

*Alumni Bulletin of The University of Wisconsin Law School*

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*Spring, 1972, Vol. 3 No. 3*

*The GARGOYLE*

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*The Gargoyle*

Law School  
University of Wisconsin  
Madison, Wisconsin 53706

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# Letter

## From the Dean

Dear Alumni:

The admissions pressure of recent years has led to the rejection by the Law School of literally hundreds of Wisconsin residents who, by the standards of a very few years ago, are fully qualified to study law and to become lawyers. It is plausible to argue that no non-resident should be accepted until every qualified resident is first admitted. That point of view is occasionally expressed to us by alumni, by legislators, and most often of all by the young people who are being rejected despite good credentials. It is not lack of concern for the interests of Wisconsin young people nor of the state that has led to a deliberate decision by the faculty not to take the easy way out and accept only residents. But the problem is complex and troubles us greatly.

For years the non-resident part of our student body has been relatively constant at about 30%, not nearly so high as Michigan which may have the most non-residents among state law schools, but clearly giving us a strong claim to be regarded as a national school, not a parochial one. Until recently we had no need to develop a deliberate policy since we were able to accept all students we thought should be admitted to this school. Since then our tacit policy has been to retain the national character of the law school but the question has first been brought under explicit discussion because of the problems with the class admitted in September, 1971.

As the admissions office operates, it accepts more applicants than we can handle, knowing that a percentage of invitees (larger for non-residents) will choose to go elsewhere when the chips are down. That phenomenon was bolstered for non-residents by the fairly recent increase in non-resident tuition to \$2126 and more recently to \$2200 which is substantially above the cost

of the education non-residents get here. We thought the percentages were stable for both residents and non-residents, but for the 1971 admissions year all the predictors went awry, and we got an oversized class for the second time in two years. Most of the excess in 1971 was in non-residents, who accepted us in unprecedented percentages. Our non-resident ratio went to about 35% of the first year class, although the resident component of the class is in fact larger than in any previous year except 1970 when we also had an oversized class.

We simply cannot handle the large numbers of students who have come in the past two years. We have decided to limit the 1972 entering class to no more than 300, (1969, 285; 1970, 333; 1971, 345), but at the same time we have made the deliberate decision to reduce non-residents to about 20 percent of the entering class. Thus all the reduction in class size next year will be from the non-resident component.

The view will remain in the minds of some outside the school that we should cut the non-resident component even more. It should be noted that there is concern within the faculty that we have already decided to cut it too far. There is a nearly unanimous view in law schools of high standing that the quality of a law school will deteriorate if it becomes a "local" school. This does not reflect on the quality of Wisconsin students—they are as good as the best.

The reasons for maintaining a substantial non-resident component of the student body are various and largely intangible. It is thought valuable to students though less important than in the days when few people travelled, for the students with whom one associates to be more diverse than a local school can provide. For teaching it is useful to have in class a variety of backgrounds to provide diversity of experience

and view. Many non-residents stay in the state and add strength to it, just as many residents leave to take their place on other stages—this is an important state in the Union and not a backwater, so the flow of talented people both in and out is substantial and should not be limited by

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**Vol. 3, No. 3 Spring, 1972**

**Ruth B. Doyle, editor**

**Photos by David Ullrich**

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**Postmaster's Note: Please send form 3579 to "Gargoyle", University of Wisconsin Law School, Madison, Wisconsin.**

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state to reduce a prestigious law school to mediocrity. Thus the faculty has felt we cannot justify a reduction below 20 percent in the non-resident component of the student body, and there is considerable concern even about that. Such a change is viewed as a temporary expedient to deal with the unprecedented numbers of applications, but as a move to be reversed at the earliest possible opportunity. If the excess demand continues the facilities for public legal education in this state should be enlarged, perhaps by another law school.

On a less troubled note, we have concluded the 1971 law alumni fund drive. It has been successful in every way—the number of contributors is larger, in most areas and in most classes, the amount of money received is greater, and best of all the organization is being perfected so that it will run more smoothly and more effectively next year. To all those who worked and to all those who gave, I express my own appreciation and that of my colleagues who share with me the responsibility for trying to keep your school a great one.

Sincerely,  
Spencer L. Kimball  
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## FUND DRIVE SUCCESS ANNUAL REPORT, 1971 LAW ALUMNI FUND

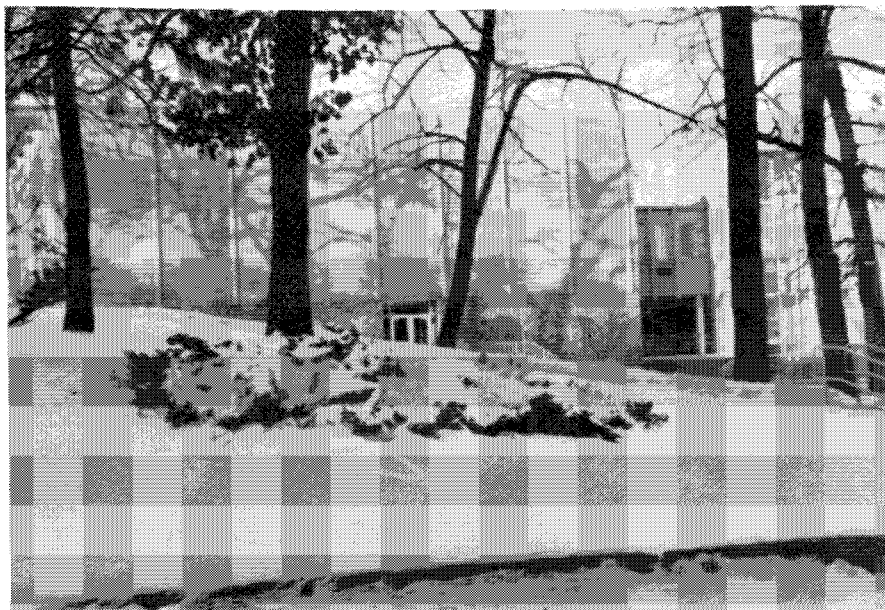
The 1971 Law School Fund Drive, which ended on January 31, 1972, can be termed a success from every point of view. Particularly, however, notice should be taken of the increase in the number of alumni contributors from 397 in 1970 to 530 in 1971, more than 33%.

