10-1941

President's Annual Address

Roscoe C. O'Byrne

Indiana State Bar Association

Follow this and additional works at: http://www.repository.law.indiana.edu/ilj

Recommended Citation

O'Byrne, Roscoe C. (1941) "President's Annual Address," Indiana Law Journal: Vol. 17: Iss. 1, Article 1. Available at: http://www.repository.law.indiana.edu/ilj/vol17/iss1/1
PRESIDENT'S ANNUAL ADDRESS

ROScoe C. O'ByrNe* 

Upon the occasion of the first annual meeting of The Indiana State Bar Association at Indianapolis on June 23rd, 1897, its first President, the Honorable Benjamin Harrison, complied with its basic law by the deliverance of the First Annual Address, and each and every one of the illustrious gentlemen who have preceded me in the leadership of our organization have displayed similar compliance following the Harrison administration. With such an unbroken line of precedents and with Article III of our By-Laws now providing with respect to the duties of the President that “he shall . . . at each Annual Meeting deliver the President’s address,” the delivery of this particular address became as inevitable as the familiar phenomenon that the day follows the night, and in the language of our profession those now in attendance are subject to the Court’s finding that they have “assumed the risk.”

We meet this afternoon in one of the most history-making periods of modern times, viewed nationally and internationally, and for the bench and bar of Indiana, viewed professionally. With the veritable avalanche of material provided for our legal feasting in connection with the current sessions of the American Bar Association, there is in all human probability but a single subject of interest to the Hoosier lawyer which will not have presentation at all at this mobilization of our fraternity, unless in this address, and that is, the status of the organization and the good of the

*Delivered at the Annual Meeting of The Indiana State Bar Association at Indianapolis, September 30, 1941.
order so far as The Indiana State Bar Association is concerned. Hence I have determined to address myself to that topic.

Finally We Entertain the American Bar

This administration without any special credit to your President at all must occupy a unique place in the annals of our Association. It was ushered into being at the peak of the joint endeavor of the Indianapolis Bar Association, the Lawyers Association of Indianapolis and our own Association to bring the American Bar to Indiana in 1941. And it is passing onto the pages of history at the peak of the successful culmination of that joint endeavor—the Sixty-Fourth Annual Meeting of that national organization, but its first to be conducted in Hoosierland.

No reference to this fortuitous outcome of our labors could pretend to be complete, however, without grateful recognition of the consistent support and friendliness for our cause at the hands of that outstanding leader of the American Bar, its present President whose Annual Meeting this is, the Honorable Jacob M. Lashly of St. Louis. His helpful suggestions both in Indiana while en route to Philadelphia last September, and continued with unabated sincerity with respect to the Indiana delegation at the Sixty-Third Annual Meeting in Philadelphia stood as the rock of Gibraltar in veritable bulwark of our hopes, and without his sturdy quiet persistence your President is by no means certain that we would have experienced our ultimate success. He has earned and he has the appreciation and gratitude of the lawyers of Indiana.

Experiment with Joint Committee Meeting at Beginning of Year

In recognition of the task assigned, your President determined to lose no time in feeding gasoline to the regular machinery of the Association in order that the responsibilities attendant upon serving as participating hosts to the American Bar might not detract from the operation of our organization along regular channels, and for the first time—in recent years at least—seventy-five new committee members participated in a luncheon meeting at the Lincoln Hotel, Indianapolis upon the call of your President to plan for the
activities of the coming year. This experiment occurred September 28th, exactly two weeks to the very hour from the awarding of the 1941 American Bar Meeting to our own State. The innovation was enthusiastically received by those in attendance, and following a brief address by the Honorable Curtis G. Shake of the Supreme Court of Indiana devoted to the obligations and opportunities afforded by the promised American Bar Meeting in 1941, the Board of Managers and each of the standing and special committees held separate meetings to build arrangements for their individual programs for the coming year.

It is believed that subject to definite improvements a continuance of this experiment might merit consideration. The coming of the American Bar furnished the topic of attraction to the general meeting—a feature which no doubt will not be soon repeated. But with a brief program at the general luncheon meeting of sufficient interest to justify attendance from distant points within the State, the following acquaintance among committee personnel and the attendant opportunity to discuss committee problems are objectives worthy of attainment.

