

# Law Quadrangle Notes

The University of Michigan Law School

Volume 21, Number 2, 1977

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## From The Dean



Throughout this issue of *Law Quadrangle Notes* you will find a number of reports on the launching of the first capital fund campaign in the Law School's history. Most of you have already received the formal brochure detailing our plans. Our overall target, as you know, is \$10 million, with \$8 million of that designated for our new library addition.

To avoid the architectural problems that would have been presented by placing a contemporary building adjacent to our existing Gothic complex, we have decided on a below-grade design. The use of large slanting skylights and vaulting open spaces will prevent any sense of confinement. The result should be a strikingly handsome structure that will meet our library needs for several decades and, given the potentialities of micro-storage, perhaps indefinitely.

I do not need to elaborate to you on the excellence of the Michigan Law School or on the extent to which that excellence has been dependent on the generosity of you and your predecessors. John Pickering and his development committee have put in many hours in Ann Arbor laying the groundwork for the forthcoming drive. The Dow and Kresge Foundations and several individual alumni have provided major gifts to get the campaign off to a flying start. Now we turn to you to make the contributions that will carry us over the top and enable a great law school to be even more effective in the service of students and alumni, bench and bar, state and nation. I know you will not fail us. Let me thank you in advance for your consideration and support.

Sincerely,

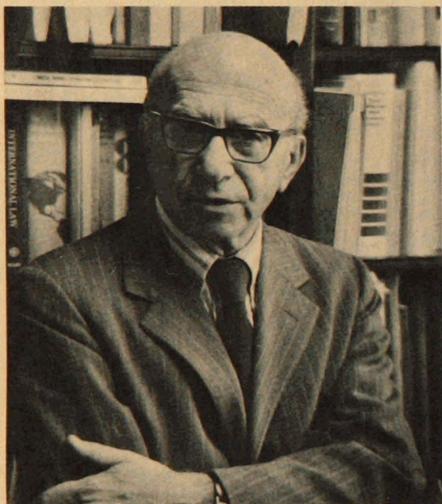
*Theodore J. St. Antoine*

Theodore J. St. Antoine  
Dean

# u·m notes

## Prof. Stein Appointed To New Yntema Professorship

Eric Stein, professor of international law at U-M Law School, has been named to the School's newly created Hessel E. Yntema Professorship of Law.



The appointment was approved recently by the University Regents. The newly established professorship is named for a former law professor at U-M.

A member of the U-M law faculty since 1955, Prof. Stein has specialized in disarmament and weapons control law and international business law.

He has authored or co-authored a number of books, including "European Community Law and Institutions in Perspective" (1976), "Harmonization of European Company Law: National Reform and Transnational Coordination" (1971), "Law and Institutions in the Atlantic Area" (1967) and "Diplomats, Scientists and Politicians: The United States and the Nuclear Test Ban Negotiations" (1966).

At Law School, Prof. Stein has been co-director of international legal studies. He is a member of the Council on Foreign Relations, the International Law Association, the board of editors of the "American Journal of International Law," the board of review and development of the American Society of International Law, and many other professional associations.

Stein has served as a consultant to the U.S. Arms Control and Disarma-

ment Agency and as an advisor to the U.S. delegation to the United Nations' General Assembly and Security Council.

He has lectured widely in the United States and Europe. In the summer of 1971 he was the Carnegie Endowment Lecturer in International Law at the Hague Academy of International Law in the Netherlands.

## Program On Child Abuse Begun At Law School

Three professional schools at The University of Michigan have joined hands in a new program focusing on the nationwide problem of child abuse and neglect.

Under a grant from the Harry A. and Margaret D. Towsley Foundation of Ann Arbor, the U-M Law School has begun a new clinical program which will help student lawyers become better child advocates both in and out of the courtroom.

The grant, awarded in connection with the Law School's current capital campaign (see campaign stories elsewhere in *Law Quadrangle Notes*), also covers similar clinical programs at the U-M Medical School and the School of Social Work, where students will receive special training to deal with child abuse and neglect problems.

"Child abuse and neglect is one area that desperately needs more collaboration among the legal, pediatric, psychiatric and social work fields," notes Donald Duquette, who heads the U-M's clinical law program in child advocacy.

"Few lawyers or judges are familiar with psychological and family dynamic implications of child abuse cases, nor are they fully aware of the expertise available from social workers and physicians in treating child abuse and neglect problems," says Duquette. "And most psychiatrists, pediatricians and social workers are equally limited in their legal perspectives."

Lawyers in particular could benefit from a broader perspective, says Duquette. "In many cases, child abuse or neglect is a symptom of serious but less obvious family or personal problems. A negotiated settlement out of the judicial spotlight is often more productive and less destructive to the child and his family—as long as the child is legally protected. The ultimate goal of the court is to preserve and foster family life whenever possible.

"But it is difficult to convince a young lawyer, eager for trial experience, of the benefits of an out-of-court settlement," says Duquette. "This is one of the points we are getting across in the clinical program.

"Although negotiation and mediation skills are important in child advocacy," Duquette continues, "these skills depend to a large extent on one's ability to try a case well when called upon. When trial is necessary we do not shy away from it."

As part of the program, Duquette and his student lawyers consult with U-M pediatric, psychiatric and social work specialists on many of their cases. By broadening their knowledge of the facts, family and personal dynamics, and the possible alternatives available, the student lawyers can make legal judgments that are in the best interests of their clients, says Duquette.

Such interdisciplinary collaboration is not new in the medical field. At U-M Medical School an interdisciplinary group known as the Suspected Child Abuse and Neglect (SCAN) team frequently consults on child abuse cases. The student lawyers participate in SCAN committee meetings and call on the specialists for consultation.

Duquette notes that most of the cases handled by the U-M student lawyers are referred by two Michigan agencies, the Wayne County Juvenile Defender's Office and the Washtenaw County Prosecuting Attorney's Office. In Washtenaw County cases, the students represent the Protective Services Division of the State Department of Social Services, the agency charged with responsibility for investigating instances of child abuse and neglect in Michigan. In Wayne County cases the student lawyers represent the children directly.

"Ultimately, the goal of any intervention by the Protective Services Division in child abuse cases is the rehabilitation of the family," notes Duquette.

"It is only when therapeutic intervention breaks down—when the family refuses treatment, or the social worker concludes that the child must be protected from the family—that legal action will be initiated. And this occurs in only 10 or 20 per cent of the cases handled by Protective Services," says Duquette.

Aside from dismissing a case, the judge usually has the option of returning the child to his own home under supervision of the Department of Social Services, placing the child with a relative, sending the child to a foster

home, or placing him in a group home or other institution.

Duquette and others involved in the U-M child advocacy program stress that recent national statistics showing widespread child abuse underline the need for efforts to investigate the problem and train professionals to work in the area. According to recent figures, there are more than one million cases of child abuse and neglect reported nationally each year and an estimated 600,000 unreported cases.

The long-range goals of the U-M clinical programs in the three professional schools are to generate research and to develop training materials for students and professionals, according to Duquette.

Another goal for the Law School, says Duquette, is to motivate students to work in the general area of "family law," which includes child abuse cases.

"Generally, within the legal profession, family law has a low status," says Duquette. "Actually, family law presents complex, intellectually taxing and socially relevant challenges both in law and in interpersonal relationships. One of our hopes is to attract students to this area, and we seem to be achieving this."

Eventually, Duquette would like to establish continuing education programs dealing with child abuse for practicing lawyers.

The six U-M law students participating in the child advocacy program this semester are receiving academic credit for their work. "Their work on actual cases provides them an opportunity to develop interviewing, counseling and negotiating skills in sensitive and emotional situations," says Duquette.

"They have conducted actual court hearings which have sometimes included the use of expert witnesses. In addition to actual legal experience, the students take part in mock trials dealing with child abuse and attend seminars featuring specialists in a variety of related fields."

Duquette himself has been closely involved with child abuse problems as both a social worker and a lawyer. He was a social worker in Muskegon, Mich., for three years before attending U-M Law School. After receiving his law degree he became assistant professor in the Medical School at Michigan State University, where he was involved in teaching and in child advocacy litigation.

Others from U-M Law School active in the child advocacy project are Dr. Andrew Watson, professor of psychiatry and law, and Steven Pepe,

who heads all clinical law programs at the Law School.

Heading the child advocacy clinical program at the U-M Medical School is Dr. Mark Hildebrand, while Prof. Paul Glasser is directing the program at the U-M School of Social Work. Other active participants include Dr. Jack Pascoe, a pediatrician, Dr. Ann Snyder, a psychiatrist, and Janet Stubbs, a pediatric psychologist, all of whom are with the U-M.

The child advocacy program, formerly known as the U-M Interdisciplinary Program for the Prevention of Child Abuse and Neglect, is headquartered at 202 East Washington Street, Room 507, in Ann Arbor (phone: 313-763-5000).

The Towsley Foundation, which is funding the project, is named for Dr. and Mrs. Harry Towsley of Ann Arbor. Dr. Towsley is professor emeritus of pediatrics at the U-M and also served as chairman of the Department of Continuing Medical Education in Health Sciences. Mrs. Towsley, a Michigan graduate, for the past 35 years has directed the Children's Play School of Ann Arbor.

The Towsley Foundation has assisted the University and the Ann Arbor community with its support since the foundation was established in 1960.

### "Flying Professor" Named "Top Gun" In Competition



Law students awed by U-M Prof. James White's rapid-fire delivery and pointed questions in class might be interested to know that the professor received "top gun" honors in a recent non-legal competition.

White, who is a lieutenant colonel in the Air National Guard, earned the "top gun" honors among units of the 121st Tactical Fighter Wing in simulated military operations.

