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An Open Letter to Mr. Henry Ryder, Chairman of the Committee on Legal Education and Admissions to the Bar, Indiana State Bar Association

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Recommended Citation

Boshkoff, Douglass G., "An Open Letter to Mr. Henry Ryder, Chairman of the Committee on Legal Education and Admissions to the Bar, Indiana State Bar Association" (1974). *Articles by Maurer Faculty*. 2467.
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LAW SCHOOLS AND THE INDIANA PRACTICING BAR

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members and includes a staff of English and American law teachers. In addition to the full year program, Notre Dame offers a program of summer study at Brunel University in suburban London. This summer program enrolls students from some fifty different American law schools, in addition to our own students. The Law School expanded its overseas programs to Japan in 1974 and is working on the establishment of a third site, in Latin America. The summer program in Tokyo emphasizes the Japanese legal system and the enormous influence the Japanese economy has on international trade and investment.

"The Notre Dame law program has one objective, and only one objective—to produce good lawyers for the private practice of law. We aim for lawyers who are skilled (because, as Father Hesburgh, our president, has said, "compassion without competence is a cruel hoax"), compassionate, honorable, and who have a respect for the Christian heritage in which Notre Dame stands. We are not a graduate school, or a place to think about political and social problems, or a training ground for businessmen. We respect the fact that American legal education has become the best system of legal education in the world, and that it has done so because it serves the Bar by providing for it lawyers who are thoughtful as well as able. We expect the Bar and the courts which are served by the Bar to respect our purposes, and our demonstrated ability to serve our purposes, and we expect our academic colleagues and superiors to respect the fact that we must answer to the Bar.

"The perennial dilemma of American law schools is the dilemma of appropriate independence. We do best if we are independent—autonomous is perhaps a better word—from academic traditions which get in the way of preparing thoughtful and able lawyers, but we must know at the same time how to keep the educational and cultural advantages of nourishment

by a university. On the other hand, we try to serve the Bar and the courts as committed university professors, lawyers who have chosen not to practice law, who have elected, at considerable sacrifice, a life of thought and learning. We are lawyers who know better than our university administrations what legal education requires. And we are professors who know better than our brother and sister lawyers how to prepare young college graduates to be lawyers who go on learning all of their lives.

"To close with an example (and only one of many): the commitment that all law schools have undertaken to open the legal profession to those traditionally excluded from it, and particularly to women, black people, and Chicanos. Three of the Indiana law deans and the Board of Bar Examiners had a vituperative quarrel last year over a bar examination question which, we deans thought, was peculiarly insulting to women. The question itself made the lead article in the national *Student Lawyer Journal*. This question, which was given in the first examination a large number of women took, seemed to me, as I think about it in retrospect, hurtful. And I, though not a woman, was one of the people hurt by it, I think, because it was so thoroughly *uncooperative* of the Board to taunt us, and our women graduates, rather than to support us. We have invested so much in an endeavor we can no longer even legally avoid—the education of women for the legal profession. The years since Notre Dame took its first women students in 1966, given the football image of our university, and its pervasive maleness, have not been easy. It hurts not to have the support of the Bar at a task which, at the very least, we are required to undertake.

"Black students are another part of the example. Indiana law schools had very few black students prior to the murder of Martin Luther King, Jr., in 1968. We still have less than ten percent (and the Bar about 1.5 percent). Unlike women, most black college graduates are poorly educated. It is a tough job to select those who can make it in law school, and an even tougher job to help them catch up with their white counterparts in

three short years. We don't always succeed, but we often succeed. It is depressing to find that those we feel are ready for the profession tend to fail bar examinations, especially Indiana bar examinations, especially in the past five years. It takes an effort of the will, sometimes, to avoid thinking that part of the trouble is the examination itself."

Sincerely,
Thomas L. Shaffer

An Open Letter From
Douglass G. Boshkoff,
Dean, Indiana University
School of Law, Bloomington

Mr. Henry Ryder
Chairman Committee on
Legal Education and
Admissions to the Bar
Indiana State Bar Association

Dear Henry:

"Thank you for the opportunity to write about the mission of the Law School and the School's relationship to the practicing bar. The views on these topics are my own. While many faculty members might agree with me I am speaking only for myself."