At this conference with the enthusiasm and loyalty characteristic of the Indiana lawyer, each member took his place in line to be a good host and the plans reaching fruition this week were the order of the day, but without sacrifice to regular committee tasks.

**Indiana Keeps Abreast on National Defense**

Even with the priority ever given to arrangements for the American Bar Association, concrete advancement may be noted in a number of avenues of activity of State concern. Certain further innovations are deserving of special though brief mention.

The Indiana practitioner continues to keep in step with the rest of the nation and abreast of the times along lines of national defense. A Committee in charge of this activity with the Honorable Jeremiah L. Cadick of Indianapolis as its Chairman, appointed as the result of action taken by the Association at its Mid-Winter Meeting is actively functioning to the complete satisfaction of and in thorough cooperation with the Indiana State Selective Service Headquarters, with the purpose to direct its attention as rapidly and unselfishly
as may be in the service of the lawyer called from his prac-
tice by his government as well as in the service of the selec-
tees and their families from without the profession. A great
deal of credit is due to this Committee for the businesslike
fashion in which it is meeting and discharging its duties.

*The Possibility of at Least Partial Sectionalization*

Another innovation in Association activities during the
year has resulted from the suggestion of our Committee on
Legal Education, Dean Bernard C. Gavit, Chairman, at the
Mid-Winter Meeting. A special committee of five members
of your Board of Managers is conducting a survey as to the
possibility of strengthening our organization, magnifying its
appeal and increasing its usefulness through the further de-
velopment of sectionalization, at least in part, and in addition
to the Young Lawyers Section, at present the only existing
Section. This is a problem which will without doubt move
to some solution during the coming administration, and to
insure continuity of action, care has been exercised by your
President to have the incoming President a member of this
Committee.

*The Advisability of Advance Printing of All Reports*

The complete printing of all reports in advance of the
meeting—a procedure expressly recognized and authorized
by Article V of our By-Laws with respect to our Annual
Meeting—has occurred this year for what is believed to be
the first time in recent years and was required by the nature
of our single-session Annual Meeting. But it is respectfully
submitted to the Association that the practice does possess
possibilities of advantage even in connection with Annual
Meetings of the type with which we have heretofore become
accustomed. Due recognition is accorded to every Committee
activity, and the printing of the full text of reports is as-
sured, thereby avoiding the deletion of substantial portions
in meeting the present editorial requirements of the Indiana
Law Journal, with the attendant gain of saving the time
of the membership while in session, so that it may be devoted
to other types of constructive pursuit. When your President
indicated his intention to attempt such a printing this year,
a few of his friends good-naturedly warned him that there
would always be some reports which would not come in.
Experience this year developed that in six weeks from the original call for material, it was in the hands of the printer one hundred per cent. I do not explain the cause of this phenomenon, but I do attest the result.

**Other Innovations This Year**

I do not wish to unduly extend the discussion of innovations of the year now ending, but two further projects are deserving of at least their mere mention. The first is the paving of the way for the installation during the coming year of a suitable budget system through your favorable action upon the report of our Auditing Committee. Certainly the lawyer who gives so much of his talents to the orderly handling of the business interests of his clients should not longer delay similar attention to his own affairs. The second innovation is that of a special letter of a single page at least twice a year from your President to every member of the Association. Even though necessarily circular in form, it does enable the official head of the organization to enter a little more nearly into the lives of the membership. And the expense to the Association is negligible if one utilizes the envelopes and postage required by the Secretary's mailing of required notices for the Mid-Winter and Annual Meetings under our By-Laws.

**Our Legislative Failure**

In calling the role of accomplishments and progress, truth and frankness require the admission of complete defeat so far as our legislative program was concerned. But without entering into any discussion of this subject at length, it must be borne in mind that the 1941 General Assembly in Indiana determined that its attention should be directed into fields other than the constructive programs of our Association and that a division of sentiment and support within our own profession continued to impede enactment in spite of the excellent service performed particularly by our Committees on Legislation and Integration of the Bar, with cooperating individuals.

