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### A First Year Appraisal; Thoughts on Bakke

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Maurer School of Law  
Bloomington

A message from the dean—

## A first year appraisal; thoughts on *Bakke*

### A First Year Appraisal

In the last issue of the *Bill of Particulars* I wrote my first report to you in my role as Dean of the Law School. Written shortly after I had become Dean, it was an assessment of what I saw as the great potential of our law school, and a candid appraisal of what I believed was needed to realize that potential. As I look back, after completing my first year in the dean's chair, I have two observations to make. The first is that the assessment and appraisal have proved to be very close to the mark, not through any great wisdom on my part, but because I had the benefit of the advice and views of many persons in the School, the University, and among alumni and others in the state. I found a widely held consensus regarding our potential, and a widely understood appreciation of the needs.

The second observation is that understanding and appreciation are not enough. It has proven even harder than I expected—and I expected it to be hard—to implement the changes I believe are needed. This difficulty is not cause for alarm or dismay. Indeed, as lawyers we are trained to look at change with a jaundiced eye to be sure we are not unknowingly discarding what is good on the unsubstantiated hope that something else might be better. But it does mean that progress is made slowly, at times almost painfully, while divergent and sometimes conflicting interests are brought together to support a desired goal. This takes hard work and dedication by all of us.

A case in point: There is widespread agreement that the present Law Building is obsolete. There is less agreement as to whether the solution is a major remodeling of and addition to the existing building, or an entirely new building. This issue remains cloudy, although it appears the scales are tipping in favor of an addition, a solution the faculty prefers and with which I concur. Meanwhile, the building needs of other units, other regional campuses, other public institutions of higher education emerge, take shape, come up alongside of us, and may even move ahead.

The Board of Trustees has now asked the Higher Education Commission for planning money for the Law School. This step is a critical one leading to a request to the Legislature for construction money. For us it is particularly critical, since the planning process will help decide the new building versus addition issue. Time is of the essence if we are to get our request before the 1979 Legislature. Yet we must take our turn along with others to be heard by the HEC. At this writing the hearing has not yet occurred.

Two things are clear to me—that meeting our building needs is a key to meeting many of our other needs; and that if we are to get our building needs met we will have to have your help and support in bringing the Law School's case to the attention of the people who control the decision.

### Some Thoughts on Admissions and the *Bakke* Case

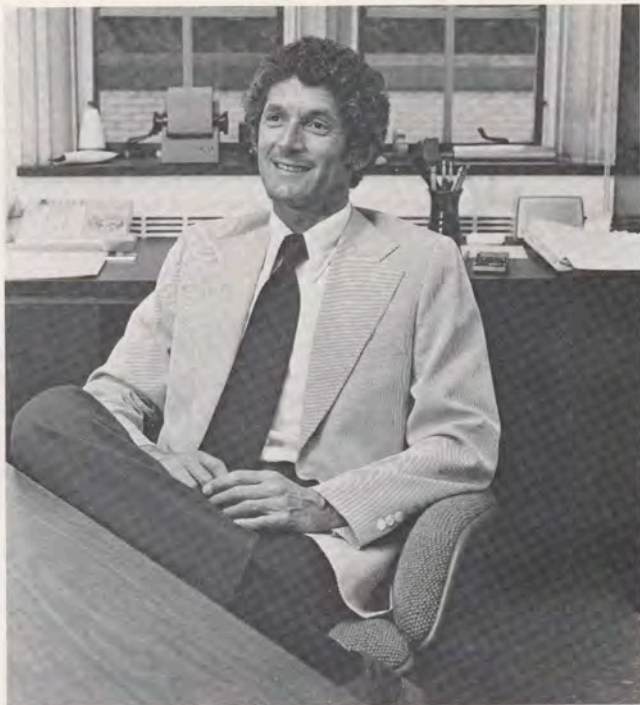
On another subject, the U.S. Supreme Court's decision in *Regents of the University of California v. Bakke* has just been announced. At this writing, the full opinion is not yet available; nevertheless, on the basis of what I have read and what I understand from extensive news coverage of the decision, I believe I can answer some questions many of you may have. To begin with, Indiana University Law School never excludes anyone on the basis of race from consideration for any of the available seats in the first year entering class. No set number of blacks or other minorities is admitted each year. Further, all applicants are handled through the same committee process and are evaluated on the same bases. To that extent the underlying claim of exclusion based on race alleged by Mr. Bakke cannot be made against us.

Secondly, as Mr. Justice Powell is reported to have recognized, an important educational value is served by diversity in the student body. Jacques Barzun has said that a university (read law school) is an organized opportunity for self-education. A significant part of that education comes from interacting with and learning from other students, and from participation in various student organizations and activities. It follows that a first-quality law school has the responsibility to provide a mix in its student body. If most of our students came from Eastern private schools, we would want to have some from the big public institutions of the Midwest; if most were from big cities, we would want some with smalltown backgrounds; if most were from a particular ethnic or racial background, or from a particular economic or social class, we would want some from other backgrounds. This type of mix is justifiable on purely educational grounds. In addition, from the viewpoint of a professional school such as ours, the mix in our graduates provides an important ingredient in making legal services more widely available to all of the citizens of Indiana.

More generally, of all the strange and wonderful areas of academic administration confronting me this year, I find the whole admissions process the most awkward and troubling. We continue to get five to six times more qualified applicants than we have seats in our entering class. Selecting those to be admitted is a difficult and arduous process. The established procedure at Indiana is to have these decisions made by an independent committee of the faculty, augmented by student members. The process is difficult and arduous because the committee does not admit simply on the basis of test scores and undergraduate grades, except for those whose records are so high as to make other factors irrelevant. For most applicants, the committee examines a complete file. (Yes, your letters of recommendation are read, and they do count in the committee's deliberations, particularly those that reflect a knowledge of the applicant's abilities and academic promise. The most expeditious procedure is to direct such letters to the Law School Office of Admissions, for inclusion in the file.)

Occasionally I am personally urged to give particular consideration to an applicant. Although as dean I do not have any direct control over the admissions process, I do try to ensure that every applicant has had a full and fair review by the committee. In some cases I find that if I had been a member of the committee I would have voted otherwise. When this happens, I sometimes find myself wishing I had a few "wild cards," which I understand the deans of a few schools have. The problem, of course, is that it soon becomes known that the dean has such a hand, and then all hell breaks loose when the cards are played for some but not for others. In any event, giving the dean that type of arbitrary authority has not been the policy of this Law School, and I see no indication that the faculty wishes to change past practice.

It appears to me that the decision in Bakke will not necessitate any significant change in our admissions practices. In carrying out the policy of diversity, the admissions committee has looked at a wide range of factors, including race. A majority of the Supreme Court specifically vindicated the use of race as an affirmative factor in educational admissions practice. The Law School is committed to a policy of admitting only qualified applicants, and within that policy admitting persons of various backgrounds and interests, in order to provide the mix that promises the best possible education for our students and the best possible future members of the bar.



*Dean Plager*