*Gargoyle* readers will recall that the 1971 Drive was organized differently from the two previous Drives. Directors of the Wisconsin Law Alumni Association have become regional directors of the Fund Drive. The President and Vice-President of the WLAA have become the Chairman and Vice-Chairman of the Drive. Thus, the people responsible for administering the Fund have assumed the responsibility for conducting the Drive.

The total cash raised not including contributions to the University of Wisconsin Foundation earmarked for the Law School is \$113,297.06. This compares with a total in 1970 of \$113,173.32, which included the large non-recurring endowment gift of \$30,000 made by Cleary, Gottlieb, Steen & Hamilton of New York City.

The increase in the number of contributors is most noticeable in the smaller gifts. The number of alumni contributors from Dane County rose almost 50%; those from states other than Wisconsin rose nearly 33%; the number from Milwaukee increased by more than 37%. The increase in the number of contributors in Wisconsin, excluding Dane and Milwaukee, is over 20%. Overall, about 10% of all alumni are now contributors to the Fund.

For the long-time future of the Fund, the number of recent graduates participating in the deferred insurance program is also gratifying. Twenty-seven members of the Class of 1971 and a total of 45 to date are members of the insurance plan.



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**WISCONSIN LAW ALUMNI ASSOCIATION**  
**ANNUAL REPORT OF LAW ALUMNI FUND**  
**February 1, 1971 - January 31, 1972**

**Annual Giving**

Law Alumni Fund		
General	\$23,191.35	
Earmarked	35,633.88	
Benchers	9,550.00	
WLAA Memberships*	10,691.00	
To Regents for Law		
School Use	<u>15,546.03</u>	\$ 94,612.26

**Endowments Gifts to WLAA**

Beuscher Fund	\$ 1,870.10	
Hagenah Fund	3,000.00	
H. A. Schmidt	13,301.70	
Others	<u>495.00</u>	18,666.80

**TOTAL GIFTS TO WLAA**

\$113,279.06

**Deferred Endowments**

through Insurance Program\*\*  
45 participants (1970,  
1971, 1972) at \$5,000 (\$225,000.00)

**OTHER GIFTS**

To U.W. Foundation	
Gwynette E. Smalley Memorial	
Scholarship (Endowment)	\$ 10,000.00
For 1971 Law Alumni Fund Drive	
(\$150 for L.E.O.)	<u>255.00</u>
	<u>\$ 10,255.00</u>

\*Income from memberships is greater this year because  
of change in billing date and increase in dues.

\*\*This figure represents the ultimate commitment to  
the Fund, based on \$5,000 per participant. It does not  
represent income received.

**ANALYSIS OF ANNUAL GIFTS**

**BY ALUMNI BY REGION**

**Comparison—1970-1971**

	1970		1971	
	No. of Contributors	Amount	No. of Contributors	Amount
Milwaukee	82	\$10,907.00	113	\$14,242.00
Dane	61	9,608.00	92	13,974.66
Wisconsin, outside				
Dane & Milw. County	133	13,941.00	165	14,381.95
Other States	121	10,078.00	160	10,560.00

**ANALYSIS OF ANNUAL GIFTS**

**BY ALUMNI BY SIZE OF GIFTS**

	1970		1971	
	No. of Gifts	Amount	No. of Gifts	Amount
0-99	213	\$ 5,559.00	326	\$ 8,388.30
100-199	118	12,836.00	133	14,316.74
200-499	51	13,039.00	57	14,374.50
500-999	8	3,600.00	6	3,420.00
1,000 & over	7	9,500.00	8	12,659.07
			Law Students	523.55
Additional gifts				
Contributors who are not alumni		17,562.00		33,359.87

# ANALYSIS OF ANNUAL GIFTS BY ALUMNI BY CLASS

Class	1970		Class	1971	
	No. of Contributors	Amount Contributed		No. of Contributors	Amount Contributed
1905	1	\$ 2,500.00	1905	1	\$ 3,000.00
1906	0	—0—	1906	1	50.00
1907	1	100.00	1907	0	—0—
1909	1	100.00	1909	1	100.00
1910	1	100.00	1910	1	100.00
1912	2	200.00	1912	3	400.00
1914	1	230.00	1914	2	175.00
1917	1	10.00	1917	0	—0—
1920	1	100.00	1920	0	—0—
1921	1	100.00	1921	3	505.00
1922	4	752.00	1922	5	531.00
1923	4	1,400.00	1923	3	500.00
1924	2	300.00	1924	4	285.00
1925	5	887.00	1925	5	760.00
1926	3	410.00	1926	4	350.00
1927	4	235.00	1927	3	330.00
1928	3	550.00	1928	4	520.00
1929	5	400.00	1929	7	405.00
1930	8	1,375.00	1930	13	1,686.25
1931	8	1,045.00	1931	7	730.00
1932	11	715.00	1932	14	896.00
1933	14	2,135.00	1933	14	2,063.50
1934	9	1,125.00	1934	12	2,595.00
1935	11	2,545.00	1935	13	3,275.00
1936	14	980.00	1936	14	1,105.00
1937	9	1,000.00	1937	13	1,374.49
1938	6	585.00	1938	6	550.00
1939	7	1,200.00	1939	11	835.00
1940	10	1,540.00	1940	17	1,620.00
1941	16	1,030.00	1941	15	930.50
1942	8	885.00	1942	11	673.20
1943	2	100.00	1943	2	100.00
1944	2	75.00	1944	1	30.00
1945	2	35.00	1945	4	130.00
1946	4	285.00	1946	6	460.00
1947	15	1,748.00	1947	28	1,977.50
1948	13	1,070.00	1948	17	1,410.00
1949	11	894.00	1949	12	4,000.07
1950	18	2,040.00	1950	18	1,300.00
1951	12	1,635.00	1951	15	2,138.50
1952	15	1,445.00	1952	18	1,888.00
1953	10	1,010.00	1953	14	1,040.00
1954	3	303.00	1954	10	762.00
1955	6	725.00	1955	8	1,174.50
1956	4	105.00	1956	11	640.00
1957	8	330.00	1957	14	645.00
1958	7	1,300.00	1958	11	1,380.00
1959	8	340.00	1959	5	255.00
1960	4	140.00	1960	7	360.00
1961	6	510.00	1961	11	820.00
1962	8	2,035.00	1962	9	2,582.50
1963	7	811.00	1963	8	1,120.00
1964	8	205.00	1964	10	285.00
1965	7	1,096.00	1965	9	678.50
1966	8	640.00	1966	12	170.00
1967	11	295.00	1967	16	307.00
1968	20	660.00	1968	20	510.00
1969	5	50.00	1969	15	296.00
1970	(15)		1970	10 (15)	345.00
1971	2 ( 4)	118.00	1971	2 (27)	9.10
		\$44,534.00	1972	( 3)	
			Law Students		523.55
					\$53,682.16

