### Bill of Particulars

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On the cover: Professor Douglass Boshkoff demonstrates a pedagogic technique (see "Dean's message," page 1).

Bill of Particulars is published by the Indiana University Alumni Association, in cooperation with the School of Law—Bloomington and the School of Law—Bloomington Alumni Association, and is mailed to all graduates of the School of Law—Bloomington.

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Dean's message

Douglass G. Boshkoff, professor and former dean of the Law School, is the first recipient of the Leon H. Wallace Teaching Award. I thought that the "Dean's message" section of the Bill of Particulars would be an appropriate place to share with you the significance of the award and some of the accomplishments of Professor Boshkoff and Dean Wallace. The following are some of the remarks I made in presenting the award to Professor Boshkoff on April 25, 1988.

This is a very special occasion for this law school. As far as I know, this is the first time that we have given an institutional award to recognize and support outstanding teaching at the Law School. And this award also provides an enduring way to remember the tremendous accomplishments of Dean Leon Wallace, who passed away in 1985.

I would like to say a few words about the person for whom this award is named. Dean Wallace was one of our own graduates, completing his studies in 1933 as a superb student and editor-in-chief of the Law Journal. He practiced law successfully before being lured to the Law School to begin teaching in 1945. He became dean in 1952 and had the incredible patience and energy to stay in that office until 1966, helping the Law School move into this building and adapt to times that changed dramatically. After he stepped down as dean, he remained on the faculty until his retirement in 1974.

In my rather short tenure as dean, I have visited many alumni and other members of the bench and bar. I can testify that Dean Wallace was very popular indeed with these groups and very warmly remembered. Dean Wallace found a way to be kind personally to many individuals. One federal judge, Judge Steckler, who got to know Dean Wallace, stated, "The memory of Dean Wallace is an inspiration to those of us who had the pleasure of working with him, and who have had the benefit of his wisdom and contribution to the work of the court and the legal profession."

One of our own graduates and another very distinguished federal judge, Jesse Eschbach, wrote about Dean Wallace that he is "best remembered as a concerned teacher and understanding friend who always found time for the worried student."

Judge Eschbach's recognition of Dean Wallace's concern for teaching was shared by the friends and family who contributed to the Leon H. Wallace Endowment after his death. Their idea was to create a very serious and respected teaching award or awards that would use the income of the endowment to provide a tangible recognition of outstanding teaching.

The next question was how to give out such an award. Teaching is not very easy to evaluate. Some faculty are spellbinding performers; some are masters at a Socratic dialogue that exploits every ambiguity and pushes students to a mastery in legal argument; some excel in bringing different perspectives to the classroom to illustrate the strengths and weaknesses of legal argument; and some provide students with a doctrinal expertise and sophistication that they would otherwise be unable to reach. Some faculty do all of those things and others have different ambitions. But how do we choose? Surely not just because of student popularity, but how?

A student-faculty committee, led by Professor Robert Heidt, met and produced a superb document with a suggested process involving selected students and me. The students are the third-year student who is first in his or her class, the president of the Student Law Association, and another student designated by student organizations. This year's group included, in alphabetical order, Michael Allison, Matthew Gutwein, and Mary Zappia. The group surveyed students for nominations, looked at course evaluations, and then used their own experience and insight to produce a list of five finalists. They ranked the finalists on the following criteria: teaching method, command of subject matter, ability to evoke interest in the subject matter, sensitivity to student comprehension of subject matter, demeanor and attitude, respect for students, sincere interest that students benefit from teaching, sense of honesty, and sense of humor.

They sent me a memorandum evaluating the five finalists. As one might expect, coming from law students, they wrote a piece of advocacy rather than a balanced discussion of the five, but they made quite a persuasive case for Professor Boshkoff.

He is a master at using the Socratic method to force students to organize and clarify their thinking, and to illustrate new methods of approaching problems. His years of experience provide him with a breadth of knowledge and command of substance that is truly impressive. He is able to evoke interest in substantive areas that most would agree are not inherently thrilling. Furthermore, he is respectful to students, both in and out of the classroom. The committee took particular note that every Thursday Professor Boshkoff ate lunch with students in the student lounge for the purpose of offering additional assistance to students. Finally, the committee felt that Professor Boshkoff's experience offers students certain intangible qualities that facilitate learning; these intangibles include an acute awareness of whether students are comprehending the material, and the ability to develop rapport with students.

I then debriefed the committee members individually. I asked about persons not on their final list. I asked whose teaching they expected to remember in five or ten or twenty years. Who gave them tools that looked well beyond the bar exam to a complicated professional life in a rapidly changing social and professional environment? Professor Boshkoff came out very strongly and clearly deserves this award. He has taught, by our calculations, for 31 years, but still works very hard to teach as effectively as possible. He is a first-rate scholar, and that, too, pays off in the classroom. He has given a lot to this School, including all kinds of service assignments, among which was a tenure as dean from 1972 to 1976, during a critical time for the survival of the School. I am pleased that the award allows us to recognize him once again.

Bryant Garth
President's message

I am writing to encourage you to attend our 1988 Law Conference, which will be held on September 16 and 17 this year. In addition to the banquet and pre-game barbecue, we will have three CLE seminars: Appellate Practice, the UCC, and Guardianship. The game, by the way, is IU versus Kentucky—and Coach Mallory has virtually pledged a victory.

Last year over 500 people attended the conference, some motivated, no doubt, by the need to acquire the requisite number of CLE credits for the year. However, the more than 350 people who attended the traditional Friday-night reception and banquet also took advantage of the opportunities to renew old friendships (especially members of the 10 different reunion classes), revisit the School, meet new faculty members, and honor the new inductees of the Academy of Law Alumni Fellows.

You might also take advantage of the resources the School has to offer during the weekend. For example, you might plan to do some work in the Law Library, which is an exceptional research facility without equal in the state. You could stop by the Placement Office (now called Law Career Services) to get an idea of the expanded placement opportunities for students and alumni and also learn better how to recruit new lawyers through the School. Perhaps you can visit with faculty acquaintances or simply enjoy the School environment absent the burden of exams.

Whatever your special interests, I hope you will be able to join me and the many others who will attend the 12th Law Conference. It promises to be a great time with fellow alumni and old friends.

