

Starting a Law School

By Thomas E. Brennan, Sr.



CELEBRATING
35
YEARS



THE THOMAS M.
COOLEY
LAW SCHOOL

Cover photo from left to right: John L. Cote, J. Bruce Donaldson, Robert A. Fisher, Russel A. Swaney, Thomas E. Brennan, Sr., John W. Fitzgerald, Louis A. Smith, Jack W. Warren, Phillip Marco

January 12, 1973 in the conference room at the State Bar of Michigan, where a Cooley Law School board meeting was conducted, followed by the ceremonial first class held at 507 S. Grand Ave., downtown Lansing, Michigan.

This booklet contains a series of articles written by Judge Thomas E. Brennan, Sr. He reminisces about the challenges and rewards of founding The Thomas M. Cooley Law School. You can see these articles in print in several of the *Detroit Legal News* publications, as well as on the Cooley website at cooley.edu.

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STARTING A LAW SCHOOL

People often ask me how I came to start Thomas Cooley Law School.

The question is innocent and benign enough as a rule, though sometimes it sounds like, “What on earth could you have been thinking of when you established an institution that you should have known would flood the civilized world with hordes of litigious monsters, hell-bent on suing everybody for every little thing that happens?”

I long ago gave up on trying to assuage the rage of the anti-lawyer crowd. Lawyers don’t cause lawsuits any more than undertakers cause funerals or caterers cause weddings, I tell them. They have no logical response, but they remain convinced that our profession is a curse on society.

Fortunately, most of the people who ask me why I started the law school really want to know the history and background of Cooley. They see it, accurately, I can testify, as a daunting, nigh on impossible undertaking, without the hope of massive personal rewards that often motivates those who launch other enterprises. I’m sure very few people ask Bill Gates why he started Microsoft.

I have a short version of the story that goes something like this: Sometime shortly after the newly-installed Soapy Williams/John Swainson-led Democratic majority on the Supreme Court returned Thomas Matthew Kavanagh to the office of Chief Justice, thus relegating me to the unhappy role of a conservative voice crying out in a liberal wilderness, I received a telephone call from an old friend and political supporter from Detroit, bail bondsman Chuck Goldfarb, asking me to intercede for his brother who wanted to go to law school. In the early ‘70s, there were 15 applicants for every law school seat. Chuck figured that a Supreme Court justice would have some clout with the deans.

Not so. After a few fruitless phone calls, I got back to Chuck and gave him the bad news. The law schools wanted certifiable genius material. We chatted a bit about the tragedy of it all; how so many worthy and capable young men and women were being denied the opportunity to study law and enter our ancient and honorable profession. Almost as a joke, or an afterthought, I said to him, “Maybe I ought to start a law school up here in Lansing.” Chuck jumped on the idea and promised to send me the first thousand dollar contribution.

That’s the story I usually tell. I’m sure it happened, but I’m not sure of the sequence. I do know, because I have a copy of the letter, that in the spring of 1971 I wrote to the members of the State Board of Law Examiners to tell them that I was thinking of starting a law school in Lansing. Stanley E. Beattie; Chairman of the Law Examiners and a former professor of mine from my student days at the University of Detroit, wrote to commend me on the idea and predict in glowing terms what such an institution would mean to future generations.

Whether immediately or shortly after the Goldfarb phone call, I can’t say, but soon enough, I asked my law clerk, John Gibbons, what it would take to start a law school. He had no idea, but agreed to look it

up. A day or so later, he came by to tell me that as far as he could see, all I had to do was file articles of incorporation for a non-profit corporation. I asked him what that entailed. "Three incorporators, and a \$20 filing fee," John replied. I sent him out to get the forms, and called a young lawyer friend named Louis A. Smith to ask if he would like to help me start a law school. "Whatever you want, Judge," said Lou. Within a few days, the two-page corporate article form was filled out, with John Gibbons, Lou Smith and myself signing as the mandatory three incorporators. I sent John over to the Corporations Division office file the form, and he graciously did so, advancing the \$20 filing fee out of his own pocket.

Naively, I assumed that the clerk would stamp the forms, take the money, and issue a corporate charter. That's the way it had been when I was practicing law and had formed other corporations. Not so this time. The word "school" was in our name and in our corporate purposes. You don't just start a school like you start an auto company. Schools are special, and have to be approved by the State Board of Education. Schools have to meet certain criteria in order to exist.

The lady at the Corporation's Division didn't stamp the form. She put it in the drawer. Then she called the office of the Superintendent of Public Instruction to tell him that somebody wanted to start a law school, and what was she supposed to do?

She was not the only one who didn't know what to do. There hadn't been a new law school in Michigan since Wayne State was organized in the 1920s. Nobody in office had any experience with such things. So John Porter, then the superintendent, being a wise and experienced bureaucrat, appointed a committee. An absolutely foolproof, laudable, politically unassailable move. Appoint a committee. And who do you put on the committee? Who else but the people who know all about law schools. How to start them, how to run them. Law school professors and law school deans. That's who.

They called it the Committee of Scholars, saying the name with a certain reverence and deferential awe that suggested that a deliberative body thus constituted would be an infallible oracle. Surely they — the representatives of the legal educational establishment — would know what to do.

The state Corporations Division had already begun to sharpen the veto pencil. They advised me that the name I had selected for my law school was improper. I had called the school The State College of Law. Made sense to me. The school was to be in the state capital. Across the street from the offices of the Legislature, the Governor and the Supreme Court. It would interact substantially with the minions of state law.

Unfortunately, the legislature had already spoken on the subject. A statute of long standing proclaimed that no college or university which was not actually and officially an arm and agency of state government could use the word 'state' in its name. Strike one.

It was 1971. The battle had just begun.

GOING TO THE MOVIES

Jack Nicklaus is fond of saying that before you hit a golf shot, you have to go to the movies. By that he means that you have to envision the shot lofting through the air, landing on the green, bouncing once or twice and then coming to rest near the hole. First you see it in your mind's eye, then you do it.

The summer of 1971 was a time for those of us involved in the creation of the Thomas M. Cooley Law School to go to the movies. We had first to envision what it was that we wanted to do before we could set about doing it. We had to dream the dream before there could be a reality.

The process of dreaming took the form of documents prepared for the Committee of Scholars appointed by the Superintendent of Public Instruction to review our request for a corporate charter.

The first thing the Committee decided was that no new law school should be started unless and until it was approved by the American Bar Association. In the minds of the law school professors and deans who made up the committee, ABA approval was the *sine qua non* of legitimacy.

I didn't take too kindly to that decision. Our Michigan statutes placed the responsibility for approval of law schools and legal education squarely in the hands of the State Board of Law Examiners. That made sense to me. The Law Examiners are a public body, appointed by the Supreme Court. They are the ones who conduct the Law Examination, commonly known as the Bar Exam.

The American Bar Association, for all its pomp and prestige, is nonetheless, a private organization. Membership is voluntary, and only a little more than half of the lawyers in the United States belong to the Association. Historically, the American Bar Association was an elitist organization. Its members generally came from the big law firms in the big cities. The ABA looked down its nose at night law schools. African Americans were barred from the ABA as late as 1948. Indeed, Dennis Archer, a former Michigan Supreme Court Justice and Mayor of Detroit, was the first member of his race to be elected ABA president.

I corresponded with Millard Rudd, then the ABA's legal educational consultant. He made it clear that the American Bar Association never approves a law school in formation. First you have to start the law school, then you ask the ABA to come and look at it, and if they are satisfied, they grant you their approval. I thought it was a rather circuitous approach, designed to discourage the creation of law schools. The regional accrediting agencies which accredit colleges and universities generally, have what is called Candidate Status, by which they grant preliminary approval to new educational institutions. Not so with the lawyers.

So first I had to convince the Committee that they couldn't insist on ABA approval before a charter was issued. They conceded the point, then insisted that unless we intended to meet all ABA standards, they would not recommend issuance of a charter.

Now my original idea was to buy an old house in downtown Lansing, put my personal library in it, enroll a couple of dozen students, enlist a few of my judicial colleagues as part-time teachers, and pretty much do what former Ingham County Circuit Judge Leland Carr did for so many years; teach the law to willing students. I was very familiar with Judge Carr's program. My secretary, Mary Lou Shepperd, and one of my colleagues, Michael O'Hara, had both come to the Bar via Judge Carr's training. And they were good lawyers.

But the Committee of Scholars made it clear that the one room schoolhouse concept was not acceptable. Well, I guess that ruling got my Irish up. O.K. If you want an ABA approved school, that is what we will do. I called Millard Rudd again, and got the book on ABA standards. Six full-time professors. A full-time dean. A library consisting of hundreds of designated titles. The requirements went on and on.

And so did our prospectus. Every ABA standard had to be addressed. Yes, we would have six full-time professors. Yes, we would have a full-time Dean. Yes, we would acquire a suitable library, and blackboards, and classrooms, and whatever else the ABA specified.

And so the dream grew. Still the Committee wasn't satisfied. They wanted a feasibility study. Would anybody come to a start up school, unaffiliated with a university?

About that time, Michigan State University was thinking about starting a law school of its own. A study committee recommended it. Headlines blared about the prospect. In the meantime, Bill Kulsea, a reporter for the Booth Newspapers, wrote a short article which was headed, "Justice Brennan to Start Law School." Within weeks, I had over three hundred letters from men and women who wanted to go to law school. I sent them all a form letter saying that if and when we got a charter, I would send them an application.