**Supply of New Ideas Not Exhausted**

Notwithstanding the splendid new programs which have been noted as featuring the administration year of thirteen
months now closing, we know that the incoming personnel will have their new and progressive ideas that we may march onward. And far be it from my intention to impose upon their sphere of activity requests of my own. However, by way of information solely, and as distinctly interesting new fields in which to graze, I mention briefly two attractive experiments to be observed if we but look westward over the partition fence into our sister State of Illinois. We then realize that new and arresting programs are in the stage of successful experiment there—and due in no small measure to the fertile mind of the able Secretary of the Illinois State Bar Association now starting on his second quarter-century of service, R. Allan Stephens of Springfield.

The “How” Shows

His latest innovation which is meeting with even unexpected enthusiasm is what he has called his “How” Sessions or Shows. They are briefly described in his current bulletin in these words:

“Through a series of experiments, the Illinois State Bar Association has developed the novel and effective method of instruction on how to practice law known as the “how” sessions. This method consists of a series of conferences between older and younger lawyers, presented on a stage, developing practical points of practice in various fields of law. The presentations are usually limited to thirty-minutes in length. These sessions proved so successful at the annual meeting at Urbana, in June, that a full day program is planned for Chicago on September 19, for the benefit of Chicago members of the Association, with further presentations being scheduled for the District and other meetings to follow.”

District Meetings With State Initiative

A second activity conducted by the Illinois State Bar Association with inspirational results is the scheduling of district meetings upon the initiative of the State Bar Association. We are familiar in Indiana with splendid District meetings, usually but entirely irregularly held, as the voluntary effort of the District Bar Associations where active. As conducted in our sister State, however, the State Bar Association assumes the initiative, schedules the meetings itself, and brings the Association into the home communities
of those many members who do not attend Annual and Mid-Winter Meetings, with an official caravan of officers, members of its Board of Governors corresponding to our Board of Managers, and program speakers. It serves to give life to both State and District organizations and has amply justified its assignment upon the calendar.

The Indiana Law Journal

The features and subjects which have been presented are not without their definite importance, but in the judgment of your President there is presented for the consideration of this Association one subject which transcends all others in significance—significant as such others are—because it concerns the growth and effectiveness and broadening of influence of the entire State Association which must ever be a condition precedent to such Association's wielding its greatest force in behalf of the advancement of the profession—I refer to the Indiana Law Journal.

And therefore I now propose to devote the remainder of this address fearlessly, frankly and in all good humor—as one lawyer to another—to this subject. In doing so, I am proud to belong to a profession which differs from all others particularly in the ability of its members to discuss facts and issues, principles and convictions upon which honest men entertain honest differences of opinion—without for one single moment injuring personal friendships or arousing individual bitterness.

Furthermore, may I preface with just one other thought to be borne definitely in mind throughout my discussion—that I yield to no one in my respect and regard and esteem for the Indiana University School of Law and its faculty, for fifteen years connected editorially with the publication of the Journal, nor in my appreciation of their past and present service to the profession in Indiana. All of the academic training in the law which I ever secured, I received at the hands of that institution, and no one at all familiar with the legal fraternity in Indiana during the last two decades is unacquainted with the energy, enthusiasm, scholarship and executive ability of that institution's Dean, Bernard C. Gavit.

The Journal's Financial Importance to the Association.

I consider The Indiana Law Journal of primary import-
ance to every member of The Indiana State Bar Association for several reasons, but I will impose upon your time to mention but three, and first among this three is its significance financially.

The Journal represents at this time and has continuously represented for at least eleven years last past the greatest financial demand upon our treasury—and I select this particular eleven year period beginning with the Annual Meeting of July 11th, 1930 and ending with the Annual Meeting now in progress, because it comprises exactly the term of Thomas C. Batchelor, our present Secretary-Treasurer, in that capacity, and because it covers very satisfactorily the era following the year of financial tragedy and misfortune in 1929.

At the beginning of this period July 11th, 1930, the Indiana Law Journal account was found in the red with a deficit of $5,418.67. It is the understanding of the officers of this Association that we pay the entire expense of publication of the Journal including the cost of printing and postage together with $200.00 for each of the six issues each year to the member of the Law School Faculty designated as Editor, or $1200.00 per year for such Editor.

During such period of eleven years, eliminating disbursements affirmatively shown to have been in reduction of such deficit of $5,418.67, our Association made total disbursements for all purposes including The Journal in the sum of $87,325.16. Of this aggregate, the gross Journal disbursements totaled $44,123.36 or 50 1/2%. After giving credit against this gross amount of the total Journal income during such period, derived chiefly from advertising, and amounting to $13,913.66, the net Journal disbursements become $30,209.70 against a total net disbursement for all purposes of $73,411.50, which means in the final analysis that exclusive of prior deficits, the Indiana Law Journal has cost the Association during such eleven year period 41% of all of its disbursements.

