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### State of the Law School, March 26, 1968

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*Indiana University School of Law*

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STATE OF THE LAW SCHOOL

(Address by Dean William B. Harvey March 26, 1968)

Court Room, Law Building

Again this year it is a pleasure to talk with you about the state of the School of Law. Last year, when the precedent for this annual report to the student body was established, I responded in some measure to the uncertainty many of you felt over the direction of your School under a new Dean. Frightening rumors were abroad: ties were to become required apparel for all students at all times! A comfortable majority of the first year class were to say "farewell" to the School after final exams, and only a slightly smaller percentage of the upper classes was to depart! This year, when we know each other better, I am sure your concerns are different, though they still involve centrally the welfare of your School and the progress of your own legal education and your professional career in an increasingly uncertain and risky world.

Tonight, I want to share with you some information on developments in the School, to discuss with you needs we must find ways to meet, and to think with you about the responses we should make in our educational program to the changing roles lawyers play, or should play, in our society.

Again this year the faculty has devoted a great deal of time and effort to strengthening the faculty itself. Additions to the faculty are essential for replacement, for staffing additional sections of required and heavily elected courses, and for enrichment of the curriculum. The manpower market for the kind of teacher we seek is fiercely competitive, and we do not get every man we want. Nevertheless, five new appointments were made for the coming academic year. All of them are outstanding young men, at or near the beginning of their academic careers.

They will bring new strength to our teaching and research in the areas of procedure, constitutional law, taxation, torts, criminal law, and property. Their immediate contribution in established courses and seminars will be great. Greater and more important, however, is the contribution their imagination and willingness to experiment can make in the continuous rethinking and reshaping of the educational enterprise in this School, as we seek greater relevance and responsiveness to the needs of a revolutionary society.

This year and last, we have made eleven appointments to the faculty. In a School of our size, this is a massive influx and it creates its special problems of assimilation or integration. Nevertheless, again next year we expect to be active in the market for five to eight additional teachers. Our present faculty, including the new members who will begin their teaching here next June or September, comprises 27 persons, aside from our Teaching Associates. If this number is properly discounted on the basis of the involvement of several in administrative tasks, our faculty size is only about 23 full-time teacher-scholars. For a student body of 550, the assumed maximum in our present building, we have a faculty-student ratio of approximately 1-24. Viewed from the traditional law school perspective, that is reasonably good. From the perspective of other post-baccalaureate education, however, it is apallingly high. Both budgetary considerations and the limitations of our physical plant make a rapid move to the faculty-student ratios of the good graduate schools impossible. I believe, however, that if the innovation legal education needs today is to be achieved, a faculty-student ratio closer to 1-10 must be regarded as a realistic goal. Of some of those innovations, I will have something to say a little later.

Over the past three or four years the number of applications for admission to the School has risen sharply. This development has produced two important consequences: first, the size of our student body has grown rapidly; second, our admissions have become substantially more selective. May I discuss each of these consequences a bit more fully?

We began the academic year 1966-67 with 612 students in a building designed for 500. At that level our facilities were quite crowded; seating space in the law library was distressingly close to the minimum levels suggested by accrediting agencies; and classes were far larger than we thought compatible with quality professional education. The faculty decided, therefore, to limit the size of the student body to 550 so long as we are restricted to the present Law Building and the faculty it will accommodate. By a slight adjustment of admission standards we were able to reduce our student body at the start of this year to 574-- still significantly over our desired limit, but the imposition of such a ceiling is not an exact science. We believe this reduction in the size of the student body and a simultaneous increase in faculty size are sound educational policies. We are able to teach in smaller sections, to re-invigorate an Indiana tradition of knowing our students, and, hopefully, to decrease the academic attrition at the end of the year.

In the immediate future, further efforts to limit or even decrease the size of the student body will probably not be a major faculty concern. That function has now been assumed by the Selective Service System. Under the current law, our upcoming third-year class will be permitted to complete their study, but the second-year class and the prospective entering students are fully vulnerable to call at any time. We do not know what the actual impact of the draft on next year's first and second year classes will be. A recent survey of our up-coming second year class

produced the estimate that, out of the 188 members, possibly 100 will be back in school next year. That estimate depends on several variables, however, and it could prove to be substantially erroneous. We have assumed that as many as 40% of our next entering class of 225 students may be unable to enroll, thus reducing our first year class to about 135. If we combine our various estimates and guesses, we predict a total student population next year of about 415.

In the next year or two, we face many difficult problems of institutional planning, as you face a difficult period of uncertainty and distraction. At the institutional level we do not intend to lower admission standards, possibly compromising the educational program of the School, in order to maintain the present level of enrollment. It seems most probable, therefore, that our student body will decrease during the next two years. By the end of that period, the return flow of students from the military services should bring the student body back to the maximum size we can accommodate in our present facilities.