So much for feasibility.

HOW CREATIVE FINANCING HELPED

When Stan Beattie, chairman of the Board of Law Examiners, wrote his encouraging letter to me in 1971, he mentioned that Villanova University had recently started a law school and, using their experience as an example, he advised that all I needed was a good faculty and two million dollars.

I assumed that finding a good faculty wouldn't be a problem; the two million was somewhat beyond my means. I had stopped in to see my friend Bob Fisher at the Michigan National Bank, gave him \$50, and opened a bank account in the name of Cooley Law School. I told Bob that if the school never got incorporated, whatever was left in that account would go to the Detroit College of Law.

In due course, Hugh Ross, a lawyer friend from Detroit, sent me \$500, and Dick McCormack, general counsel for Whirlpool in Berrien County, engineered a corporate contribution of \$1,000. That \$1,550 was all we had until application fees began to come in.

Beattie's two million was just a goal, and not a requirement. Unfortunately, in 1971, the statute authorizing the formation of educational corporations provided that a university level charter required an initial capitalization of one million dollars. Since we intended to award law degrees, we needed a university charter. The committee of scholars wanted to know if I had a million dollars.

That sent me to the law library. I discovered that the same statute which required the million dollars of capitalization, also provided that the State Board of Education could adopt an administrative rule establishing a ratio by which expected income would satisfy the capitalization requirement. A little further digging turned up the fact that the Board had in fact adopted such a rule. The ratio was 33 to 1.

Now, I figured, we are making progress. The 33 to 1 ratio meant that if I could show that the school would have at least \$30,000 in income, the million dollar capitalization requirement would be satisfied.

Since we already had in hand inquiries from nearly three hundred prospective students, it was no stretch to assert that we would have well in excess of \$30,000 of annual income. Just when I thought we had cleared that hurdle, the committee did some research of its own and came up with a further administrative rule which specified that at least half of the first year's income must be in hand.

Admittedly, we had come a long way from a million dollars to fifteen thousand. Still, the fifteen thousand might as well have been a million. I didn't have it. I had only \$1,550.

Undaunted, I called Bud Stoddard at the Michigan National Bank. I told him I needed fifteen thousand dollars to start a law school. "No problem," said Bud, and he issued a letter of credit for the money.

The committee reluctantly accepted the letter of credit. Still, its final report recommended against issuance of the charter. Their principal reservation was the conviction that the school would not be able to survive and meet the criteria for approval by the American Bar Association. They conceded

that if we did the things that we were proposing to do, we would have a legitimate school of law. They just didn't believe that it could happen. They didn't think it would fly.

I thought otherwise. I wrote a strongly worded letter to the State Board of Education demanding that they disregard the recommendation of the committee and approve the issuance of our charter. I pointed out that many members of the committee were burdened with a conflict of interest, in that they were representatives of competing law schools. I emphasized that the risk of failure was upon the incorporators of the school; that the Board had no right to deny us the opportunity to try.

The deliberations of the State Board of Education were hotly contested. The Attorney General had been asked to opine about the sufficiency of our capitalization. Gene Krasicky, a long time Assistant Attorney General, came to our defense. Still the Board was divided. State Board of Education meetings are public. I slipped into the back of the room. Thomas J. Brennan, a Democratic member of the Board, a friend, but no kin of mine, spotted me lurking there. He rose from his chair, headed toward the door and gave me a turn of the head to suggest that I follow him out to the hall. I did.

Tom cautioned me not to stay. He was pretty sure that the final vote would be favorable, but he felt that my being there would make some members of the Board uncomfortable. I took his advice and went home.

The vote was not unanimous, but the Board approved our charter. Its resolution was somewhat ambiguous; however, in that they provided that the law school would not be permitted to grant diplomas unless and until its actual operations were inspected by a committee and approved by the Board.

The corporate charter for the Thomas M. Cooley Law School was issued on June 19, 1972. Not many people thought it would succeed. My wife, Polly, had told me she thought it was a good idea. That was enough for me.

A MOM AND POP OPERATION

By 1972, my sainted wife, Polly had already endured 21 years of my dreams and schemes. I shall never forget her reaction when I told her that I intended to start a law school. She was at the stove, stirring something with a long wooden spoon. Pointing the spoon at my nose she announced, "Now THERE'S a good idea."

The emphasis on the word 'there's' was a pointed reference to some of my other ideas. Like converting the attached garage into a new kitchen.

Having given the project her approval, Polly dug in enthusiastically. She accepted the assignment of manning the office, a barren space on the second floor of a brick building at 507 South Grand Avenue in downtown Lansing. The building belonged to a man named Oding, who operated an engraving shop in the basement and rented the first floor to an insurance agency. I set up a card table, got a telephone, and left her there while I went about my duties as a member of the Supreme Court.

Alone in this unfinished, empty, 5,000-square-feet of nothing, she busied herself sending out application forms to the 300 or so prospects who had expressed an interest in attending law school, and assembling files as applications, transcripts, letters of recommendation, and résumés came in each mail delivery.

On one such day, two policemen came up the stairs and presented themselves in front of her. She could only imagine what they were there for. Had her husband gotten her into some kind of a felonious scam? Was she about to be lead away in handcuffs, fingerprinted, booked on a 602 like on TV?

Summoning her best feminine charm and composure, she inquired as to the purpose of their visit. Shortly, she was relieved to learn that one of the two officers, an African American named Claude Thomas, was interested in going to law school and wanted an application. She accommodated him, of course, and breathed a sigh of relief.

Claude Thomas was the first black student at Cooley, and its first black graduate. He later became the first black district court judge in Ingham County.

Little did we know in those early days that Cooley Law School would one day become the largest accredited law school in America, or that it would consistently enroll and educate more African American law students than any other law school in the nation, including such celebrated Negro colleges and universities as Howard and Texas Southern.

It was, to be sure, a "Mom and Pop" operation, as described in the *Lansing State Journal*. We enlisted friends and relatives to help, just as we had done in my many political campaigns. The first admissions committee meeting was a perfect example.

The front part of our rented space was set up with ten or twelve card tables, on each of which was stacked a pile of application files. Four members of the committee sat around each table and read the files, discussing and commenting as they did.

It was an eclectic cast of characters, lawyers all, from every niche of the profession. Supreme Court and Court of Appeals judges, circuit and district court judges, sole practitioners, corporate counsel, government lawyers, bankers, partners and associates in big firms, they poured over the files, read some of the more interesting entries aloud, milled about looking for files of relatives and friends, and debated hotly over the respective merits of the candidates.

The first class was to be a night school class. It would start in January of 1973. Students would take 12 credit hours, for which they paid \$50 per credit. The upstairs quarters were divided into three major spaces; the office across the front of the building and two long narrow classrooms in the center. We purchased 75 student desks — actually chairs with attached writing surfaces often called one arm bandits — from a defunct Catholic High School.

The first meeting of the class was ceremonial. The board of directors of the school was to meet at the State Bar building about an hour before the class was to be convened. We were all dressed in tuxedos. Shortly before the board meeting, Polly informed me that she had agreed to admit another student; number 76. I don't know what sob story he told her, but whatever it was, she melted. I had 76 students and only 75 chairs.

So at about 5:45 p.m. on the evening of January 12, 1973, I went to the former O'Rafferty High School and persuaded the janitor to sell me one more student chair for \$10 which I promptly took to 507 South Grand and carried upstairs, dressed in my tuxedo. I must have been a curious sight.

For nearly thirty years after that night, I welcomed new classes to Cooley law School. Those opening sessions were always moments of high expectation, warm welcome, and shared excitement. None was as emotional as that first night. It would be one of those crystal moments in time that seem never to dull, never to fade from memory. It was a night to remember.

AN OPENING NIGHT TO REMEMBER

There have been many ceremonies at Thomas M. Cooley Law School over the years: Honors convocations, graduations, welcoming luncheons, admissions to the bar. The one which stands out in my mind is the first night when we welcomed the inaugural Cooley Class. That night, January 12, 1973, of course, we didn't call them the Cooley Class. The practice of naming classes for deceased members of the Michigan Supreme Court had not yet begun. They were just the first class, the inaugural class.

Literally all of the people who came to Cooley in January of 1973 came because of the location of the school. They were older, mostly employed. Many were successful in their professions and occupations. A surprising number had post-graduate degrees. There were several Ph.Ds. They were people who had long wanted to attend law school, but who were unable or unwilling to commute to Detroit to attend classes. Cooley was their main chance, and they gobbled it up.

So picture this scene, if you will: 76 students, almost all male, crammed into undersized student chairs, in parallel rows, filling a makeshift classroom 25 feet wide and 50 feet long. At one end of the room a table behind which were ensconced 13 men, nine of them in tuxedos. Standing three deep across the back of the room, and pressed against both side walls, stood a contingent of relatives and friends of the new law students.

Lou Smith, the Secretary of the school called the roll. Each student stood and announced the name of his or her undergraduate college, and detailed any post graduate degrees they held. The assemblage was impressive.

My remarks on that evening were eerily prophetic. It was a short speech, but one of the most heartfelt that I have ever given. This is what I said:

"Welcome.

"I bid you — I bid all of you — welcome.

