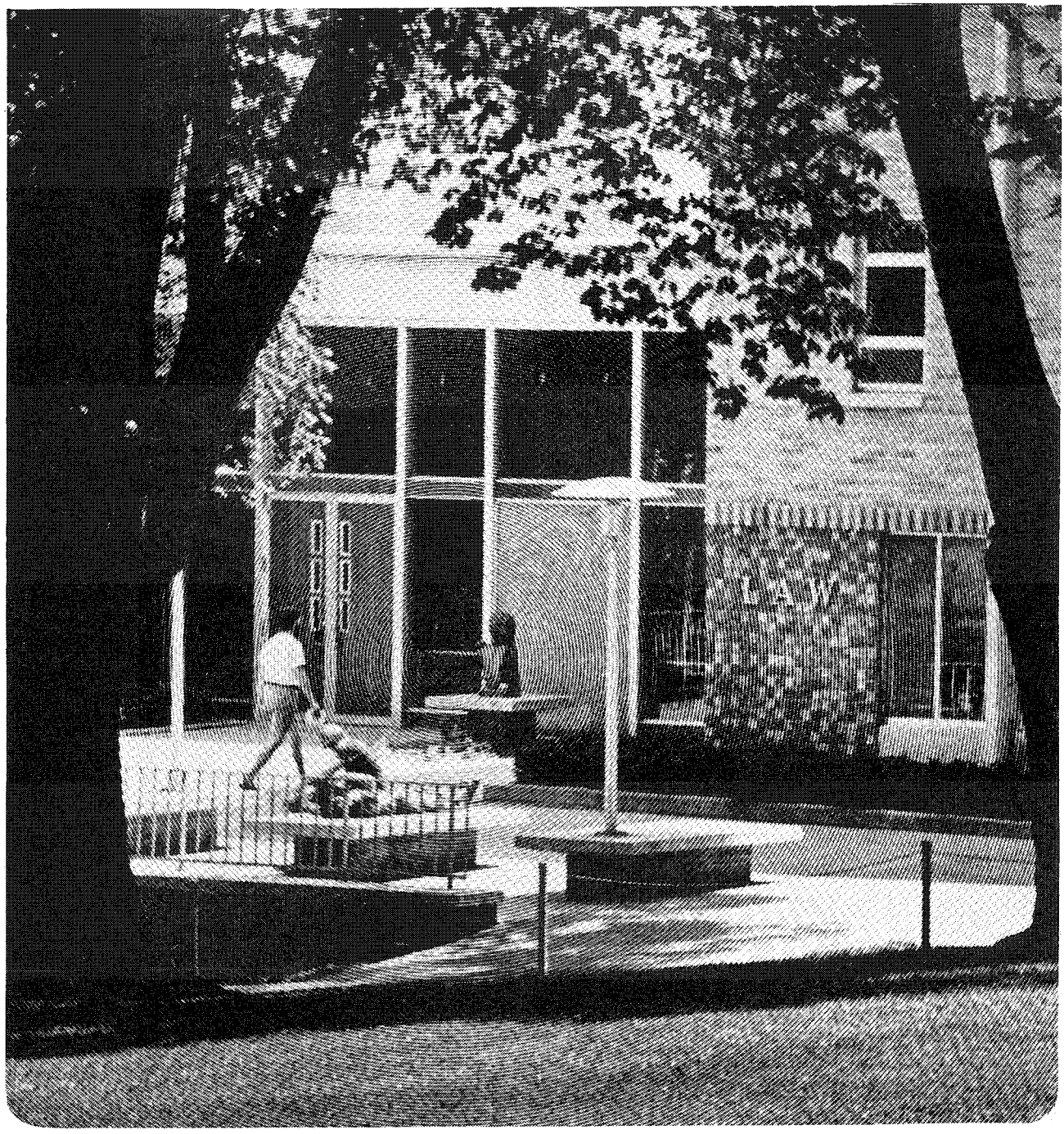
gargoyle

Alumni Bulletin of the University of Wisconsin Law School

Vol. 6 No. 4 Summer, 1975



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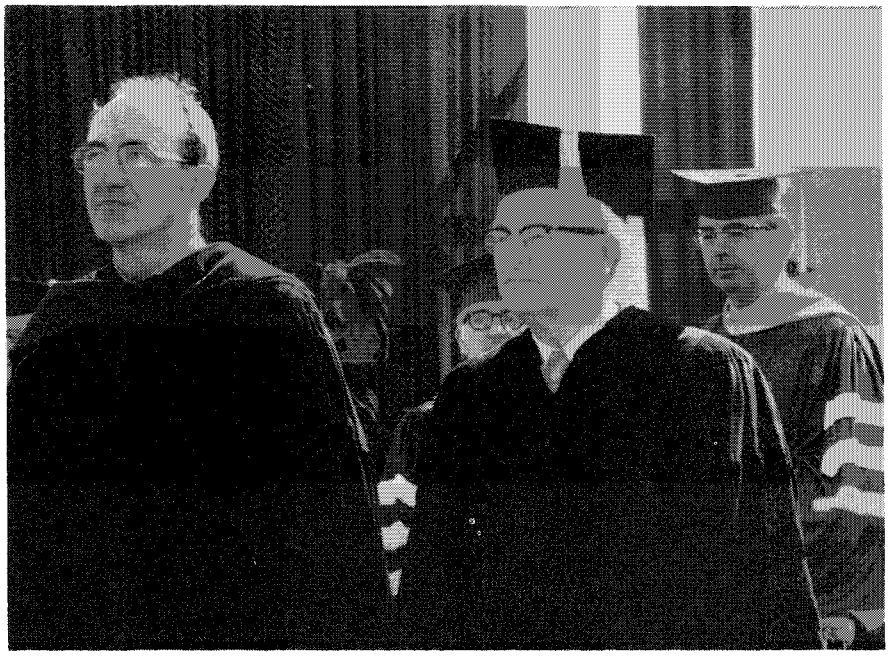

Dean escorts Thomas E. Fairchild (LLB, 1937; Honorary LLD, 1975).

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Ruth B. Doyle, editor

Publication office, 213 W. Madison St., Waterloo, Wis. Second class postage paid at Waterloo, Wis.

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DEAN'S REPORT TO ALUMNI— MARCH 22, 1975

If you are a regular reader of the Gargoyle, you probably noted both pessimistic and optimistic reports from me this year. Last spring I was gloomy about the prospects of getting more money to meet the urgent needs of the School. But, in the Fall, the Regents approved an increase in our annual base budget of $217,500 to increase practice skills training and to begin a program of advanced courses so that law students might "major" in a subject area. The addition was the equivalent of about 9 faculty positions.

After considerable debate, the faculty voted—optimistically:

First to designate Criminal Law as our first "major". Under Frank Remington's leadership, we have one of the strongest criminal law programs in the country. The designation of Criminal Law contemplated that the new money requested by the Regents would be used in part to defray the costs of clinical criminal law placements under Frank Remington's general supervision because of the end of federal funding for them.