Robert P. Kassing, President
Law School Alumni Association

“CHANGE AND PROFESSIONALISM” was discussed by Robert Nelson (left), Bryant Danner, Bryant Garth, and Eliot Friedson. James Fitzpatrick, not pictured, also participated in the panel.

“Rehnquist Revisited” symposium
hosted by Center for Study of Law and Society

The School received a grant from the University Office of Research and Graduate Development to create a Center for the Study of Law and Society. Among its goals is to bring together scholars across the campus who have shared research interests. One of the first activities of the center was to host a conference in March.

TOP: Attending last year's alumni conference were (from left) J. Keith Mann, ’49; President Thomas Ehrlich; Professor Harry Pratter; Ted Miller, ’60; and Chancellor Herman B Wells.

BOTTOM: Many alumni renewed friendships at the banquet.

Under the topic of "Change and Professionalism," Robert L. Nelson of the American Bar Foundation and the Department of Sociology of Northwestern University presented a paper entitled "Social Change and Organizational Structure in Large Law Firms." Bryant C. Danner, a partner in the Los Angeles firm of Latham & Watkins, discussed "Looking at Law Firms: What Role, If Any, Is Left for the Law Schools?" Eliot Freidson, professor of sociology at New York University, discussed "Theory and the Professions"; and James F. Fitzpatrick, '59, a partner in the Washington, D.C., firm of Arnold and Porter, presented "The Legal Profession in the Twenty-first Century." Dean Bryant Garth moderated that panel, and Justin Stanley, former ABA president and partner in the Chicago firm of Mayer, Brown & Platt, and Duncan MacDonald, '69, vice-president and general counsel of the Retail Services Division of Citicorp, were respondents.

Another session was devoted to "Empirical Studies of the Profession." Robin Levin Penslar of the Poynter Center moderated presentations by Lawrence M. Friedman of the Stanford Law School on "Law, Lawyers, and Legal Practice in the Silicon Valley"; Robert F. Rosen of the University of Miami School of Law on "Differentially Assigning Corporate Legal Counsel"; and Thomas M. Paley of the University of Wisconsin Law School on "Transformation of the Large Law Firm: The Partner-Associate Spiral." John Flood of the School of Law and Department of Criminal Justice was the respondent.

The final session was devoted to "The Future of Large Law Firms, Legal Education, and the Legal Profession." The panel was moderated by Jeffrey Stake of the School of Law. Rayman L. Solomon, associate executive director of the American Bar Foundation, Bryant Garth, Marc Galanter, Bryant Danner, and James Fitzpatrick were panelists.

Conference examines legal aspects of social issues

Some of the social issues that have arisen following the rapid scientific and technological advances of the past decade were addressed at "Law, Science, and the Humanities," a conference held at the School in October.

Conference topics included how individuals and society can use law, medicine, ethics, and aesthetics to make wise choices in the face of new reproductive options and rapidly increasing genetic knowledge and technology; how the disciplines of epidemiology, law, history, and the humanities can assist in coping with current public health crises, including AIDS; how catastrophes such as Bhopal and Chernobyl as well as chronic and potential disasters such as pollution, disease, and the threat of nuclear war can be addressed through interdisciplinary scholarship; the different psychological, philosophical, and legal notions of truth, proof, and perception and the impact of changing views of cognition on the legal system; and the role of law in regulating and encouraging the pursuit of truth.

Organized by Professors Roger Dworkin and Rebecca Rudnick, the conference was sponsored by the School of Law, the Poynter Center, the Dean of Faculties' Multidisciplinary Venture Fund, and the Joseph H. Hazen Foundation.

The conference began with a panel on coping with the public health crises caused by modern plagues such as AIDS, at which Alfred Evans, professor of epidemiology at Yale University, Ann Car- michael, professor of history at IU, and Terry Dworkin, '74, professor of business at IU, spoke.

Following that session, Marc Galanter, professor of law at the University of Wisconsin, William H. Brown of the Hudson Institute, Michael Morgan, professor of philosophy at IU, and Donald Gjerdigen, professor of law, discussed Bhopal and Chernobyl as well as pollution, disease, and the threat of nuclear war.

Judith T. Hall, professor of pediatrics and director of clinical genetic services at the University of British Columbia, Barbara Stafford, professor of art at the University of Chicago, David Smith, professor of religious studies at IU, and Professor Dworkin considered how law, medicine, ethics, and aesthetics can be used in analyzing the benefits of new reproductive options and the expansion of genetic knowledge.

Elizabeth Loftus, professor of psychology at the University of Washington, and three IU professors, Karen Hanson (philosophy), Gary Cronkhite (speech communication), and F. Thomas Schonhorst, addressed the psychological, philosophical, and legal notions of truth, proof, and perception as well as the impact of changing views of cognition on the legal system.

The conference concluded with a discussion of scientific, humanistic, and legal conceptions of knowledge in their historical perspectives, and the role of law in regulating and encouraging the pursuit of truth. Yehuda Elkanah, professor of history and philosophy of science at Tel Aviv University, and IU professors John Woodcock (English), Archibald Hendry (physics), and Patrick Baude led the discussion.

Steven Goldberg, professor of law and associate dean at Georgetown University Law Center, delivered a luncheon address entitled "One Culture: Law and Science in America." Kent Greenawalt, professor of jurisprudence at the Columbia University School of Law, lectured on "Morality as a Root of Law" at a reception at the Lilly Library.

In and out: Admissions and placement

In the fall 1986 issue of the Bill of Particulars, it was reported that applications to this and most law schools were declining and were expected to continue to decline for several years. Demographic projections indicated that most schools would no longer be able to be as selective in admitting students as they had been over the past decade and a half. We had experi-enced a substantial decrease in the number of applicants in 1984 and then smaller decreases in 1985 and 1986.

Last year, contrary to all expectations and projections, applications went up slightly at the national level, and this law school experienced a dramatic increase. Our applicant pool increased by 18 per- (continued on page 4)
Admissions and placement
(continued from page 3)

cent, and we enrolled a class with a median LSAT of 37 (85th percentile) and a median undergraduate GPA of 3.26.