"To the members of the Board — to the faculty — to our guests — and especially to you — the ladies and gentlemen of the first freshman class.

"I say, with unspeakable joy, welcome to the Thomas M. Cooley Law School.

"Others will come after you. There will be many, many other first days and first nights. There will be many other times to remember and to relish and to enjoy.

"But none so sweet — none so sweet as now.

"We are here, all of us, because we believe.

"Because we believe in ourselves. Because we believe in each other.

"And because we believe, whether we realize it or not, in a spirit which gives purpose and meaning to the things that men do quite beyond our poor capacity to understand or appreciate.

"In time, the Thomas M. Cooley Law School will be a great and distinguished institution of higher learning. And in that time, it will seem always to have been.

"It will seem to have a life of its own, independent of its officers, its faculty, even its student body.

"It will be seen and known in terms of its real estate, its library, its pension plan, its alumni, its publications, its corporate resources.

"But the genesis of human achievement does not lie in corporate resources or tangible, physical things. It lies in the unique and God-given capacity of the human spirit to envision what is not, but can be; to embrace what is unfulfilled and cause it to happen; to make an act of faith, and turn unreality into reality.

"It is given to all of us here tonight as it is given to few men and women, to taste and feel and to know the power of human purpose. And we shall remember.

"But we shall remember too, despite our pride and satisfaction this night that a long and difficult road lies before us. As we go down that road, let us ask or permit no excuses of each other.

"You have a right to expect that the Thomas M. Cooley Law School will embody all of the excellence in legal education that the great judge, scholar and teacher, Thomas McIntyre Cooley, represents in the history and tradition of Michigan and American jurisprudence.

"And we will expect no less of you than total absorption in the study of the law, total dedication to this institution, and a fierce, unyielding pride in what you are doing for yourselves and for your future.

"And in what all of us, together, are doing for those who will come after us."

I was not the only one full of prophecy that night. Jim Brickley, then Lieutenant Governor of Michigan, commented that people would one day marvel that there was ever a time when there was no law school in the state capitol. Then he added a rather salient observation: "I'm sure that most of you do not realize what went on for several years to bring this day to reality. I've often said that it takes a lot of blood, toil, and sweat to bring about the inevitable."

And so, indeed, it did.

WHY THOMAS M. COOLEY?

One of the most common questions I hear is, “Why did you name your law school Thomas M. Cooley?” Sometimes the question is even more to the point; “Why didn’t you name your law school the Thomas E. Brennan School of Law?”

The key words in the question are “your law school.” For years I had to deal with the common misperception that I owned the law school, that it was mine in the proprietary sense; that I was the principal if not the only stockholder.

Just telling people that Cooley is a non profit educational corporation was never enough. They still somehow assumed that, because I started it, I owned it. Even if it was a non profit corporation, they thought I owned the non profit corporation.

Once, in an effort to dispel this misconception, I offered to host a meeting of Sigma Delta Chi, the journalism fraternity, which had an active alumni chapter in the state capitol. We provided dinner and drinks at the law school. A good meal. An open bar. All the things that journalists like.

I only asked for one thing in return. Would the assembled reporters and writers be so kind as to fill out a short questionnaire? Actually, take a little test to see how much they knew about Thomas M. Cooley Law School. We supplied the paper and pencils as they came in, and collected their answers before dinner.

While they were eating, I had the questionnaires tallied up, so that, when the meal was over, and they were about to begin their fraternity meeting, I was able to give them the results.

Most of them were way off on the size of the school. Even then, when the law school was only a few years old, it was among the larger schools in the country. I think the media people simply assumed that, because the school was new, it was small.

But the question that really stumped the journalists was the corporate structure and ownership of the school. Almost universally, they believed that I had some proprietary interest in Cooley. One of the questions was, “If Cooley Law School goes out of business, who gets its real estate and other assets?” I don’t think there was one correct answer to that question. They all thought that I would, somehow, end up with the assets.

The correct answer, of course, is that the assets of Cooley Law School constitute an educational trust, irrevocably dedicated to the advancement of legal education. If Cooley ever goes out of business, its board of directors will be obligated to see that the assets are used for that purpose, either by transferring them to another law school, or by establishing legal education scholarships, or in some other way, assuring that the educational purpose of Cooley’s charter is carried out. Tom Brennan and his heirs would get nothing.

Nor did I ever receive any of the profit from the operation of the law school. As I say, it is a non profit corporation. That doesn't mean that it cannot be operated profitably. In fact, Cooley was, and is, a very profitable non profit institution. It makes money. Always has. From the very first year, the amount of revenue coming in always exceeded the amount of expenses going out.

I thought that was my duty as the President and CEO to make sure that we stayed in the black. After all, we had a serious obligation to our students. They were plunking down hard-earned cash, and borrowed dollars to receive a legal education. We had to stay in business to deliver our part of the bargain. We had to stay in business, not only to complete their formal professional training, but we had to grow and enhance our reputation so that the diploma we awarded would continue to have greater and greater prestige in the community.

And we did just that. Every nickel of Cooley's surplus went into its growth and development. We bought real estate. We bought books. We hired faculty, and invested in all of the accouterments of higher education that were demanded by the American Bar Association or expected by our students and staff.

And it was a good thing, too. If Cooley had not been run so profitably, it never would have become the educational giant that it is today. Certainly gifts and contributions never would have done it.

Early on, I visited all of the independent, non university affiliated law schools in America. At John Marshall Law School in Chicago, I met the long time Dean, Noble Lee. He told me that John Marshall owned two large buildings in the Chicago Loop, and had a substantial endowment to boot. I asked him where it all came from. Did he have big donors? He smiled and told me that in the 75 year history of the school, there had not been a total of one million dollars contributed. Where did all of their assets come from? Lee grinned and said, "From the provident management of our resources."

It was a line I well remembered.

'PERRY MASON' COMES TO LANSING

I can't honestly remember how I happened to get through to Raymond Burr on the telephone. Somehow I did. Maybe his secretary thought that the Justice Brennan on the line was Justice William J. Brennan of the United States Supreme Court. Whatever.

The fact is that Raymond Burr could not have been more gracious and accommodating when I invited him to be the principal speaker at the Cooley Law School Founders' Banquet. He had only two stipulations; first that he should be able to bring his long time friend and legal advisor, Gordon Schaber, then dean of the McGeorge School of Law in Sacramento, and second that Marian Gallagher, the librarian at the University of Washington Law School, be invited to introduce him. She had introduced him once before, and he liked her whimsical style.

Schaber had come to Burr's rescue some years before after the actor had suffered severe financial setbacks due to the dishonesty of his former agent. Schaber had been a circuit court judge in Sacramento, and had left the bench to take charge of a floundering part-time law school. Through Schaber's leadership, the school made tremendous advances. Burr helped raise the money to install McGeorge's 'Courtroom of the Future.'

So it was through Gordon Schaber that Raymond Burr became interested in, and a benefactor of, legal education. That was Cooley's good fortune. Burr charged us nothing beyond reimbursement for expenses.

In honor of his appearance, we established the Raymond Burr Award for excellence in Criminal Law, to be conferred, each term, upon the student with the highest grade in the freshman course in Crimes. The first winner, announced at the banquet, was James Bonfiglio. I have no idea whether Jim went on to become a prosecuting attorney, but he certainly had a good grounding in the criminal law.

The Raymond Burr appearance was not without incident. Murphy's Law teaches us that whatever can go wrong will go wrong. For my part, I have long clung to a mantra of correction which goes like this: If you drop it, pick it up; if you spill it, wipe it up; if you forget it, go back and get it; if you break it, fix it; if you destroy it, replace it; if you start it, finish it; if you owe it, pay it; if you did it, admit it. Most of the forward progress we make in the game of life is getting back to the line of scrimmage.

We were all ready for the Founder's Banquet to take place. Invitations had been printed. The Cooley Class had been enlisted to address envelopes to all the members of the local bar, and hundreds of prominent members of the community. Then the call came from Mr. Burr's office. A conflict. He could not make it. Frantically, I called Dean Schaber and asked him to intercede. Get us another date, if possible. He did, and the banquet was rescheduled for Saturday, June 16, 1973. A new set of invitations was printed, and sent out.

On the appointed day, board member Lou Smith and I took a limousine to Detroit-Wayne County Metropolitan airport to pick up our distinguished guest. He was a big man, just as he appeared on

television. Severely overweight, he moved about with difficulty. It was easy to see why, cast as Robert Ironside, he was confined to a wheel chair.

In conversation, he was charming and good natured, interested in the law school and what we were doing. He made no pretense of being an expert in criminal law, or anything else for that matter. He simply accepted the fact that since he played the part of a lawyer on television, people would think that he was schooled in legal affairs. He knew that his opinion mattered, and made an effort to speak intelligently. I don't know if he wrote his own speech, or if it was the work of someone else. It didn't matter. He delivered his remarks in that familiar stentorian voice, and the audience loved it.

In the few hours that Burr was in Lansing, I had the chance to observe a phenomenon, which I would call intoxication with celebrity. First off, we had a press conference. Newspaper and TV reporters turned out to ask Burr his opinion on some of the celebrated court cases that were then on the front pages, and other current events. They hung on his words, as though he were an oracle of some kind. He was, after all, a movie star.