Note: The figures in parenthesis represent the participants in the deferred insurance program.



## BREAKDOWN OF ALUMNI GIFTS BY REGION

Wisconsin Regions	No. of Contributors	Amount Contributed	
Region No. 1—Milwaukee County	113	\$14,242.00	
Region No. 2—Kenosha and Racine	19	1,460.00	
Region No. 3—Dane	92	13,974.66	
Region No. 4—Walworth, Rock, Green	22	3,416.00	
Region No. 5—Dodge, Jefferson, Waukesha, Ozaukee, Washington	12	845.00	
Region No. 6—Calumet, Winnebago, Fond du Lac, Green Lake, Manitowoc, Sheboygan	20	1,601.20	
Region No. 7—Forest, Florence, Oconto, Marinette, Brown, Door, Kewaunee, Langlade, Menominee, Outagamie, Shawano	17	1,618.50	
Region No. 8—Columbia, Marquette, Sauk, Waushara, Lincoln, Marathon, Oneida, Vilas, Portage, Waupaca, Wood	26	1,705.00	
Region No. 9—Crawford, Grant, Iowa, Lafayette, Richland, LaCrosse, Monroe, Vernon, Adams, Clark, Jackson, Juneau	25	2,225.00	
Region No. 10—Buffalo, Dunn, Pepin, Pierce, St. Croix, Rusk, Sawyer, Chippewa, Eau Claire, Trempealeau	14	1,011.25	
Region No. 11—Ashland, Bayfield, Iron, Price, Taylor, Barron, Burnett, Douglas, Polk, Washburn	10	500.00	
Total for Wisconsin Regions	370		\$42,598.61
<b>Metropolitan Areas</b>			
Chicago	26	\$4,475.00	
Los Angeles	7	237.00	
San Francisco	7	295.00	
Minneapolis-St. Paul	6	95.00	
New York	17	735.00	
Washington, D.C.	33	1,970.50	
			\$ 7,807.50
<b>Other States</b>	64	2,752.50	
Law Students		523.55	
Total alumni giving	530		<u>\$53,682.16</u>

## UW FOUNDATION ESTABLISHED POOLED INCOME FUND

Under Section 664 of the Internal Revenue Code, the University of Wisconsin Foundation has established a Charitable Remainder Unitrust under which donors to the Unitrust can receive deductions for charitable contributions, as well as a proportionate share of the earnings of the Pooled Income Fund during their lifetimes and those of their beneficiaries. Contributions to the Pooled Income Fund can be earmarked for the benefit of the Law School. If this approach to support of the Law School appeals to any alumni, they should write to the University of Wisconsin Foundation, P.O. Box 5025, Madison, Wisconsin 53705, for more detailed information.

### DEAR LAWYER:

DO YOU WANT TO  
TAKE A VACATION  
THIS SUMMER?

DO YOU WANT TO  
CLEAN UP YOUR  
BACKLOG?

DO YOU WANT TO  
MAKE A CONTRI-  
BUTION TO LEGAL  
EDUCATION?

HIRE A LAW  
STUDENT FOR  
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### CONTACT:

MARY STALEY  
PLACEMENT OFFICE

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## LAW SCHOOL PARTICIPATES IN TRAINING OF PERUVIAN LAW PROFESSORS

This year marks the end of a four year program under which three professors from the law school of the Pontifical Catholic University of Peru have come to the University of Wisconsin Law School each year for intensive training in the teaching of law and for preparation of teaching materials suitable for the newly adopted methods in Pontifical Catholic University.

The program has been entirely supported by a grant of a quarter of a million dollars from the Ford Foundation, and has been under the direction of Professor Zigurds Zile. It was initiated in 1968 by the then Dean of Pontifical Catholic Law School, Dr. Jorge Avendano. He has since become Pro-Rector (Vice-President) of the University.

Coming early in the summer for a six or seven month period, each group has spent full time in the summer participating in a seminar conducted by Prof. Zile, with other faculty associates from time to time, on the Methodology for the Teaching of Law. The seminar has included study of the conceptions of American law which have led to the development of our style of legal education with its characteristic methods of teaching. Opportunities have been afforded to participants in the seminar to test the various teaching methods demonstrated.

Armed with some awareness of the varieties of teaching techniques available, the visiting law professors have spent the rest of their time in Madison preparing materials which will be used at home to implement the new methods. The basic change in method developed by the training is from the traditional lecture method used in all South American universities to the involvement of students in their own learning, through extensive readings, assigned problems requiring legal research, and class room discussion.

The last group of participants, which recently departed for Peru, included Professors Javier De Belaun-



Left to right: Javier DeBelaunde, Eduardo Ferrero, Alfredo Ostojá

de, Eduardo Ferrero, and Alfredo Ostojá. As have all the other participants in the program, each of them returned home with materials for a new course to be incorporated into the law school curriculum.

One of eight law schools in Peru, Pontifical Catholic University has about 400 students enrolled. Along with all Peruvian law schools it receives a small government subsidy. Tuition is very low. Because faculty salaries are minimal, there is no full-time resident faculty. All participants in the Program combine private practice or government employment with their teaching.

