Managing Editor of the Duke Law Journal. During my stay in Durham, I got a chance to visit the school and hobnob with some of the Law Journal geeks. Most of the geeks, if not all, are going to clerk for Federal Court of Appeals judges after their graduation.

The trade-off, of course, is this: For $17,000 a year, the Dukesters get a beautiful campus, except for an old law building decorated in Early American High School, with all the institutional colors of paint. The library is similar, with ripped linoleum carpet and first-years quick to give a glaring “Shhhhh” to the first distraction. But they also get an attitude. These people are very eager (translate: cutthroat). They don’t like each other very much. There were none of the social conversations going on in the snack area or the lobby like those that occur here.

I asked one of the Dukesters about an old high school acquaintance who had gone there. “Oh, she ‘checked out’ last semester.” Cold. Absolutely brutal.

But as ugly as the Duke Law School is, so is the Virginia Law School.
beautiful. The School of Law inhabits a building remarkably similar to ours, with a new and wonderfully appointed library. Coupled with the campus’s prevalent Jeffersonian architecture, the Virginia campus is an idyllic location to spend the time of a legal education.

My friend Tom is a 1L at Virginia. After doing a Masters Degree in Medieval History at the University of Toronto, he started at Virginia. He’s a member of the Federalist Society, but I forgive him that grievous fault. He’ll learn.

Tom invited me to sit in on his Constitutional Law class. Since Con Law is one of my favorite subjects, I eagerly accepted. The casebook was the same as the one we had used: Stone, Seidman, Sunstein, and Tushnet. The case for Friday was Washington v. Davis, one of the “classic" Con Law cases from first year.

I sat in back. The professor reviewed the “rational basis test" and plunged into the case by calling on one student, a woman. She sat on the hot seat all hour, occasionally being peppered with questions by the professor, a man who hopefully publishes magnificent articles (for he can’t teach at all).

Then I noticed something. Most of the people in the back of the class had not even brought their casebooks to class. The fellow to my left wrote “Johnson v. Davis” on his notebook. The woman to my right was reading the law school newspaper. Two people raised their hands to ask questions all hour (Tom called this a "lively" discussion afterwards).

One of the questions was asked by a black man. He asked what Washington v. Davis had to say about affirmative action. Now, we all know that Washington v. Davis has everything to do with affirmative action. But the professor’s reply was curt: “I don’t want to deal with that with this case.”

Tom had one job interview this winter, with a mega-firm in Minneapolis.

He had no grades to show. He got the job. I’m happy for him, but I never could have done that when I was a first-year. Thus, I conclude my travel piece with two messages:

To My Friends at the Indianapolis Mega-Firm (and like-minded places): You should be ashamed of yourselves. Perpetuating the elitism and the mystery that surrounds the top-ranked schools. The boys and girls at the golden schools aren’t working too hard. We are. So many of you came from Indiana University; where do you get off with your hiring policy? Don’t flatter yourselves.

To My Friends at the Indiana University School of Law: You should be proud of yourselves. No matter how you got here, you’ve been dealt a good hand. You’re being taught by the best, and you need play second fiddle to no man or woman. To first-years specifically: If you wind up the year with decent grades, think about applying for clerkships with judges after graduation. This is an excellent way to spread the word about Indiana throughout the nation. There are hundreds of reasons to be happy about being here. It’s more than “school spirit”; it’s pride and confidence in the legal education we’ve gotten. Say it loud: I’m here, and I like it! I’m going to be the best damn lawyer ever! Spread the gospel! Hallelujah!
Abortion Case to Overturn Roe v. Wade?
By Tom Tozer

The United States Supreme Court heard arguments April 26 in the case of Reproductive Health Service v. Webster. In Webster, the lower courts invalidated a Missouri statutory scheme restricting access to abortion.

Some view Webster as a likely vehicle for the Court to overrule Roe v. Wade—the controversial 1973 case that created a fundamental right to abortion—or to chip away at the legal structure erected since then around Roe.

Chief Judge Lay writing for the Eighth Circuit Court of Appeals affirmed the district court’s ruling that all but one of the law’s provisions were unconstitutional. Among them was a requirement that every abortion after 16 weeks gestational age be performed in a hospital, and another mandating viability testing and the tests to be performed.

Bans on the use of public funds, facilities and employees for abortions (other than to save a mother’s life) also were struck down, as was a provision forbidding publicly-employed physicians from advising a woman to have an abortion.

Another invalidated section, the statute’s “preamble,” declared conception as the beginning of life and extended to fetuses “all the rights, privileges, and immunities available to other persons, citizens and residents of this state,” subject to the Constitution and Supreme Court decisions.

The invalidation of bans on the use of public facilities and employees for abortions may prove a weak link in the holding below. In several cases since Roe, the Supreme Court has held that government, as a matter of policy preference, may deny funding for abortions, even if it would pay for childbirth.

Lay held that the Missouri provisions on this point “clearly narrow[] and in some cases foreclose[] the availability of abortions to women.” So, too, of course, does denial of funding.