At the cocktail reception that preceded the dinner, a receiving line quickly formed as people pressed forward to shake his hand and share some tidbit of commonality or admiration. People I would have thought to be somewhat sophisticated turned giddy in the man's presence. Getting one's picture taken with a movie star is apparently an event of great significance. I remember seeing one of those photos prominently displayed on top of the television set in a lawyer friend's living room many years after the event.

Nor did the public adulation stop at dinner. A steady stream of guests approached the speakers' table while we were eating to introduce themselves to Burr and solicit his autograph. I don't know how they expected the man to enjoy his meal. Even movie stars have to eat.

The Founders Banquet was a success, but it was a one time event. There are precious few celebrities who will come and give a speech without expectation of a substantial fee. Raymond Burr did it, and secured for himself an enduring place in the history of Thomas M. Cooley Law School.

Years in politics had taught me that fund raising dinners do not sell out easily. In fact, they rarely sell out at all. But politicians are smart enough to realize that half-empty banquet halls are not good for one's public image, and they see to it that there is a good crowd, so that everyone thinks that a lot of money was raised. In the week before the Founders' Banquet, I visited the Cooley Class and handed out free tickets.

A CRUCIAL MEETING

Sometime in the spring of 1973, I planned a joint meeting between the board of directors of Thomas M. Cooley Law School and the Michigan Board of Law Examiners.

The relevant statute in Michigan provided that graduates of a “reputable and qualified law school, incorporated in Michigan or another state,” were entitled to take the Michigan bar examination. The board of law examiners had the power to determine which law schools were “reputable and qualified” within the meaning of the statute.

The 76 students in the first class at Cooley had all signed affidavits at the time of registration, by which they acknowledged that Cooley was unaccredited, that they were aware that the administrators of the school were making their best efforts to achieve accreditation, but that unless the school were to be accredited before they graduated, they would not be able to take the bar exam in Michigan or anywhere else.

In short, they affirmed that they were paying tuition and attending classes primarily to obtain knowledge of the law, with only the hope that they might some day become licensed lawyers. It was a remarkable act of faith on their part, and I felt a responsibility to do whatever I could to make their dream a reality.

In addition to the members of our board; Lou Smith, Phil Marco, Bruce Donaldson, Jim Ryan, John Fitzgerald, Jack Warren, Russ Swaney, Bob Fisher, and Jack Cote, I invited Professor Millard Ruud, the American Bar Association's consultant on legal education to attend our meeting. I wanted our board and the members of the board of law examiners to hear first hand about the ABA's accreditation process.

A few weeks before the meeting, I received a telephone call from board member J. Bruce Donaldson, a tax attorney from Detroit. It seems he had been talking to a lawyer from Toledo who served as an adjunct member of the University of Toledo law school faculty. In the course of the conversation, Bruce mentioned his association with Cooley Law School, and the Toledo lawyer told him that there had been a visiting professor at Toledo named Cooley, and he wondered if there was any connection.

I told Bruce that I had never heard of this Cooley fellow, but I would check it out. I did not then have a copy of the roster of American law professors. I didn't even know that such a thing existed. But a few phone calls were all it took to locate Professor Thomas M. Cooley at the University of Pittsburgh. He was a very distinguished legal educator; had been dean of the Pitt law school at one time. And yes, he was related to the Thomas M. Cooley who had served on the Michigan Supreme Court and taught at the University of Michigan in the 19th century. Professor Cooley was in fact a grandson of the eminent Michigan jurist.

I was ecstatic at the discovery. Cooley was delighted to hear that a law school had been named after his grandfather. I invited the professor to come to Michigan and attend the joint board meeting. He

accepted. I told nobody about my discovery. I wanted to surprise our board, Professor Ruud, and the members of the board of law examiners.

The meeting was held at Walnut Hills Country Club in East Lansing. It began with dinner in a private dining room. My surprise guest was an instant success. He gave his unqualified endorsement and approval of our efforts to obtain accreditation for the fledgling school. In the face of such a distinguished supporter, Professor Ruud spoke favorably of our efforts, and encouraged us to seek early approval from the American Bar Association.

It was a heady night. One by one, the members of our board spoke about their aspirations for the Thomas M. Cooley Law School. Their optimism and enthusiasm filled the room. The toasting and boasting was nothing short of euphoric.

We were good at toasting and boasting in those days. After the inaugural session of the Cooley class, a few months before, the members of the Cooley board and their wives retired to the basement of the Lansing City Club, where we shared a late supper and an orgy of self congratulation. After one particularly eloquent toast, Lou Smith tossed his champagne glass into the fireplace, a gesture reminiscent of something he had seen in a movie.

The dramatic effect electrified us all, and shortly other toasters followed suit. Lou graciously paid the bill for the broken glassware. Needless to say, in the presence of Professor Cooley, Professor Ruud and members of the board of law examiners, there was no tossing of champagne flutes at Walnut Hills.

Unfortunately, Stanley Beattie and Doug Roche were the only two members of the board of law examiners to attend the joint meeting. I hoped to importune the law examiners to give Cooley their approval as the grand finale of the evening. I had even prepared a one page resolution for them to sign. I told no one about it. The joint meeting was not convened for that purpose, of course, and I knew that. Still, I wanted to be prepared just in case, buoyed by the spirit of the evening, the law examiners might be amenable.

It was not to be. The resolution never left my pocket.

BAPTISM OF A LAW SCHOOL

The approval of the state board of law examiners would be critical to the viability of Thomas M. Cooley Law School. Their determination that we were “reputable and qualified” within the meaning of the Michigan statute would enable our graduates to take the Michigan bar examination.

If we could achieve that objective, our long-term goal of becoming accredited by the American Bar Association would begin to appear on the horizon. There were a smattering of local law schools in America which had been sanctioned by local authority, and whose graduates were entitled to take the bar examination in their home states. Most notably, the Nashville Night YMCA Law School and the John Marshall School of Law in Atlanta, Georgia were operating successfully without ABA approval.

We had no intention of being a purely Michigan law school. Still, the ability to survive as a local institution would give us time to grow and satisfy all of the requirements of ABA accreditation.

Despite the rhetoric used by the American Bar Association proclaiming that its purpose was the improvement of legal education in America, there has always been the underlying motivation on the part of many members of the bar to limit entry into the profession. The battle cry of “too many lawyers” is not the sole property of lawyer-hating legislators and insurance companies. Lawyers themselves complain about oversupply. In that respect they exhibit the same guild mentality that infects many trade unions. Very few people welcome increased competition. The ABA’s accreditation process reflects that bias. They make it hard to start a law school and difficult to survive if you do.

On the morning after our board meeting at Walnut Hills Country Club in early 1973, I met Stan Beattie for breakfast at the Jack Tar Hotel. Stanley Beattie was a graduate of the University of Detroit and of Harvard Law School. He practiced law alone. An adjunct professor at the University of Detroit Law School, where he taught me Agency and Partnership, Beattie had instructed many prominent members of the bar. He was an expert in election law, often retained by the Republican Party to represent candidates involved in recounts.

From the beginning, Beattie encouraged me in the law school venture. It was he who suggested the name of Justice Thomas Cooley. He spoke at our inaugural class session. Now, as he sat across the breakfast table, he took pen in hand and signed his name at the foot of a resolution I had prepared. The resolution proclaimed that Thomas M. Cooley Law School was found by the Michigan Board of Law Examiners to be a reputable and qualified law school within the meaning of the Michigan statute. It specified that graduates of Cooley were eligible to take the Michigan bar examination. Below Stanley Beattie’s signature were four more signature lines, bearing the typewritten names of the other four members of the board of law examiners.

J. Leonard Hyman was a partner in a small Oakland County law firm. He had been on the board of law examiners for several years. Leonard was a long-time friend of mine. He had helped me in my election campaigns for circuit judge in Wayne County and for the Michigan Supreme Court. I had spoken to him about Cooley and I was confident of his support.

Richard Spindle was a recent appointee to the board. He was a young lawyer from Grand Rapids. When I was chief justice, the chairman of the young lawyers section of the state bar suggested that a representative of the young lawyers should be considered for appointment to the board of examiners. I thought the idea had merit and invited him to nominate someone. When Dick Spindle's name was advanced, I lobbied the court for his appointment. I felt he would look favorably on Cooley.

Stuart Dunning Jr., a well known and highly regarded African American lawyer from Lansing was the first of his race to serve on the board of law examiners. He was also appointed on my watch. Stuart served on the State Board of Education's committee of scholars which had recommended against issuance of the Cooley corporate charter. He filed a dissent from that recommendation. He looked like another "yes" vote.

The big question mark was Doug Roche. A member of the prestige, silk stocking Detroit law firm of Dickinson, Wright et al, Doug's father had been chairman of the board of directors of General Motors Corporation. I did not know him well. Everything in his background, however, suggested that he would have a negative view of a start up law school, unaffiliated with a university. There is a pecking order in the legal profession, much as there is in society at large. Prestige law firms have prestige clients. They hire graduates of prestige law schools. Appearance matters. Image matters. Doug Roche came from that side of the tracks.

Doug Roche joined Stan Beattie and me for breakfast. I showed him the resolution and asked him to sign. He was hesitant. Stan Beattie talked. He told Doug that he believed in the school, and that he believed in me. He said that he signed the resolution because he thought it was the right thing to do. He told Doug that future generations would be grateful to them if they helped Cooley to survive. Doug Roche signed the resolution.