The proffered explanations for our particular increase are many, including the insistence of one seasoned admissions officer at an East Coast law school that our success was due solely to the fact that IU won the NCAA basketball championship. Since we experienced the increase well before IU had clinched a spot in the playoffs, we reject that explanation. And, despite IU's basketball record this year, applications for the class entering in 1988 exceed last year's by 12 percent, which parallels the national pattern this year.

We believe that one reason we have been so successful in recruiting applicants is that we have had the support of many alumni who have given their time to help. The Admissions Office would like to thank, in particular, those alumni listed below who recruited for us at the following schools and events:

Joseph Ambrose — Bradley University
Frank Dermody — University of Pittsburgh
Kurt Nondorf — Rice University
Charles Bush — Fisk University
Susan LaCava and Terri Crouse — Marquette University
Thomas Pence — University of Wisconsin-Milwaukee
John Judge — Bryn Mawr, Haverford, Rosemont, and Villanova
Joyce Hill — Puerto Rican Legal Defense Forum
Nancy Wever — Santa Clara University
Rudy Chapa — Case Western Reserve University
Earl Singleton and Myra Willis — Western Michigan University
Marce Gonzalez — IU Northwest
Carla Davis and Zaldawaynaka Scott — Chicago Law Forum
John Howard and Randy Nixon — Washington, D.C., Law Day
Larry Zimmerman — University of Missouri-Columbia
Stanley Johnson, Jose Rodriguez, Maria Medel and Raphael Prevot — University of Miami
Richard Butler and Paul Kara — Michigan State University
James Sciarini — University of Toledo
Chris McGuigan — Hope College
Timothy Blue — University of Washington

Richard Vetter — Ohio State University
James Palmer — Rutgers University
Chris Keele — Lake Forest University
Elizabeth Justice and Alecia Decoudreaux — Stanford University
William Resnick — University of California at Berkeley
Dean Rooper — University of California at San Diego
Joe Haydel — University of California at Los Angeles
Tom Satrom, Augie Haydel, Jeffrey Johnson and Kirk Wilkinson — Los Angeles Forum
David Schieberstein and Michael Dommermuth — University of Colorado
Jose Rodriguez — Florida International University
Tim Smock — Arizona State University
Dick Harkness — Ball State University
Debra Juncker — University of Wisconsin-Milwaukee
Gloria Alpin — Kansas City Law Day

At the other end of the law school spectrum, recruitment of graduates has been steadily increasing. In 1987, 217 employers visited the School and conducted over 2,700 interviews with students. Once again, 95 percent of the class was placed within six months of graduation. Placement for the class of 1988 may exceed that level. By the time of graduation 70 percent of the class had secured law-related employment; in past years, it has been more typical for 55 percent to 60 percent of the class to have employment by graduation.

The average starting salary for the members of the class of 1987 was $34,200. Exactly half of that class went into private practice; 8 percent went into business or corporate practice; 17 percent went into government jobs; 10 percent obtained judicial clerkships; 5 percent went into public interest or legal services practice; and 4 percent went into teaching or administration, or pursued advanced degrees.

More students have expressed an interest in clerking than in past years. Four graduates will clerk for U.S. Court of Appeals judges: Sherry Fabina and R. Joseph Howell will clerk for Judge Michael Kanne of the Seventh Circuit, Matthew Gutwein will clerk for Judge Clifford Wallace of the Ninth Circuit, and Jane Henegar will clerk for Judge Thomas Reavley of the Fifth Circuit.

At the U.S. District Court level, Douglas Ballantine will clerk for Judge David O'Brien of the Virgin Islands, Sara Slaughter will clerk for Judge B. Avant Edendfield of the Southern District of Georgia, and Ian McLean will clerk for Judge Clarkson S. Fisher of the Northern District of New Jersey.

Two graduates will clerk for Bankruptcy Court judges: Sandra Mriscin will clerk for Judge Keith Lundin in Nashville, Tennessee, and Douglas Adelsperger will clerk for Judge Robert E. Grant in the Northern District of Indiana.

Cheri Harris and Kevin Betz will clerk for Randall T. Shepard, Chief Justice of the Indiana Supreme Court.

Four 1989 graduates will be clerking for federal judges next year. Scott Schroeder will clerk for Judge Jesse Eschbach of the Seventh Circuit. Michael Geske will clerk for Judge Bruce Selya of the District Court in Rhode Island, Brian Williams will clerk for Judge Kanne, and Geoffrey Slaughter will clerk for Judge Allen Sharp of the Northern District of Indiana.

Addison Harris Lectures

The Addison C. Harris Lectures Program made it possible to bring many distinguished speakers to the School during the year. The principal Harris Lecture was delivered by Robert Gordon of the Stanford Law School. As is customary with the principal lecturer, Gordon delivered two lectures at the School. His topic was "Visions of Order and Disorder in the Law of Free Speech." In addition, the following lectures were given:

"Control of Crime in Renaissance Florence" — John Brackett, University of Cincinnati
"The Narrative Structure of Plea Bargaining" — Douglas Maynard, University of Wisconsin
"Interpreting Law: The Problem of Constitutional Adjudication" — Michael J. Perry, Northwestern University
"What Are Rights and Why Are There Any?" — Lloyd Weintraub, Harvard University
"Putting Right the Wrongs in the Treaty of Rome" — Ian Fletcher, University of Wales, Aberystwyth
"Antitrust Issues in Recent Professional Sports Labor Disputes" — Gary Roberts, Tulane University
"The Role of Family and Kin Group in Early Medieval Law" — Catherine Fisher, Rice University
Academy of Law Alumni Fellows

Five distinguished alumni were inducted into the Academy of Law Alumni Fellows at the 1987 Alumni Conference. Brief biographies of the 1987 inductees appear below.

Theodore R. Dann, ’30, is a founding partner of the Indianapolis law firm of Dann, Pecar, Newman, Talesnick & Kleinman. In addition to the demands of his practice, he has been actively involved in service to the community. For more than 40 years he was a director of the Jewish Welfare Board, and also served as president of the board of the Jewish Community Center and as director of the Indianapolis Hebrew Congregation. He has generously given of his time to his alma mater as well. He devised the concept of the “Indiana Plan” for financing the postwar construction of fraternity and sorority housing on the Bloomington campus, guided the Sigma Zeta chapter of Sigma Alpha Mu for over 50 years, and was national president of that fraternity in 1950.