They arrive home in Lima during the University's summer vacation, which permits them to complete their course preparations before classes are resumed in the middle of March. The first semester ends the middle of July, the second begins in early August and runs until Christmas, when summer vacation time arrives in Peru.

The Program professors have brought many books with them, and have used extensively the Law School's excellent collection on Peruvian law, accumulated for the Program, also with grant money. There is a gentleman's agreement among those who have come that they will remain on the Faculty of Pontifical

Catholic University, and all but one have honored this agreement.

According to Professor Ostojá, the impact of the Program in bringing development and change to the curriculum in his law school has been incalculable. In the beginning, students were restive under the greatly increased demands made upon them, but, as the number of "new courses" has increased, they have adjusted and have come to enjoy their active participation.

Professor Ostojá emphasized that the effort has not been to duplicate legal education à la Wisconsin in Peru. It is rather to adapt the American model to conditions in Peru and to develop a curriculum which will accurately serve the legal institutions of that country. Because of this effort, most of the new courses are inter-disciplinary with other parts of the University. On the whole, he feels that the Program has been a success.

The credit is due, he says, to Professor Zile, who has devoted much of his time to it for the last 4 years. It is impossible, he says, to measure the value of the close association with Professor Zile in the summer seminar and his assistance throughout the year, during which he was always helpful, but never intrusive.

## THE LAW SCHOOL AND THE ENVIRONMENT

### LONG TRADITION AT FLOOD TIDE

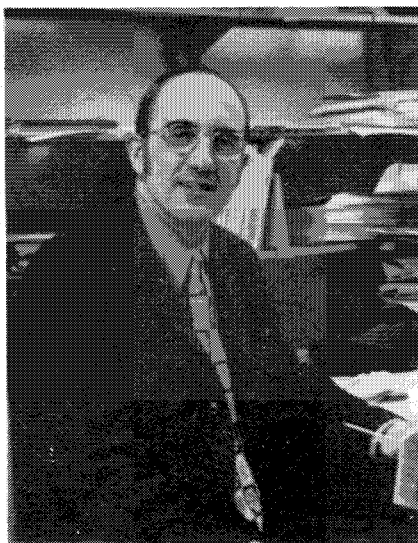
Jake Beuscher would be pleased. His many years of effort expended in generating interest in using law as an instrument for protecting and enhancing the quality of life is paying off. His *alma mater*, the Law School where he lived out his entire professional career, is deeply involved in research, teaching, and action on a wide front in attacking through the law the problems created by man's tendency to abuse his environment.

*Research* may be the key. "A university," wrote Prof. Beuscher in a memo in 1960, "has the responsibility of *advancing* as well as *transmitting* knowledge. Of the two, *adding* to knowledge is more distinctly the mark of a great university."

A number of the members of the Law School Faculty are involved in environmental research—the complicated legal problems which need careful study before proper action can be undertaken.

For example, there is the Sea Grant Program, which was established by Congress in 1958 as an effort to promote development of the resources of the sea. At first designed for the benefit of the ocean shores, the bill was amended to include the Great Lakes and other inland waters, and centered at the University of Wisconsin. Its purposes are: 1) the development and transmission of information on the preservation and use of marine resources; 2) the training of students at all levels in marine studies, and 3) the development of cooperative programs with the public agencies of government and industry. It is funded by the Oceanographic and Atmospheric Administration, a division of the U.S. Department of Commerce.

The Sea Grant program involves many departments of the University. It began with limnological research, studies in hydraulics and the search for minerals underwater—copper in



**Prof. Bunn**



**Prof. Tuerkheimer**



**Prof. Bilder**

Lake Superior, manganese in Green Bay. In the past few years, the Sea Grant program has expanded to include research into the economic and legal aspects of exploitation and conservation in the Great Lakes area. Since 1970, Professor George Bunn has served as a member of the Advisory Committee of the Sea Grant program, in order to include the Law School within its scope.

With a Sea Grant, Professor Frank Tuerkheimer, assisted by a group of students from various departments in the University such as biology, metallurgy, economics and law who were enrolled in a seminar, has recently completed a study of the legal aspects of copper mining under Lake Superior. Included in the study are the Boundary Waters Treaty between the United States and Canada, concluded in 1909, the regulations established under the Refuse Act of 1899, and the state laws of Michigan, Minnesota, and Wisconsin which apply to exploitation of the lake. Under the 1909 treaty, an International Joint Commission was established to apply the terms of the treaty to joint efforts to develop the Great Lakes, which have involved pollution of the Lakes, as well as the adequacy of public health and safety regulations involved. The Federal Refuse Act of 1899 requires approval of the Army Corps of Engineers for any plans to build any structure in any water of the United States. In recent years, effort has been made to require consideration of biological and aesthetic factors in the regulations under this act. Although the law of Michigan was particularly studied, since all the waters of Lake Superior adjacent to the Keweenaw Peninsula are part of the state of Michigan, it was necessary to study the laws of all states bordering the Great Lakes, including the Province of Ontario, which has the power to issue mining leases within the territorial waters of Canada.

The international law involved in the control of the Great Lakes for all purposes has been the subject of intensive study by Professor Richard

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Bilder under a Sea Grant. The results of his efforts have been published in two articles in the Michigan Law Review in 1970 and 1972. The first of these deals with the impact of the Canadian Arctic Waters Pollution Act of 1970, which asserts Canada's jurisdiction over all shipping within 100 miles off Canadian arctic coasts, in order to prevent pollution of the region's coastal and marine resources. The relationship between this law and international laws, the laws of other countries, especially the United States, and the well-established traditions of freedom of the seas have presented a special challenge to students of international law.

Also under the Sea Grant program, Professor Zigurds Zile has just begun a year long study of the many jurisdictional problems involved in land use controls of the shores of Lake Superior. Originally, control of the shores was delegated by the states to the localities along the shores. In recent years, states have attempted to re-assert control over shoreland development, and, more recently, the federal government has re-entered the area of shoreland controls. Results of his study will take the form of a legal manual for the use of regional planners and public decision-makers concerned with the present and future of Lake Superior. He will be associated with Professor Douglas A. Yanggen of the Department of Agricultural Economics, in the conduct of his study.