Within 24 hours we had all five signatures. Cooley was baptized.

BUYING A LAW LIBRARY

When I retired as president of Cooley Law School in 2002, the board of directors graciously named the school's law library in my honor. By mid 2004, the Brennan Law Library celebrated a milestone. Its collection exceeded a half million volumes, putting it in a category with the most prestigious law schools in the country.

Hearing the good news, I could not help but recall the humble beginnings of that impressive educational resource.

I can't remember the date. It was probably some time in late 1972 or early 1973. I was in my office at the Supreme Court when my secretary, Marianne Farhat, ushered in a visitor. His name was Jim Lytle, and he was a representative of the nation's largest publisher of law books, the West Publishing Company of Saint Paul, Minnesota.

Jim congratulated me on my efforts to start a law school in Lansing. "Of course, you know that you are going to have to have a complete law library," Jim observed, smiling like a ten year old on Christmas morning.

I acknowledged the fact. Then I dug into my desk drawer and pulled out a booklet published by the American Bar Association, describing in detail the books that accredited law schools are required to have in their libraries.

"Go through this list," I told him, "and I'll buy every book on the list that West Publishing Company publishes." Jim's grin widened.

"I have only one condition," I added.

"What's that?" he asked.

"Nothing on the front end," said I. "No down payment. I'll sign anything; promise anything, but not one penny up front."

"No problem," Jim replied. "Your credit's good with me, Judge."

And so it was that Jim wrote up an order for \$80,000 worth of law books, which I signed. He left the office in a jolly mood. Some days being a salesman is fun.

Several weeks went by before I heard from Jim again. This time he came into my office in a much more serious mood. "We've got a little problem, Judge," he began. "The home office won't honor the contract without some earnest money."

“Hold on, Jim,” I said. “Remember what I told you the day you took the order? Nothing up front. Nada. Zip. Zero. No down payment. No earnest money. The law school just doesn’t have anything to give you, and neither do I.”

“I know. I know,” said Jim. “But Saint Paul wants a deposit or it’s no deal.” He sat there across the desk from me, silently waiting for my reaction. I said nothing. Just looked at him, shaking my head back and forth. Finally, he leaned forward, with an air of confidentiality, and almost in a whisper, said, “Not to worry, Judge. I was planning to make a contribution to the law school anyway. I’ll just write a check to Cooley for a thousand dollars. You endorse it to West Publishing and I’ll turn it in for the earnest money.” The idea sounded fair enough to me. He wrote the check, I signed it, and he left.

The books didn’t arrive until the fall. But that time, we had acquired an interest in the old Masonic Temple on Capitol Avenue. Peter Kempel, our head librarian insisted that it would take weeks to unpack the books, label them and arrange them on shelves. I was far too eager to establish a working library to tolerate such a pace. We had lined the basement of the temple with used metal shelves. It was time to put the books in place.

I visited the Campbell Class, our first day school class. I announced that they were going on a field trip. We marched 75 students from the classroom building at 507 South Grand Avenue to the Temple building. A production line was established, as boxes were torn open, books unwrapped, stamped as the property of the law school and promptly assigned to the shelves. Within hours, Cooley had a library of more than 10,000 volumes.

All we needed then were library tables and chairs. The chairs were purchased at Peter Kempel’s recommendation. They were of the sturdy, oak, straight back variety. Not awfully comfortable, but virtually indestructible. The tables were another do-it-yourself project. Supervised by my brother Ray, a volunteer force of family and friends covered birch doors with Formica, attached four metal legs to each one and set them around the room. It was beginning to look like a real library.

It was not until some years later that I learned that West Publishing Company paid their salesmen a 20 percent commission. Jim Lytle’s generous donation to Cooley still left him with a handsome profit. Like I said, some days being a salesman is fun.

THE FIRST CLASS WAS FIRST CLASS

When Lou Smith, the law school's first secretary read the roll call on that fateful first class session, each student stood and announced his or her undergraduate degree and alma mater. In addition, they told whether they had any graduate or post-graduate education.

I was surprised at the number of master's degrees. Indeed, there were several doctorate degrees among the members of that first class. They were a special group of people.

Larry Nolan was a graduate of Western Michigan University. He came to see me in my office in the Supreme Court before classes began. He wanted to thank me for the opportunity to attend law school. He looked like John the Baptist, with long flowing black hair, a full mustache and a beard. A child of the sixties, I thought.

He came to see me the following semester. The beard was gone and the hair noticeably shorter. Again, he thanked me for the chance to pursue the study of law.

Every term for the rest of his law school career, Larry sought me out and thanked me for his legal education. Each time, the haircut was more conservative. By the time he graduated, he looked like a Wall Street lawyer. Larry went on to become the chairman of the young lawyers section of the State Bar of Michigan, and to establish a successful practice in Eaton Rapids. Later he was appointed to the Cooley Board.

Mark Redding was from Ann Arbor. His father was a lawyer and he wanted desperately to join him in practice. He had been shut out of other schools, and was almost unable to believe his good fortune in being accepted at Cooley. He showed up several times a week to mop floors and perform any other menial chores that might be needed.

Jackie George lived across the street from Wayne State University's law school in mid-town Detroit. She commuted five nights a week to Cooley on a Greyhound bus. Kept it up for three years. She always said it gave her good uninterrupted study time. Jackie has done well in the law practice. She is a major donor to the law school.

One day I visited the classroom and showed the students several drawings of logos which we had under consideration for the school. Curiously, the students picked a representation of an Ionic column. I say curiously, because it was some time before anyone thought of acquiring the old Masonic Temple with its stately front pillars, as our school building.

With the help of Father Jerome MacEachen, our pastor at St. Thomas Aquinas parish in East Lansing, I devised a Latin motto to be displayed beneath the logo. *In corde hominem est anima legis*. The spirit of the law is in the hearts of men. It wasn't long before a delegation of our female students visited my office. They informed me that they were representatives of a new student organization known as CAT,

an acronym for Cooley Action Team. They made it clear to me that the spirit of the law also resides in the hearts of women.

Summoning my high school Latin background, I explained that *vires* was the Latin word for the male of the species, and that *hominem* was more properly translated as mankind or humanity. From that day forward, the official translation of the Cooley motto became “The spirit of the law is in the human heart.”

The students in that first class developed a great spirit of camaraderie. For one thing, they had all been required to sign an affidavit to the effect that they were aware that the school was unaccredited, and that they might never be able to take a bar exam or become lawyers. They were sharing a substantial risk in addition to the usual gauntlet that first-year law students must run through. Moreover, there were no guaranteed student loans. Even veteran’s benefits were not yet available. Every penny of their tuition was paid in cash.

There were a number of success stories to come out of that class. Claude Thomas, the first black judge in Lansing. Brent Danielson, a district court judge in western Michigan, who would one day succeed me as chairman of the Cooley board of directors. The list is long and distinguished.

They were modern day pioneers. Their faith and commitment built a foundation of achievement and good repute which inured to the benefit of future classes.

And they confounded many critics when they outperformed the graduates of the illustrious University of Michigan Law School on the February 1976 bar exam.

But that’s another story.

AN EXCHANGE OF LETTERS

The University of Michigan Law School
Office of the Dean
June 22, 1973

Honorable Thomas E. Brennan
Supreme Court of Michigan

Dear Tom:

I am writing this letter reluctantly, because I do not like to risk offending someone whom, even on short acquaintance, I have become as fond of as you (among other engaging qualities, you have a refreshing lack of pretense that I find rather rare in important public figures!). But I feel I owe you an explanation for my failure to attend the recent fund raising dinner for your Cooley Law School. Quite simply, I have opposed this school: I shall continue to oppose it as long as I think there is any chance of rescinding the board of education's ill-considered approval of it; and I would have felt hypocritical in accepting your hospitality while feeling as I do.

I can sympathize with your notion that qualified young people should not be denied the opportunity to go to law school for want of enough facilities. Indeed, several colleagues and I have gone on record as favoring the establishment of a new law school at Michigan State, and we have directly assisted in MSU's efforts to get one started. At the same time, I do not think we should exaggerate the nation's need for lawyers. Existing American law schools are now pouring out thirty-five thousand graduates a year to add to the present total of three hundred and fifty thousand attorneys; at this rate, we shall double the size of the bar in another dozen years or so. This makes it quite understandable, in my view, that many leaders of the bar have become worried that lawyers might wind up flooding the market. In any event, I think the major problem confronting the bar is the need for more quality, not more quantity.

From all that I can tell, your proposed school received an entirely fair evaluation from the advisory committee of scholars, which concluded unanimously that it was not fit to open. Everything that I have seen or read convinces me that the school is inadequately staffed, inadequately housed, inadequately financed, and inadequately stocked with library materials. The school falls far short in vital respects of meeting the standards of the American Bar Association and the Association of American Law Schools. This is not the way, in my judgment, to meet the needs of the people of the State of Michigan for quality legal education.

Even at this late date, it is my earnest hope that this operation will not attempt to continue as a law school under present conditions. Might I suggest that one possible alternative might be to transform it into what could well be a highly useful center for paralegal training? If you would like to discuss this matter further, I should be happy to get together with you at your convenience.