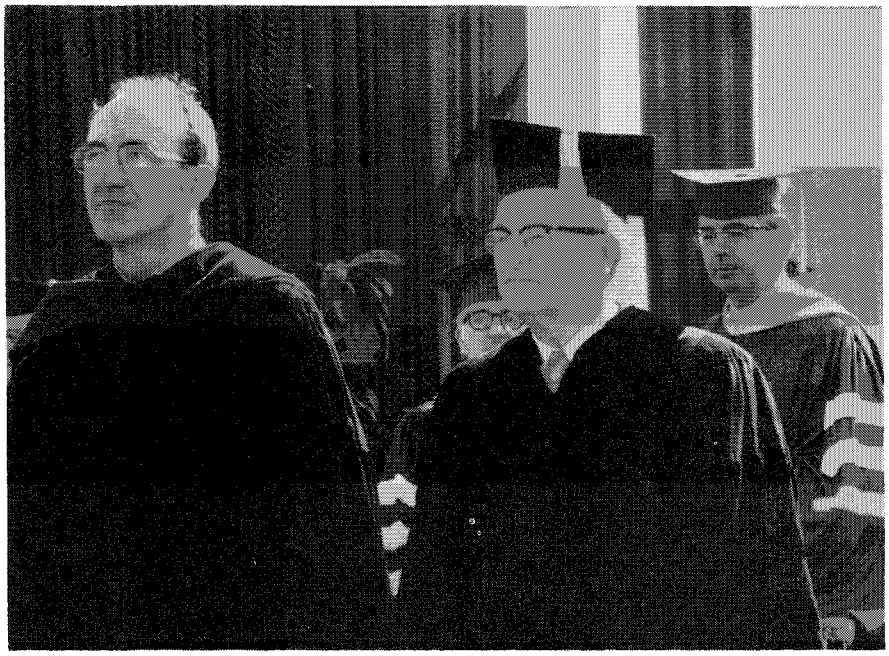
Second, we voted to hire another teacher for the General Practice Course. Stuart Gullickson, who developed that course, has received recognition from the ABA, several state bars and a number of law schools for his work. We wanted to be able to give two sections of the course each year rather than just one,—to provide it to 160 out of a typical graduating class of 280 rather than only 80.

We also had hopes of starting another "major" including advanced courses—perhaps for students seeking jobs emphasizing tax and business law, or perhaps for those aiming at a government career. We had hope of improving the supervision of our clinical programs and putting them on a permanent basis. We had hope of hiring new teachers we badly need for Evidence and other courses.

Early in the year, however, the Executive Budget was issued. All of the new money requested by the Regents for the Law School was cut out. Taken together with the loss of outside funding for several clinical programs, and the cuts imposed on the University in which the Law School had to share, we lost the equivalent of almost six faulty positions rather than gaining nine. My pessimism returned.

An ABA accreditation re-inspection team was here shortly before the Governor's Budget came out. My optimistic reports to them had to be sharply revised. I have not yet seen their report.

At the moment, the Joint Finance Committee of the Legislature is considering the Regents' requests for the Law School. The Legislative Fiscal Bureau has provided the Committee with an analysis suggesting the need for an addition of about $200,000 to our base budget. But the state's revenues are down because of the economy, and the money may just not be there.



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We were also optimistic about our first semester legal writing experiment. This year, for the first time, each entering freshman had one class with fewer than 20 students during his or her first semester. This contrasted with other freshman classes of 80 or more. The small classes were provided to give individualized faculty supervision to each student's first efforts at case analysis and legal writing. One small class for every entering student produced a first semester experience dramatically different from that of the "Paper Chase." The experiment was expensive. But both students and teachers regarded it as a great success.

Last year at this time I described some of the historical reasons why legal education has for years been confined by the Langdell tradition of large classes for the analysis of appellate opinions. I described long-term efforts at this School to break out of Langdell's grip on the entire three-year curriculum. These efforts have produced only gradual change because, first of all, the new money necessary to pay for them has been available only rarely and in small quantities.

"As a result", I concluded, "in Wisconsin, a lawyer can still be admitted to the bar and hold himself out to the public as a qualified practitioner without . . . any experienced criticism of his ability to analyze legal problems in writing except the grades he gets on his finals and one legal writing course taught by second and third year students. He can do so without any skilled evaluation of his ability to present a legal argument orally beyond that which occurs incidentally in class. He can do so without ever having drafted a legal instrument, examined a witness or interviewed a client."

Few disagreed with these conclusions. But many said that training law students in lawyering skills was not a law school's responsibility. It belonged, they argued, to the practicing bar. Young lawyers are supervised by senior partners in the learning of these skills, I was told. The skills were not usually learned just by trial and error at the client's expense. Law schools therefore did not need to be concerned if they did not teach them.

I believe, however, that about half or perhaps more of our graduates learn lawyering skills by the trial and error method without much supervision from experienced lawyers. I have formed this belief from my own experience and some incomplete but persuasive data which I will tell you about.

First, my own experience. I joined a medium-sized national law firm in Washington soon after graduating from law school. It was then called Arnold, Fortas and Porter. The supervision I received as a neophyte lawyer varied tremendously depending on two factors: (1) what the client could afford to pay, and (2) the working habits of the senior lawyer on the case—if I was not the only lawyer on it.

Within a year I was handling hearings for clients who were indigent or close to it. In those cases, the firm got no fee and I got no supervision. I had had no training in hearing work—not even by observation—beforehand. Even for corporate clients who could afford to pay for two lawyers on a case, my supervision was zero from some partners, though it was extensive from others.

I found my law school education, including particularly writing for the law review, highly relevant to the writing of legal memoranda and briefs. It was less relevant to the drafting of legal instruments. It was still less relevant to the negotiation of disputes or the investigation of facts. Except for one course in Evidence, my legal education seemed almost irrelevant to the trial of an issue of fact.

Despite my experience, I don't think that our *first* concern should be lack of law school practical skills training for our graduates who go to large or medium-sized law firms. I will define the large firm as being over 25, and the medium firm as being from 7 to 25.

Only 8 percent of the class which graduated from the University of Wisconsin Law School in 1974 went to large firms. As usual, the ones going to large firms tended to be from the top of the class. A number of them had been on the Law Review. That experience, the moot court competition, and some writing seminars are probably the best practice skills training available in law school for what those graduates will likely do first, that is, legal research and legal writing. Moreover, not many large firms are likely to inflict a new associate on a regular paying client without fairly close supervision from a partner. And most of the clients can afford to pay for the time of both the partner and the new associate.

The medium-sized firms—from 7 to 25—took only 10 percent of the class of '74. I am somewhat more concerned about these students than about those that went to the large firms. Fewer of them were Law Review. Probably fewer of them will spend most of their time on legal research and writing and more of them will have direct client responsibility in their first practice years. The combined average of their grade point averages was one percentage point above the median for the class of 1974. Many of them had had jobs with law firms while in law school and had gotten some clinical education

continued

that way. Some had had law school practice skills courses. Probably the firms that hired them were large enough, and had clients affluent enough, so that some practice skills training will be given them by experienced attorneys in their first years in practice.

Nor should our first concern be the 7 percent of the class of '74 who went to the federal government or the 10 percent who went to the state government. In both cases the offices are typically large and can provide supervision for on-the-job training if desired.

My first concern is for the biggest group in the class. It is the 30 percent who hung out their own shingles or joined firms of 7 or fewer lawyers.

Clearly those who hang out shingles upon graduation are going to get no supervision from a senior partner. That was 5 percent of the whole 1974 class. In the case of the small firms, the young associate is likely to deal directly with the clients without help from a senior, to draft legal instruments without supervision, and to negotiate or try cases alone, long before his classmate in a larger firm. Bar statistics indicate that small firms tend to have higher client volume, and lower fee size per client, than larger firms. Small firms are likely to delay hiring a new associate until their work backload is more than enough for one additional lawyer. To a considerable extent, these firms cannot afford the time, and their clients cannot afford the cost, of two lawyers working on the same case at the same time. So the new associate is not likely to get much supervision.

Summing up, 43 percent of the class of 1974 went to solo practices, to small firms, to prosecutors' offices or to legal service centers. The combined gradepoint average in these groups was lower than that of graduates who went to large or medium-sized firms, or to federal or state governments. Not very many of them had law review or moot court experience. Altogether, well over 100 of them, over one-third of the class, did not have or would not have had one or both of the practice skills courses most relevant to the jobs they went to.

These results for the class of '74 are confirmed by the returns from a recent alumni questionnaire. It went to every member of the classes of 1954, 1959, 1964, 1969 and 1972.

Considering all private practice, corporate and government lawyers' offices, over 50 percent of our 552 respondents report working as attorneys in offices with seven or fewer other lawyers.

Looking at private practice alone, over 12 percent of all respondents was in solo practice.