To you, as individual students, facing the prospect of interruption of your study or your professional career by a period of military service, there is little I can say that might be helpful or reassuring. As lawyers or law students we can claim no dispensation from the burdens, risks, and uncertainties shared by our fellow citizens. I can assure you, however, that the faculty of this School is sensitive to the special difficulties of students in these times, and in our individual and corporate capacities we will be anxious to assist you as fully as we can.

The faculty has labored long this year on an undramatic but extremely important task--the complete revision of the academic regulations of the School. Even if it accomplished nothing else, the task would have been beneficial for the education of the faculty, particularly when new col-

leagues are joining us in substantial numbers. We did not merely study and restate existing policies, however. A number of significant changes were made, and I shall mention briefly a few of them.

Perhaps of greatest interest are the new standards for academic eligibility and for graduation. If a student at the end of his first year of study achieves a grade point average less than 1.8, he is subject to exclusion. If his average falls between 1.8 and 2.0, he will be placed on probation and given an academic year to bring his cumulative grade point average to 2.0. Similar provisions for exclusion and probation are applicable at the end of each semester after the first year. To these provisions is added the requirement of a grade point average of at least 2.0 on all work taken in the School as a condition of graduation. These regulations, which reflect a significant tightening of the academic requirements, are applicable only to students who entered the School in June, 1967 and thereafter.

The stringency of these adjustments and, hopefully, the accuracy of student evaluation are related to the introduction of three new grade categories--a D+, C+, and B+, carrying grade points per hour of credit of 1.5, 2.5, and 3.5 respectively. This effort to discriminate more precisely among various levels of performance raises difficult questions of educational policy on which the views of the faculty are not unanimous. We are unanimous, however, in believing that the new grading system and the closely related regulations on academic eligibility must be fairly tried and the results studied carefully. The new grade categories will be used for all students at the end of this semester and thereafter.

The program of this School is designed for the full-time study of law, and the work to be done is more than enough to occupy a full-time

student during his six semesters of study. It is the view of the faculty that work toward the degree should be spread about evenly over the entire period. With these considerations in view, the minimum credit hour load per semester has been raised from 10 to 12. The maximum has been set at 15 credit hours per semester. Like the regulations discussed earlier, the new regulation on minimum and maximum loads is not applicable to students who entered the School prior to June, 1967.

While I suspect that law students are not as frequently delinquent as graduate students in other fields, we have become concerned over the frequency with which seminar papers and independent credit research papers have been submitted well after the close of the semester in which the seminar or the research was elected. We also have been somewhat concerned by the Incompletes carried by some students for substantial periods. To deal with these problems, a new regulation requires that a written paper be submitted not later than the final day of the examination period for the semester in which the course is taken, unless the instructor for adequate cause shown before the due date grants an extension. This regulation is applicable to all students this semester.

The regulations introduce numerous other changes, but I need not mention them here. Toward the end of this semester they will be printed for distribution to all students in the School. The ability to hand to each student a comprehensive statement of the academic ground rules by which he will be governed is perhaps the greatest benefit of the codification. It assures to each a fair opportunity to know the School's expectation of him. The policy decisions reflected in the regulations may be clearly wrong, but, if I may borrow a phrase from Lon Fuller, they will certainly be wrong clearly. For those qualities of conciseness and clarity, the faculty is indebted to Professor Reed Dickerson,

who took our decisions, roughly formulated, and converted them into a clear and comprehensive code.

Last year I reported to you a number of changes in the curriculum, many of them in the first-year program. These have been implemented and appear to be working well, though perhaps you in the first-year class would want to suspend judgment on that issue until the examination results are reported in June. This year the Curriculum Committee, under the chairmanship of Professor Oliver, has turned its attention to the second and third years. It has spent long hours in consultation, study and discussion. The fruits of its labors are only now beginning to appear on the faculty agenda, and discussion of specific decisions would be premature. We expect to move ahead steadily and carefully. I hope many of our decisions will be revolutionary, but I would hope for a quiet revolution. New members of the faculty not yet on the scene will have much to contribute to our deliberations. I hope that effective ways can be found to introduce a student contribution as well. The complete curricular review and revision will claim much of our attention for the next two to three years, and I will have opportunities later to report to you on major decisions.

May I turn now to certain needs of the School which without delay we must move to meet. The first of these is a physical plant adequate for the students and faculty of the School over the next planning period.

We have an excellent Law Building, now only eleven years old. It is attractive and functional. In these respects it soon will be greatly improved by the installation of air conditioning in classrooms and offices. The contract for the completion of air conditioning in the building will soon be let, and we hope to be enjoying it before much of the coming Summer has passed.