Sincerely,

Theodore J. St. Antoine

Here was my reply:

Dear Ted:

I appreciate your candor in writing me concerning your views about the Cooley Law School. Much of what you say is based upon lack of information. The enclosed brochure is intended for your information.

Some of your observations are, of course, well taken. We would prefer to have more staff, larger quarters, more money in the bank. But we have advanced remarkably well in a very short time, and have every intention to continue our progress.

Ted, I am committed to this project. I do not share your pessimism about the future of our profession. More importantly, I have a transcendent faith in our young people; in their determination and their ability.

Whether or not MSU gets a law school — now or later — Cooley will succeed and thrive. The fact that you have not chosen to help us, as you have helped MSU is, of course, a source of some dismay. After all, we are all supposed to be aiming toward the same goal — the legal education of future generations.

But your negative attitude will not deter us. Indeed it demonstrates the more that legal education in America has become the private preserve of a limited few, and reinforces our view that unless Cooley Law School and others like it provide legal education to a broader segment of society, the bar will in time become an elitist cadre, unwilling and unable to serve the generality of our people. I will save your letter, Ted. Being fundamentally a decent sort of fellow, you will, I am sure, welcome the opportunity to eat your words. Hopefully, they will be the more palatable when taken with *pate` de foie gras* at some future Cooley Founders Banquet.

Sincerely,

Thomas E. Brennan

SEEDS OF CONTROVERSY

The members of the State Board of Education's committee of scholars who reviewed our articles of incorporation were outraged over my accusation that some of them were burdened with a conflict of interest because they were associated with competing law schools. Their sole interest, so they claimed, was in the improvement and advancement of legal education.

After the charter was issued, however, several members of that committee dropped all pretext of impartiality and disinterest to become vigorous opponents of Cooley Law School.

When word got out that the board of law examiners had recognized Cooley, their opposition turned to animosity. And when we sent out invitations to the Founder's Banquet they went ballistic.

Stan Beattie was, from the very beginning, a stalwart supporter. He took a lot of heat from the establishment types for having signed the resolution recognizing Cooley. One such occasion was at a gathering of the Harvard Club of Detroit. Stan was enjoying the reception when Wade McCree, then a judge of the United States Circuit Court of Appeals and later Solicitor General of the United States, approached and began berating him for having approved "Tom Brennan's store front law school." Stan went toe to toe with the good judge. He was not one to back down.

In early June of 1973, Stan Beattie was, as he later described it, "summoned to Armageddon." The summons came from no less a personage than the Chief Justice of the Supreme Court, Thomas M. Kavanagh. The occasion was a luncheon meeting at the Canopy restaurant in Brighton on June 4, 1973. Present were Kavanagh, Justice John Swainson, U. of M. law school dean Ted St. Antoine, Wayne State law school dean, Donald H. Gordon, and the beleaguered Stan Beattie.

The subject of discussion was the Thomas M. Cooley Law School and the action of the state board of law examiners recognizing it. In short, Stanley Beattie was being called on the carpet to explain what he and the other members of the board had done. Stan stood his ground.

In truth, the two law school deans were hoping to persuade the Supreme Court to bring pressure on me to drop the project. In that endeavor they had perhaps falsely assumed that the Democrats on the court would be quick to censure me. They misjudged Tom Kavanagh and John Swainson. Both had heard me speak of the law school many times. I had kept the entire court posted on everything we were doing. John and Alice Swainson were, in fact, very dear friends of Polly and me dating back to our time together on the circuit court. Tom Kavanagh, despite our frequent disagreements, shared my view about elitism in legal education, and was always friendly toward Cooley.

About that time, Justice Charles Levin and Justice Thomas G. Kavanagh (not related to Chief Justice Thomas M. Kavanagh) invited me to lunch at the Lansing City Club. They had an important matter to talk about. It turned out that they were aware of the meeting in Brighton and had learned that the law school deans, particularly Dean Gordon, were not about to drop their vigorous opposition to Cooley.

I still naively believed that legal educators were all working toward the same ends, and I wrote to Don Gordon offering to get together with him and discuss whatever issues he might have. That letter went forward on July 9, 1973. Two days later, Don Gordon replied, writing that he was about to leave for Hawaii, and would not have time to see me. The same day, he penned a two-page letter to Chief Justice Kavanagh requesting that the following issues be placed on the agenda of the court:

- “1. The propriety of the organizing and managerial role of a supreme court justice in the establishment and operation of a new law school when that role involves dealings with such state agencies as the Board of Law Examiners (whose members are approved by the Governor upon recommendation by the court), the State Board of Education and the office of the Attorney General (both of which litigate before the court).
2. The propriety of the solicitation of funds primarily from lawyers involving the use of a justice’s name and for the support of an enterprise in which he has a personal interest.
3. The identification of a justice’s position on the court in furtherance of the solicitation of enrollments in an institution in the operation of which he is a principal.
4. The public interest in the maintenance of basic standards of legal education in Michigan, an interest which is jeopardized by the premature and improvident approval of the Thomas M. Cooley Law School by the State Board of Law Examiners.”

I don’t know when I first saw a copy of Don Gordon’s letter. I don’t recall being aware of it at the time. The chief justice did not place the matter on the court’s agenda. I like to think he was fully aware of the fact that I had done nothing wrong; that Cooley was not a proprietary law school as Gordon tried to insinuate: that judges are in fact encouraged by the code of judicial conduct to work for the improvement and advancement of legal education; that judges have long been associated with law schools, both as teachers and as board members; that the use of judges’ names in general solicitation for charitable causes and especially educational programs is entirely ethical; and that the role of approving or disapproving educational institutions was properly left to the board of education, the board of law examiners and the American Bar Association.

On the other hand, the chief justice may have simply realized that I was about to be the object of a furious public attack, and he didn’t see any need to be a part of it.

THE ASSAULT BEGINS

A week after Dean Donald Gordon's letter to Chief Justice Kavanagh asking the court to take up Gordon's complaints about me and Cooley Law School, Justice Charles Levin sent the chief justice an eleven-page memorandum he had received from Gordon on June 25th. He also sent a copy to me.

The memorandum was unsigned, probably because its author, presumably a lawyer, was aware of its libelous content.

The memorandum begins with the false and defamatory statement that Cooley Law School is a proprietary enterprise. The document recites in great detail the work of the committee of scholars in reviewing the articles of incorporation filed by Cooley's incorporators. So much so, that it is hard to conceive that its author was anyone other than a member of that committee.

Certainly whoever wrote it had to know that Cooley is a nonprofit corporation. The author unquestionably knew that the characterization of the school as proprietary was untrue.

Which suggests this follow up question: Why would a lawyer deliberately misrepresent Cooley as a proprietary school? Why would he lie about a thing like that?

One has only to reach the eighth page of the memorandum to see where the author was going with his malicious falsehood. He attempts to insinuate that everything I did in the founding of Cooley Law School was in furtherance of a scheme to make money. He snidely infers or blatantly asserts that I used my position as a Supreme Court justice to coerce the board of education and the board of law examiners to approve the school as a means of lining my pockets with ill-gotten gain.

I make no apology for the fact that I, as a justice of the Supreme Court, lent a certain aura of legitimacy to the effort to start a law school. Certainly I had credibility as a jurist that a businessman not associated with the law would not be able to claim. Certainly there was, or should have been, a presumption that what I was trying to do was motivated by a desire to advance the public interest, rather than seeking selfish profit. And properly so. Accurately so.

There was an ironic twist to Dean Gordon's broadside. At that time he was about to move to Hawaii to become the first dean of a new law school at the University of Hawaii. That law school was, to use the sullyng phrase of his unsigned memorandum, the "brain-child" of William Peterson, Chief Justice of Hawaii. I had met Bill Peterson at Valley Forge during a Freedom Foundation competition judging, and he told me some of the difficulties and challenges he faced. Fortunately for him, Hawaii had no other law schools with deans ready to defend their monopoly on legal education. Not only did he escape being maligned for his efforts, he was in fact universally praised. Today, the law school at the University of Hawaii is known as the William Peterson School of Law.

The allegation that I used my position as a Supreme Court justice to coerce lawyers into donating to Cooley is ludicrous. The founders' banquet was promoted by means of a general mailing to the

members of the bar of Michigan and various other business leaders, of a formal invitation. That invitation recited that "The Board of Directors and the Founders Society of the Thomas M. Cooley Law School cordially invite you ... etc." I am listed as the President of the school. The honorary Chairmen of the Founders Society included United States Supreme Court Justice Potter Stewart, Governor William G. Milliken, and Howard H. Kehrl, general Manager of the Oldsmobile Division of General Motors Corporation. The General Chairman was Phillip Marco. Lieutenant Governor James H. Brickley and East Lansing lawyer Jack Coté were co-chairs. I was not a member of the 51 person committee, which bore the names of eleven other judges, including Thomas G. Kavanagh of the Michigan Supreme Court.

The canons of judicial ethics do not prohibit participation by judges in general appeals for charity. It's a common and an appropriate thing for judges to do. There is no appearance of impropriety when judges lend their names to mass mailings. It is not the same thing as a judge calling up a lawyer or litigant and asking him or her directly to contribute to a cause. Only personal solicitations are prohibited. I have no doubt that the distinguished legal educator who drafted that scurrilous memorandum knew perfectly well that the accusation of improper conduct was false.