The placements of the class of '74 and the questionnaires from the five earlier classes indicate the same thing: about half and perhaps more of the members of each class are practicing law under circumstances not conducive to learning lawyering skills except by the trial and error method—with the client suffering the consequences.

Other information in the returned questionnaires is consistent with this conclusion. The questionnaires express a strong felt need for more practice skills training in law school. When asked in which 25 subjects the course offerings should be increased, the respondents checked more frequently: first, Trial Practice; second, The General Practice Course; third, Clinical Courses; fourth, Procedure and Evidence; and fifth, Legal Writing and Advocacy.

(Further results of the alumni survey are set forth elsewhere in this issue. Parts of Dean Bunn's speech dealing with the same data have been omitted.)

Firms of this size are typically engaged in general practice. Stuart Gullickson's General Practice course and a trial techniques course are the most relevant practice skills training that the Law School offers for students whom they hire. But over half of the graduates who went to small firms —including a number who became solo practitioners—had not had the General Practice Course. We could afford only one section for 80 students that year. Assuming that we had also provided 80 opportunities to take trial techniques courses—that is all we will be able to do next year under the present budget—over half would not have taken a trial techniques course. Altogether around three-quarters would not have had one or the other. At the same time, proportionately fewer of this group had had law review or moot court experience. And their combined grade point average was right at the class median.

My first concern extends also to the 4 percent of our 1974 graduates who went to prosecuting attorneys' offices and to the 9 percent who went to legal services or defenders' offices. Their grade point average taken together were at the class median. The offices they went to tended to be high-volume and inadequately staffed. Young lawyers in such offices are typically thrown into the courtroom very quickly with little supervision.

continued

The Law School practice skills courses which are most relevant for them are the criminal law clinical programs under Frank Remington and the trial techniques courses under Stuart Gullickson and a number of practitioners. But about one-quarter of those who went to legal services did not have any clinical experience. Well over half would not have had a trial techniques course under next year's budget. Almost half of those who joined prosecutors' offices had no clinical experience. Over three-quarters would not have had a trial techniques course. If we must cut the clinical programs for budgetary reasons, fewer of the future graduates going to either prosecutors' or legal services offices are likely to have relevant clinical training. We have already had to cut a prosecutors' and defenders' clinical training program in Dane County.

We must of course continue to teach the traditional subject area courses in the basic law school curriculum. This is what we do best. As a faculty, we do an excellent job at these courses. Clinical and practice skills training are largely meaningless if students haven't taken the basic courses first. But we should also offer students the chance to take advanced courses in some of the subject areas of the basic curriculum during the last half of their legal education. Moreover, the clear call for more practice skills training confirms my earlier conclusion that a good many of our graduates go to jobs which don't provide it adequately. To the argument that such training is the legal profession's responsibility, I answer that the profession doesn't seem to be performing it for upwards of half of our graduates, and perhaps more.

We now have insufficient funds to offer better practical or specialized training in the Law School. Under next year's budget, we cannot do as well.

With the budget cuts now in effect, we will have to eliminate about two-thirds of the opportunities to take trial techniques courses and half those to take the General Practice course. Some of our criminal law placements have already been cancelled and further cuts appear necessary.*

Professional training of this sort is expensive. It costs more because of the individual attention that must be paid to each student's written memorandum, his examination of witnesses, his mock trial or client counselling experience, his draft of a will or of a corporate charter.

Take just written papers as an example. It takes me about an hour per paper to read the paper, write comments, figure a grade, compute it on a curve, and enter it into a grade book. If I have one class of 80, one paper per student will cost me two 40-hour weeks of time. I must also devote two to three hours per class to preparation if I am an experienced teacher —much more if I am not. If this is a three-credit course, that means 10-15 hours per week including class time without any papers at all. If I am inexperienced in this course, it means up to 30 hours per week.

But this is just half a law teacher's teaching load, and only one of his or her responsibilities. Faculty members are expected to keep up with their fields, to research and write in them, to help run the Law School and the University by serving on endless committees, to provide public service to their community and profession. Based on our latest surveys, the average law teacher devotes 55 hours per week to these responsibilities. It is no wonder that teachers have little time to provide individual feedback in traditional courses except for the grade on one exam, the final.

Because individual attention is expensive in faculty time, it is expensive in dollars. The incremental cost of teaching one three-credit course to 80 students is $20 to $25 per student per credit. The General Practice Course costs over $65 per student credit. Our new first semester small-section legal writing program for beginning students costs over $100 per student credit. The largest clinical course, the Legal Assistance to Inmates Program, will cost over $150 per student credit even if the state mental and penal institutions which are served pay half the cost. Clinical programs and research and writing seminars with ten or fewer students per faculty member may cost $200 per student credit or more.

Law School budgets seem to have been built on a typical class size of around 80. As a result, we simply cannot provide the individualized or small group training necessary to learn lawyering skills without a substantial influx of dollars.

* * *

*Since this was written, the Joint Finance Committee of the Legislature voted to provide funds for two Law School clinical programs, one in the criminal law area which provides legal assistance to inmates of prisons and mental hospitals, and one in the administrative law area which trains students in state and local government procedures.

ANNUAL WLAA DISTINGUISHED FACULTY

ALUMNI AWARDS GO TO BRODIE, CLEMONS

Each year, at its annual spring meeting, the Wisconsin Law Alumni Association presents special citations to outstanding Faculty and alumni.

The recipients of the 1975 awards are Professor Abner Brodie and Mr. Lester S. Clemons a member of the Milwaukee firm of Quarles and Brady. Brodie's award was made by his long-time colleague Professor Samuel Mermin. Mr. Patrick Cotter, Milwaukee, made the presentation to his partner, Lester Clemons.

* * *

Mr. Cotter:

When I was told several weeks ago that Les Clemons had been chosen by the Board of Directors to receive the Law School's Distinguished Alumni-Faculty Award, I was surprised. Surprised not because he was chosen, but because he had not been chosen before. The only explanation that I can think of for this oversight is that it is only recently that anyone realized that Les was actually old enough to qualify. Surely his activities belie his age.

Several years ago an author introduced an article on Les Clemons in a Milwaukee publication with a quotation from the father of modern architecture, Miles Van der Rohe. The quote was "Less is More". The author went on to explain that the clean simple lines of Van der Rohe's buildings illustrate this principle and then analogized this quote of "Les(s) is More" to Les' clarity of thought conveyed by an economy of words. I feel that he might also have noted that Les too has clean, simple lines.

Lester Stanley Clemons was born in Eau Claire, Wisconsin in 1904. He commenced his college education at the old Eau Claire Teacher's College, now the University of Wisconsin-Eau Claire, later transferred to the University at Madison and finished law school here in 1926. His record of educational achievement also will illustrate the "Les is More" principle attributed to him. He graduated from Law School at 21 years of age, having completed a normal 20 years of formal schooling in 16 years.

While in Law School Les compiled a distinguished record serving on Law Review as well as working with Professor Page, who was then writing his renowned work on Contracts. This double exposure to Mr. Page has given Les the questionable opportunity to experience many more Pageisms than most of us.

Upon graduation from Law School in 1926 he went to Milwaukee and began his legal career with the prestigious law firm of Lines, Spooner and Quarles. He has continued with that and successor firms ever since. The formation of the most recent successor firm, Quarles & Brady in February 1974 has given me the cherished opportunity to become more closely associated with one of the most distinguished and respected lawyers in active practice.

The story goes that for the first 5 years of his career, Les enjoyed a reputation as one of Milwaukee's most eligible bachelors, but ultimately in a tale too long to relate here he succumbed to a home cooked meal and married Elizabeth Kelly in 1931. They have three children and 6 grandchildren.

Les' career since his graduation from Law School has been one of continuing and dedicated service to our profession, our school, the Milwaukee community and to his fellow man. A complete list of his accomplishments would be almost impossible to compile and certainly much too long to recite.