The only defect of the Law Building is that there isn't enough of it. Our space is almost exhausted, and, as you know, we found it necessary to house the Teaching Associates and the Codification Project in an Annex this year. All faculty offices will be filled before our faculty reaches the number required for a student body of 550; so we probably will have to use the Annex for some faculty offices as well. At the current rate of growth of the Law Library, which is far below the development we hope to achieve in the next biennium, stack space will be completely filled in five years. Staff space in the Law Library is also inadequate, though we intend to crowd in the additional staff to enable us to increase reference services to students and faculty and to begin the classification of the collection. The Library is heavily used--last year Professor Getman observed that it reminded him of an Oriental bazaar. Desk and carrel space must be provided for a larger percentage of our student body. Finally, we need space for a number of new programs we hope to launch--among them, a legal aid clinic, a public defenders program, and the new Ph.D. program in law and economics which recently was approved by the Graduate Council.

An excellent report from the Faculty Building Committee, under the chairmanship of Miss LeBus, has enabled us to see our needs clearly, and we are moving to present them to the University administration. In the program budget for the next biennium, I have asked that the School's needs be accorded a high priority in the University's capital development schedule. Even that priority, however, would mean that the new space would not become available for about five years. In the meantime we will be crowded, indeed increasingly so, for I am convinced that we should not delay program improvements and the staff they entail while we wait for the building to accommodate them properly.

In discussing the space needs of the School, the Law Library plays a prominent role. May I say a bit more about it. To this audience I need not make the case that it is the facility around which all our work--that of students and faculty alike--revolves. In addition, it is a major State resource. As the largest and best law library in the State, it is used by students and faculty in many parts of the University and by lawyers throughout the State. Into the Law Library, we must guide a substantially enlarged measure of support--for book purchases and for staff. I have recently recommended to the University certain administrative changes which will, I believe, facilitate that support. I have also recommended that the library budget for books and binding be more than doubled in the next biennium. Since the University is committed to the development of a great law school, I am optimistic that the increased support will be provided.

In my talk with you last year, I discussed briefly the roles that students, through their organizations, could play in the life of the School. I indicated that we now have--and are glad to have--a variety of groups, but I suggested the desirability of having one central organization that is inclusive of all or substantially all students in the School, is led by students who are responsive and responsible to the membership, is vigorous and vital, and is fully committed to the best interests of the School and the legal profession. Through such an organization a significant student contribution to much of the planning, development, and current program of the School could be facilitated. Thus far, I regret to say, no organization of the type suggested has emerged, and only the students in the School can determine when one will exist.

Through other channels, however, we have sought access this year to student views. I have established a new committee--the Committee on Teaching under the chairmanship of Professor Pratter--to give close attention to ways of improving our teaching and of establishing closer and more creative relations between faculty and students. I am pleased that the Committee has followed my suggestion to add a number of students to its membership, thereby creating a stable forum for the discussion of all aspects of faculty-student relations. The first result of the Committee's work has been an increased number of pleasant social contacts. I believe the importance of this committee in the effort to improve our environment for teaching and learning will grow and that an imaginative student involvement will largely determine the success of the committee's efforts.

The administrative officers of the School are responsible for many tasks in which student views and assistance could be a constructive, influential factor. Decisions on course offerings must be made, class and examination schedules must be prepared, and special lectures and other events must be fitted into the program. It is difficult, indeed impossible, to assure adequate consideration of student views if I and other administrative officers of the School must depend on casual suggestions or complaints from student visitors in our offices. Dean Thorpe recently has taken a useful first step in improving communications on these matters by constituting an informal, volunteer committee to consult with him as he prepares the teaching schedule for the next academic year. More needs to be done, however, to assure that we have an opportunity to consult with a group of student representatives on a wide range of administrative decisions and arrangements. I intend, therefore, to constitute a new group, to be known perhaps as the Board of Student Advisers,

to meet this need. I hope that the Board, when in existence, will not interpret its functions too narrowly. In addition to advising when its views are sought, I hope it will take the initiative in raising questions and offering its own proposals for the improvement of the School in all its aspects.

As we seek to open new channels of communication between faculty and students and to introduce a significant student component in our planning and development, we face recurrently the problem of identifying or selecting the student members of various deliberative or executive groups. In solving that problem we shall use a variety of techniques. In some instances we will ask the various student organizations to name their own representatives. In some cases we will rely on elected class officers. In others we will build the activity around students who voluntarily offer their interest and efforts. In still others we will invite the participation of specific individuals whose maturity, judgment and dedication to the School are known and respected. Whatever the system employed, I hope all of you, when opportunity arises, will be willing to respond enthusiastically to an invitation to share with the faculty the responsibilities and the challenges of developing and improving legal education in the School.