S. Hugh Dillin, ’36, began a life of service as a freshman at Indiana University when he was elected to the Indiana General Assembly. While practicing law in Petersburg, he continued to serve in the legislature and was minority leader of the House and president pro-tempore of the Senate. In 1961, President Kennedy named him to the newly created seat for the Southern District of Indiana on the U.S. District Court, where he served as presiding judge from 1962 to 1985. Dillin is perhaps best known for his handling of controversial community disputes, including cases involving racial integration of the Indianapolis police force and public school system.

Hubert Hickam, ’15, began the practice of law in Spencer, Ind., and served in the General Assembly for several years. He moved his practice to Indianapolis in 1923 where he joined in founding the firm of Barnes Hickam Pantzer and Boyd, now Barnes and Thornburg, the largest law firm in Indiana. He was a member of the American Bar Association and its Committee on Continuing Legal Education, and served as president of the Indianapolis Bar Association. He chaired the Antitrust Section of the American Bar Association and served on the predecessor body to the School of Law’s Board of Visitors.

Willis Hickam, ’18, joined the Spencer, Ind., firm of Hickam and Hickam upon his graduation and continued his practice there for nearly 60 years. He was a member of the board of managers of the Indiana State Bar Association and a fellow of the American College of Trial Lawyers. He served on the board of trustees of Indiana University from 1953 to 1963, and was president of the board for four years. He was a director of the Indiana University Foundation and of the James Whitcomb Riley Association.

J. Keith Mann, ’49, began his career by clerking first for United States Supreme Court Justice Wiley Rutledge and then for his successor, Sherman Minton. He practiced for a short time in Washington, D.C., and served with the Wage Stabilization Board in 1951 before joining the faculty of the University of Wisconsin Law School. He left Wisconsin for the Stanford Law School in 1952, where he served as associate dean for academic affairs from 1961 to 1985. In addition to his duties as a faculty member, Mann was a member of the White House Task Force on National Emergency Labor Management Dispute Legislation and chaired the President’s Emergency Board for Railroads in 1962–63, the Presidential Board of Inquiry on Pacific Coast Ship Building and Repair, and the Presidential Board of Inquiry on the Longshore Industry. He was named a special master by the U.S. Supreme Court to settle outstanding boundary disputes between federal and state governments along Alaska’s northern coast.

Practitioners in residence

Three practitioners in residence visited the School this year. Duncan MacDonald, ’69, vice-president and general counsel for the Retail Services Division of Citicorp, visited during the week of November 16. He lectured to the classes in Corporations, Strategies of Legal Writing, and Conflict of Laws. He spoke to several student groups, including the Federalist Society, the Christian Legal Society, and the Environmental Law Society, as well as to a group of JD/MBA candidates. He also helped with the planning of the conference on “The Growth of Large Law Firms and Its Effect on the Legal Profession and Legal Education.”

Paul Arnold, ’56, of the Evansville firm of Early, Arnold & Ziemer, visited during the week of February 22. He lectured to the classes in Advanced Bankruptcy, Strategies of Legal Writing, Tutorial in Legal Research and Writing, Legal Drafting, Negotiable Instruments, Advanced Constitutional Law, Secured Transactions, Wills and Trusts, and Roles and Relations in the Practice of Law. He also spoke to the members of the Federalist Society and Delta Theta Phi, and met with students enrolled in the Community Legal Clinic.

The last visitor for the year was former ABA president Justin Stanley of Mayer Brown & Platt. Stanley, who chaired the ABA Commission on Professionalism, lectured to the classes in Legal Profession, Land-Use Control, Civil Procedure, and Complex Litigation. He also met with students in the Community Legal Clinic and Student Legal Services. He spoke to the Federalist Society on the ABA’s role in judicial confirmation.
Some observations on the bicentennial of the Constitution

The following is excerpted from a speech Dean Bryant Garth delivered to the Evansville Bar Association on the occasion of the celebration of the bicentennial of the Constitution.

I am not a special expert on the Constitution, nor do I want to say the obvious, nor celebrate the Constitution as a sterile relic of a somewhat mythical era. In my opinion as a citizen, the bicentennial ought to force each of us to ask what the Constitution means today, not as a celebrated part of our folklore, but rather as a vital part of our lives. My remarks will draw on a mixture of sources that, I hope, will point to a useful conclusion.

I want to start with a somewhat complacent observation. I will follow it up with an unsettling one. Starting with a little complacency, we were the first country to adopt a written constitution with judicial review and a Supreme Court to enforce the Constitution as a law higher than that enacted by popularly elected legislatures.

What many people do not know is that this innovative idea has spread outside our borders. Perhaps not surprisingly, it has been appealing to the countries which gave rise to the tyranny of fascism—Germany, Japan, and Italy. Even in France, where the Revolution was in great part directed against perceived excesses by the court, of course, remains controversial, it is understandable. Why is this so?

First, the Constitution has meant rather different things to different generations. In the years immediately following its enactment, it gained little respect from the populace—it was seen as a flawed document. Just prior to the Civil War, the Constitution became a center of controversy with the Dred Scott Decision. Chief Justice Taney held that a slave could not be a citizen of the United States and could not sue in federal court, since the original intent of the framers was not to abolish slavery nor to treat blacks as equal. Abraham Lincoln, who lived his formative years not far from here, disagreed, citing the Declaration's statement—not the Constitution—that "all men are created equal" and explaining the Constitution as follows:

We had slaves among us; we could not get our Constitution unless we permitted them to remain in slavery; we could not secure the good we did secure if we grasped for more; but having by necessity submitted to that much, it does not destroy the principle that is the charter of our liberties... So I say in relation to the principle that all men are created equal, let it be as nearly reached as we can.

Lincoln's liberal approach gained adherents after the Civil War, when the "revolutionary nature" of the Constitution was emphasized. This, too, faced a reaction as the Court began to use the Constitution to protect the interests of business in the great age of economic growth. Those unhappy with the excesses of business in the late nineteenth century lamented that the Constitution was too conservative—designed to favor the interest of property owners and the very wealthy.