Perhaps recognizing that the Court may uphold these provisions, Lay wrote, “If [the funding cases] will be extended to permit states to constitutionally prohibit all abortions at public facilities, it is far better that the Supreme Court, rather than this court, declare such a rule.”

Distorting the Abortion Debate
By Tom Tozer

The two sides in the abortion controversy pit the liberty interests of women to control their bodies against the right of a fetus to its potential life. But by magnifying only their own views, those involved distort the nature of the debate.

Portraying the life of the fetus as the overriding concern, the “pro-life” movement makes the case that abortion is murder. On the other hand, by holding up women’s liberty interests as paramount, “pro-choicers” paint any restriction on abortion as a form of slavery.

But abortion is never exactly like murder. Both acts involve taking life; but with murder, no one else’s right or fundamental interest competes with the victim’s. Our laws, in fact, recognize that killing another may be excused when a sufficiently fundamental interest is at stake. The “pro-lifers” affirm this through their consistent recognition of a woman’s right to an abortion in a life-threatening situation.

"The most important consideration in this debate is how to rationally limit the power of the state."

Nor is every restriction on a woman’s ability to seek an abortion a complete denial of liberty. The reasoning is basically the same: In an abortion, someone else’s fundamental interest is at stake. Because everyone recognizes that somewhere along the line there’s a life to consider, even the most insistent “pro-choice” advocate would not attempt to justify a law allowing abortion on the last day of pregnancy.

The most important consideration in this debate is how to rationally limit the power of the state. There’s line-drawing to be done, and it should be done with respect for the concerns and fundamental interests of both people involved. (I guess, being a Christian, I’m supposed to have some special abhorrence for abortion. But when many of those who place life over liberty in this context advocate sending weapons to “freedom-fighters,” or stockpiling warheads for national security, I’m not sure why that should be.)

Pushing this line back to conception denies American citizens any right to control their own bodies against the interests of the state. On the other hand, claiming that a fetus is mere “tissue” to be ignored is willful blindness.

What we must do is design interest-balancing checks on the state’s coercive power over half its citizens. We might even draw a line that makes sense. For instance, we might drop the technologically-vulnerable “viability” standard, and simply allow a woman enough time to discover her pregnancy, get information, consider her alternatives and set up and obtain an abortion if she chooses one.

Yet another question is who “we” is—who’s supposed to do this line-drawing? As Roe’s progeny indicate, by getting involved in this debate the Supreme Court has become an unelected, mini-legislature in the abortion area. In the law’s weirdest twist, the Court held in one post-Roe case that requiring that a pregnant woman be given certain information intruded on her informed consent. Huh?

The Court’s role as legislature is questionable, to say the least. However, with several state legislatures champing at the bit to wipe out abortion rights completely, the Court should keep some aspects of the abortion issue out of their reach.
SPORTS

3L's Go Out Champs

By Andrew Buroker

March winds and April showers made for wet, chilly conditions at the Annual SAC spring softball tournament April 1st. Seven teams entered the tournament, but The Trojans (3L's) emerged as champions in a defensive 13 inning victory over The 'Feasors (2L's), 5-2. The 'Feasors led 2-1 til the bottom of the 7th when Randy Churchill drove in the tie score with a hit to right field. The game remained scoreless for five more innings as fatigue effected both teams. In the top of the 13th, The Trojans scored three runs with hits by Tina Amos, Mike Dobosz, Dave Brown, Lance Wonderlin, and Randy Churchill. The 'Feasors were unable to rally as The Trojans completed their law school softball careers as champions.

In the semifinals, The Trojans downed the Manges/Wright 3L team 11-7, while The 'Feasors beat The 'Feasors II, 4-3. In first round action, last fall's co-champions "Big Dicta" (1L's) lost to The 'Feasors, and The Trojans beat "The Theodores" (2L's).

IU Wins "NIT" at UVA

By Andrew Buroker

IU's Tortfeasors traveled to Charlottesville, Virginia April 8th to play in the 6th Annual Virginia Law Softball Invitational. The tournament included 36 teams from 30 law schools in the Eastern United States.

The Tortfeasors returned with the Consolation Championship, a 4-2 record, and eternal red Virginia clay stains. In atoning for last year's rained out 0-2 performance, IU won its first game Saturday beating Connecticut 6-4. The team was in a round robin pool with Yale, the University of Connecticut, and George Mason, needing to be one or two after play to advance to the Champion's bracket.

As the wet clay turned to quicksand, IU's bats turned silent in an 11-1 lose to Yale. In the final round robin game against George Mason, IU rallied from 7-1 to tie it up 7-7 in the 7th. However, the rally fell short as a controversial pop fly out on an early tag call "Buck" Buchanan ended the scoring. George Mason then came back to score one run to win. The loss knocked IU out of the winner's bracket and into the consolation bracket.