No doubt the goal of the attack from Wayne State was the same as the purpose of the gentlemanly prod from the University of Michigan's Ted St. Antoine; to spike the establishment of Cooley Law School. But the tactics emanating from Detroit were different from those which came from Ann Arbor. Unable to rouse opposition to the law school on issues of educational quality, our enemy was turning to personal vilification. Bring down the man and you will bring down the school.

Or so they thought.

AN ABSENCE OF MALICE

In 1981, an award-winning movie starring Paul Newman and Sally Field told the story of a Miami businessman falsely accused by a newspaper of complicity in a murder. The movie was entitled "Absence of Malice." The screen play was written by Kurt Luedtke.

Mr. Luedtke is from Grand Rapids, Michigan. After graduation from Brown University, he worked for a while at the Grand Rapids Press before migrating to Detroit where he was employed as a reporter at the Detroit Free Press. In 1972, when he was not yet 34 years of age, Mr. Luedtke became the executive editor of the Free Press.

In June of 1973, Dean Donald Gordon of the Wayne State University Law School and Dean Theodore St. Antoine of the University of Michigan Law School contacted the Detroit Free Press. I don't know if they spoke directly to Mr. Luedtke, but they did talk to Remer Tyson, a reporter on Kurt Luedtke's staff.

The two deans convinced the Free Press that I had done a bad thing by starting Cooley Law School. They told Remer Tyson that they had met with the chief justice and talked to other members of the Supreme Court in an effort to get the court to require me to drop the law school project, but the court had neglected or refused to do anything about it. I suspect they either told him, or at least gave him the false impression that Cooley was a proprietary enterprise. They persuaded the Detroit Free Press that only public pressure would convince the court to act.

And so the decision was made — and I assume the executive editor either made the decision or acquiesced in it — to embark upon a series of investigative stories, designed to discredit me and destroy the law school I had started. I hesitate to call them "news" stories. They were printed in sections of the paper that carried news, to be sure, but they were patently intended to be what is sometimes called "advocacy journalism."

In short, Mr. Tyson was assigned to do a hatchet job on me. And I must confess, he was up to the task.

My relationship with the fourth estate, from the time first ran for public office in 1952, had always been characterized by openness and candor. I often told reporters that I never spoke off the record; they could quote me on anything I said. Perhaps naively, I assumed that journalists are professionals and that they know when a statement is newsworthy and when it isn't.

When Remer Tyson called me, I was delighted. He wanted to talk about Cooley Law School. So did I. I was extremely proud of what we had done and what we were doing. I wanted the world to know about it. Every time there was a story in the paper about Cooley, there would be another surge of applications.

We agreed to meet in downtown Detroit at the Savoyard Club in the Buhl Building. Bruce Donaldson, a member of our board, was a member there, and he hosted the lunch. Jim Ryan, another board

member, then a Wayne County Circuit Judge joined us, as did two students from the original Cooley Class.

Tyson was candid enough to tell us that he had serious reservations about Cooley. I told him that I would answer any questions he might have. He did not tell me that his newspaper had already decided to do whatever it could to bring me down and put Cooley out of business. After all, if he had told me that, I might not have been so forthcoming.

As it was, I gave him all the ammunition he needed to write damning stories. I invited him to come to Lansing, and when he did, I showed him our books of account. I told him how much everyone who worked for the school was making. I took him over to the Masonic Temple Building, which we were then in the process of buying, walked him through it and shared all of my plans for remodeling it into a law school. I showed him my office at 507 South Grand; told him how much time I was spending at the school; told him that I was receiving an expense allowance from the school of \$10,000 per year.

I felt I had nothing to hide. After all, I had filed copies of my federal income tax returns in the office of the county clerk for anyone to inspect for every year that I was in public office. I suspect I am the only public official to do so before or since. I was accustomed to living in a glass house.

Tyson was cordial. He gave no indication of hostility or animosity. I foolishly thought that I had shown him what a noble thing we were doing and that whatever he would write about us would, on balance, be favorable. How wrong I was.

In his acceptance speech when receiving the William Rogers alumni Award at Brown University recently, Kurt Luedtke told the audience, "I was for 15 years a journalist, a vocation in which you'd think you would learn a lot. I learned three things: The accused you've never met is more guilty than the one you've talked to. Truth and accuracy are not the same. Things are never, ever, as they appear to be."

I only wish Mr. Luedtke had learned those lessons a little earlier in his career.

ACQUIRING BRICK AND MORTAR

Unaware of the storm of controversy that was brewing on the eastern horizon; I went busily about the business of expanding the physical plant of the Thomas M. Cooley Law School in the spring and early summer of 1973.

Our first acquisition was the building at 507 South Grand Avenue in downtown Lansing. We began by renting the vacant upstairs, some 5,000 square feet, for \$100 a month. Clyde Oding, who owned the building, was operating an engraving shop in the basement. Lyman and Sheets insurance agency occupied the first floor. Oding wanted to sell the building. I wanted to buy it.

The only problem was that Cooley didn't have any money for a down payment. I offered Oding \$250,000, on condition that he would carry a second mortgage for the down payment. He agreed. Since Cooley did not have established credit to get a mortgage from the bank, Oding simply borrowed the maximum — I think it was around \$200,000 — and we agreed to make the payments.

Very soon after the deal was consummated, both Oding and the insurance company moved out. We had our first school building; 15,000 square feet on three levels.

At about the same time, we were actively preparing to admit the first full-time class at Cooley. Many of the original 300 applications were from people who wanted to start in September. With the additional applications which came in during that first term, we were able to admit a class of 150 for the fall term.

Since we had only one classroom which held 75 students, we hastily constructed a second one on the south half of the second floor. That meant moving all the offices downstairs. At first it was a warren of corridors and small cubicles. Eventually, it became a very useable office.

One day I was sitting in my office at 507 when a real estate salesman stopped by and left me a brochure about the Masonic Temple which was located at 217 South Capitol Avenue, kitty corner from the state capitol. It was a massive seven story structure, fronted by four large Ionic columns. It looked like a law school. I showed the brochure to Polly and asked her what she thought of it as a home for Cooley Law School. She asked me if I had taken leave of my senses.

I went and looked at the Masonic Temple building. It was old; built in the 1920s. It showed its age. Musty, dark, and dreary, it had an air of abandonment even though the Masonic Order still used it for their meetings, and even though there was an operating cafeteria in the basement, where many of Lansing's old guard met for lunch. Half of the first floor was dedicated to pool tables.

But the *piece d'resistance* for me were the four lodge rooms. Located on the second and fourth floors, they measured about 40 by 75 feet, with ceilings that approached 20 feet in height. They would make perfect lecture halls. On the sixth floor, I found another surprise; a huge auditorium surrounded by a balcony. It looked big enough to seat six to eight hundred people. That auditorium was well known in

Lansing. It had been the venue for many a high school prom. It had also been the site of the Inaugural Ball of then newly elected Governor G. Mennen Williams in 1948.

A little due diligence revealed that the Masonic temple had lots of problems. The electrical system was woefully inadequate. Half of the building wasn't heated. The city supplied steam heat had simply been turned off wherever the pipes began to leak. Bob Fisher, a new member of our board, was also on the building committee of the Masons. He cautioned against buying the building as it was officially determined to be obsolete.

I was undeterred. I negotiated a land contract with the Masons. Forty thousand down against a purchase price of \$400,000. We were paying about \$5.00 a square foot for the property. At first, we occupied only the lower level. Within a year, we managed to put together a mortgage to pay off the Masons and take over the entire building. Our credit was still untested. A consortium of five banks shared the risk of the loan. We paid them off in two years.

The first thing I did when we acquired the Masonic Temple was to persuade my brother Ray to move to Lansing and come to work for the school. Ray had been employed by the Detroit Edison Company for about fifteen years. He was, and still is, the best nuts and bolts guy I ever knew. Could build anything, fix anything. I walked him through the Temple building and asked him to marry it. I wanted him to know every nook and cranny. I wanted him to build a team of tradesmen and artisans who could renovate and maintain it as a first class facility. He did it and more.

Over the next decade, we invested over \$10,000,000 in the Temple Building. More than 12,000 students have attended classes there. It has become a venerable landmark in Michigan's capitol city.

In 1973, the south half of Lansing's downtown was in a free fall of decline. Stores closed. Restaurants failed. Each year there were more empty buildings. Cooley's purchase of the Masonic Temple signaled the beginning of a rebirth that would transform a ghost town into a vibrant legal campus.

But it was not accomplished without a fight.

THE BATTLE BEGINS

On Sunday, August 5, 1973, nearly 100 column inches of the Detroit Free Press were devoted to a story headlined, "State Justice Defends His Moonlighting."

The word "moonlighting" is a colloquial expression which refers to the activity of working at a second job at night, after regular daytime employment. The word connotes compensated employment, taken to enhance the moonlighter's income. We would not say that a man who serves as an unpaid Boy Scout leader or choirmaster on his spare time is moonlighting. People moonlight to make money.

And so the headline that Sunday morning accused me of starting a private, nonprofit law school to make money. Plain and simple. Remer Tyson, the Free Press politics writer assigned to the story, bolstered the accusation with five bullet points.