White, a member of the 180th Tactical Fighter Group of the Ohio Air National Guard and commander of the 112th squadron, flew an F-100 in the competition.

The "flying professor" had the highest aggregate score in dive-bombing, low-angle bombing, and strafing among 32 pilots.

He was competing against pilots not only from the 180th fighter group but also from groups in Columbus and Springfield, Ohio, and Pittsburgh, Pa.

### Students Help Taxpayers With Contested Returns

A group of U-M law students is helping taxpayers whose returns are audited confront the federal bureaucracy.

In a program authorized by both the Internal Revenue Service (IRS) and the U.S. Treasury Department, the law students are participating in a new "clinical" course under which they offer free legal counsel to clients whose returns have been contested by the IRS.

Douglas Kahn, one of the professors who initiated the program, notes that potential clients will be limited to those with tax problems under \$1,000.

Kahn believes the program will perform a "valuable public service to both low and middle income taxpayers who would not usually choose to hire an attorney to assist with their tax problems.

"For a large part of the public," says Kahn, "income tax problems create tremendous friction. This is particularly true if a taxpayer whose returns have been audited feels that he is right but does not want to go through the bureaucratic process of pleading his case."

The U-M tax program is supported by a grant from the Council on Legal Education for Professional Responsibility (CLEPR), a Ford Foundation affiliate. The program is one of only three in the country. The other two are at Hofstra University in New York and Southern Methodist University in Texas.

The U-M program is being supervised by a local tax attorney, Charles Ladd. Participating students may also seek advice from the Law School's two tax specialists, Prof. Kahn and Prof. L. Hart Wright.

The program is being limited to six students each term to ensure close faculty supervision, notes Prof. Kahn. As with other Law School "clinical" programs, the students will discuss their experiences at law school seminars and receive academic credit for their work.

Prof. Kahn emphasizes that the program will not compete with commercial tax firms because it does not deal with the preparation of tax returns.

Under faculty supervision, students screen potential clients, obtain facts of each case, and present the case before IRS agents if there is a reasonable claim.

"One intention of the IRS in approving the program," says Kahn, "was to provide a service to low income taxpayers. But, actually, there are usually not that many contested returns among low income people. Thus, I believe most of our clients will be from middle income levels, although we will give priority to low income clients."

Kahn feels potential clients should not be hesitant about seeking assistance from student lawyers. "These students are conscientious and eager to help," says the professor. "Clients will get good representation from them."

The program, under the official title of "U-M Federal Income Tax Law Clinic," is now under way at 202 East Washington Street, Suite 508, in Ann Arbor (phone: 313-763-5000). There is no charge to the client whether the students decide to argue a case or not.

Since tax audits occur all year, Kahn says student participants will be kept busy each semester.

## Prof. Proffitt Named Nebraska "Master Alumnus"

Prof. Roy F. Proffitt of the University of Michigan Law School recently returned to his alma mater, the University of Nebraska at Lincoln, to participate in a program called "Masters Week."

Under the program, outstanding alumni are invited to the University of Nebraska to share experiences with students and faculty. As part of the program Prof. Proffitt spoke before



groups at Nebraska Law School and with undergraduates and pre-law students.

Proffitt was also given a certificate designating him a "Master Alumnus of the University of Nebraska."

Proffitt earned a bachelor's degree in business administration from Nebraska in 1940. After serving in the Navy during World War II he earned a Juris Doctor degree from U-M Law School.

Proffitt served on the law faculties at Nebraska and University of Missouri before joining the Michigan faculty. For 14 years he was assistant and associate dean of U-M Law School and also served as associate director of the Institute of Continuing Legal Education, headquartered at the Law School.

## Correction

In last summer's *Law Quadrangle Notes* containing the annual report of the Law School Fund, it was reported that the last two surviving members of the Law School class of 1899 had died.

This is incorrect; there is still a surviving member of that class. He is Elton R. Nellis of Detroit. Nellis is of counsel to the firm of Nellis, Ryan & Nellis of Westland, Mich.

The incorrect statement appeared on page 11 of the *Law Quadrangle Notes* annual report.

## alumni notes

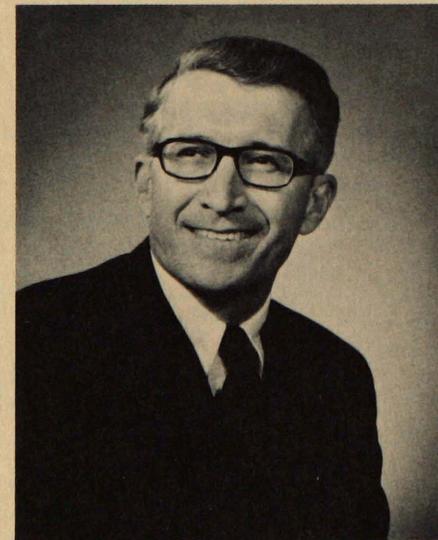
**Mary F. Berry**, a 1970 Law School alumna, is on the move again. Not long after becoming chancellor of the University of Colorado's campus at Boulder, Berry was named Assistant



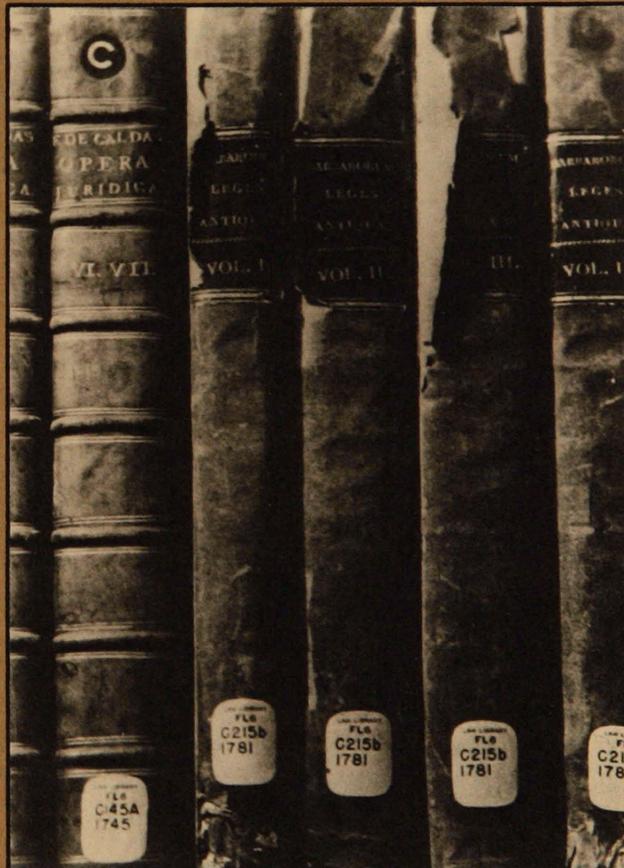
Secretary of Education in the U.S. Department of Health, Education and Welfare (HEW). She was appointed by Joseph A. Califano, the new HEW Secretary in the Carter administration. Berry had served as Colorado chancellor since July. Previously she was provost of the University of Maryland's Division of Behavioral and Social Sciences. In addition to her U-M law degree, Berry holds a Ph.D. in American constitutional history from the U-M and bachelor's and master's degrees from Howard University. She is the author of two books on race and law.

Judge **Albert Lewis Rendlen**, a member of the Law School's class of 1948, is the newest judge on the Missouri Supreme Court. The appointment, made in November by then Missouri Gov. Christopher S. Bond, makes Judge Rendlen the third U-M law alumnus to serve on the Supreme Court in that state. Since 1974 Judge Rendlen has served on the Missouri Court of Appeals at St. Louis. Born in Hannibal, Mo., Judge Rendlen began a

law practice there with his brother Charles after both men graduated from U-M Law School. The two brothers had been active in Republican party politics. On the appeals court, Judge Rendlen earned a reputation as a hard worker and prolific writer of opinions.



# LAW SCHOOL ANNOUNCES FIRST CAPITAL CAMPAIGN IN ITS 117 YEAR HISTORY



## Law Library Addition Is Major Campaign Goal

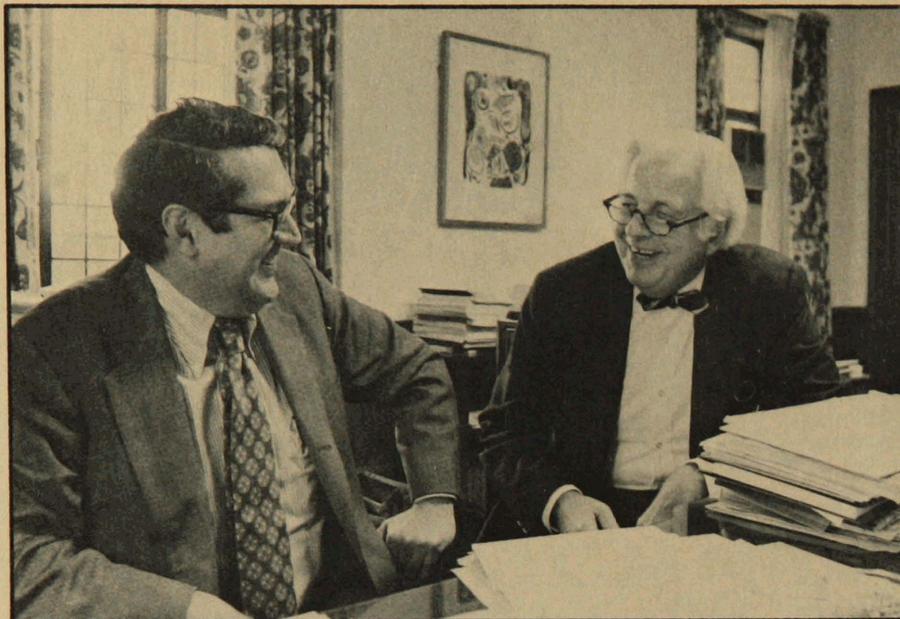
The University of Michigan Law School has announced the first capital campaign in its 117-year history, with a goal of \$10 million to be raised during the next three years.