In the second place, I deem the Journal of primary importance to our organization because it represents to date the only regularly appearing material help to the member throughout the year.

In the third place, it constitutes the best regular avenue to instill enthusiasm and keep it alive in the intervals between the successive Annual and Mid-Winter Meetings and
the most concrete attraction for new members to enlarge the Association's sphere of influence.

The Early History of The Indiana Law Journal

May I next direct your attention as briefly as consistent with accuracy and clarity to the early history of our Journal—going back to source material, so to speak?

The Indiana Law Journal, Volume I, Number 1 was published in June 1925 by the Journal Publishing Company, Crawfordsville, and was denominated as the Official Publication of The Indiana State Bar Association, with Willis E. Roe of East Chicago as Managing Editor. Its original purpose and birthright can best be presented by quoting from the "Announcement" on page 3 of this first issue, reading:—

"The Indiana Law Journal comes before the lawyers of Indiana at the request of the members of the Indiana State Bar Association. At the Annual meeting of the Indiana State Bar Association at Terre Haute May 28th and 29th, 1924, a resolution was adopted authorizing the appointment of a Committee with full power to act for the purpose of causing to be published a Journal which could act as a medium representing the ideas and interests of the State Bar of Indiana. The President appointed Willis E. Roe, East Chicago, George H. Batchelor, Indianapolis and Frank H. Hatfield, Evansville.

"Your Committee herewith presents the first issue of the Indiana Law Journal in part compliance with your wishes. It is not the intention of your Committee that this Journal should be the Journal of the Officers of the State Bar, but that it shall represent the ideas and wishes of the whole Bar. It is your Journal, to be used by you individually and collectively in the interest of all the lawyers of the Bar. Fifty cents of your dues goes to help defray the expenses of this publication, and you have exactly the same interest in it, as any other member. We want your cooperation to the end that it may be a real benefit to the lawyers of this State. After you have read this issue your Committee will be pleased to hear any suggestions which you may have for its improvement.

"It is expected that members of all Committees through their Chairmen will use the pages of the Journal freely to keep the activities of their Committees before the members of the Bar."
"Your Committee would like to have any article you have written or address you have delivered which you believe would be of benefit to the Bar. We would also like any article of value from any other publication which you believe should be read by the members of the Bar."

The Beginning of the Present Editorial Arrangement

The Journal continued as purely an Association project for its first year. However, in Volume II, pp. 50-51 of the Journal for October, 1926 is published the report of Willis E. Roe, Chairman of the Association's Law Journal Committee, to the 1926 Annual Meeting, which report contains the following language:—

"Satisfactory arrangements have been made with the Indiana University School of Law to supervise and have charge of the editorial department. This department is constituted as follows: (Editor and faculty board are named). Associated with the above are an advisory board of editors representing all the law schools of the state, consisting of (such board is named). These with a Student Board of Editors comprise the editorial department of the Indiana Law Journal as now constituted. Joel A. Baker, the Secretary of the State Bar Association, is the business manager who is in charge of the subscription and advertising department. . . . Your committee therefore recommends that the Law Journal Committee be discharged and that its duties be transferred to the Board of Managers."

In speaking orally upon such written report from the floor of the meeting, Mr. Roe used the two following sentences:—

"Now, gentlemen, I only desire at this time to repeat what I think I said a year or two ago in connection with the Law Journal. I had not in mind so much the establishing of a journal that would take the place that this one has taken, as I did the idea that it would stimulate and build up the membership of this organization."

Thereafter the President, George O. Dix of Terre Haute, introduced the first Editor of the Journal under its new editorial arrangement, Prof. Paul L. Sayre of the Indiana University School of Law, who made the following observation, among others (Indiana Law Journal, Volume II, page 54. Report of Meeting of July 9, 1926 at Michigan City):
“Now, depend upon it, this Law Journal is dependent on the contributions of the common garden variety of lawyer all over Indiana; no special group is adequate or has undertaken the matter. It is your Journal.”