Professors George Bunn and Donald Large will undertake during the next year, with a Sea Grant, an effort to design a rational state policy on the location of power plants and regulation of the consumption of electricity. At the present time in Wisconsin, the Public Service Commission has no control over the location of power plants. The attention of government is not drawn to the locations until the application to build is filed, usually after years of planning by the industry. The effort will include attempts to include environmental considerations early in the planning stages. Such technical questions as notice (to whom?) and the

definition of the public (does it include recreational users of the streams?) will be considered by Professors Large and Bunn.

\* \* \*

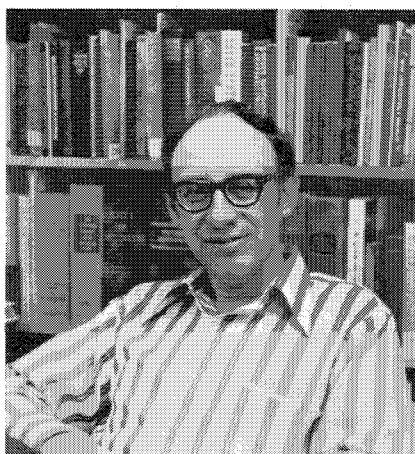
With funds provided by the Upper Great Lakes Regional Commission, Professors Zile and Yanggen prepared in 1971 a detailed proposal for Automatic Property Owners Associations to be established by the developers of housing in recreational areas surrounding lakes. The legal basis for controlling land use and the development of joint services, such as fire, police, water quality management, erosion control, etc., are developed in such a way that developers all over

the United States are making use of the manual. Controls of architecture, lot size, density of development are placed in committees of property owners.

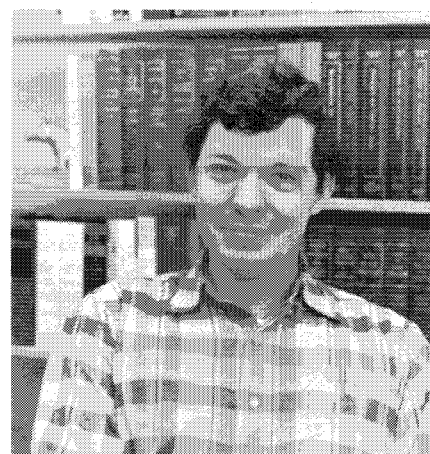
\* \* \*

The "Law in Action" research envisaged by Professor Beuscher now includes a good deal of action. A recent example is the participation by Professor Large as plaintiff in a recent successful law suit against the Secretary of the Army, the U.S. Environmental Protection Agency and the Army Corps of Engineers to block the granting of any permit to

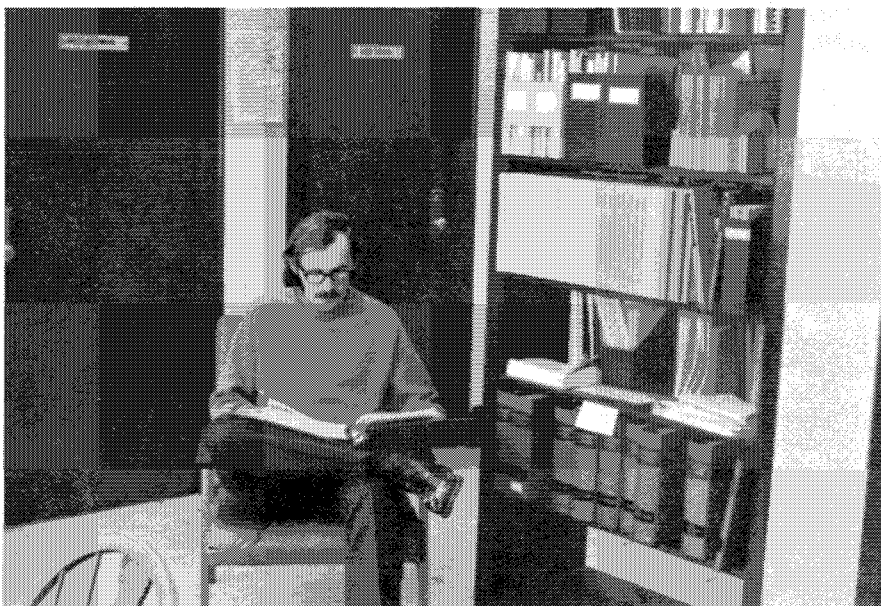
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**Prof. Zile**



**Prof. Large**



**Student in the Environmental Law Library**



industry to discharge wastes into non-navigable waters until a complete study of the environmental impact of such discharge has been made. U.S. District Judge Aubrey Robinson, in the District of Columbia, recently ruled that permits already granted, without study of the environmental impact of each, are revoked. The decision is considered a major victory for the environmentalists.

\* \* \*

Of course, the major mission of the Law School is education in the law. In any recent semester, the Law School has offered courses and seminars in environmental litigation, general problems of land use controls, selected problems of land use controls, and water rights. Professors James B. MacDonald (who has long been a leader in environmental litigation in the Law School and the state Bar of Wisconsin) and John Conway are the authors of a major text book in Environmental Litigation, which is about to be published by the Law Department of the University of Wisconsin Extension.

Located in the Law School is a rapidly developing Environmental Law Library, available to law students and researchers alike. Supported jointly by the Institute of Environmental Studies, the Law School, and the Extension Law Department, the Library emphasizes the social science and legal aspects of present environmental study, rather than the scientific and technical aspects. Its collection includes business and industry reports, laws and ordinances, and the many current periodicals in the environmental field. References to related materials elsewhere on the campus are maintained to prevent duplication of materials.