The primary purpose of the campaign is to raise \$8 million for construction of a new library addition, according to U-M law Dean Theodore J. St. Antoine. He said approximately half of the needed funds have been received or pledged in advance of the formal campaign.

The Law School also seeks \$1.25 million for endowed professorships, student fellowships, and other program needs. Another \$750,000 is required to complete renovation of the Lawyers Club, the major residence hall for students, according to Dean St. Antoine.

"The partnership of private support and public funding has enriched the Law School and made it what it is today," he said. "The School must move ahead to meet tomorrow's demands for well-trained young lawyers and for expanded research and service to society."

To do this, new funds must be obtained from the Law School's alumni and friends to make up for cutbacks in federal funding and shortages in state money, the dean said.



U-M law Dean Theodore J. St. Antoine (left) and John H. Pickering, the Law School's alumni capital campaign chairman.

Dean St. Antoine said the proposed library addition, totaling 62,500 square feet, is needed to ease overcrowded conditions in the present facility, which was built in 1931.

He said the library is now "filled to capacity. Books are stored in stairwells, in the basement, and in the stack aisles.

"When the Legal Research Building opened 40 years ago," noted Dean St. Antoine, "the collection numbered 104,000 volumes. That figure has grown dramatically to the present 450,000 volumes.

"Even if accessions slow down and considerable use is made of microform storage (for microfilmed materials), the law library will have to house an estimated 650,000 volumes within the next 20 years or so," according to the dean.

He said the new addition will be an L-shaped underground facility running parallel to Monroe and Tappan streets and connected to the present law library. Extending two levels "below grade," the proposed structure would occupy the space now containing a surface-level parking lot. Once the new building is completed, the parking lot would be replaced by an open landscaped area.

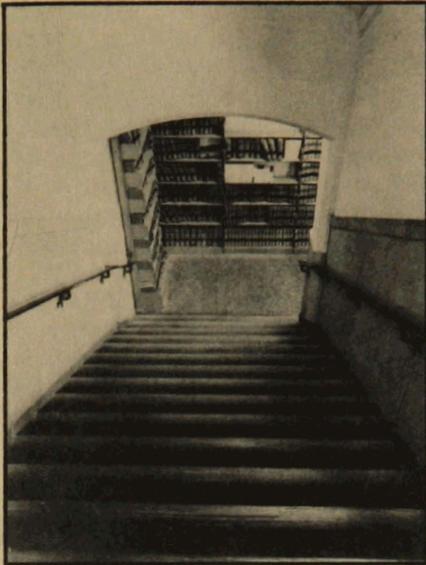
Dean St. Antoine said the plan for a below-grade structure, approved by both the U-M

Faculty Building Committee and the Law School's Alumni Development Committee, was chosen in order to maintain the architectural integrity of the U-M Law Quadrangle. The Quadrangle, completed in 1933, is of an English Gothic style that could not be duplicated today at a realistic cost.

Underground library additions are not uncommon at other universities. Similar structures were built not long ago at both Harvard and Yale, where lack of space prohibited construction of above-ground library additions.

Architect Gunnar Birkerts of Birmingham, Mich., has been selected to design the new facility. Birkerts is designer of the Federal Reserve Bank in Minneapolis, the south addition to the Detroit Institute of Arts, IBM's Corporate Computer Center in New York City, Ford Motor Company's Visitor Reception Center in Dearborn, and many other award-winning buildings throughout the country. He is also one of the leading experts in subterranean architecture.

In addition to added space for books and research materials, the new library addition will feature extra carrel space for students, meeting rooms, a few administrative offices, and a lounge, according to Dean St. Antoine.



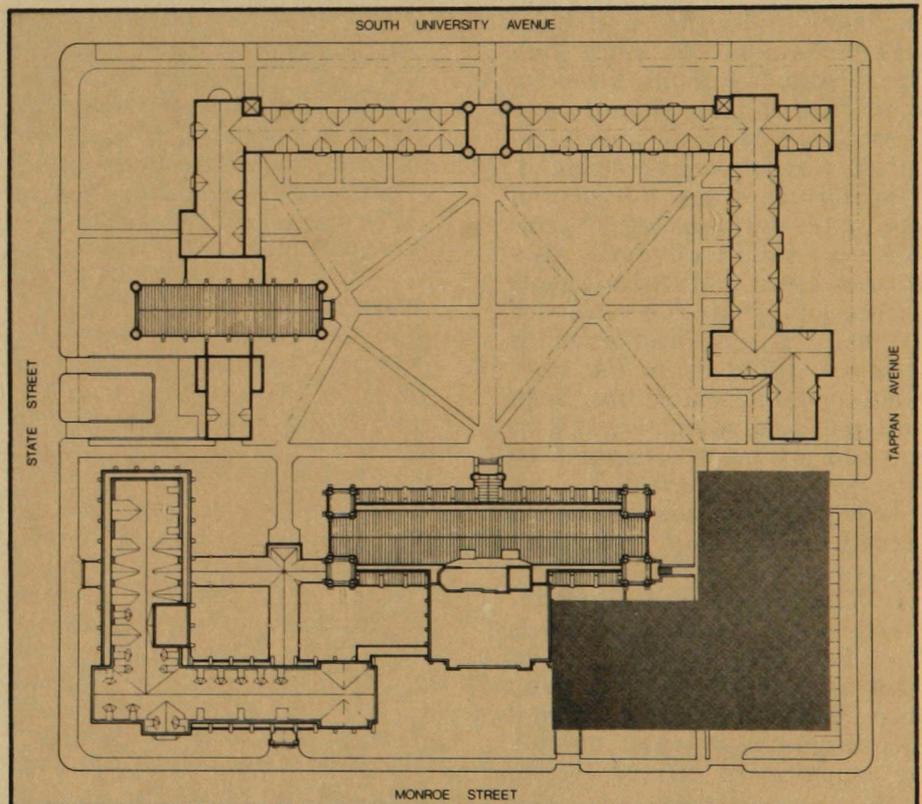
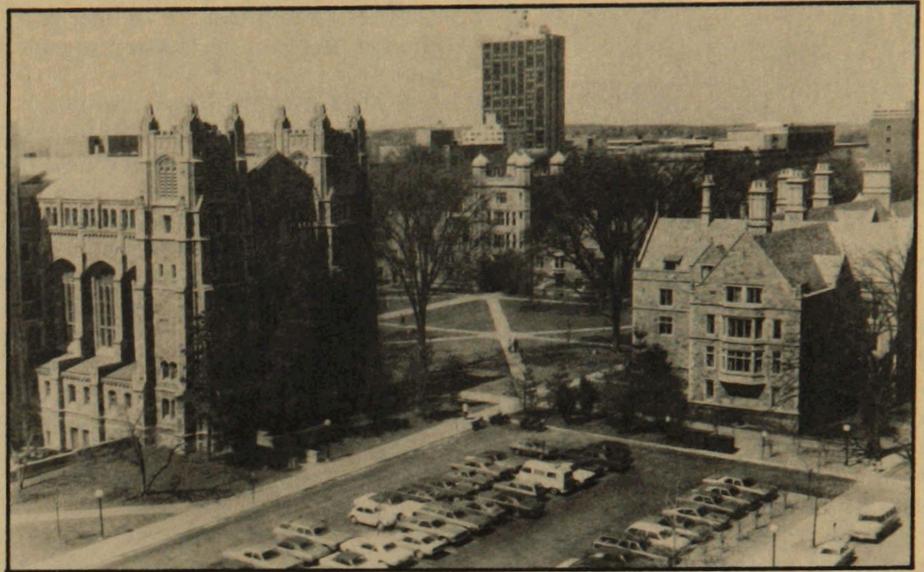
In citing the need for extra funds for the endowed professorships, he noted that "competition for outstanding faculty has been and continues to be extremely keen throughout the country."

"Not only must the Law School be able to attract and retain the finest faculty available, but it must have the capability of recognizing present faculty members for their scholarly achievement and distinguished service. State support does not provide for this kind of recognition and it is insufficient in many instances to match competitive salary offers from other schools. Private gifts are the only source for these funds," according to Dean St. Antoine.

He said the funds sought for the Lawyers Club renovation will be used for the installation of new plumbing and kitchen facilities, and for repair of walkways around the building.

John H. Pickering of Washington, D.C., is serving as the campaign's alumni chairman. Over the past three years, Pickering and 29 other U-M law alumni have traveled from all parts of the country to meet regularly at the Law School and decide campaign priorities.

Pickering said his alumni group "has been extremely dedicated and committed to maintaining the law school as an outstanding national center for legal education and research."



The shaded portion of this diagram shows the site of the proposed \$8-million U-M law library addition. The 62,500 square foot structure, extending two levels below ground, will parallel Tappan Avenue and Monroe Street, and connect to the present law library. The site now contains a surface level parking area, but this would be replaced by an open landscaped area once the below-grade library addition is completed.

## A First For The Law School— A Capital Opportunity For Its Alumni

By John H. Pickering  
Chairman, Law School  
Campaign Committee

The Law School has just begun the first capital fund campaign in its history. The success of this campaign, which will extend over three years, is now up to us alumni—we who have benefited so much from our Michigan legal education.

In keeping with the great traditions of that education, the case for this capital campaign has been thoroughly and compellingly made. For more than three years, the deans, a faculty committee and an alumni committee have worked closely together. Needs were determined, priorities were set, design and site alternatives were considered, major advance gifts were solicited, and realistic goals were established. The results of all this planning and advance work are reflected in the campaign booklet which has been mailed to all alumni. Now it is up to each of us to respond as generously as we can.