Illustrative, however, of his professional service, besides his active role in Bar Association activities at National, State and local levels, his service on the original State Bar Corporation Law Committee and subsequent revision committees that rewrote and modernized Wisconsin Business Corporation Law in 1951. Recognition of his legal skills and business judgment is illustrated by his membership on a large number of corporate boards, among them Bucyrus-Erie Company, Kearney & Trecker Corporation and Marshall & Ilsley Bank.

continued

Lester Clemons, Patrick Cotter, Samuel Mermin and Abner Brodie.

His service to the school—both the University and the Law School—has been recognized by his election to the Presidency and currently chairmanship of the University of Wisconsin Foundation. He received the Wisconsin Alumni Club Distinguished Service Award. He has also served as a director and President of our Wisconsin Law Alumni Association.

The Milwaukee community has been the beneficiary of many years of his service on the Boards of civic and social organizations. He served as the President of Metropolitan Milwaukee Association of Commerce. Les' long service to his Church was recognized by his election several years ago as a Trustee of the Wisconsin Conference of the United Methodist Church.

What more can I say? Only that it is refreshing to find a man with such a distinguished record who is as warm, friendly and just an ordinarily nice guy! It is also heart-warming to see those qualities and service given public recognition by awarding Lester S. Clemons the University of Wisconsin Law School Distinguished Alumni-Faculty Award.

Professor Mermin:

As part of our Spring program, in the courtroom of the Wisconsin Supreme Court, some of our ablest law students argued a case involving constitutionality of the federal law requiring most federal employees to retire at age 70.

One of the arguments of the plaintiffs attacking the statute was that the automatic cutoff unduly sacrificed the talent, experience, and wisdom of employees whose powers were substantially unimpaired.

It was a particularly poignant argument for me to hear, because I knew how true it was about my colleague and good friend, Professor Abner Brodie. He, because of Wisconsin's analogous retirement law, will not be teaching here after this year. And if you have any doubts about whether his powers are unimpaired, ask a current student who has tangled in class with that repertory of "so whats," "even ifs" and "a fortiori" or ask one of the younger faculty members residing in the Nakoma area whether they walk to or from the office, as often as Abner does.

* * *

Let me tell you a few things about Abner Brodie. Some of us teachers swell with pride when an ex-student comes back and says what a great course it had been. But Abner should be swelling to the bursting point—because not only have students told him that; they have also told others—they have told me, for instance, what a great teacher they had found Abner to be. (Since I too had taught these particular students, and since I could be expected to think that I had taught them well, their silence on that score could only be explained by their depth of feeling, and devotion to the truth).

continued

What these students have stressed is his conscientiously thorough preparation, and his phobia against: sloppy analysis, imprecise language, and unpersuasive argumentation. His classroom has been a perfect training ground for the acquisition of a lawyer's basic intellectual skills. When the movie reviewer of the Daily Cardinal reviewed "The Paper Chase" and suggested that Prof. Kingsfield was our law school's Brodie, he was of course referring to Kingsfield's uncompromising intellectual integrity. Incidentally, the reviewer didn't know of another parallel: each man has a lovely daughter.

* * *

I would guess that there has also come across in Abner's classroom his deep respect for the Bill of Rights: for he has long been devoted to helping solve the practical problems of civil liberties protection. And I am confident that what has come across in the classroom is not propaganda for civil libertarian positions—but rather a frank disclosure of his own position, coupled with objective analysis of the pros and cons of argument about his position and opposing positions.

Also—no one who lunches with Abner as often as I have, can fail to be aware that he is a close student of contemporary national politics. He has made a particular hobby, I think, of puncturing Presidential pretensions, pomposities, prevarications, privileges, and pardons. His uncannily accurate critical judgments were not made from the vantage point of hindsight; they were immediate and crushing responses, to Presidential performances. So much so, that one might slightly amend a certain New Yorker cartoon, and show Abner sitting before a TV set that was presenting a Presidential speech, with his wife Agnes saying to him, "But Abner, he can't hear you."

* * *

The Law School has leaned on Abner for a quarter century. To begin with, he has borne a goodly share of the committee work which so dims the lustre of the academic life. I know of the burdens of his current assignment as Chairman of the Deanship Search and Screen Committee . . . He has for many years been Chairman of the Petitions Committee, on which I have served, and I know how important was his firm but fair guidance, in saving the school's regulations from the gradual disintegration that might have occurred under a less wise chairman.

Then there is his coaching, for the last several years, of the teams representing this school in the National Moot Court Tournament. Those teams have compiled an excellent record. One reason— which you can learn from talking to members of the teams—is this: after the student has experienced Abner's tough grilling in the practice arguments, he finds that responding to questioning by the actual tournament judges is mere child's play. Incidentally, I discovered that a recent team made him a gift of a T-shirt embroidered with the words "A Fortiori."

* * *

As for teaching, generally: in the early years the School took rather unfair advantage of his broad experience in private practice in New Jersey and Michigan, and his government lawyering with the Department of Labor and Department of Justice: The school used him as an all-round utility teacher to plug the curricular gaps that developed from time to time—resulting in his teaching more than a dozen different courses. Thereafter more merciful Deans let him concentrate his offerings, and become a mainstay of the School in the teaching of constitutional law, labor law, and collective bargaining.

His teaching in the latter two areas has been greatly enriched by the concurrent experience that he gained in the world of labor arbitration. Management and labor have appreciated his scrupulous fairness and selected him for important arbitrational assignments. Names like Hormel Packing and Allis-Chalmers and General Motors are among them. Indeed, he has functioned as the Umpire at General Motors—which is some sort of pinnacle for a labor arbitrator. He has also been co-editor of a text on labor-relations law.

* * *

By this time I trust you have at least a glimmering of the reasons why Abner Brodie is receiving official recognition by the Wisconsin Law Alumni Association, as recipient of a Distinguished Alumni-Faculty Award for 1975.

* * *

WOMEN LAWYERS—MORE AND MORE AND MORE

There are almost 22,000 women currently enrolled in the law schools of the United States, according to a recent New York Law Journal. This represents about 1/5 of the total law student population, an increase of 30% over a year ago. In 1963, there were 2183 women law students.

These astonishing increases provide much of the pressure on law school enrollments, and it can be presumed will continue to do so. One can speculate about changes in the profession which will result from the association with it of an increasing percentage of women.

The University of Wisconsin Law School is in step with the national women's march to full participation in the legal profession.

* * *

ANNUAL PRIZES AWARDED

UNIVERSITY OF WISCONSIN LAW SCHOOL
Awards Convocation

Saturday, March 22, 1975 4:00 P.M. Law School

U.S. Law Week Award . . . . . Carol R. Ottenstein
For the most satisfactory progress during 3rd year

University of Wisconsin Foundation Award . . . . . Mark S. Stern
To student most improved from first to third semester

Mathys Memorial Award for Appellate Advocacy . . . . . Richard D. McNeil
Selected at the close of arguments, March 22, 1975

Milwaukee Bar Foundation Moot Court Prizes . . . . . *
Selected at the close of arguments, March 22, 1975

International Academy of Trial Lawyers Award . . . . . Karen L. Handorf
For excellence in trial and appellate advocacy

Insurance Trial Counsel of Wisconsin, Inc. . . . . Peter M. Gaines
For outstanding achievement in Insurance Law George R. Kamperschroer

Constitutional Law Prize . . . . . Diane S. Diel
For outstanding achievement in Constitutional Law

West Publishing Co. Book Award . . . . . Matthew J. Flynn
For scholarly contribution to the Law School

William Herbert Page Award . . . . . Stephen B. Braden
For outstanding contribution to the Law Review

For Comment: *Procedural Due Process and the Separation of Functions in State Occupational Licensing Agencies*
1974 Wis. L.R. 833

George J. Laikin Award . . . . . Mary A. Brauer
For outstanding writing in the Law Review in special fields

For Note: *Freedom of Information Act—Disclosure of IRS Private Letter Rulings*
1974 Wis. L.R. 227

Wisconsin Land Title Association . . . . . Kristine A. Euclide
Jacob Beuscher Award