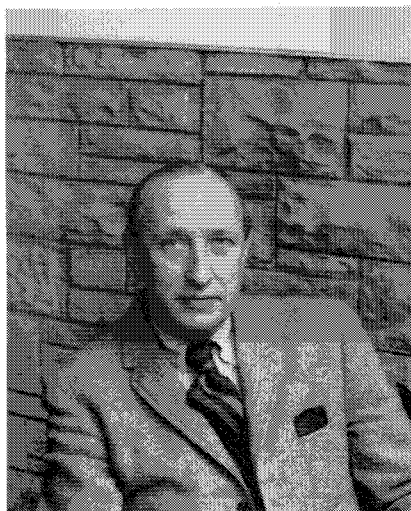
The University's major commitments to the study and improvement of the environment are interdisciplinary. The Land Tenure Center, founded by Professor Beuscher, and dealing with world-wide problems



**Prof. MacDonald**



**Prof. Conway**



**Prof. Runge**

of land use and control, is internationally famous. The Law School is also deeply involved in the Institute of Environmental Studies, which was established several years ago under the impetus of Professor Gerard Rohlich, who has recently left our College of Engineering for the University of Texas. Professor MacDonald is currently a part-time member of the staff of the Institute. Included in its program are graduate and undergraduate courses, and Faculty seminars. The Faculty of the Institute, which is composed of Professors from many departments, not only teaches but learns, and Professor Conway is the leader of one of the Faculty seminars, dealing with land use planning in Wisconsin.

Professor Carl Runge is at present on leave from the Law School, to serve as Chairman of the Department of Urban and Regional Planning, which was launched by Professor Beuscher and Professor Ray Penn (Department of Agricultural Economics) many years ago. It has maintained its close ties with the Law School. It also has close ties with the Institute of Environmental Studies, since planning represents one of the most important necessities of environmental control.

\* \* \*

The list of Law School Faculty (and, to some extent, student) contributions to the concern for the quality of life could go on and on. One recalls Professor Bunn's effort to stop the use of napalm and other herbicides in the Viet Nam War as a major, early effort. Professor MacDonald's service as Counsel to the Environmental Defense Fund and Professor Bilder's service on many Committees dealing with the control of pollution in the sea are part of the story.

It all began with Jake Beuscher. It will continue forever.

## LEGAL EDUCATION AND TRAINING IN THE LAW— A PERENNIAL PROBLEM

*Many of man's puzzles and problems have a circular quality—they recur and reappear, in later times and later places.*

*In the 19th century, law schools developed to provide education in the larger aspects of the law, while students were gaining experience in the practice as apprentices in law offices. Eventually, the law schools took over entirely the education of lawyers. Now the pressure is mounting to provide some practical experience, through the clinical programs, as a supplement to education in the law schools. We may have come nearly full circle.*

*Mr. William R. Johnson has given the Gargoyle permission to publish a portion of the History of the University of Wisconsin Law School, his uncompleted doctoral dissertation in the History of Education, which describes some of the early relationships between the Law School and the professional training which went on in the law offices in Madison.*

*Mr. Johnson requests that any Gargoyle readers who have available any documents or reminiscences relating to the history of the Law School consider making them available to him. The Gargoyle will be glad to transmit them.*

The University of Wisconsin Law Department initially gave order, form, and logical structure to office study. The confines of the office did not always provide the student with the personal attention and direction he needed if he were to complete his legal education with some degree of efficiency. By bringing the practitioner into the lecture hall (which is what the early law school literally did), the student was assured that he would receive at least one hour, two or three times a week, of undivided attention by a lawyer.

Levi Bancroft, who entered the Law Department in the fall of 1882, and shortly thereafter accepted a position in the law office of P. L. Spooner, remarked that "It is customary for the students *when they can* to enter the law office of some practitioner in the city who directs their reading, [and] gives them the use of his library." The student careers of other young men support Bancroft's contention that entering

a law office was a "customary" practice among law school students. Burr W. Jones made an arrangement with Madison lawyer John D. Gurnee to work in his office while Jones attended law school in 1870. For doing "such work as might be necessary" Jones was paid thirty dollars a month, though he notes that it was highly unusual for a student to be paid for his office work. Other students who attended the Wisconsin

If the law school faculty assumed that the mission of the Wisconsin Law Department was only to supplement, to systematize, the office reading arrangement, law school students appear to have agreed with them. Though precise figures cannot be obtained, available evidence indicates that many students, perhaps a large majority, worked in an office under the supervision of a practicing attorney at the same time that they were enrolled in the Wisconsin Law Department. And of those students who did not attend the law school and work in an office concurrently, many used the law school either before or, most commonly, after a period of office reading.



Philip L. Spooner



Burr W. Jones

Law School had often spent a significant amount of time previously in a law office. John M. Olin studied law for a full summer before entering the Wisconsin Law School. Robert M. La Follette was admitted to the bar after five months' study, "part of the time in the office of R. M. Bashford and part of the time in the university law school." And John B. Winslow studied in a law office for two years before entering the law department.

An analysis of law school attendance figures further supports the contention that law school students usually combined office apprenticeship with law school studies. This pattern appears to have persisted at least until the middle of the 1880's. In 1878 the law school course was apparently extended to two years (the catalog for that year announced both a junior and senior class of law students, though the official announcement of a two-year course was delayed until 1881). After 1878 it was necessary for any graduate of the law school to have studied law for two years, with time spent in a law office or another law school viewed as fulfilling one year spent in the Wisconsin Law Department. There is no way of telling how many students transferred to Wisconsin for their senior year from another law school, but the number was probably not very large. Given the assumption that transfers from other law schools were few, the number of new senior class students each year (those who did not enroll for the junior year) therefore gives a lower limit to the number of students each year who were probably combining law school study with office apprenticeship. In other words, any senior law student who does not appear on the lists of junior class members must either have studied in a law office or satisfied the law faculty that he had read substantial amounts of legal material. In those years that the majority of senior law students were new to the school, there is presumptive evidence that the combination was working. This



John M. Olin



Robert M. LaFollette



John B. Winslow

was the case until 1887/88. With the exception of two years, 1881/82 (when the new two year course went into effect) and 1886/87, near the end of the period when the figures can be expected to become more ambiguous, new seniors were more numerous than continuing seniors. These figures, of course, give only the lower limits to the actual number of students combining both methods of legal training. Almost certainly many students who took both years of the law school course also worked, either before or during their term in school, in a law office.