As we consider our individual responses let us keep the following in mind:

1. The great and national character of the Law School is due in large part to the generosity of its alumni who have made individual capital gifts in the past—most notably the magnificent gift of W. W. Cook.

2. Michigan must now turn collectively to its alumni for capital funds, if it is to remain in the front rank of national legal education. If none of us can individually be another Cook, collectively we can produce a capital repast.

3. Consider what you have enjoyed as a result of your law school education—things such as professional training of the highest order, the inspiration of great teachers, the beauty of the quadrangle, lifelong friendships, rewarding and successful

careers. Then figure what you should and can do toward repayment.

4. The \$10 million campaign goal is a minimal one to meet the most urgent needs. Every dollar raised above that amount can be put to good use by the school to meet additional needs for such matters as endowed chairs, expanded programs, and capital improvements.

The success of the capital campaign is now in your hands. The Law School and we alumni on the campaign committee are confident you will not fail.

## Growing Collections Mark Library's History

"If agreeable to you I will erect on the 'Law Quadrangle' (being land already acquired or to be acquired by you) a 'Legal Research' building, in accordance with plans submitted herewith."

With these words, William W. Cook notified the U-M Board of Regents formally on Jan. 11, 1929, of his intention to provide the Law Library with a new home. The gift was accepted "with profound gratitude," and when construction was completed in June, 1931, the library for the first time had a facility providing safe storage and ready access for its 90,000 volumes and thousands of pamphlets.

The Legal Research Building had ample room for the collection, library seating for 500 students, research and office space for faculty and visiting scholars, and six levels of stacks. The New York City architecture firm of York & Sawyer had created this Jacobean Gothic monument to legal scholarship out of wrought iron, polished oak, stained glass and carved stone at a total cost of \$1,600,830.59.

In his report to the President for 1930-31, law Dean Henry M. Bates said: "The completion of the new library building and the moving of our books into it are causes of great relief, for thus an end was put to the stalking fear of fire, which might easily have destroyed the whole collection in the old building. Moreover, 30 to 40 per cent of the collection was unavailable for use in the old building, which was altogether too small to house the collection."

The new building "impels all to stop and admire," enthused the Michigan Alumnus of April, 1931. "For, from its foundation to the very pinnacle of its ninety-foot towers, the new structure seems to effuse a power and a beauty of rare proportions."

The same article reported that the capacity of the new library was thought to be 275,000 volumes. But the collection continued to grow, and especially after World War II, increases in

the amount of printed legal material, the number of scholars, and the size of the library staff made the need for an expansion of the facility crucial. With the help of a state appropriation and some leftover research funds that had gone unused during the war, four more levels were added atop the stacks in 1955 at a cost of \$687,283.72 (a flying bridge was also built to connect the stacks directly with the third floor of Hutchins Hall).

The addition came in the nick of time. As of Nov. 1, 1956, Librarian Hobart Coffey reported the size of the collection at 278,802 volumes and growing at a rate of 8,000 books per year. Coffey predicted even the expanded capacity would be filled within 10 years, and he proved to be correct. The September-October, 1966, issue of the U-M Research News reported in a feature on the Law Library that the collection had grown to more than 350,000 items.

The staff has continued to purchase thousands of new books and periodicals each year for the past decade in an ongoing effort to maintain the U-M Law Library as one of the foremost legal research centers in the world. The size of the collection on June 30, 1976, was 461,465 volumes.

The rapid burgeoning of the library's holdings almost seems to belie one of the inscriptions that benefactor Cook had inscribed over the entrance of his Legal Research Building:

"Law Embodies the Wisdom of the Ages—Progress Comes Slowly."

—Bruce Johnson

## Campaign Donors Cited For "Leadership Grants"

A number of foundations and individual donors have been cited for their "leadership grants" in the U-M Law School's current capital campaign.

"As part of the preparation for our campaign," said Dean St. Antoine, "the Law School has been seeking leadership grants from foundations and individuals. These grants gave us the impetus to announce the campaign publicly last fall."

St. Antoine added that "now the real challenge lies ahead in meeting our total campaign goal of \$10 million through contributions from alumni and friends."

Among major foundation grants in support of the proposed \$8 million law library addition, the dean cited a pledge of \$1.5 million from The Kresge Foundation of Troy, Mich., and a \$1 million grant from Herbert H. and Grace A. Dow Foundation of Midland, Mich.

He also cited a recent \$660,000 gift from the Harry A. and Margaret D. Towsley Foundation of Ann Arbor for program support at the Law School. The Towsley grant is being used to finance a new Interdisciplinary Program for the Prevention of Child Abuse and Neglect, including clinical programs for students at U-M Law School, Medical School and School of Social Work (see full story elsewhere in Law Quadrangle Notes).

Among major leadership donations from individuals, St. Antoine cited gifts of \$1 million each from Calvin N. Souther of Portland, Ore., a 1929 law graduate, and the late Thomas G. Long of Detroit, a member of the class of 1901.

St. Antoine also noted that the Law School's faculty and staff have already pledged more than \$80,000 to the campaign, an average of about \$1,800 per donor.

"Our legal training at Michigan has been enriched by the legacy of William W. Cook and other alumni," wrote Dean St. Antoine and John H.

Pickering, the Law School's alumni capital campaign chairman, in a recent letter to alumni.

"It is over 50 years since one alumnus made the magnificent capital gift that was such a major factor in shaping the Law School of today. Now it is up to all the rest of us to ensure the School's future in the years ahead and make certain it continues as a first-class center of legal education and research."

## Law School Pursues Getty Connection

If J. Paul Getty had not died when he did last spring, he might have eventually agreed to fund the entire cost of the planned new addition to the U-M's William W. Cook Legal Research Building, according to Dean St. Antoine.

The American-born oil magnate, who many believed was the world's richest man, wrote back with a polite "not at this time" after the idea was proposed to him by Dean St. Antoine and U-M President Robben W. Fleming in a face-to-face meeting in December, 1975.

"But I'll always entertain the notion that he might have changed his mind and decided to support the project if his death hadn't intervened," St. Antoine said in an interview recently.

The story of the pilgrimage to Getty's English countryside estate began with a revealing piece of historical spadework by Robert A. Jones, director of Law School development. It seems that William W. Cook was not the only latent millionaire to have attended U-M Law School during 1880-82; for one year during that period, one of Cook's classmates was J. Paul Getty's father, George F. Getty.

After his single year of formal study (a common pattern in those days), the elder Getty was admitted to practice in Ann Arbor and later worked for a time in Caro, Mich. as a circuit court commissioner.

("The only time Getty smiled during my meeting with him was when I pointed out to him that at one time his father had been paid \$2.50 a day for conducting a jury trial and 50 cents for probating a will," St. Antoine recalled.)

Still later, George Getty and his wife, the former Sarah McPherson Risher, moved to Minneapolis, and in due course some contacts with clients in Oklahoma led Getty to establish the family oil business that was destined to make his son almost incredibly wealthy.

Jones unearthed some biographical material on J. Paul

Getty which indicated that he was devoted to his parents. Quotations were also found in which Getty said his father had always felt he owed much to his legal education at Michigan, and it was discovered that Sarah Getty encouraged her husband's law study and helped finance it with her dowry.

So the idea was hatched of proposing to Getty that he build a new library building as a memorial to his mother and father. From the archives of the U-M and the local courts, Jones assembled some memorabilia, including photographs, a character reference written for George Getty by a member of the law faculty, and a photocopy of the elder Getty's signature on the rolls of the Washtenaw County bar.

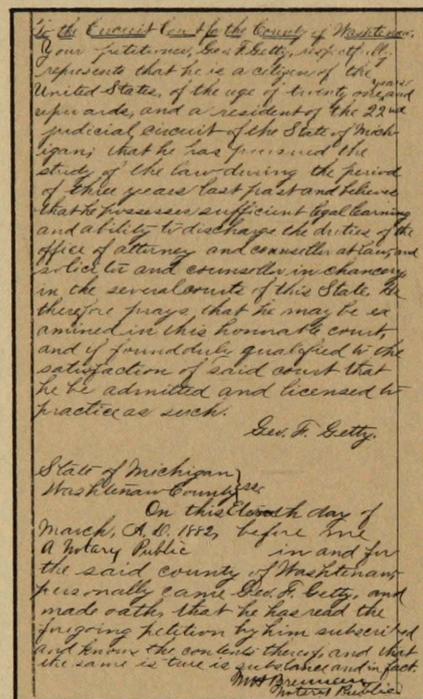
"The entree to Getty was provided by another law school alumnus, Henry Bergstrom of Pittsburgh, through a contact in the oil business," St. Antoine said. And the overture was started by Fleming, who paid a "purely social" visit to Getty in the fall of 1975 for an hour of conversation in the sunroom of Sutton Place, the historic manor near London which Getty used as home, office and hideaway.

"Getty suffered from Parkinson's disease, but on President Fleming's first visit he appeared very well and sociable—very much unlike some of the stories we had heard about him," St. Antoine said. "He was gracious and pleasant, very relaxed and conversational."

It was a different story, however, when the dean accompanied Fleming on a return visit a few months later to pop the big question. "The weekend we were there, one of those multimillion-dollar drilling platforms on the North Sea oil project had broken loose from its moorings, and Getty and his staff were obviously deeply involved in emergency meetings on how to recover it," St. Antoine said. "He was only able to see us in his office after interrupting his business, and he was clearly not well—there was a very substantial change in his physical condition.