Since then we have gone back and forth, and there is no consensus now about the best way to characterize the founding fathers and their extraordinary document. On the one hand, Judge J. Skelly Wright of the D.C. Circuit contends that the Constitution authorizes the courts to adopt a role as "the protector of individual rights, particularly those of underprivileged minorities." On the other hand, the author of a much-cited recent book condemns the "rights industry" for using the Constitution, and especially the Bill of Rights, in a way that "disables" America, limiting economic growth and governmental discretion. If citizens are confused about the words found in the Constitution, it is in part because so much has been read into and out of the Constitution of 1787.

What is the correct understanding of the Constitution today? I think all those approaches that I have mentioned can be supported, but I think two so far not mentioned are dangerous.

The first of these dangerous approaches has been around for a long time, but we saw it most recently in the Iran-Contra hearings. You may recall some of the discussions of particular statutes and even generally accepted constitutional principles. Some of the witnesses kept insisting that "an argument could be made" that a law did not apply even when the intent and wording of the law seemed to leave no doubt whatsoever.

I believe this approach shows contempt for the law. Unfortunately, we in the law schools sometimes contribute to this approach by seeming to suggest that there is always some plausible argument to be made on behalf of any client and any cause. When politicians or bureaucrats first make up their minds about what they are going to do and then explain away the law or the Constitution, this suggests to me an arrogance and contempt for the laws and for the constitutional system that produces them.

You might now think that the right approach is the opposite one. Instead of decisions based only on expediency, we can urge fidelity to the original intent of the Constitution. But this approach, I fear, is also unhelpful. In fact, I think in practice that this approach is in many ways the same one as the first. Does anyone really want to change the Constitution's meaning each time historians uncover a little more research on the founding fathers and original intent?

The only ones who celebrate original intent are those—from all parts of the political spectrum—who insist that they know what original intent is, and they
insist there is a happy coincidence between that original intent and their political agenda. They celebrate original intent because it freezes for all time the meaning of the document in a way that suits them, and it avoids the necessity of justifying and explaining their favored political role for the Constitution. This approach is not contemptuous of language, but it shows contempt for political change, debate, and the processes of Constitutional elaboration and interpretation. It insists on one political view of the Constitution and further insists that that view is not subject to debate and interpretation.

But why is that so bad? After all, it takes the Constitution and the Supreme Court out of politics.

The answer is that we are celebrating the bicentennial precisely because we have not been frozen into some definition of original intent. Justice Taney's relentless focus on original intent helped bring on the Civil War; the flexibility advocated by Lincoln might have served us better in that era. Since that time, flexibility has been required to allow this Constitution to govern so well into the late twentieth century. As E. L. Doctorow recently wrote, our "enigmatic constitutional text," "shimmering in ambiguity, dazzles back at each generation in its own times and struggles."

We are here to celebrate not only the Constitution, but, as important, the processes of politics, interpretation, and adaptation that have served us so well since 1787. Part of that process is that judges make law while engaging in judicial review. As Judge Posner of the Seventh Circuit states, "judges make law, only more cautiously, more slowly, and in more-principled, less-partisan fashion than legislators." And, judicial review leads to difficult questions of value, reflected in part by the inability of Supreme Constitutional courts in Italy, France, Germany, Austria, and the United States to avoid confronting the abortion controversy, despite the fact that none of these Constitutions speaks specifically to this issue.

This conclusion still leaves much unsaid. Judges make law, but of course they must also maintain fidelity to the Constitution. How much law should they make? When does fidelity become a mindless unwillingness to bring the Constitution into the modern age? When does expansion of civil rights go too far and "disable" America? Surely despite popular confusion, Marx cannot be read into the Constitution, but what about the principles of the Declaration? When is expansion of rights necessary because of changing practices and technologies that create dangers for individuals that the founders could not have foreseen? These are the relevant questions for the bicentennial and for this audience.
Faculty news

Professor John Baker’s “Lessons from the Bork Nomination” has been accepted by the Black Law Journal, and “The State of Black Lawyers in Indiana” will appear in Res Gestae. He presented papers on affirmative action at Northwestern and Stanford Universities and drafted an affirmative action plan for Monroe County, Indiana. He also presented a report on the status of black lawyers in Indiana for the president of the Indiana State Bar Association.


Professor and Associate Dean Terry Bethel, the 1987-88 Louis Niezer Fellow, has been researching the efficacy of NLRB remedial bargaining orders. He and a member of the economics department have received a grant from the National Science Foundation to do an empirical study of bargaining orders issued over a five-year period. He serves as a mediator and fact-finder for the Indiana Education Employment Relations Board.


Professor Craig Bradley, one of the two 1987-88 Ira Batman Fellows, authored “Criminal Procedure in the Rehnquist Court: Has the Rehnquist Begun,” 62 Indiana Law Journal 273. His second edition of The Sum and Substance of Criminal Procedure will be published this spring. He has received a Fulbright Senior Scholar Award to the University of Melbourne and Australian National University, Canberra, where he will do a comparative study of Australian and American criminal procedure in the spring of 1989.

Associate Professor Kevin Brown joined the faculty last spring after several years of practice with the Indianapolis law firm of Baker & Daniels. Last spring he offered a course in poverty law, and this year he has taught one section of the first-year course in torts, an elective course in law and education, and a seminar on antidiscrimination in American education. He is a member of the Ameritech Policy Advisory Council and a Board Member of Indiana Black Expo.


Professor Roger Dworkin was on sabbatical this spring in the Netherlands, where he worked on a comparative study of medical law and ethics. With Assistant Professor Rebecca Rudnick, he organized the conference “Law, Science, and the Humanities” at the Law School in October. He delivered many lectures across the country on medical/legal/ethical issues, and served on the planning committee and gave a major address entitled “Ethical and Legal Concerns in Biomedical Research and Technology” for the conference “Medicine for the Twenty-First Century: Biomedical Research and Technology Innovation: Prerequisites to Health Care in the Future,” sponsored by the American Medical Association and the Annenberg Foundation.