As skies cleared Sunday, The 'Feasors found their offense in beating Washington & Lee 16-2, then Georgetown 13-4, in the semi-finals. The finals pitted IU against Hofstra for the consolation championship. The 'Feasors hit well early, with a two run 1st and a six run 2nd inning. Chris Fowler and Ben Beringer hit triples to bring in six runs. IU led 8-0 til the 5th, when Hofstra scored five runs. IU scored two more in the 6th, but Hofstra came back to within one with four runs. No runs scored in the 7th as relief pitcher Gary Goodin scored the save and IU won the "NIT" softball title.

WESTLAW sponsored this year's tournament, and The 'Feasors won WESTLAW travel bags and t-shirts for the championship.
PROFESSOR STAKE ACCUSED OF STEROID ABUSE

By Ben Johnson

In a shocking revelation yesterday afternoon, Jeff Stake was stripped of his gold medal in weightlifting after testing positive for steroids. Stake, IU Law’s resident property guru, denies the allegations contending that he developed his physique dancing in front of the Richard Simmons home exercise videotape.

DAN CONKLE ENDS CLASS LATE

By Dick Posner

In an unprecedented display of inefficient time use, Professor Dan Conkle kept his 10:00 a.m. Conv. Law class five minutes late. Conkle blamed his irresponsible behavior on the clock. Dean Garth said in a public statement, “This could hurt his chances for tenure.” Professor David Skover defended Conkle, exclaiming, “Sometimes when you get all wound up you just forget about the

SCHORNHORST PRAISES 1LS

By Grace Deflation

During a press conference yesterday afternoon, Professor Schornhorst praised last semester’s Crim. Law class as “the finest I’ve ever taught.” In an unprovoked change of attitude, the criminal law expert said, “By golly they all deserved A*s!” Schornhorst apologized to students dissatisfied with their grades, saying “I was feeling irregular the morning I graded exams.”

2L HOLDS UP SNACK BAR

By Actual Malice

At approximately 7:30 a.m. on Friday morning 2L Pete Raack held up the snack bar threatening to “conk the girls over the head with a hornbook” if they did not cooperate. Bragging about how he would not have to go to Krogers for months, Raack was caught later in the day trying to cram the last of the bagels and the paper cups into his backpack. When asked why he was going to the law building so early on a Friday morning, Raack told his housemate John O’Conner he “had stuff to do.”

LIBRARY BOUNCER SCUFFLES WITH UNDERGRAD.

By Hulk Hogan

Temper flared last week between library bouncer Eric Prime and undergrad. Fielding Mellish. When asked to leave if he was not using law library materials, Mellish doused Prime with a small cup of coffee. Prime, a former high school wrestling star, had pinned the insubordinate undergrad, between the Shepard’s Citators and the Am. Jurs. before University police arrived.

DAVID REIDY: CLOSET HEAVY METAL FAN?

By Jerry Garcia

Legal Research & Writing instructor David Reidy was observed “cruising” down Kirkwood Saturday evening at 11:00 p.m. jamming to the rock group “Poison.” Later that evening, 1L David Prybil spied Reidy at Hoolies wearing a “Ratt” t-shirt and bragging about his front row seats to “Bon Jovi”. 1L Stephan Kyle reflected, “You know, I’m kinda bummed man, I thought he was some sort of deadhead or something.”

BOBBY SIGNS DENT KNIGHT LAW STUDENT

By Jay Edwards

The Hoosiers will have a new face at point guard next fall. Law librarian Keith Buckley has signed a letter of intent to run Knight’s patented half-court offense. Buckley, winner of the 1989 Jr. All-star nerf basketball slam dunk competition, commented, “I wonder if the General will make me shave.”
Rules of the Oral Argument

1. Wear suit
2. Do not make faces at opposing counsel
3. Do not show up (visibly) intoxicated
4. Answer yes or no questions with a yes or no
5. Control all bodily functions, e.g., burping, flatulence
6. Read entire Nutshell again for more helpful tips, especially pages 69-108 on the use of a topic sentence and pages 144-207 on proper dress and demeanor
7. Do not tell jokes, e.g., “Did you hear the one about the homosexual judge . . .”
8. Do not use profanity, e.g., “Opposing counsel is full of shit” or “Your Honor is pissing me off,” etc.
9. Do not wear dark sunglasses
10. Do not smoke (anything) while making argument
11. Do not look at watch or yawn (noticeably) when judge asks obvious question
12. Do not cough, laugh, fall asleep, etc. during opposing counsels’ argument
13. Inappropriate to give co-counsel high five after presentation
14. Considered unprofessional to whisper “choke” or make gagging noises or gestures as opposing counsel takes podium
15. Wear shoes and (clean) socks
16. Do not leave derogatory notes on podium for opposing counsel after your argument
17. Use correct Bluebook citation, e.g., App v Crap . . . Ob v Ous
18. Do not refer to judge as “hey you”
19. Inappropriate to pound desk or yell “bullshit” if decision goes other way
20. Considered unethical to set phone machine to call opposing counselor sporadically throughout night before presentation
21. Not accepted practice to structure theme of argument around sexual analogy or innuendo
22. Unwise to refer to defendant as “broad”, “chick”, “baby”, or “that bitch”
23. Improper to pad bra (females) or crotch (males) to impress panel

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