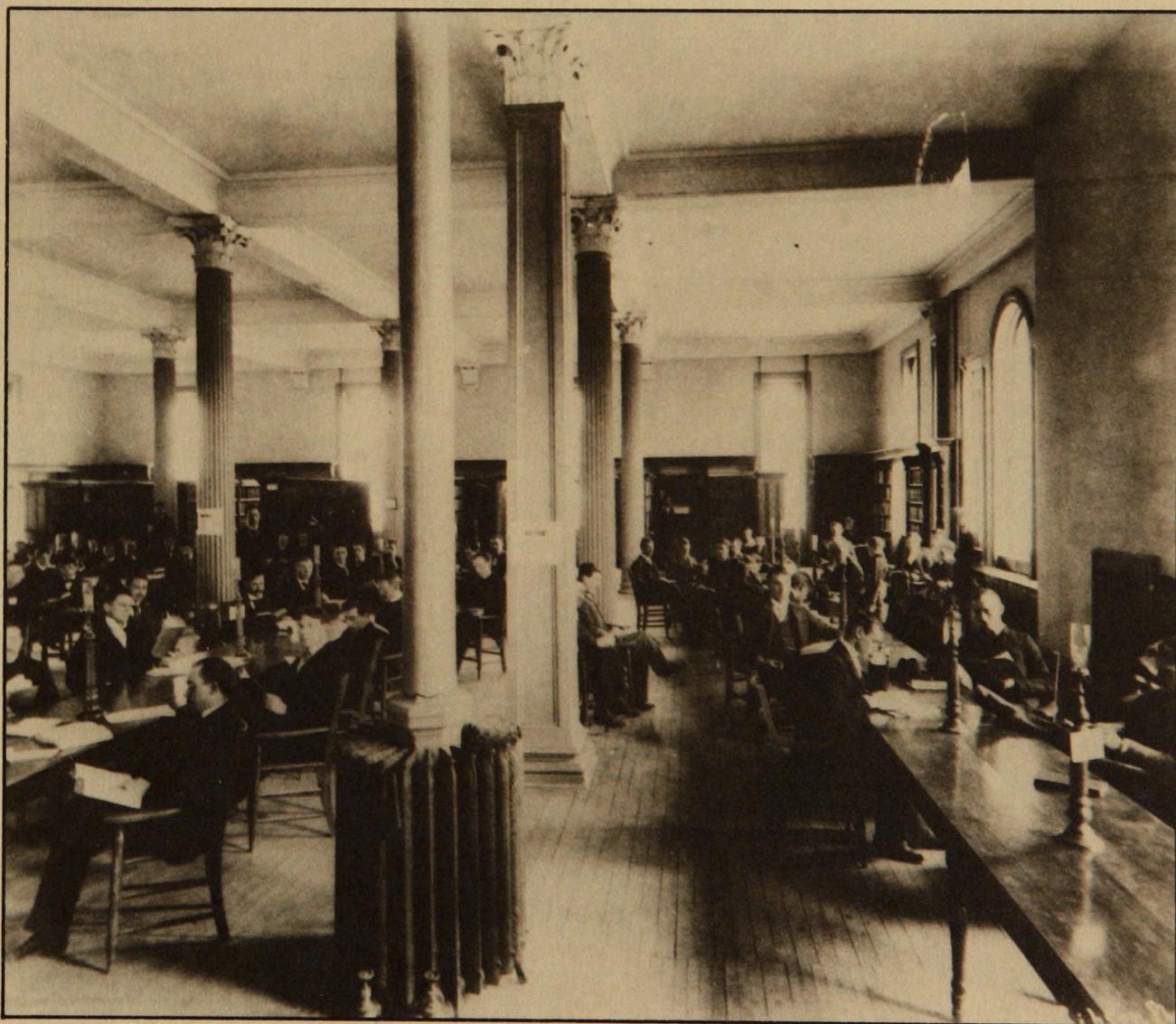
"We had been told that Getty customarily made decisions on his own without consulting with anyone, and that we would probably hear from him in one of two ways within a few weeks—either a request for more information and further visits or else a brief refusal," St. Antoine added. "Unfortunately, we received the latter."

—Bruce Johnson

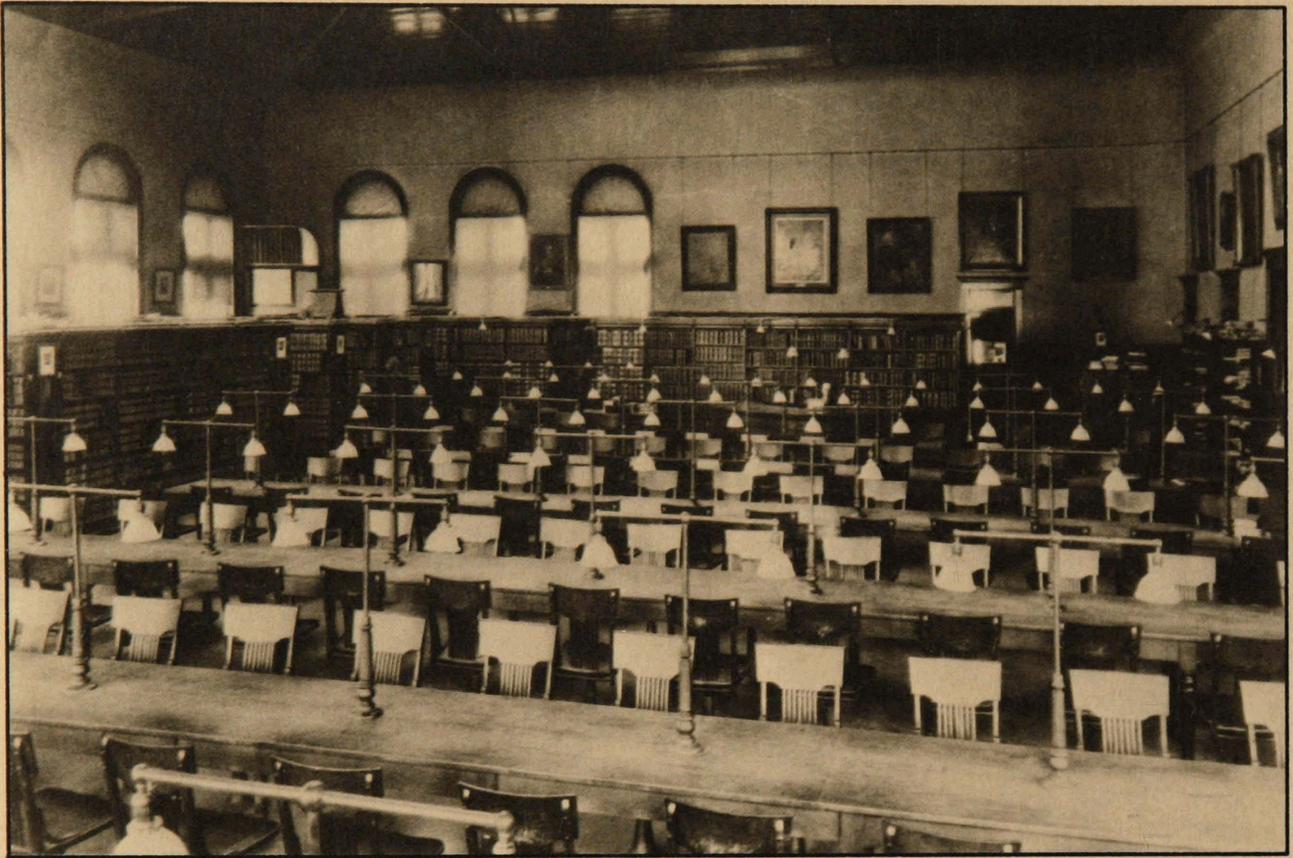


George F. Getty, J. Paul's father, first practiced law in Ann Arbor, before moving his practice to Caro, Mich. Pictured here is George Getty's petition to the Washtenaw County Circuit Court for admission to the bar, notarized by one M. H. Brennan and dated March 11, 1882.

The planned new U-M law library addition will be a major change for the Law School. But, as the photos on the following pages remind us, the School has undergone quite a few alterations since it opened its doors in 1859. The photos show, among other things, the library in the old Haven Hall, which was the first home of the Law School; and the Law Quadrangle in various stages of its completion. The first building constructed in the Quadrangle was the Lawyers Club (1924), followed by the William W. Cook Legal Research Building (1931) and Hutchins Hall (1933).