During the 1890's this pattern clearly began to wane, although even then there is evidence that some students continued to work in a law office either before or during the time spent in the law department. As late as 1898 *The Daily Cardinal* reported that "it has been the practice for some law students to obtain situations in law offices and there to assist in the preparation of briefs and in the practice of law and still keep up their work in the law school."

There are various reasons for this shift in the educational pattern after 1890. The shortage of law offices in the city as law school attendance mounted contributed to the change. There is a suggestion in the remarks of Levi Bancroft—students enter an office "*when they can*"—that this shortage was evident as early as 1882. Also after 1890, the law school faculty expanded the course to three years and instituted more practical work in the curriculum, thus making it possible to complete a fairly thorough legal education in the law school alone. In fact, the inability of students to find places in offices—in 1888, *The Aegis* noted that less than one-third of the law school students were in offices in the city—probably forced the law school to take on a greater responsibility in legal preparation.

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During the 1870's and until some time in the 1880's, however, the pattern had been for law school students to combine office reading with law school attendance. The pattern was partly sustained by circumstances outside the control of the students and even of the faculty: the inadequacy of the Law Department's law library. Complaints about the law library, such as it was, occurred regularly after 1880. In 1881 law student Charles Bramford wrote in *The Campus*, a university student newspaper, that

The library of the Law Class is, to tell the truth, in a deplorable condition. Very few of the late works upon the special subjects of the law are found upon its shelves; the reports, what there are of them, are not kept complete by the purchase of new volumes as they are issued; nor, with the exception of two or three works, are there more than one copy of the few text books that the library possesses.

The law school library was actually only a few shelves of books located in a series of temporary rooms allocated for the department's use by the state legislature. It was assumed that law students also would have access to the State Law Library but this privilege was revoked from time to time. Even when the state library was open to the law students the crowded conditions of the room, particularly when the State Supreme Court was in session, made the library almost useless. The cost of buying the needed textbooks and reports was, of course, prohibitive to a young, usually poor, law student. Hence the practicing attorney's library became of special importance for the law student. Even if the student learned little directly from the lawyer in the office, access to his library was important and, by itself, was probably enough to make an office position of enormous importance to the student.

If the quality of the law school library contributed to the persistence of combining office study with law school study, that tradition of legal education itself had an important effect on the relation of the law school to the University. When the law department was established in 1868 the University Regents agreed to find suitable rooms for the school. Those rooms finally were located in the state capitol building, a mile from the university campus. The location of these rooms aptly symbolized the separation at the time between the university community and the law department; and the inconvenience of the rooms was a persistent theme of reports by the law school deans to the University Regents.

Law Department Dean Philip L. Spooner, appointed to the post in 1872, was faced almost immediately with the task of finding new quarters for the law department. In his first report to the Board of Regents Spooner complained

It being inconvenient for the State to supply a suitable room for the class, in the capitol, it was found necessary to procure a room for that purpose opposite the park [probably the State Capitol grounds], and the expenses for

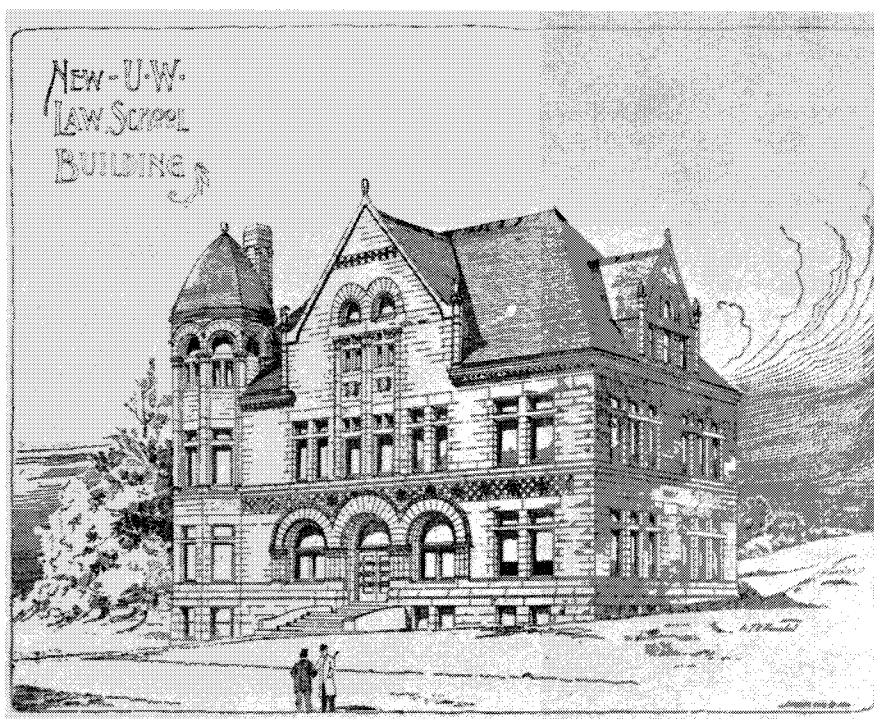
rent, fuel and light have thus far been borne by the professors.

Spooner concluded his report with a plea to the Board of Regents to "provide for these expenses hereafter."

The Regents' response to Spooner's request went unrecorded, though it can be assumed that the Board did reimburse the Professors for their expenses and assume payment for the new room. But the problem of housing for the school continued to plague both faculty and students. In 1874 the school "occupied one floor of the building known as the 'Gurnee Block'." The following year, 1875, the school was moved to a room rented from Simeon Mills. For the next ten years classes were conducted in this building located on Main Street. In 1881 the *University Press* described the "ridiculous" quarters of the law department.

This department is located in a small, dingy room in the posterior part of the third story of a business block on Main St. This is all there is of it. Here you will find

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the lecture room in which there is a small library. But few outside of those attending lectures here know where it is located. . . . As for the surroundings suffice it to say that a lager beer saloon holds forth on the first floor of this building. . . . Whatever this department of our University is to-day is due almost entirely to the Law Faculty. So the law students have very little for which to be grateful to the state.