Wisconsin Law Alumni Association Prizes
First ranking student after 45 credits . . . . . Alan G. Habermehl

Second ranking student after 45 credits . . . . . Jerome P. Mercer

Joseph Davies Prize . . . . . Lawrence C. Begun
To outstanding member of the second year class

Daniel Grady Prize . . . . . Erica G. Jacobson
To the graduating student with highest standing

Salmon Dalberg Prize . . . . . Roger W. LeGrand
To outstanding member of the graduating class

* 1st	Runners-up
Richard D. McNeil	Jean Gilpen
Edward A. Hannan	Jonathan Levine
John M. Schmolesky	Michael I. Paulson

Presentation of the Order of Coif, 1975 . . . . . By Prof. John A. Kidwell

Owen T. Armstrong
Michael H. Auen
Michael R. Babbitt
Donald L. Bach
Robert L. Binder
Kathryn L. Daut
Steven J. Edelstein
Matthew J. Flynn
Peter M. Gaines
Martha E. Gibbs
Arthur J. Harrington
Erica G. Jacobson
Thomas R. Jacobson
George R. Kamperschroer
Maureen L. Kinney
Benjamin W. Laird
Michael J. Lawton
Loyal E. Leavenworth
Brooke S. Murphy
Richard K. Nordeng
Charles F. Parthum III
Michael I. Paulson
Karl P. Schmidt
Patrick W. Schmidt
Leon Simson
John R. Zwieg

LIFETIME TEACHER—FREDERICK J. MOREAU

Some people choose to be lawyers because it is possible for them to have careers in widely diverse fields—business, private practice, teaching, judiciary, politics, etc.

For many others (perhaps a majority), being a lawyer means commitment to a single career, in which as wisdom and judgment broaden and deepen, the satisfactions gained from a job—or jobs—well done increase with the passing years.

Professor Frederick J. Moreau, Class of 1924, taught in the public schools for eight years before he entered law school. He has a perspective on legal education unavailable to others, because in 48 years he has taught and been a part of the law school community at six different law schools, giving him both the long view and the broad view. He has, for example, taught Torts 49 times.

Upon graduation from Law School, Professor Moreau spent three years with the Madison firm of Wilkie, Jackman and Toebaas. In 1927, he recalls, Dean Richards "sent" him to the University of Idaho. He always intended to return to his native Wisconsin, but never did.

He went from Idaho to Kansas in 1929 and stayed until 1963, serving the middle twenty years (1937 to 1957) as Dean. He spent a couple of years on leave—in Oregon and Iran, where he gave lectures on American legal institutions in all the major cities. On his "retirement" in 1964, he became one of the distinguished older professors at Hastings College of Law (University of California) in San Francisco. In 1973, he joined the faculty of Pepperdine University School of Law at Anaheim, California; he is currently teaching Remedies, using a 100 page outline which he recently prepared.

Professor Frederick Moreau.

Looking back over a life-time in legal education, Professor Moreau recently wrote to Dean Bunn, recalling a group of articles on Legal Education published in early journals of the Journal of the American Bar Association. He called attention to the lively arguments over the two most prominent methods of teaching—that of Professor Theodore Dwight, warden of Columbia Law School, and Christopher Columbus Langdell, Dean of Harvard Law School. "The purpose of Columbia College (during Dwight's deanship) has always been to make lawyers; that of Harvard to make men academically learned in the law as a science. . . . " The basic difference is that the Dwight method starts with a set of principles, and proceeds to the particular application, while the Langdell method starts with study of cases, followed by lecture and ends with the deduction of principles.

In 1938, while he was Dean at Kansas, Professor Moreau wrote an article for the Kansas Bar Journal (7 KBJ. 153 (1938)) entitled *"What Constitutes a Practical Legal Education?"* It discusses many of the same issues which are controversial in 1975. Pre-legal education should be general, he states; a lawyer's work requires some knowledge of many disciplines, including science, economics, and political science—although many excellent lawyers have received their undergraduate degrees in many other fields.

The kind of training and education which is offered in the law schools was as lively a subject of discussion in 1938 as it is now, or as it was in 1900. To some scholars, Mr. Moreau points out, "the law is a vital force in the community, an admixture of reason and experience. . . . Instead of law being fixed, it is synonomous with life." "The basic generalizations," he continued which make up the body of the common law are contained in thousands of judicial decisions. These cases are the source materials for law study. The casebook is the tool which provides the opportunity for students to discover and form the principles of law. He urged then—as do all his colleagues today—"there is much to be gained by requiring the student to reduce his analyses to writing. . . . Students should be required to defend or oppose general propositions with carefully prepared, written arguments."

"The casebook method of studying law is most like practice," he concluded after mention of the alternative. A lawyer must be "able to make up his own mind, and then follow through confidently. . . . A man who is thoroughly trained in the discovery and building of generalizations, and with full knowledge of their limitations, need have no fear about the craftsmanship part of the law. He will soon learn when to go to court, when to file a mortgage, when to file a bill of particulars, for along with his learning how to think law, he will read the statutes."

His 1938 view is widely held today. But many law schools (including Wisconsin) are taking a new look at skills training.

So the controversy goes on.

* * *

WHAT HAPPENS TO OUR GRADUATES?

RECENT SURVEY PROVIDES A GLIMMER

At the request of the Dean, Mrs. Patsy Kabaker has recently conducted an extensive survey of a number of law school classes, and the results have been tabulated in detail. Seven hundred sixty-six questionnaires were sent to the classes of 1954, 1959, 1964, 1969 and 1972. One of the most remarkable results of the survey is the response itself—71.7%, or 552, graduates responded to the eight page questionnaire.

Dean Bunn and Mrs. Kabaker express their appreciation to all the alumni who provided the valuable information contained in the survey. "We hope," said the Dean, "that the results will help to assure a better and more productive Law School."

The information contained in the survey provides valuable recent information about where our alumni live, what they do, what they think about the Law School, and other matters relating to the state of the legal profession.

* * *

WHERE THEY LIVE

Of the 552 who responded, 350 (63.4%) are now living in the state of Wisconsin, although 442 (80.1%) were classified as Wisconsin residents when they were law students. Of the Wisconsin residents, more than half are located in Milwaukee (27.4%) and in Madison (27.7%), a little less than one-quarter in cities of 25,000-100,000 (21.1%) and in cities under 25,000 (23.7%). However, the individual class breakdowns are quite different from one another:

The class of 1964 has the largest percentage of Wisconsin residents (70.8%), and the class of 1969 has the smallest (53.4%); exactly 2/3 of the class of 1972 are living in Wisconsin.

Nearly 2/3 are located in the states they considered home before coming to law school, although the percentages are smaller for the younger classes (53.4% for the class of 1969, and 59.8% for the class of 1972). Over 70% are no longer located in the city considered to be the hometown before coming to law school.

	'54	'59	'64	'69	'72
Milwaukee	18 (31.6%)	18 (31.0%)	9 (19.6%)	20 (31.7%)	31 (24.6%)
Madison	12 (21.1%)	8 (13.8%)	10 (21.7%)	18 (28.6%)	49 (38.9%)
WI City, 25,000-100,000	14 (24.5%)	14 (24.2%)	16 (34.8%)	14 (22.2%)	16 (12.7%)
WI City, under 25,000	13 (22.8%)	18 (31.0%)	11 (23.9%)	11 (17.5%)	30 (23.8%)

WHAT THEY DO

Four hundred seventy-three responding graduates of the surveyed classes (85.7%) are now working as lawyers, either in private practice (288, or 52.2%) or as salaried employees of other than law firms (185, or 33.5%). In addition, there were answers from 6 judges, 25 educators, 46 people who work in business or government as non-lawyers, one who is supported by his investments and one mayor. Three respondents are state or city legislators.

All but 13 respondents were willing to indicate the income from their principal occupation for the year 1973. The median income for the classes of 1954 and 1959 was over $30,000; for the class of 1964, $25,000-$30,000; for the class of 1969, $20,000; and for the class of 1972, $15,000.