Library in old Haven Hall



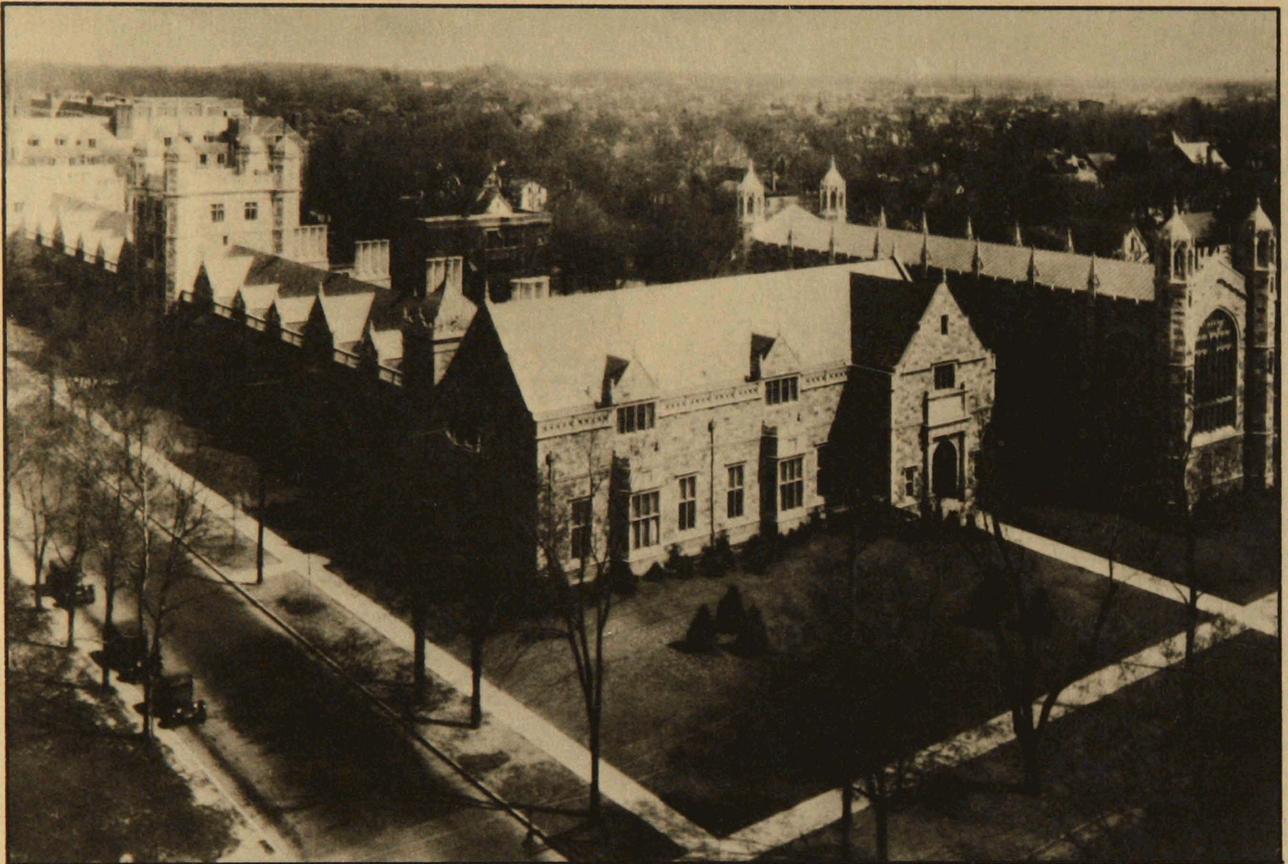
Haven Hall.



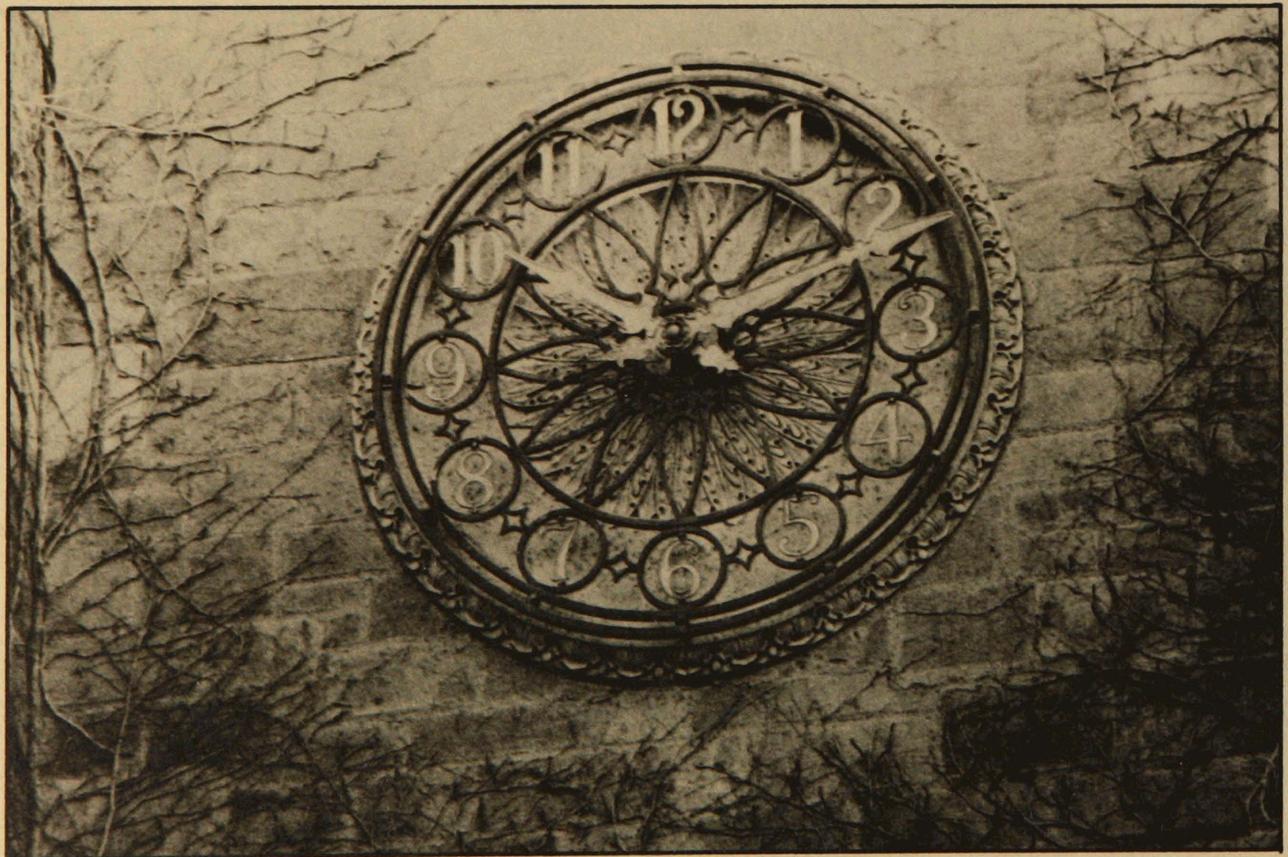
Tree transplanting at the Lawyers Club. The Photo was taken in March, 1931.



This circa 1925 photo shows the view looking south from South University Avenue into what eventually became the Law Quadrangle.



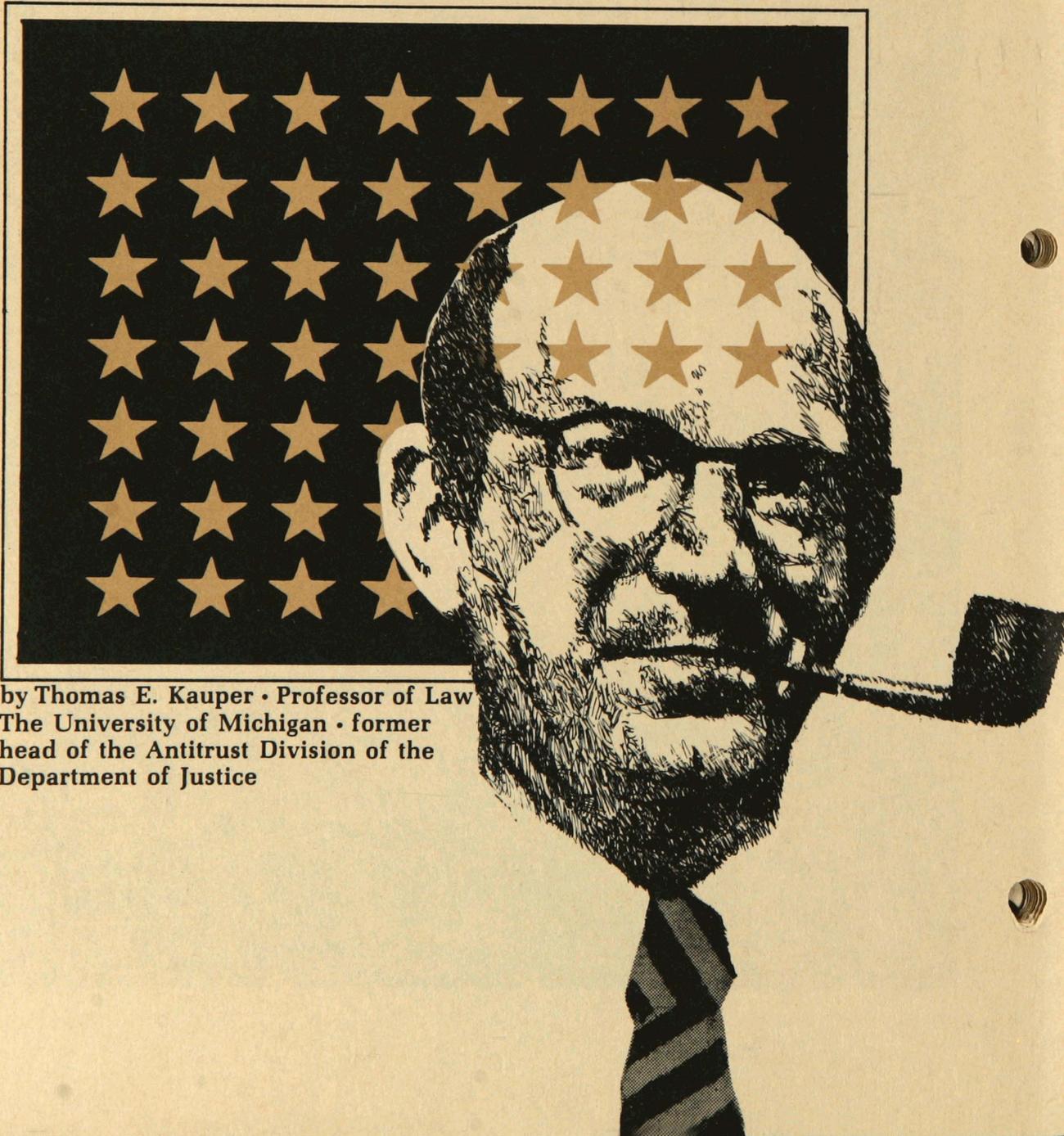
Late 1920's view of the Lawyers Club prior to completion of the U-M Law Quadrangle.