In the fall of 1865 the law department again moved into the State Capitol Building. Governor J. M. Rusk "somewhat later set apart a second room for [the use of the law school] whenever it was not required for the use of the legislature." These "elegant and commodious apartments," as the law school catalog always termed them, were the subject of continued criticism by the law students.

Again we have to complain of our class rooms. Having been deprived of the Senior Class room by resolution of the Legislature, the whole class is crowded into that portion of "the elegant and commodious apartments" usually known as the Junior lecture room. After an hour's endurance of this kind of life, a student feels like seeking western wilds where the gift of God, fresh air, is bountifully supplied. . . . Cannot something be done.

Later that same year *The Aegis* reported that "It is rumored that the 'powers that be,' are contemplating procuring the third story of the city hall for the use of the law school. Pray God it may be. Anything to get us out of our present ill-ventilated quarters."

Not until 1891 was anything done about new rooms for the law department. The 1891 legislature appropriated funds for the construction of a law building on campus and, after some delay in building caused by bad weather, the new housing for the department was opened in the fall of 1893. In this one substantial way the law department was drawn into the orbit of the university.

It was not simply penuriousness on the part of the Regents or the legislature that isolated the law department from the main campus for so long. The prevailing pattern of the law school effectively precluded the location of the law department on the campus. On various occasions throughout the late 1870's and 1880's the University Regents considered moves to improve the quarters of the school. Indeed, when the department was first opened in 1868 the Board provided a room in Main Hall for the school but according to Frederick A. Pike, that room was "never used for a class room in as much as

both the faculty and students, who, at the time, were all in law offices in the city, were adverse to its use."

Prior to the 1890's the physical isolation of the Wisconsin Law Department from the University community was thus related to the role the law school played in legal education. For about two decades after the law school was established in 1868 the character of the school remained relatively stable. From the viewpoint of students, the University Law Department was a supplement to the law office. The theoretical bias of the law school nicely complemented the practical work of the law office. And the law school faculty in turn accepted, indeed, promulgated this role of the law department. But even during this period there were innovations in law school policy that adumbrated later shifts in educational objectives. Those innovations mainly concerned raising the admission and degree requirements of the law department and extending the law school course to two years.



19th Century Law Students



## FINAL APPROVAL PENDING FOR FEDERAL AID TO LEGAL EDUCATION

The participation of the federal government in all aspects of higher education grows and grows. During 1970-71, Uncle Sam spent almost \$59,000,000 at the University of Wisconsin (before merger)—for financial aid to students, a multitude of research projects, and a host of grants for very specific purposes. To a considerable degree, Wisconsin is a national university, at the same time that it is the proud possession of the citizens of this state. Legal education is receiving an increasing slice (albeit still small) of the Federal pie.

\* \* \*

Now pending in Conference Committee are the House and Senate versions of the gigantic Higher Education bills, both adopted in the latter days of the 1971 Congress. Although most authorization legislation for Higher Education Programs expired on June 30, 1971, the old laws (providing student loan funds, assistance for facilities, etc.) have continued in effect while agreement between the two houses of Congress on the revised new legislation is sought.

Contained in both versions of the bills now in Conference, although they differ in some details, are the following provisions, relating to Legal Education:

1. *Title XI*, which includes federal support for the development of Clinical Programs and support for the construction of facilities.

2. *Title IX*, which provides direct grants to disadvantaged graduate students has been amended to include students in professional schools along with other graduate students. This provision would permit federal

support of the CLEO Program (Council on Legal Education Opportunity), under the sponsorship of the American Bar Association and the Association of American Law Schools. A summer pre-law preparatory program, plus continuing financial assistance to students from minority backgrounds has been provided by private gifts and foundation grants for the past several years.

3. Law School libraries are included in the appropriations for development of University libraries and the training of personnel.

4. Financial support to inter-institutional arrangements to develop and share joint facilities specifically includes law schools and law school libraries.

5. Law students, along with other graduate students will benefit from the increased maximum annual loan from \$1500 per year to \$2500.

6. Law schools will participate in the provisions for funding of construction of academic facilities.

7. Provision for general operating subsidies to institutions of higher learning. This represents a major departure from previous legislation.

8. The establishment of a National Foundation for Post Secondary Education, to open new opportunities, encourage innovation, while strengthening existing institutions.

9. A National Institute of Education, designed to establish and direct research in educational practice, with the goal of greater understanding and effectiveness, is also under consideration.

In addition to the omnibus Higher Education bill, a congressional movement to establish a Legal Services Corporation by removing the Legal Services programs from the Office of Economic Opportunity, also has great significance for law schools. There is a natural and long-standing affinity between law schools and all institutions and organizations providing legal services to the poor, because of the opportunity provided for carefully supervised practical experiences for budding lawyers.

Legislation will probably be approved to continue the Education Professions Development Act, which provided the funds for the Law Teachers Clinic held in the Law School during the summer of 1971.

### LOST OR STRAYED

#### A FEW UNIVERSITY OF WISCONSIN LAW SCHOOL ALUMNI

(All can be easily identified because they are distinguished and have the WISCONSIN LOOK.)

ANY INFORMATION LEADING TO THE WHEREABOUTS OF THE FOLLOWING WILL BE APPRECIATED BY THE GARGOYLE:

<u>Name</u>	<u>Last Known Location</u>	<u>Class</u>
Dennenberg, Gerald,	Milwaukee, Wis.	'56
Huberty, John E.,	St. Paul, Minn.	'51
Laneville, James F.,	Wyckoff, N.J.	'60
Mason, John A.,	Alhambra, Calif.	'54
Rabinowitz, Eva E.,	Lakewood, N.J.	'53
Rosenblum, Harry M.,	Terre Haute, Ind.	'22
Senner, James M.,	Vienna, Va.	'68
Smith, James E.,	Novato, Calif.	'64
Uhlenhopp, Donald L.,	Miami, Fla.	'53
Winters, Robert J.,	Culver City, Calif.	'52

SIMILAR LISTS WILL BE PUBLISHED FROM TIME TO TIME IN THE GARGOYLE.

EDITOR