Of those respondents (185) who are salaried employees or organizations other than law firms, 75% are in the legal field. Most are members of legal staffs while some are associated with district attorneys' offices, in programs providing legal services to the indigent, or are tax and trust and estate specialists. Fifty-four percent work in offices of 100 people or more; 50% supervise one to ten employees; 33.6% supervise no employees.

ALL ABOUT LAWYERS

SOME DON'T PRACTICE LAW

Seventy-two respondents of the 79 not working in the field of law gave reasons for not doing so. The largest group (40.3%) expressed the desire to work in corporate or business management, although there were a variety of responses including: (1) didn't find satisfactory employment, (2) took the best job available, (3) preferred journalism, and (4) wanted to pursue a career in music.

Respondents working as lawyers (473) reported that 58.6% are working in offices with 7 or fewer lawyers (9.0% work alone); 22.1% work in offices with 8-30 lawyers; and only 11.3% are in offices of over 31 lawyers.*

All of these, plus those in education, were asked to indicate their specialties, the term "speciality" being defined as "an area of the law in which you spend more than 25% of your working time." Respondents were asked to list no more than 3 specialties. Only 9% said that they had no specialties in this sense. Almost 25% listed trial work as a specialty; 17.9% real property; 16% criminal law; 13.6% corporations and business law, generally; 12% family law; 11.9% negligence (not counting the trial portion); 9.1% taxation; 8.2% trust and probate; and 7.6% administrative law.

Lawyers in private practice (288 respondents) were asked a series of questions about the kind of practice they have and how they bill and spend their time. About 3/4 of this group are members or employees of partnerships or professional corporations; one-quarter are in solo practice. Ten respondents said they never keep time records, while 50 said they sometimes keep records, primarily because of contingent fees and set-fee cases. Of the remaining 228 lawyers, about half keep time records for all hours spent in practice, the other half for fee-producing time only. Almost 90% said they discuss the basis for billing with new clients; and, although fees do vary, $40.00 was the most popular standard hourly rate indicated.

How each lawyer in private practice spends his time varies greatly with the lawyer's specialty. Most trial lawyers spend close to 75% of their time in trial preparation, negotiations and trials. Lawyers with real estate, tax and trust specialties spend a great deal of time counselling clients and drafting documents. The younger lawyers spend more time in "researching the law." Nearly half of all attorneys in private practice spend from one to ten percent of their time in law office management.

* The percentages in Dean Bunn's speech to the alumni often differ from the percentages of this report because different bases of computation were used. The Dean computed most of his figures from all 552 respondents because all were law school graduates. The computed figures and percentages in this report are often based on an individual group of respondents. In the sentence to which this is a footnote, the group is all those working as lawyers rather than all respondents.

Fifty-six percent of all respondents have held from two to four jobs since graduation from Law School. Just under 40% have been with only one firm or organization. This percentage is much higher for the class of 1972; 60.8%. (Naturally, the number of years a respondent has been with his or her present organization differs with each class.)

During 1973, 25% of all respondents spent no time in unpaid public services (non-legal) and 30% spent no time in unpaid legal services to charities, civic associations, youth groups, etc. At the other end of the spectrum, more than 15% spent over 100 hours in non-legal public services and more than 10% contributed 100 hours or more in unpaid legal services to charitable and civic associations. About 50% spend up to 50 hours a year in both categories.

THE VALUES OF LEGAL EDUCATION

Respondents were asked to register their views about the law school curriculum, by stating which course offerings should receive increased or decreased emphasis. Respondents were asked to make only 3 choices on each list. In the increase column, the respondents expressed a need for more practice skills courses: Trial Practice, 39.0%; General Practice Course, 37.0%; Clinical courses, 28.0%; Procedure and Evidence, 21.1%; Legal Writing and Advocacy, 20.3% were the five courses checked most frequently. In the decrease column the most frequent-

ly checked courses were Public and Private International Law, 37.5%; Jurisprudence, 34.7%; and Welfare Law, 27.1%. Ninety percent of the respondents suggested at least one course offering that should be increased. Fifty-two percent wanted to decrease some course offerings.

The respondents were also asked to indicate which 3 courses had been of the most value and of the least value in their employment. Such answers naturally depend on the fields and specialties chosen by the graduates as well as the classroom presentation of the various materials. In addition, not all courses have been offered to all of the graduates; therefore the courses *required* for all five classes received the highest percentages. However, practice-oriented courses again received the most votes: Procedure and Evidence, 37.1%; Torts and Personal Injury, 18.3%; Legal Writing and Advocacy, 16.6%.

Only members of the classes of 1969 and 1972 had the opportunity to take the Clinical, Trial Practice and General Practice courses. Only a small proportion of the members of these classes could be accommodated in the skills courses. Of forty-six respondents in classes of 1969 and 1972 who took the General Practice Course, and subsequently went into private practice, 35 (76.1%) said this course was one of their most valuable law school experiences. Those respondents felt that there was a medium to high degree of carryover into practice in the areas of discussion, demonstration, written work done, model documents, and a knowledge of how to handle legal matters.

THEY CONTINUE TO STUDY

Eighty percent (over 400) of all respondents spent some time in continuing legal education programs during 1973; 33% spent 20 hours or more. Almost 40% traveled outside their home states for such programs. Fifteen percent participated as speakers at least once, and six respondents performed this task 7 times or more.

The section of the questionnaire about specialization was somewhat incomplete because the question of how to become a specialist was not asked. Of more interest was the question of specialty certification, and whether or not it is appropriate. 63.2% said that attorneys should be able to be licensed as specialists in various fields. The State Bar Association was the most frequently checked (55.2%) as the administering agency for specialty education and certification. The most frequently checked fields were taxation (79.3%) and criminal law (65.0%); 56.4% checked litigation; 54.2% checked estate planning; and only 29.6% checked administrative law. Nineteen people indicated that all fields of law should be specialties. One hundred nine indicated other fields than those listed. Among these, the most frequently mentioned were labor law, patent law and corporate and/or securities law. The classes of 1969 and 1972 favored specialty certification more than the other classes.

There were 14 female respondents to the questionnaire. Most of them reported to have experienced some discrimination by male lawyers. Some also reported that judges have a condescending attitude toward female lawyers and clerks. Some mentioned that jobs were not readily available at first, and that support personnel has less respect for women lawyers. Twelve of the female respondents are working full time and eight are married; four have had some difficulty combining work with family responsibilities; only one, who is working part-time has felt forced by family responsibilities to limit her work.

About 20% of the respondents took the time to add comments on the last page of the questionnaire. Comments concerning Law School education are of particular interest. Some asserted that their law school education has been of benefit. However, not all were enthusiastic about the law school's contribution to their present situation. Many expressed strong feelings concerning specialization and specialty certification—some for and some against. We received many comments about the law school curriculum and the need for more practice-oriented courses and training. All comments have been passed on to the administration and are now being digested.

* * *

Further and more detailed reports will follow more detailed study of the responses.

* * *

WLAA Board. Left to right: Ed Larkin (back to camera) Bill Lewis, Justice Heffernan, Irvin Charne, Robert Johnson, (hidden), Mary Bowman, Thomas Zilavy, Mordella Shearer, Dean Bunn, John Walsh, George Steil, Richard Trembath (all hidden), President-elect Mac A. McKichan.

WLAA ADOPTS 1975-76 BUDGET, ELECTS OFFICERS

Mac A. McKichan, Platteville, ('34) one of the Law School's most devoted alumni, was elected President of the Wisconsin Law Alumni Association at the annual meeting of the Association on March 22. The annual meeting is traditionally a part of the Spring Program. Mr. McKichan has served as vice-president during the past year. He was a member of the Board of Visitors from 1963-69, and has been a Director in 1971. He succeeds Thomas Zilavy, Madison.