Editorial Arrangement as Endorsed on The Journal

In the next issue of the Journal, that for November, 1926 (Volume II, page 174) there appeared the following very definite statement of the editorial arrangement:

“The complete management of the Indiana Law Journal is exercised by The Indiana State Bar Association through its officers. The Editor, Editorial Boards and other officers of The Journal are appointed by the President of The Indiana State Bar Association with the advice and approval of the Board of Managers. The Indiana State Bar Association founded the Indiana Law Journal and retains full responsibility and control of its publication. The participation of Indiana University School of Law is editorial.”

And this statement has appeared in every succeeding issue at the corresponding place to and including the issue for August, 1940, being Volume XV, Number VI. In the six issues of Volume XVI ending with the issue for last month, this statement has been revised to read:

“The Indiana State Bar Association founded the Indiana Law Journal and retains complete management and control of the publication. Subject to such control the Journal is edited by a faculty editor and a student editorial board appointed by the Indiana University School of Law.”

The First Written Journal Contract

Notwithstanding the financial issues involved and the changing personnel both in such Law School and this Association, so far as I have been able to ascertain from my research, no written contract defining the rights and duties of the officers of the Association and those of the editorial department existed until January 27th, 1936 when the President of this Association, the Honorable Fred C. Gause, and the Dean of such Law School, Bernard C. Gavit, executed in duplicate a memorandum of agreement, the body of which reads:

“1. Subject to termination by either party at any
time on written notice to the other, said Association hereby employs said School to perform the editorial work on the Indiana Law Journal through its faculty (who shall be known as the Faculty Board of Editors), students selected from its senior and junior classes (who shall be known as the Student Board of Editors) and an editor selected by said faculty with the advice and approval of the President and Board of Managers of said Association.

“2. Said School accepts said employment and for all said services, the care of the extra and back numbers of said Journal, postage and all other expenses incidental to said editorial work said Association shall pay said School the sum of One Hundred ($100.00) Dollars per month at the end of each month.

“3. Said Association retains full responsibility and control of said Journal and through said Editor the President of said Association shall be kept advised of the contents of future issues and the material on hand and rejected; the time and method of exchange of information concerning the Journal shall be arranged between the editor and the president so as to cause a minimum of inconvenience to each.

“4. The number of pages in a year’s issues of the Journal and the amount of money to be allotted to its publication shall be determined by said Association and the editor promptly advised so that he may know the amount of space available.”

The By-Laws of the Association provide the Secretary shall superintend the publications of the Association as directed by the Board of Managers (Article IV, Section 2) and that such Board shall cause the proceedings of the Annual Meeting to be published and distributed yearly (Article XX).

Assignment of Journal Space During Last Six Years

It would be difficult for the most skilful practitioner to create a more consistent record of purpose and principle over a fifteen year period. Let us analyze the performance of this oral or implied contract and later written arrangement.

I submit first a survey of Volumes 11, 12, 13, 14, 15 and 16, the last six volumes of the Journal, which are the only volumes published on the current plan of six issues a year. I find an average of 584 numbered pages per year with a
variation of less than 20 pages from this average each volume, so that the total annual space consumed remained practically constant. I have tried with all possible fairness to classify the pages devoted to Association purposes such as reports of all annual and mid-winter meetings and addresses before such meetings, legal institute material, announcements, programs, official messages, lists of members, court officials and local bar association officials and printing of By-Laws. I have calculated the total of the pages devoted to case notes, and I have made a final classification of what might appropriately be termed as Law Review or Law School material.

After completing this classification, I discovered that there was an annual average over such six year interval of 19% of the space for case notes, and, curiously enough, exactly 40½% of the space for each of the Association and Law School classifications. Such annual average over the first five years of such period under the editorship of Prof. Alfred Evens was:—Case notes 18%, Association material, 43%, and Law School material 39%, as against last year’s record, the first under the present editorship of Prof. Frank E. Horack, Jr. of:—Case notes 23%, Association material 30% and Law School material 47%. In other words, during the last year the Association has suffered a loss of approximately one-third in the total amount of space permitted to it in its own Journal.