Assistant Professor John Flood joined the faculties of the Law School and the Department of Criminal Justice this year. He taught a seminar in professionalism at the Law School this spring. His article, “All Creeds Are Liars: Fighting Corporate Crime,” has recently appeared in Law and Society Review, and another article, “The Changing Face of Corporate Law Practice in America,” will appear in Revue Francaise d’Etudes Americaines.

Professor Merritt Fox, one of the two 1987-88 Ira Batman Fellows, was on leave during the spring semester at the University of Michigan School of Law and has resigned to accept a permanent position there.

Associate Professor Richard Fraher has done reviews for several journals, including Barlow’s “Thomas Becket” for Speculum, Bradley’s “Church-State Relationships in America” for the American Journal of Jurisprudence, Mostert’s “The Political Theology of Abbe of Fleury: A Study of the Ideas about Law and Society of the Tenth-Century Monastic Reform Movement” for the American Historical Review, and Davis’s “Fiction in the Archives: Barthis Tales and Their Tellers in Sixteenth-Century France” for the University of Chicago Law Review. His book, the edition of Summa Indumenti Sancti, is in press at the Vatican.

Dean and Professor Bryant Garth and Professors S. Jay Plager and Ilene Nagel co-authored “The Institution of the Private Attorney General: Perspectives from an Empirical Study of Class-Action Litigation,” which appeared in 61 Southern California Law Review 353. Garth also co-authored Chapter I of Volume XVI of the International Encyclopedia of Comparative Law. His review essay on Posner’s The Federal Courts: Crisis and Reform has been accepted for publication by the American Bar Foundation Research Journal. He will serve as the common law reporter at the International Association of Civil Procedure conference, “Judicial Protection of Human Rights on the National and International Levels,” in September. Garth was the general reporter for the VIII World Congress
on Procedural Law, "Improvement of Civil Litigation by Lessons Derived from Administrative Procedures: General Report on Countries Other than Iberian Peninsula and Latin America," held in Utrecht. He is chair of the Indiana Continuing Legal Education Forum’s Curriculum and Quality Control Committee, and a member of the Indiana Bar Foundation’s Interest on Lawyer Trust Accounts Committee.


Professor Donald Gjerdingen visited from the University of Tulsa Law School this year and has become a member of our permanent faculty. His principal teaching areas are environmental law and legal philosophy; he also teaches Wills and Trusts. His recent publications include "The Politics of the Coase Theorem and Its Relationship to Modern Legal Thought" and "The Future of Legal Scholarship and the Search for a Modern Theory of Law," both of which appear in 35 Buffalo Law Review, and "The Coase Theorem and the Psychology of Common Law Thought" which appears in 57 Southern California Law Review. He is a candidate for the JSD degree from the Yale Law School.

Professor Edwin Greenebaum’s article, "How Professionals (Including Legal Educators) ‘Treat’ Their Clients," appears in 37 Journal of Legal Education at 554. "Law Firms and Clients as Groups: Loyalty, Rationality, and Representation" has been accepted by the Journal of the Legal Profession.


Professor J. William Hicks, the 1987-88 Charles L. Whistler Fellow, published three releases as part of his treatise Exempted Transactions under the Securities Act of 1933. He also published 1987 Limited Offering Exemption: Regulation D. His article entitled "The Concept of Transaction as a Restraint on Resale Limitations" will appear as part of a symposium in the Ohio State Law Journal on current issues in securities regulation. He is a member of the Written Publications Committee of the Indiana State Bar Association.

Assistant Professor Joseph Hoffmann’s summary of all post-1976 major federal and state death-penalty cases was published by the Indiana Continuing Legal Education Forum as A Brief Introduction to (continued on page 12)
MATTHEW GUTWEIN is a recipient of both the Edwards Fellowship and the Vice President's Scholar Award. Gutwein is pictured receiving the Vice-President's Award from Dean of Faculties Anya Peterson Royce.

Law Journal


Moot Court

The Law School was well represented in the 1987-88 National Moot Court Competition; we were one of only four schools to place two teams in the octo-final round. The team of Alan Slagel, Boyd Farnam, and Emily Elliott reached the semi-final round where they were defeated by Depaul's team. The team of Kathleen O'Donnell, Mark Williams, and Todd Wind reached the octo-final round.

Christopher Nichols and Jeffrey Rollings placed third in the Chicago Area Moot Court Competition, losing in the semi-final rounds by 0.2 points. Also participating were Kathleen Buchler and Carol Browder.

Sonia Overholser, Tammy Babcock, and Kathy Novak represented the Law School at the Braxton Craven Moot Court Competition held at Chapel Hill, N.C. The ABA Moot Court teams did very well at the Midwest Regional Competition in the spring. Kerry Connor and Ian McLean lost a split decision to Southern Illinois in the final round, but earned the chance to compete in the National Finals, which will be held in conjunction with the ABA's national convention in Toronto in August. Robin Jackman and Greg Norrod made it to the semi-final round. Along the way, the IU teams defeated teams from Wisconsin (three times), Indianapolis (twice), Chicago-Kent, and John Marshall.

Parents and Partners Day

The School again hosted a day for parents and partners of law students to visit classes and gain exposure to what life is like as a law student. Organized by Assistant Dean Leonard Fromm, the day began with a civil procedure class taught by Dean Bryant G. Garth followed by a lecture on jobs by Mary Kay Moody, director of placement and career advising, an appellate argument demonstration given by Assistant Professor Joseph Hoffmann and members of the National Moot Court team, and a session on trial practice led by Associate Professors J. Alexander Tanford and David Medine. In the afternoon, Associate Dean Terry Bethel taught a contracts class, and Professor Edwin Greenebaum led a session entitled "Clients and Lawyers." Parents and partners also were able to tour the library, the Law Journal Office, and Student Legal Services.
Fuchs Fund helps create Public Interest Law Foundation

Donations to the Ralph Fuchs Memorial Fund and the efforts of four law students have enabled the School to join 14 other law schools across the country in establishing a Public Interest Law Foundation (PILF). Elizabeth Thompson, Nan Nash, Colleen Cotter, and Jacqueline Zydek organized PILF, which will fund summer fellowships to enable law students to work for organizations that provide public interest legal services.