Robert Froehlke, Stevens Point and Robert B. L. Murphy, Madison, were elected to three year terms on the Board of Visitors. Irvin Charne, Milwaukee, was re-elected to a three year term. Justice Nathan Heffernan was re-elected Chairman.

The WLAA's annual budget was adopted. Allocations for regular scholarships totaled $33,478.03, a slight increase over last year. Allocation for the Legal Education Opportunities Program is $36,410.00 for 1975-76, down somewhat from the previous year.

Scholarships offered by WLAA provide about 1/3 of all scholarship funds available to law students. Allocation to the Legal Education Opportunities Program is in addition to the Advanced Opportunity Program grant funds and contributions form non-alumni sources.

New Directors of the WLAA are William Willis, Milwaukee, Richard Trembath, Wausau, Joseph Melli, Madison, U.S. Magistrate Barbara Crabb was re-elected to a three year term.

William Lewis, Executive Director, reported on the continuing efforts to swell the Law Alumni Fund.

In addition to financial aid for students, the Boards approved an operating budget of $29,000 to be used for alumni activities, some student activities, costs of the Fund Drive, administrative expenses of the Association, including the part-time salary of the Executive Director. A small contingency fund to be used at the discretion of the Dean is also provided, as it has been for many years.

* * *

FACULTY NOTES

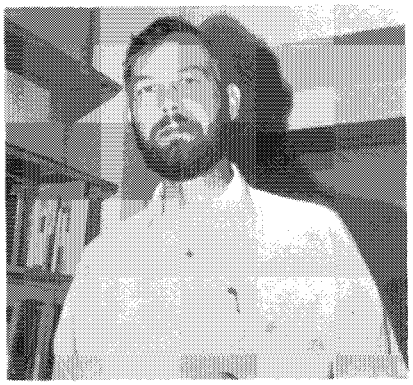
At its February, 1975, meeting, the Consumer Council of the Wisconsin Department of Agriculture elected *Professor John Kidwell* as its Chairman. He has been a member of the Council for the past two years and served as vice-chairman in 1974.

The Council advises the Department of Agriculture Consumer Council on policy matters related to issues of trade practice. Currently under consideration are operating rules for mobile home parks, buyers' clubs, landlord-tenant problems and auto repair practices.

* * *

Professor James MacDonald, who was one of the Leonardo Scholars on the Madison campus in 1972-73 (see *Gargoyle,* vol. 4, no. 1, p. 6) is co-author of the work of the scholars, *Resources and Decisions,* published by Duxbury Press in March, 1975. In adtion to Professor MacDonald, the Scholars included an anthropologist, historian, biochemist, political scientist, and newspaper reporter, and a nuclear engineer. The participants provide an interdisciplinary analysis of the factors to be considered when making decisions about resource supply and consumption in the United States. The Leonardo Seminar lasted seven months, and formally disbanded in August, 1973. The study covered copper, a non-renewable resource, wheat, a renewable resource, and energy, the life-blood of all production.

* * *



Professor Kidwell

Professor Large

Professor Thain

Associate Dean Helstad

Professor Donald Large has recently been awarded the John G. Schmutz prize by the American Institute of Real Estate Appraisers. Professor Large's article, *This Land is Whose Land* (73 Wis. L.R. *1039)* was selected as the best article in the real estate field during 1974. The award is $1,000.

* * *

Professor Gerald Thain recently presented a working paper on government regulation of advertising content to the Speech Communication Association of America. He also served as consultant to the Consumer Federation of America in drafting the Communications Policy Resolution which was adopted at the Federation's annual meeting in Washington.

Professor Thain wrote the Foreward to a book by Professor Ivan Preston (U.W.—Madison, Journalism) entitled *The Great American Blow-up: Puffery in Advertising.* The University of Wisconsin Press published the book in May.

* * *

Associate Dean Orrin Helstad, Chairman of the Admissions Committee, reports that the Committee has processed about the same number of applications for admission in September, 1975, as in the last two academic years. The same standards have been applied. The applicants have excellent academic qualifications. Dean Helstad noted that it was necessary to reject the applications of almost 500 qualified residents of Wisconsin.

* * *

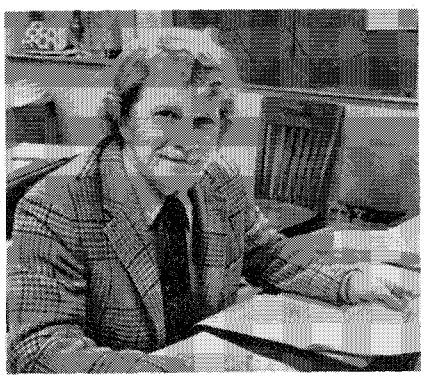
LAW SCHOOL NOTES

WINNERS IN ESTATES PLANNING CONTEST

A contest in Estate Planning has been conducted by Professor Richard Kabaker and sponsored by the Wisconsin Trustees Association, which annually contributes the prizes. Winners of the 1974-75 contest, recently announced, are Gerald L. Wilson, first prize ($150), Robert Mohr, second prize ($100) and Sebastian Geraci, honorable mention. All are members of the class of 1975.

With a set of hypothetical facts which constituted a group of difficult problems, each contestant (all members of Professor Kabaker's seminar in Estate Planning) conducted client interviews, drafted and revised memoranda and letters describing the problems presented and then drafted all documents necessary.

Prizes were presented in a seminar meeting. Jayne Kuehn of United Bank and Trust, Madison, made the presentations. She, along with William Rosenbaum, Madison, and Professor Kabaker, made the selections.



Solheim

LAW REVIEW CHANGES HANDS

Thomas Solheim, Monona, is the newly elected editor-in-chief of the Wisconsin Law Review for volume 1976. He succeeds Matthew J. Flynn, Random Lake, Wisconsin. Mr. Solheim, a 1969 graduate of Dartmouth College, spent 3½ years in the U.S. Coast Guard, serving on an ice-breaker in both the Arctic and the Antarctic waters. He entered Law School in 1973, and will graduate in May, 1976. Other editors elected are: Managing Editors, Pam Baker, Yellow Springs, Ohio, and Robert Salinger, Milwaukee; Articles Editors are Larry Begun, Greendale, and Walter Kuhlmann, Montclair, New Jersey. Michael McMillen and Nathan Niemuth have been elected Research and Writing Editors. Notes and Comment editors are Margaret Angle, Richard Bliss, Lise Gammeltoft, Steven Gloe, Robert Kurrasch, Carol Medaris and Susan Steingass.

Editors are elected by the membership of the Law Review, who are students in the top 10% of the class, plus those who have been selected from students who enter a writing competition.

Volume 1975, Issue No. 1 will appear in the early summer. It will contain a lengthy article entitled "Landlord's Liability for Defective Premises; Caveat Lesse, Negligence or Strict Liability?," by Professor Jean C. Love (Wisconsin, 1968) who is a member of the Faculty of the Law School at the University of California-Davis.

A student case note dealing with the Wisconsin usury law (time-price differential) will also be a part of issue no. 1.