In our short meeting this evening, I can not claim the time for social commentary and criticism, even if I could assume some competence for them. May I, therefore, merely allude to matters that are obvious to us all and suggest briefly their relevance to our work together in the School.

Our society today is in ferment and the prospect of major social upheaval is immediate. The hopes and aspirations of our Negro fellow citizens for human acceptance, fair opportunity for education and jobs,

and a participation in American life which will permit them to reclaim their pride and dignity will be further delayed only at incalculable cost to us and our children. Thousands of our fellow Americans, Negro and White, do not share, and, short of major remedial actions will not share, the unparalleled affluence of this country. The sophisticated technology which sustains us threatens also to destroy--congesting our city streets and highways, polluting our air and waters, and placing in our hands weapons of overpowering destructiveness. Awed and seemingly immobilized by our domestic problems, we channel our resources into a divisive, brutal, and brutalizing war far from our borders and far beyond the range of our perceptible interests.

The implications of such problems for the legal order are numerous and clear. Some are deeply disturbing: some people seem to feel that the only appropriate response to protest against a national war policy is criminal prosecution or punitive induction into the military services; in our cities we appear to be preparing to respond to the anguished cries of black America with the bluntest instrument of the state--massive, organized force. And at national, state, and local levels we confront the complex problems of today with governmental structures ill adapted for formulating the decisions and mobilizing the resources required for the tasks urgently before us.

I believe profoundly that our problems today call with special urgency upon the best that is in the legal profession. For in this country, that profession--to which all of you aspire--has been the special guardian of certain values whose renewal and expression can resolve the crisis of today:

I mean the value of the individual human personality reflected in those freedoms which the slow alchemy of law converted from the

customary rights of Englishmen into the natural rights of all men.

I mean the value of grounding the legitimacy of government and of the policies it pursues on the consent of the governed.

I mean the value of rational discussion and argument as the basis for decision.

I mean the value of compromise, born out of a healthy respect for the views and interests of others.

I mean the value of foresight and prudent planning which shape current actions to protect the interests of today and avoid the pitfalls of tomorrow.

And I mean ultimately the value of public order, humanely imposed and maintained, as the indispensable condition of progress in the human condition.

As the crisis of today speaks to the legal profession, so does it speak to the law schools. For here we nourish and develop the values of which I spoke and transmit them to the next generation. In doing so, however, and in educating for the tasks of the profession, we cannot focus only on the needs for legal services in the affluent, white, suburban strata of our population or in the corporations, banks, and other business concerns. Their needs are legitimate, and we must serve them. I suspect, however, that those needs have played in the past too dominant a role in shaping our curricula. Now we must widen our perspective. We must study and sensitize students to the legal face of the urban crisis: to the need to develop governmental structures rationally adapted to forming sound decisions and providing essential services; to legal instrumentalities for controlling and, hopefully, eroding racial discrimination; to better provision for legal assistance through which the disadvantaged may actually effectuate the protections given to them by

the law. We must give more attention not only to the real emancipation and utilization of all our human resources but also to the conservation, allocation, and prudent control of our natural resources--air, water, and mineral wealth. The long-standing dominance of private law in our schools must be moderated by a growing attention to public law, as I would hope that the interests and concerns of lawyers would be extended beyond the interests of their private clients to include a more consistent attention to the community and the public welfare. In these efforts, we must develop a more fruitful rapport with our colleagues in economics, sociology, and government to assure, as best we can, that the law deals in an enlightened way with the real world. But in doing so, we must not, nor will we, ignore that discipline of mind, rigorous analysis, healthy scepticism, and hard-headed pragmatism which have been the traditional strengths of legal education.

In this School we have committed ourselves to the development of a program of excellence. That commitment does not rest on mere human pride; rather it stems from the belief that the study and practice of law provides ample scope for the creative range of good minds, and from the perception of a duty to respond fully within our own discipline to the pressing needs of our socieity as they are today and will be tomorrow. If the faculty meets its primary responsibilities for shaping a vital, relevant curriculum and for guiding your study and research, I have no doubt that your energies, imagination, and creativity will be more fully engaged during the entire three years of your legal education and in your professional and community lives thereafter.

I do not claim, as I am sure my colleagues do not, knowledge of any panacea for our social ills. I remain convinced, however, that you and we, as lawyers, have a vital role to play. The responses of law men may

well determine whether we deal with our problems through brutal violence in the streets of our cities--and on other battlefields--or will use the richness of this country for the benefit of ourselves and future generations in reasonable harmony and with respect for the dignity of all men. I pray that the latter will be our course.