Editorial Reaction to Association’s Advances to Secure More Journal Space

I submit secondly and entirely without any personal feeling at all (for I do not pretend to question the industry, sincerity, ability and integrity of the present Editor) the simple statement of fact that but three contacts concerning the proposed contents of the Journal were made by the Editor with your President during the administration year of the past thirteen months. The first was a protest on the initiative of your President against the severe and substantial elimination (at times in excess of fifty per cent) from Committee Reports which had previously appeared in the October, 1940 issue. The second was a meeting to preserve as substantial a portion of the report of the Mid-Winter Meeting as might coincide with editorial demands, and the third contact at the initiative of your President was to give in-
structions for the insertion of a scholarly article on a legal subject of current interest to the rank and file of the profession, prepared by an active executive of a contemporary law school in Indiana other than at Indiana University, at which time your President received information that prior commitments would not permit insertion at that time. Otherwise than as stated, your President learned of the contents of each issue of the Journal upon its receipt in his own office, as did every other party on the mailing list.

*Can There Be Something Wrong With the System*

A situation of the type just disclosed does not indicate to my mind lack of ability, or fidelity to the best interests of the bench and bar, or an unwillingness to cooperate on the part of any one. But the thought occurred to me that it might be that there was something wrong with the system. We might be trying to drive the car with water, when the fuel it needed was gasoline.

*Distinction Between “Law Review” and “Law Journal”*

With this idea in mind, and while I had my own conception of the correct meaning of the expressions “Law Review” and “Bar Journal” or “Law Journal”, I decided to make inquiry upon this point from several of the Librarians of leading Law Schools at Universities in other States. From the generous assistance thus received, I quote the following very clear enunciation from Hobart R. Coffey, Law Librarian, University of Michigan:—

“In our library we ordinarily think of a bar association journal as one published by the bar of a particular area and which contains articles and news of particular interest to members of the legal profession. Law school reviews seldom publish that kind of news, but limit their scope to scholarly articles on particular phases of the law. There are instances where these two functions have been combined, and I see no objection whatever to such procedure. Some years ago, our Michigan Bar Journal reprinted in full the articles which appeared in our own law review. This was really a duplication of effort because most of our lawyers were already receiving the Michigan Law Review. In time this practice was discontinued. I notice that the Indiana Law Journal is published, and I suppose financed, by the Bar, but it seems to contain very little
Bar Association news. It is more or less a law review of the orthodox character."

The Real Question Emerges

Viewed in the light of this piercing statement, the real question in my judgment emerges clear and bright. It is:—Could it be that our Association, while in thorough good faith assuming to publish a Law Journal or Bar Journal, has been lending its financial support to the extent of forty one cents out of every dollar for a period of eleven years last past at least, to an aggregate total in excess of thirty thousand dollars, to what has at all times in truth been a Law School Review? And as a necessary corollary, could it be that the real solution would be for our Association to publish its own Indiana Law Journal without editorial supervision from any of the excellent Schools of Law within the State? I determined to investigate.

The Experience Elsewhere in the United States

I felt that the most disinterested and impartial resort first would be to survey the problem in other States, and to that end I accordingly addressed a printed questionnaire to the Secretary of the State Bar Association or State Bar in each of the forty-seven other States in our nation. Much to my surprise, delight and gratification, I received replies from forty-one of the group, an experience which has increased my already definite admiration of secretaries of state bar associations. The six States from which I have no report are Maryland, Massachusetts, Nevada, New York, Oklahoma and South Carolina. Of the forty-one States reporting, sixteen publish no Bar Association Journal, leaving twenty-five for final analysis. Of these twenty-five, the State Bar Association did its own editorial work free from Law School supervision in twenty, the Law School edited in one, and joint editorship between Association and Law School existed in four. Final control of the contents of the Journal remained in the Association in twenty states, in the Law School in two and jointly in three. Law School material was entirely excluded in sixteen of the States, case notes only appeared in five States, and such material was substantially inserted in four States.

Of peculiar significance is the fact that all of the States
adjoining Indiana, namely, Illinois, Michigan, Ohio and Kentucky place complete control in the Association, without editorial supervision by any Law School, although the Law School of the University of Illinois instead of receiving pay for the furnishing of case notes for the Illinois State Bar Association, in turn pays to that Association $100.00 per month or $1,000.00 per year for the privilege of furnishing case notes, with the recent development of an offer to increase the payment to $500.00 an issue if the space is transferred to another University Law School in Illinois. It is further particularly interesting to observe that in four of the States, Illinois and Michigan which adjoin us, and Alabama and North Dakota, a joint arrangement between Association and Law School had been tried many years ago and rejected as unsatisfactory. I do not wish to quote from the many questionnaires opposing a joint operation such as ours further than to give the following sentence as a fair sample:—"Law School supervision usually results in just another Law Review instead of a bar journal."