"In your letter you suggested that I explain what I "believe the members of the Indiana Bar are entitled to expect from (the) Law School". The question is a good one, because of the bar's traditional interest and continued stake in legal education. My response is that our strongest obligation is to make maximum use of the University's resources as we prepare our students for their professional lives. This is more easily said than done. It is true that we have come a long way from the time (the 1850's) when Woodburn tells us in his History of Indiana University:

". . . As a matter of fact, the *Laws* were not then counted among the graduating class. They did not appear at Commencement to speak their graduating 'pieces' or to receive their diplomas. . . . They recited to none of the College faculty except to the

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LAW SCHOOLS AND THE INDIANA PRACTICING BAR

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two law professors, and they were not classed with and did not associate with the other students”.

“Today our close association with a fine liberal arts and professional educational complex, our strong tradition, and a well established scholarly program are our greatest strengths, making it possible for us to attract good faculty and students to Bloomington. Our location and associations also help to define our mission. We have the opportunity of drawing on the intellectual resources of the campus in a variety of ways. Law students are permitted, and even encouraged, to take an appropriate number of courses in law-related subjects offered by other Schools in the University. Our LL.M. program features interdisciplinary research. Many of our students have benefited from the easy access we can provide to distinguished professors in other disciplines. We now have two joint degree programs and I hope that we will have more in the near future.

“We can do better, however, and the bar has a right to expect us to, as it and the society it serves confront increasingly complex problems in such areas involving the law as governmental administration, administration of criminal justice, family relations and welfare, business organization, commercial transactions, and international development. In each of these areas legal aspects are interwoven with the concerns of Ethics, Psychology, Sociology, Penology, Economics, Politics or History. In each we have faculty members hard at work, in contact with Arts and Sciences counterparts, aiding students to thread their way through the relevant material.

“As I write this letter I can imagine the reactions of some readers. Sadly shaking their heads they conclude that I have taken leave of my senses, that I am charting a course for the Law School which will produce philosophers, economists and sociologists, but

not lawyers. That is not my intent. Legal education at Indiana University has been and for the foreseeable future will be concerned, as the bar has a right to expect, with educating practitioners of law, armed with knowledge of the corpus juris and skilled in analysis, techniques of litigation, problem-solving, and draftsmanship. However, we must recognize that today the successful practice of law requires many nontraditional skills as well. Some of these can be acquired through study with professors and students in law related disciplines.

“Returning to your other question, “What your Law School expects from the Indiana Bar,” I would place first a continuance and enlargement of the interest, support, and supplementary training in the practice, which many lawyers have bestowed on legal education. They act in a proud tradition, stemming from the Inns of Court and the frontier practitioner’s chambers. Too often, however, when lawyers think and talk about legal education they revert to the past instead of bringing to bear the awareness of present and future needs which they themselves possess. As a result, instead of looking to the future we express a fondness for the days gone by. Instructional change, new courses and different ways of doing things are not welcomed. At best, change is tolerated. Practitioners are not alone in this conservative orientation toward legal education. Law teachers (and even law deans), accrediting authorities and students all look backward more often than they look forward. This should not surprise us. Our respect for precedent colors our view of the world. And our study of evidence strengthens our belief that those who propose change are saddled with the burden of proof. I plead, however, for a more realistic, forward looking attitude, according recognition to social and professional need. We in the schools are very much influenced by the way the practicing bar thinks and feels about legal education. If practitioners focus resolutely on the past it will be very hard for the law schools to move forward.

“Again, I would not want my message to be misunderstood. I am not urging that we be freed from the constraints now imposed upon us by various accrediting and licensing agencies. Nor am I urging that the faculty be regarded as infallible in its judgments about what is appropriate professional training for graduates destined to practice in the beginning of the twenty-first century. I do hope that lawyers who are concerned about legal education in Indiana, and there are certainly many of them, will take time to think about actual needs and to find out what is really going on in law school, and then evaluate our performance with reference to the profession’s real requirements. We seek understanding, not necessarily agreement, and we hope for lawyers who will look forward to the twenty-first century with us.”

Sincerely,
Douglass G. Boshkoff
Dean,
Indiana University
School of Law,
Bloomington, Indiana

ISBA ANNUAL MEETING PROGRAM, OCT. 23-28

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3. The President’s Reception at a new time of 6:30 P.M., in Convention Hall, for members, families and guests, and
4. The Annual Banquet at 7:30 P.M. Musical Show and music for dancing by the Dick Jurgens orchestra.

Both the brochures mailed direct to all members, together with registration and hotel room reservation forms, and the September issue of *Res Gestae* will furnish members with information pertaining to the many other activities of the convention, including the business meetings of committees, sections, law school alumni receptions and dinners, and meetings of associated and affiliated groups.

* Additional information pertaining to the Commercial Law Institute is reported in the ICLEF Section, page 32.