# REFLECTIONS ON 4 YEARS OF GOVERNMENT SERVICE

[Extracts from a talk before the Law School  
Committee of Visitors in Ann Arbor on Octo-  
ber 29, 1976.]



by Thomas E. Kauper • Professor of Law  
The University of Michigan • former  
head of the Antitrust Division of the  
Department of Justice

I must confess that with a captive group like this I was sorely tempted to deliver a substantive antitrust address, even though I am fully aware that such a subject following lunch would not sit well with many of you in the audience. I have spent a good deal of time in the past four years inveighing against the evils of price-fixing and I see no reason to leave my missionary zeal behind at this point. On the other hand, I find that most lawyers do know that price-fixing is illegal, at least when it is engaged in by anyone other than the organized bar. Most lawyers also know that an agreement among competitors not to advertise prices is unlawful, again at least where the practice is not engaged in by other than the organized bar. So unless I was prepared to engage in debate with you on the subject of fee schedules and bans on legal advertising, it was not clear that I would be telling you anything you did not already know. I am most certainly not prepared to engage in a confrontation over legal advertising with this group, which is looking forward to a pleasant weekend.

I thought I might discuss "Attorneys General I Have Known." The Attorney General's office had some of the quality of a revolving door during the period that I served as head of the Antitrust Division. I need only tick off the names from the date of my arrival: Richard Kleindienst, Elliot Richardson, who we all know left somewhat precipitously, William Saxbe, and Edward Levi. By my count that comes to four. For about three months I also served with Acting Attorney General Robert Bork.

There is much that could be said about each of these individuals. Each was an honorable man, each brought a good deal of talent and skill to the office, albeit the skills varied considerably from man to man. The key point to be made, were I to take the time to make it, is that during a period of considerable travail, the Department continued to receive excellent leadership. The same, I might add, could be said about the office of the Deputy Attorney General, except that that door revolved even a little faster. During my four years I served under Deputy Attorneys General Erickson, Sneed, Ruckelshaus, Silberman, and Tyler. It practically reached the point where we kept briefing books in looseleaf binders. Here again I am sure you do not want twenty to twenty-five minutes of biographical statements, and thus I went to a considerable degree to put personalities to one side.

### Reflections of a Returning Veteran

Since my return to the U-M, I have found myself in a rather reflective mood. This is typical of today's returning veteran, and in many respects I find that that is what I am. After four years of battle on the legislative, regulatory, and judicial fronts, I return somewhat battle-scarred, fatigued, and in need of some R and R which the Dean has obligingly provided by making me chairman of what I will loosely call the building committee. I am going through all the pangs of readjustment that most battle-hardened veterans go through. The prerogatives of political office are seductive, and there is no way to shed them quite as fast as academic life. Like most returning veterans I find myself trying to sort out that which was valuable in the experience and that which was not, that which was real from that which was unreal, that which was good and that which was bad. What I would like to do today is share with you a few of those reflections, particularly as they relate to the Bar and to the overall operation of government.

### The Bar

For four years I found myself in a position to observe the performance of a great many lawyers, young and old, inside the government and outside the government, talented and not so talented. For the most part I was dealing with specialists who allegedly were among the cream-of-the-crop, as you might expect. Some were in fact in that group, a good many were not. Most of the attorneys with whom I had dealings were honest, relatively forthright, and certainly at least performed above a minimum level of competence. Over the course of four years, however, there were some aspects of the Bar's performance which disturbed me. To be sure, I am speaking only of a segment of the Bar, albeit a segment which, in my judgment, was too large.

One issue which I have felt compelled to raise is one of ethics. As I pointed out in a speech to the American Bar Association Antitrust Section a year ago, the Bar is either ignoring its obligations or simply becoming sloppy when a given attorney represents both a target corporation and its individuals during the course of a criminal investigation and perhaps a trial as well. This has become a relatively common practice in the antitrust business and the result, in my judgment, has been that some individuals have not obtained the kind of effective representation they need. It is not difficult to imagine circumstances in which the interests of the corporation and its officers may diverge or in which the interests of one officer may not be the same as the others. Yet, too frequently it appeared that all were being represented by the same counsel in circumstances where it was not clear that these possible conflicts had been fully explained to the client. It should not be the business of the Justice Department or any other law enforcement agency to police these sorts of arrangements; yet there were a few occasions when we felt compelled to do so. You are all at least familiar with the type of problem and your own experience with it may be far more extensive than mine; nevertheless, I did find it particularly disturbing that I found it necessary to raise the issue with the Bar at all.

**"I do find that most lawyers do know that price-fixing is illegal, at least when it is engaged in by anyone other than the organized bar."**

A second issue, which I want to address more extensively, goes not to ethics but to competence. In some ways the problems there seem somewhat more distressing. Time and time again I saw evidence of what I am afraid most of us already know is true, namely that far too many of the graduates of our law schools simply cannot communicate with the written word. I am not talking here about the ability to use the written word with a flair or with an eye-catching style, much as we might like to see those qualities and may lament their passing. I am talking about something even more basic—the simple ability to put in writing what one thinks in a form which the reader can understand. This did not appear to me to be a problem unique to younger lawyers, though certainly it is more common to them as a group. Younger lawyers on the staff of the Antitrust Division often received back their memoranda with buck slips which simply said “I cannot understand” or with margins badly marked up, more out of confusion than understanding. What distresses me more than anything else is that the problem seems to be getting worse, not better. I simply am not at all sure how it is to be remedied, nor am I sure where. The buck seems to get passed higher and higher up the education ladder. At least to the extent this inability to write reflects an underlying inability to think, it is our problem.

In a second category of skills, we too many times saw evidence of either sloppy counseling or counseling which was designed to walk the client to the very precipice beyond which illegality was clear. Antitrust laws do have a significant degree of uncertainty, that we must all concede. Thus, in the counseling process attorneys must make recommendations in areas where they may not obtain guidance as specific as they would like. In short, they must exercise their judgment. Sometimes that judgment seemed to be too much influenced by what the client wanted to do, and too little influenced by what the lawyer himself knew was the better course.

Let me give you two anonymous examples. During the course of a price-fixing investigation we uncovered trade association minutes which clearly reflected discussion of price. That in and of itself was not all that surprising, I am sorry to say, although it did show a certain degree of naïveté about the price-fixing process. We also found a document reflecting counsel's advice, advice which the association clearly had ignored. To paraphrase, that wise counsel went roughly as follows: “It is against the law to reach any agreement among yourselves with respect to price, but if you should decide to do so, please make sure that no written evidence of the same is kept.” It seemed rather clear in context which of those two directions counsel viewed as the primary one.

To take the second example, consider the advice given by what was admittedly a relatively inexperienced anti-trust counsel in dealing with a proposed transaction on which his opinion had been sought. His advice was simply put. In his opinion the transaction was unlawful, but it was a relatively small matter which the Department was unlikely to uncover. He suggested that the client proceed.

Unfortunately, episodes of these two types, which we uncovered, were relatively rare. More common were the circumstances where counsel in rather uncertain areas advised clients they could safely engage in transactions which were on the very edge of the standards set in existing case law. Such advice is of course neither unethical nor improper. My concern, however, is that too often it was given in a manner which seemed to create a false sense of security in those who engaged in the transaction. The ultimate result of that security was shock that

the transaction or course of conduct was challenged, and more abuse than was called for tended to be heaped upon the heads of those of us who were trying to enforce the law as we understood it. This, in turn, tends to develop a kind of unwarranted contempt for the enforcement agency.

Finally, we saw too many lawyers who seemed to be unwilling to function as lawyers at all. I do not mean by this that they were not advocates for their clients' positions, but rather that they either refused or were incapable of addressing problems as legal problems. What do I mean? Simply put, a number of lawyers in the anti-trust business address the issues presented to them as though they were dealing with an agency which had unfettered discretion in what it did or did not do. All matters raised for discussion were policy questions. There was an impatience in dealing with those questions as legal issues, as well as with the need to analyze facts with great care. There were times when I had the feeling no effort had been made to learn the facts. I am not suggesting here that these two are necessarily inconsistent or that policy is irrelevant in making legal decisions. What I am suggesting is that not every merger case, for example, can be addressed as though we were trying to determine whether mergers should be prohibited at all, or whether a particular company is indispensable in the eyes of the public, or whether that action is in accord with a national policy seeking to reduce unemployment. In the case of some mergers the law is relatively clear, and the lawyers should have been as aware as I that in terms of legal analysis issues of that sort are irrelevant. I do not fault the attorney for making such an effort, for that is to be expected. What I do fault him for is seeming inability to deal with the issue as a legal issue.

I have reflected a good bit on this problem because I believe that it is one area in which legal education, during at least some part of its modern history, has been both deficient and, to a degree, a cause of the problem. Looking back at the antitrust course which I taught five years ago, I can see in that course a direction which encouraged the student to confront each problem as a new policy issue and to constantly seek rational policy explanations for each result. I continue to believe that this is desirable to a degree, but at the same time emphasis on overall public policy and on the general theory which supports that policy tends to obscure the simple fact that a given transaction will be viewed both by enforcement officials and by the courts as a law enforcement matter. A simpler way of putting this, I suppose, is that I am becoming convinced we have spent too much time training policy makers and too little time training lawyers. It is as though the world was comprised wholly of chiefs. My personal concern is that I somehow do better than to move from the unreality of academe to the different, but still unreal, world of Washington, back into the same unreality I left. Perhaps it will only be a different unreality, but that is itself of some consequence. It will involve a new emphasis on facts and factfinding, with correspondingly less emphasis on theory.