My Personal Conclusion as at Present Advised

As at present advised, and in the light of both my experience as your President and my research as indicated (although I remain open to conviction) I am inclined to favor a major change in our publication policy which would result in returning and restoring its Journal to the Association which gave it birth, with an Editor responsible to it alone, thereby releasing the Indiana University School of Law to publish its own Indiana Law Review unhampered by Association interference. I am so inclined for the following reasons:—

First, I believe all Association material can reach its members with a substantial financial saving which would permit either a decrease of dues of our members, which I do not favor, or an increase in services for the same dues in the interests of the practicing lawyers throughout the length and breadth of Indiana, which I certainly do favor. I say this for the reason that the official figures for the Illinois State Bar Association for 1940-1941 (its Volume 29) show that a circulation of approximately 6,700 copies costs just about the same as a circulation of approximately 2,200 copies of the
Indiana Law Journal costs us the same year. In other words, we are paying about 300% of the Illinois cost.

Second, in our own Journal with an editor attuned to the interests of the active bench and bar more than any Law School instructor could possibly be, by reason of the radical difference in their spheres of work, we could and would secure publication more completely of committee and section reports without the present deletion extending even beyond sixty per cent in certain cases, thereby giving greater encouragement to committee and section work.

Third, it would release space for development of new Association activities, when and as developed.

Fourth, it would permit insertion of a reasonable amount of personal items, which would widen appeal to greater numbers, under the experience had in other States.

Fifth, it would enable the Association more convincingly than at present to open its columns to each and all of the recognized Law Schools of Indiana in accordance with the original intention so to do expressed by Willis E. Roe in 1926.

Sixth, it would remove the embarrassment at present existing when a student board of editors in one Law School insists upon its right to edit carefully prepared and scholarly material submitted for publication by a leading faculty member or prominent executive of another Law School in Indiana.

Seventh, it would remove the financial burden of publishing Law Review material from the membership of the Association, which can afford it but with difficulty and at the expense of sacrificing in expanding other activities, and would place such burden upon legislative appropriation where the relatively small increase required would produce no hardship, and in fact in all probability escape extended discussion in legislative committee and on assembly floor.

Decision Should Come from Entire Membership

The real question, even at the expense of repetition, I assert, is:—Should not the Indiana Law Journal be restored to the Association which gave it birth, and published as originally purely as a Law Journal or Bar Journal, with the Indiana University School of Law publishing its own Law Review at its own expense? What is better for the one is inevitably better for the other, since both are inextricably involved in the success and progress and advancement of the
common profession in Indiana which they seek to serve with equal good faith and energy.

But the change involved is so fundamental, and makes such a drastic development, that no small section or percentage of the membership present at either an Annual or a Mid-Winter Meeting, and no Board of Managers, should decide favorably or unfavorably in the advance of a secret informed and intelligent referendum of the entire membership of the Association whose funds are annually involved. I intend the submission of a motion arranging for the conduct of further desired research and the referendum to such complete membership immediately upon the conclusion of this address.

Let there be no failure, however, on the part of this Association to recognize and be grateful for the signal services heretofore rendered the Journal by the faculty and students of the Indiana University School of Law. The fact, if it be a fact, that both Association and Law School are trying to make a system work which in the very nature of things can never work, and which is not in force in the four adjoining States of Illinois, Michigan, Ohio and Kentucky, the first two of which years ago after adequate trial rejected just such a system, is the fault of neither and neither should be condemned.

Plagiarizing somewhat the words of the great inaugural address of the martyred Abraham Lincoln—"With malice toward none, with charity for all, with firmness in the right as God gives us to see the right," let us move forward with complete friendship and good humor to the proper solution of this present problem.

I Continue Grateful

A single further sentence and I will have done. I embrace this final opportunity as this Annual Meeting moves swiftly to adjournment and but minutes and seconds remain. to repeat once more my keen gratitude, so frequently declared in recent weeks, for your prior confidence in me, your loyal cooperation with me, and your creation of permanent and enduring memories for me, which I shall never forget.