To fund the fellowships, PILF asked students to pledge one percent of their annual salary when they begin working full-time and to pledge one day's salary for work done during summer clerkships. Students have pledged nearly $12,000. The School has allocated $3,000 from the Fuchs Memorial Fund so that two fellowships could be available this summer. Jennifer Payne will work at the Legal Assistance Foundation of Chicago-Women's Law Project, and Linda Hoff will work at DNA-People's Legal Services on legal problems of Native Americans.

Next summer, as many as four fellowships may be funded. The organizers of PILF hope to be able to establish a loan forgiveness program through which students who go to work for public interest organizations after graduation can have the loans they incurred for legal education reduced or forgiven. Anyone interested in supporting PILF can do so by making a contribution to IU Foundation/PILF.

Ninth annual BLSA symposium held in February

The Black Law Student Association hosted its ninth annual symposium in February. This year's symposium topic was "The Growing Extinction of the Black Male." Panelists included neurosurgeon John Joyner, president of the National Medical Association; Timothy W. Wright III, special assistant to the mayor of Chicago; the Honorable Webster L. Brewer of the Marion County Superior Court; and Professor Fred McElroy of the Afro-American Affairs Office of Indiana University. Law students LaTrelle Miller, Wayne Harris, Clarence Pollard, and Vincent Scott served as moderators.

Women's Caucus

The Women's Caucus auction raised $2,200 last year, $1,450 of which the caucus donated to Helene's House Emergency Shelter, which provides food, clothing, and shelter for the homeless in Monroe County.

IU School of Law alumni: Whereabouts unknown

Finding a former classmate can be just like looking for the proverbial "needle in a haystack." But not anymore. Soon a new directory of our alumni will be available to help you locate your old friends.

The new Indiana University School of Law Alumni Directory, scheduled for release in December 1989, will be the most up-to-date and complete reference on over 5,300 Indiana University School of Law alumni ever compiled. This comprehensive volume will include current names, addresses, and phone numbers as well as academic data and business information (if applicable), bound into a classic, library-quality edition.

The IU School of Law Alumni Association has contracted with the Bernard C. Harris Publishing Company, Inc., to produce our directory. Harris will soon begin researching and compiling the information to be printed in the directory by mailing a questionnaire to each alumnus/a. (If you prefer not to be listed in the directory, please write the IU School of Law Alumni Association as soon as possible at Indiana Memorial Union M-17, Bloomington, IN 47405.)

The new Indiana University School of Law Alumni Directory will soon make finding an Indiana University School of Law alumnus/a as easy as opening a book. Look for more details on the project in future issues.
Professor S. Jay Plager remained on leave for the year with the federal government under the Intergovernmental Personnel Act. He served first as counsel to the undersecretary for health and human services and then as associate director for the Office of Management and Budget. He is now director of the Office of Information and Regulatory Affairs, the presidential executive office responsible for review of all federal regulations and information collection requirements of federal departments and agencies. Plager lectured at the Colombia Law School and the National Conference on Investigational New Drugs, sponsored by the American Medical Association and the U.S. Food and Drug Administration. He is co-author of the Report of the Task Force on Medical Liability and Malpractice and presented papers on medical malpractice issues at several programs, including the ABA National Institute on Medical Malpractice.

Professor Emeritus Harry Pratter continues to teach one course a year at the Law School. This spring he taught Negotiable Instruments Law and continued to serve on several Law School and University committees. In addition, he was a member of the Indiana State Bar Association's Special Committee on Professionalism.

Assistant Professor Lauren Robel's review of Glendon's book, Abortion and Divorce in Western Law, will appear in Constitutional Commentary.

Assistant Professor Rebecca Rudnick was on leave this semester, teaching at the University of Texas School of Law. She and Professor Roger Dworkin organized the conference "Law, Science, and the Humanities," which the Law School hosted in October. Her professional activities include membership in the ABA Tax Section where she serves on the Task Force on Pass-Through Entities.


Professor Thomas Schornhorst's "Offering and Opposing Scientific Evidence: A Pre-Trial Primer" appears in the May issue of Criminal Justice, published by the Criminal Law Section of the American Bar Association.

Professor Gene Shreve joined the faculty this year after teaching at the Vermont Law School and the New York Law School. His article, "Interest Analysis as Constitutional Law," appears in 48 Ohio State Law Journal 51. He has co-authored Understanding Civil Procedure, which has been accepted for publication by Matthew Bender. Assistant Professor Michael Sinclair's article, "Seduction and the Myth of the Ideal Woman," appears in 5 Law and Inequality 33, and another article, "The Use of Evolutionary Theory in Law," appears in 64 University of Detroit Law Review 451. His review of Clarke's Women's Silence, Men's Violence will be published in the American Historical Review. He will be at the New York Law School next year.

Assistant Professor Jeffrey Stake's article, "Toward an Economic Understanding of Touch and Concern," has been accepted by the Duke Law Journal.

Before 1960

Samuel F. Sirois, '35, an attorney in Bloomington, Ind., was honored by the Monroe County Bar Association in recognition of more than 50 years of service to law practice.

James F. Thornburg, '36, received the 1988 "50-Year Award" from the Fellows of the Indiana Bar Foundation.

Willard Z. Carr, Jr., '50, a partner in the Los Angeles firm of Gibson, Dunn & Crutcher, has been elected chair of the Pacific Legal Foundation for 1987-88. He and his wife, Margaret, received the 1987 Jurisprudence Award from the Anti-Defamation League of the Pacific Southwest Region.

Lawrence L. Stentzel II, '52, has joined the Washington, D.C., office of Morgan, Lewis & Bockius as counsel in the firm's Business and Finance Section.

Shirley S. Abrahamson, '56, of the Supreme Court of Wisconsin, was re-elected to the executive committee of the American Judicature Society, a national organization for improvement of the courts. She also lectured at the annual meeting of the Midwest Association of Prelaw Advisors at the University of Wisconsin Law School in October.

Paul F. Arnold, '56, was elected a member of the Fellows of the American Bar Foundation. Arnold, a partner with the firm of Early, Arnold & Ziemer in Evansville, Ind., was a practitioner in residence at the Law School during the spring semester.

William E. Reifsteck, '58, is the president of the Camden County (N.J.) Bar Association.