What this amounts to is a call for some return to the concept of the lawyer as a craftsman. It is not a view likely to be popular with some legal educators or indeed with all of my colleagues. But not all “lawyering” is reform, and the very existence of a statute assumes that the political system has made certain policy choices. Clients are not always well served by counsel who seek only to relitigate those choices. On more pragmatic grounds, even those who would be the reformers of tomorrow cannot live on reform alone. Unless well grounded in legal skills, they will in essence have

nothing to bring to their efforts, for in today's specialized world they often lack the skill to resolve policy issues, and without traditional skills, they are at best well informed citizens. I do not expect legal education fully to develop each of these skills; but I do expect it, at a minimum, to develop an awareness of the need for them.

## Watergate

Obviously, not all of my reflections have to do directly with the Bar. It was my pain or pleasure, depending on one's perspective, to serve in relatively high appointive office during a period of extraordinary constitutional crisis. I have had considerable time to reflect on those events. The events we now know as Watergate took on a dimension for most of us in the Justice Department which they had not previously had on a night in October, 1973, when Special Prosecutor Cox was fired, Attorney General Richardson resigned, and Deputy Attorney General Ruckelshaus either resigned or was fired, depending on how one views the timing. Up until that time most of us had been in the position of following the *Washington Post* with some care but had not yet sensed any real feeling of impending crisis. There was a general assumption that the battle over the tapes would be resolved in a reasonable manner, that the investigation would proceed on normal course, and that the outcome was completely unclear. The "Saturday Night Massacre" pulled most of us up short, particularly as several weeks went by and we really began fully to understand its implication.

Most of us heading the Legal Divisions met with our staffs the following Sunday morning to consider essentially two questions. The first and most obvious was whether we too should resign. The second, assuming the answer to the first was no, was what steps we should take to assure that the Department continued to function in its normal course, the entire superstructure being gone. The issue of resignation was relatively unclear, for there was little doubt about the President's ultimate legal authority to do what he had done. Nor at that point in history were any of us aware of what we now know had been the White House involvement in the events of June, 1972 and thereafter. That there was an issue was clear, but nobody was very certain about what it was. As weeks went past, the end result, namely the departure from office of Mr. Nixon, seemed to take on an air of inevitability to many of us, for it became clear that the most likely explanation for the actions of that Saturday night was the presence on the tapes of incriminating evidence. That conclusion, however, could be drawn only after an alternative explanation, namely the desire to preserve the concept of executive privilege, was virtually eliminated with the President's voluntary release of many of the transcripts of the tapes. So in the cold light of dawn on Sunday, we decided throughout the Department to remain.

The focus shifted immediately to how to keep the Justice Department on course. Many of us assumed that we were headed for a period of great turmoil in the Department and that it would be extremely difficult to keep the Department performing its day-to-day tasks. In hindsight, I would have to say that our concerns were ill founded. The career staff of the Department stayed at their desks, performed their tasks, and for the most part the Department simply kept rolling on. On numerous occasions I commended my own staff, as well as the men and women of the Department as a whole, for their conduct during the period we conceived as extremely difficult. Let there be no doubt, it was that bureaucracy, not

just in the Department, but throughout government which kept government in its daily operations relatively unaffected by the events taking place all around them. This was so even though many of us perceived that at the very top we were in danger of having no government at all. Hindsight has proven that perception correct.

As I now reflect on those events, I would have to confess that to some extent I find the very fact of continuity and the performance of the bureaucracy a little disturbing. There was a bit too much indifference with respect to the occupancy of the White House. Many reasons might be suggested, but one explanation may be that a vast part of the apparatus of the government viewed itself as unaffected by any measure of control from the very top. Programmatically, therefore, it was relatively easy for life to go on as usual. This was the great attribute of the bureaucracy in the period of crisis, just as it has been in nations other than ours. This independent existence, so to speak, is also one of the dangers of the bureaucracy. Too often, it leads an unaccountable life of its own. Obviously, this is something of an overstatement, but in all honesty, as I now view those events, I would like to have seen more concern by persons below the presidential appointee level.

I think we all recognize that what I am discussing is the age-old dilemma of the appropriate role of political control over the Executive Branch. It is an issue which has been discussed at least from the days of Andrew Jackson on, and I have no peculiar wisdom to bring to bear on the subject. It does seem to me, however, that some of our reaction to the Watergate crisis in the past two years may tend to aggravate the problem. We have perhaps overpraised bureaucratic independence. We are making government service more unattractive to those who might be drawn to it from the outside, thus leaving too much in the hands of those whose entire careers are devoted to it.

Let me mention two or three specifics. First, politicians, in general, and political institutions, in general, have now come, to a high degree, to be distrusted. Whether that is right or wrong is not the issue that I would raise with you today. What I am suggesting is that most of that distrust tends to focus on those in higher office, the very offices to which it is desirable to bring in people not previously in government service. I have

**"I am becoming convinced that we have spent too much time training policy makers and too little time training lawyers."**

already seen too many instances in which individuals have declined such service simply because of the disrepute in which political appointive office is now held. This tends to be aggravated by the extraordinary scrutiny now addressed to individuals who take such posts. Obviously, all people in political office must show the highest degree of integrity, but I think there is a general feeling by many in such positions that the degree of scrutiny into their lives has reached the point where it no longer bears any relevance to either their personal integrity or their capability to perform. This too tends to discourage office holding. Yet the scrutiny continues to increase, as more and more disclosures concerning personal incomes, personal relationships, and so on are demanded.

Perhaps because of that same distrust, we have made appointive political office unattractive in another very basic sense. We must all recognize that many come to government out of a sense of service. Others may calculate high rewards later. But we must also maintain at least a certain basic financial position in order to attract people into government. The reactions of the American public directly and through their members of Congress with respect to the pay levels of top government employees, as well I might add as the federal judiciary, is threatening irreparable harm, both to the Executive branch and to the Judiciary. Many of you are perhaps unaware of the nature of the government pay scale. We now find ourselves in a position where those in the top categories of civil service employment are all receiving essentially the same or even a better salary as those in the bottom level of the presidential appointment pay scale. What this tends to mean is that there is no distinction in terms of salary among the various supervisory levels of government. Second, it means that the salary which is being offered to attract people to higher levels of government is in many senses inadequate. Some of you may react to that with a certain degree of disbelief since that level is in the mid-thirties or slightly higher. That was my initial reaction too. The simple fact is, however, that the typical political appointee is expected to bear a number of expenses in an exceedingly expensive city. More importantly, as his own level of salary outside the government has steadily increased, the imbalance at higher levels has gotten sufficiently severe that the loss which he takes by entering government service has now become a major factor in his consideration. I can perhaps make this dilemma somewhat more clear to you by asking how many of you would be satisfied holding a position in which there has been only a five percent pay increase since January 1, 1969? Thus many good people do not come. Those who do tend to be independently wealthy and that is in and of itself disturbing. Perhaps even worse, some who come do so only because they assume they will capitalize later. However, a preoccupation with making money later can, and does, affect judgment in office. I have seen it happen.

Beyond that, the very fact that pay increases can be given only by promoting people to the higher levels of government tend to put great pressure upon the appointing officers to appoint deserving career people to the top posts. This in turn means fewer opportunities to bring in those from the outside and greater control by those who in essence have devoted their lives to government.

The situation with respect to the Judiciary is probably even worse. Highly qualified people are simply saying no, not only because of the existing pay level but because anyone who has followed the pay process will recognize that even increases designed to keep pace with inflation are not likely to be forthcoming in the immediate future.

It is extraordinarily difficult to induce anyone to take a life appointment when he cannot even be assured that he will be able to keep pace with inflation. The public is in no mood for substantial increases. Yet, substantial pay increases clearly are necessary. Particularly in so far as the Judiciary is concerned, it seems to me incumbent on members of the bar to do what they are able, both politically and in terms of education of the public, to see if there is not some solution that the public is prepared to support.

Consider, for a moment, another consequence of Watergate—the increasing demands for full disclosure of information held by the government and of everything related to government decision-making. In statutory terms, this takes such forms as the 1974 amendments to the Freedom of Information Act, which greatly expanded the disclosure requirements which then existed.

We can all agree that government has been far too secretive and that candor, which is all too lacking, is desirable. This is so even when it is an admission of error. As I learned when we dismissed two major cases against the tire companies with the admission we erred, the public is not only willing to accept but may even applaud a bureaucrat's admission of a mistake, probably because it seems to be a unique event. We are running a substantial risk of carrying a good thing too far. Full disclosure of how decisions are made, of who recommended what and why, does at some point inhibit the decision-making process. Many in government, and particularly those whose careers may be at stake, are reluctant to put unpopular views in writing. Yet those may be the very views which the decision-maker must have presented to him. When they are not, bad decisions may be made. You may, of course, simply dismiss this concern as fanciful, but I have seen it happen, and it concerns me.

What disturbs me even more is the wholesale disclosure by the government of information about or submitted by others. The Freedom of Information Act, and other statutes, do contain provisions for the protection of privacy and confidentiality, but they are narrowly drawn. More important, disclosure rests ultimately in the discretion of the bureaucracy. They are the guardians of others' privacy. In today's climate the pressure is to disclose. It is the easy thing to do—easy because it is popular and everyone wants to be popular, easy because it avoids charges of cover-up, and easy because it avoids the continued hassling which results if disclosure is denied. So wholesale disclosures may be made, not only to the detriment of the government's ability to obtain information, but against the interests of the citizens involved. Somehow we must return a degree of balance to these judgments.

There are a number of other reactions to Watergate which I find disturbing, but I will save these for another time.



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