Volume 1975, Issue No. 2, to be published during the summer, will be devoted largely to a symposium on federal jurisdiction and procedure, commemorating the centenary of the Judiciary Act of 1875. Two articles will be featured: one by Professor G. W. Foster on Class Actions and another by Professor Mark Tushnet on federal *habeas corpus.*

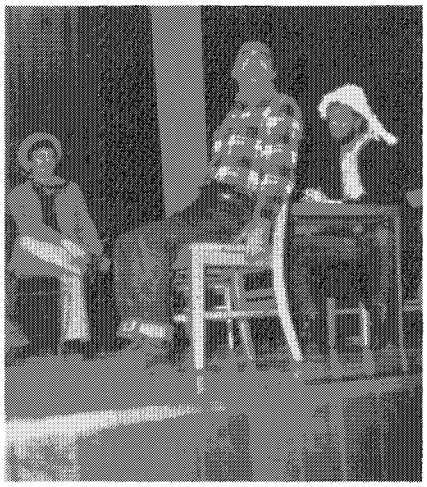
Mr. Solheim's view of the Law Review follows:

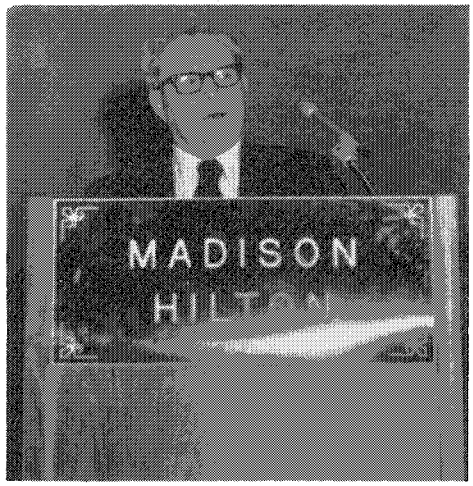
"It seems to me that the Law Review has several missions which are not always consistent with each other. As a scholarly organ of the University of Wisconsin it should provide a vehicle for the faculty here and other scholars to express their theses in print. If it is to do that job effectively it must remain a publication that has some national significance and readership. Since it is connected, as well, to the State of Wisconsin as a whole there is also a responsibility to provide a service to the people by providing information to practicing attorneys in Wisconsin. To carry out this function, material that focuses on Wisconsin law and practice should be included in the Review. Finally, the Review provides intensive training in research and writing to law students. To do this we must allow students to explore difficult and significant topics.

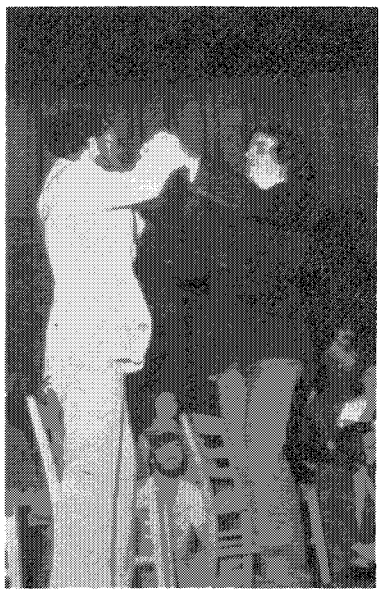
The Wisconsin Law Review will continue to attempt to be sensitive to the needs and criticism of this law school's alumni and other Wisconsin practitioners. Particular attention will be given to their suggestions of legal issues they encounter that could be made clearer by law review treatment."

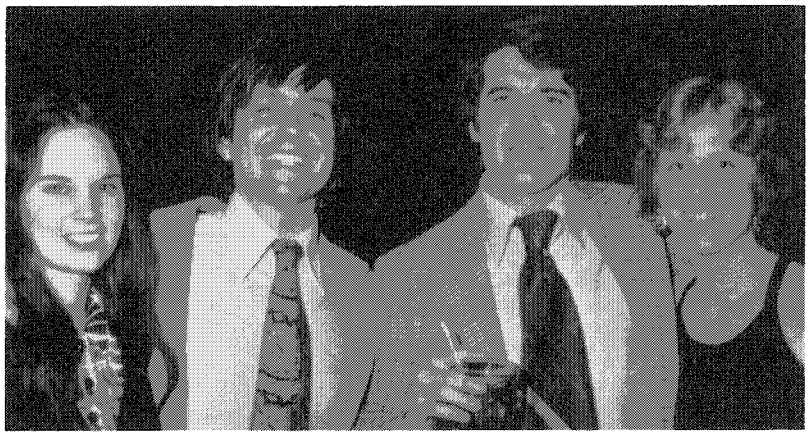
* * *

It might seem to some that the Law School is all fun, drama and games. Be not alarmed—these pictures come from a two day period, at Spring Program time, the student-faculty show on March 20 and the annual dinner dance on March 22. Take special note of Professor Mermin as the villain.





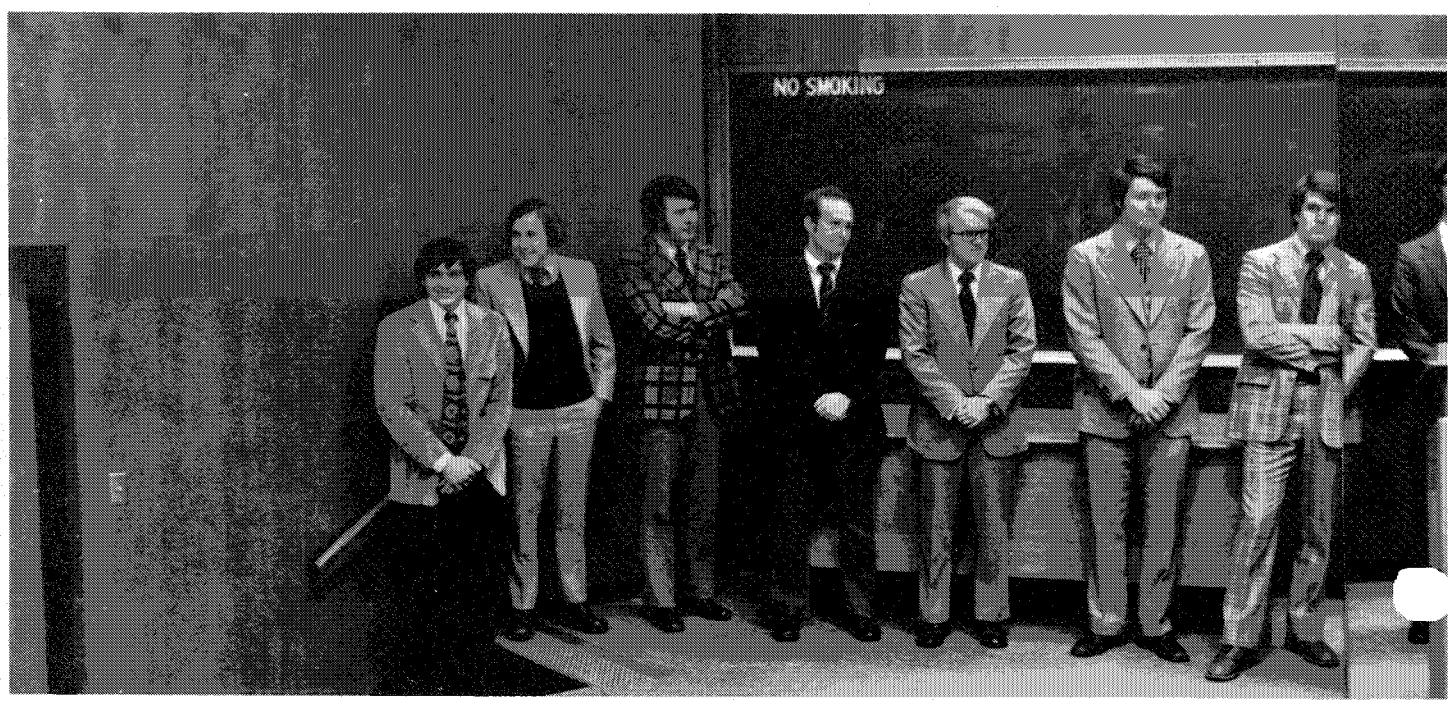




CLASS OF 1935;

(Left to right) John Conway, Rex Watson, Ralph Gintz, Mrs. Gintz, Mrs. Nathenson, W. A. Nathenson, Earle Munger, Wade Boardman.

ORDER OF



CLASS OF 1950

Front row—left to right, David Lers, Stan Lenchek, Wm. Rosenbaum, Robt. Bender, Back row—left to right, Gil Barnard, George Steil, Herb Levine, George Weber, George Laird, Herbert Miller, Lyle Allen, Joe Melli, Joe Chvala, Orrin Helstad, Lester Brann, Margo (Shire) Melli, Mark Makholm, Fred Seegert, Andrew Zafis, Stuart Gullickson, Ed Willi.

COIF 1975