Samuel L. Reed, '59, managing partner of DeFor, Voran, Hanley, Radcliff and Reed in Muncie, Ind., is also vice-chair of the Muncie-Delaware County Chambers of Commerce.

1960-69

Lloyd H. Milliken, Jr., '60, a partner in the law firm of Locke Reynolds Boyd & Weisell, Indianapolis, has been named a fellow of the American College of Trial Lawyers.

Arthur M. Fell, '66, has been appointed director for the U.S. Agency for International Development Regional Office in Abidjan, Ivory Coast.

Thomas R. Lemon, '66, was named chairman-elect of the House of Delegates of the Indiana State Bar Association. A partner in the Warsaw law firm of Rasor, Harris, Lemon & Reed, Lemon will assume office in October.

Frank J. Otte, '66, was appointed bankruptcy judge for the Southern District of Indiana in October 1986.

Daniel A. Roby, '66, a partner in the firm of Roby and Hood, Fort Wayne, Ind., was named Trial Lawyer of the Year last summer by the Indiana J. Lawyers Association.

Jack B. Joel, '67, of Wyckoff, N.J., was elected chairman emeritus of the International Bar Association Committee on Products Liability last fall after chairing the committee for four years.

Donald C. Lewis, '67, associate general counsel of Ball Corporation, received their Award of Excellence in April.

Wayne A. Shirey, '67, has formed a law firm with Joseph Edwards in Muncie, Indiana.

Norman Sider, '67, has been named an assistant vice-president (or Merrill Lynch Pierce Fenner & Smith in Indianapolis. He was elected to the executive committee of the National Jewish Community Relations Advisory Council.

Michael S. Kanne, '68, of Rensselaer, Ind., was confirmed by the Senate in May 1987 as a judge in the U.S. Circuit Court of Appeals.

Larry J. McKinney, '69, former Johnson County Circuit Court judge was appointed to the U.S. District Court for the Southern District of Indiana in May 1987.

1970-79

Samuel R. Born II, '70, a partner in the law firm of Ice Miller Donadio & Ryan, was installed as president of the Indianapolis Bar Association in January.

Alan C. Witte, '70, has been named senior vice-president, general counsel, and secretary for FTT Diversified Financial Corporation.

John G. Baker, '71, was named president of the Indiana Judges' Association. A judge of the Monroe Superior Court in Bloomington, Baker was selected last year to a second six-year term.

Stephen O. Kinnard, '72, a partner in the Atlanta, Ga., firm of Hansell and Post, received the American Bar Association's Pro Bono Publico Award for volunteer legal services to the poor.

Thomas A. Clancy, '73, has been elected third vice-president of the Illinois State Bar Association. He will automatically succeed to the presidency of the 31,000 member association in 1991. Clancy is also on the editorial board of the Brief, published by the Tort and Insurance Section of the American Bar Association.

William C. Vaughn III, '73, was elected to his second term as judge of the Putnam County Circuit Court in Greencastle, Ind.

Robert C. Angermeier, '75, and Mark J. Rogers, '74, are partners in their own litigation firm in Milwaukee.

Mary Beth Kleiser Brody, '76, has joined the Minneapolis law firm of Gray, Plant, Mooty, Mooty & Bennett, P.A., as a principal.

James A. Kohlstedt, '76, was recognized by the Chicago laymen as one of the Ten Outstanding Young Citizens of 1987. He has been named a partner in the Oak Brook, Ill., office of the firm Keck, Mahin & Cate.


Renee Mawhinney McDermott, '78, was selected for inclusion in the 1987 edition of Who's Who in American Law. She is a partner in the Indianapolis office of Barnes & Thornburg, where she specializes in environmental regulation and litigation.

Joseph D. O'Connor III, '78, was named treasurer of the Indiana State Bar Association last fall. He is a partner in the law firm of Burger, Robertson, Kelley & Steger.

Dennis A. Kokinda, '79, is assistant district counsel of the Veterans Administration for the State of Illinois.

Michael S. Simpson, '79, is vice-president, taxation, of Kiewit Continental Inc. in Norwalk, Conn.

Jacqueline Ann Simmons, '79, Phillip L. Bayt, '80, Thomas K. Downs, '80, and Mary Nold Larimore, '80, were named partners in the Indianapolis firm of Ice Miller Donadio & Ryan.

1980-88

Frederick N. Kope, '80, now resides in Austin, Tex., where he is the attorney for contracts negotiation with Texas Instruments, Inc.

Alan W. Becker, '81, has become a partner in the Indianapolis firm of Bose McKinney & Evans.

Tim R. Brown, '81, has become a partner in the Muncie, Ind., firm of DeFor, Voran, Hanley, Radcliff & Reed.

James M. Sciarin, '81, has been named a partner in the Toledo firm of Spengler, Nathan son, Heyman, McCarthy & Durfee, where he specializes in labor law.


Edward D. Feigenbaum, '82, is director of marketing and inside legal counsel for the Hudson Institute, Indianapolis. Prior to joining the Hudson Institute, Feigenbaum was director of legal affairs for the Council of State Governments.

Kevin (Casey) Miller, '82, office manager and adviser to Congressman Lee Hamilton, '56, served as staff director to the House Select Committee investigating the Iran-Contra affair.

Pamela L. Jones, '84, is a staff attorney with the New York State Department of Transportation.

Leslie Mead and Jeffrey P. Petrich, members of the class of 1984, were married in May 1986. Leslie is assistant general counsel for the National Association of Farmer Cooperatives in Washington, D.C., and Jeffrey is counsel to the House Interior and Insular Affairs Subcommittee on Water and Power Resources.

Patricia Bernens, '85, was appointed city attorney for Bloomington, Ind.

Mark R. Regner, '87, was appointed last year by Governor Robert Orr to fill the vacant post of Tippon (Ind.) city court judge, and won retention in the elections last November.

Deaths

The School regrets to report the deaths of two alumni: Richard M. Ramsey, '42, and Larry Galloway, '64. Ramsey spent much of his career in public service and was the first county counsel for Sonoma County, Calif., and the first city attorney for Santa Rosa. Galloway was senior vice-president and counsel of Stewart Title Guaranty in Houston, Tex.