First, he accused me of spending 30 hours a week as president and acting dean of the law school while serving on the Supreme Court. The implication of course, being that the time I spent on law school affairs somehow detracted from my obligation to the court. Now there are 168 hours in a week. If 56 hours are spent sleeping, we still have 112 waking hours in a week. Take away 40 hours of full-time employment, and there are still 72 hours each week to do other things. If I had been spending 30 hours a week teaching inner city children to read, I doubt that Remer Tyson would have criticized me for it. I doubt that anyone would have complained that I was somehow shortchanging the people who elected me to the Supreme Court.

In fact, for several years I taught in the Political Science department of the University of Detroit, while I served on the Supreme Court of Michigan. Many other judges have taught while serving on the bench, including the revered Thomas Cooley. And were paid for it. Those activities could, perhaps be accurately described as "moonlighting," but it would be hard for the newspaper to put a negative spin on part-time teaching.

I was not being compensated for my work on behalf of Cooley Law School. The school's board of directors had approved a discretionary expense account for me. Tyson made no mention of approval by the board. He just said I was "drawing a \$10,000 law school expense account to use as he sees fit, in addition to his \$42,000 Supreme Court salary." Obviously, he intended to infer that my expense account was compensation to me, even though he knew that all of the expense items were paid to third-party vendors and that I never received a penny of it.

Tyson made no mention of the fact that my work on the Supreme Court was completely up to date, or that I regularly wrote more opinions than most of the other justices. He made no mention of the fact that no one had ever accused me of shirking or neglecting my duties on the court.

Tyson's second and third bullet points accused me of putting my wife, my children, and a former administrative assistant on the Cooley payroll, as though there were something wrong with doing that.

Indeed the very idea that I would go to the trouble of starting a law school just to provide my wife and children with part-time jobs is utterly ludicrous. Tyson never suggested that any member of my family received anything other than fair compensation for work performed. Nor did he impugn the value of the services performed by my former assistant, Bob Krinock.

His fourth point tried to make something sinister of the fact that Cooley had sent invitations to its Founders Banquet to all the lawyers in Michigan, as though a \$100 dinner ticket amounted to a bribe or gave the appearance of bribery. He made no similar accusation against United States Supreme Court Justice Potter Stewart who was an Honorary Co-Chairman of the event or the 11 other judges who were on the committee. He didn't mention that I was not on the dinner committee.

His final bullet point attempted to impugn the decision of the board of law examiners to recognize Cooley. In support of this charge he quoted "Deans and professors at established law schools," saying that they had raised "questions about violation of judicial ethics and conflicts of interest."

I was, of course, disappointed and dismayed to say the least. I had spent many hours talking to Remer Tyson. I was completely candid and open with him. While his article accurately described Cooley as a nonprofit institution, the entire thrust of the article suggested that it was created as a money-making enterprise, and I was the proprietor.

To further stir the pot, the article stated that the legislature approved a little known section in the educational appropriations bill providing for diploma reimbursement to non public law schools in the amount of \$1,200 for each graduate. The obvious purpose of inserting this tidbit of news in the story was to suggest that I had somehow influenced the legislature to give money to Cooley.

All in all, the article was damning and accusatory. It would be followed by an editorial two days later, urging me to resign from the court, and calling Cooley "his privately owned law school." The drum beat had begun. The unattributed statement that I had been accused of a conflict of interest would surface many more times in the following weeks.

A SWIRL OF CONTROVERSY

From the moment Remer Tyson's opening salvo hit the street on August 5, 1973, the public image of Thomas M. Cooley Law School changed. What had been described as a "fledgling" school was suddenly a "controversial" school.

The Free Press editorial entitled "Brennan Can't Well Serve Both Court, Law School," was followed quickly by a similar comment by the editors of the Detroit News. Interestingly, the News opined that the great jurist for whom our school was named, Thomas McIntyre Cooley, would never have been guilty of the tawdry conduct of "moonlighting." In fact Cooley was a professor in the law department of the University of Michigan during most of his judicial career. Another interesting irony: Cooley was defeated for reelection largely through the efforts of the Detroit News, which excoriated him for holding against the paper in a celebrated libel case.

On Wednesday, August 8, under another Remer Tyson byline, was the revelation that "Justice Brennan Has Son on Court Payroll." True enough. I had hired Tom, Jr. as a clerical intern, at less than half the salary paid to regular law clerks. He was then a pre-law student at MSU. He spent most of his time culling through the Michigan Reports in search of the various ceremonial transcripts that record presentations of portraits or eulogies for deceased members of the court. The index he compiled was eventually published by the Michigan Supreme Court Historical Society.

But of course, the issue was not whether Tom was earning his money or doing something useful for the court. Hiring a relative invites the naughty pejorative of nepotism, and I was vulnerable to the criticism.

Nevertheless, I called a press conference, to answer the Free Press. It was well attended. Those were the days of Watergate. It was a time when every accusation against a public official, however far fetched or patently motivated by ill will, struck a responsive cord in the public consciousness. The conventional wisdom is that you can't fight a newspaper unless you own one. Still, I felt very put upon. I was determined to have my say. To set the record straight.

The canons of judicial ethics specifically encourage judges to support and engage in legal education. The list of judges in Michigan and elsewhere who teach in law schools is both voluminous and prestigious. Judges serve on the American Bar Association's Council on Legal Education and on its accreditation committees. They teach in seminars and participate in mock trials and moot court proceedings.

All of these things take time. But it is not time away from the job of being a judge. On the contrary, it is time devoted to judicial activity in the most complete and proper sense.

I flailed away for the benefit of the fourth estate. I characterized the *Free Press* reporter's article as a "vitriolic and unjustified personal attack." I said that Tyson had "permitted himself and his newspaper to become the spokesmen for the educational elitists who have vowed to destroy Cooley Law School."

About that time, Governor William Milliken got into the act. He suggested that I choose between the court and the law school. I told the press that the Governor's comment was premature, and that he should leave the matter of judicial ethics to the Judicial Tenure Commission where it belongs.

The *Lansing State Journal* did not share the Detroit Free Press' view of my conduct. In a much more balanced story entitled, "Brennan Replies to Dual Role Foes," Hugh Morgan, a writer for the Associated Press quoted from my prepared statement, in which I emphasized the struggle in legal education between those who wanted to increase opportunity and those who wanted to control the number of new lawyers. The State Journal ran an editorial critical of Governor Milliken's remark, which they called a "Snap Judgment." Columnist Willard Baird, writing under the headline, "Law School Never a Secret," pointed out that many in the Capitol were puzzled over the flap.

On balance, over the next few days, I was not totally unhappy about the press coverage. What emerged was not so much the image that I had done something wrong as the sense that I was engaged in a heated controversy. And that controversy had more to do with whether Cooley should be allowed to survive than it had to do with anything I had done.

My mail ran about four to one favorable. Judge Jim Ryan wrote a powerful defense of me and the school. It was published in the Free Press. Jack Coté, with approval of the members of our board, fired off another supportive letter. Most touching was a handwritten note from one Ben F. Taylor, L.L.B., a 1924 graduate of the Detroit College of Law, who wrote that all but two of his law school instructors had been sitting judges who taught from 5 p.m. until 10 p.m.

But the bottom line was quite different from the objective of Deans Gordon and St. Antoine and their newspaper allies. With every story, the number of applications to Cooley Law School mushroomed. By attempting to destroy Cooley, they had ensured its survival.

THE SEARCH FOR A DEAN

The Free Press' assault on me and Cooley had a considerable impact on Cooley's board of directors. On the one hand, they were incensed by the obvious partisanship of the coverage. To a man, they rose to my defense. At the same time they understood that our primary objective at that point in time was to achieve approval by the American Bar Association. And they quite properly felt that the sooner we were accredited by the ABA, the sooner the flack from establishment deans would subside.

A meeting of the board was scheduled for late August 1973. By that time, I had hinted in the press that I might soon be resigning as the president and acting dean of the law school, limiting my activities to board membership and perhaps some teaching.

We needed a dean and we needed to find one very quickly. The sooner a full-time dean was on board, the sooner I could begin to limit my visibility as the founder, organizer, and chief executive of the school.

We had neither the time nor the money to engage in the traditional decanal search procedure. My correspondence files indicate that I had several conversations with potential candidates for the job, but obviously, the office of dean of a start up law school with no library and only 75 students was not exactly a plum position.

About that time, I had employed Cooley's first full-time professor. His name was Roger Needham. Roger was a very interesting man. He had for a number of years been on the staff of ICLE, the Institute for Continuing Legal Education located at the University of Michigan in Ann Arbor. In that capacity, he had authored a number of pamphlets and monographs particularly on the subject of civil procedure. His name was familiar to the academic world and the practicing bar. He was considered an expert in procedural law.

Roger had been engaged in the private practice of law in downtown Lansing, with only modest success. He much preferred the pace and flavor of academia to the nitty gritty of litigation. I have no doubt that Roger Needham was brilliant; probably off the charts in a standard IQ test. But he had a droll, obtuse sense of humor that evoked more puzzlement than laughter.

He remained on the faculty at Cooley for the rest of his life, becoming eventually an icon about whom stories, both real and invented, were told and retold by the students. He was a draconian grader. It was not uncommon for his classes to receive more D's and F's than C's and B's. Only rarely did he award an A.

An unreconstructed male chauvinist, he was merciless in the classroom. Many students enrolled as guests in other law schools just to take civil procedure. We called them Roger dodgers, and adopted regulations to discourage the practice.

Despite his toughness, Needham had a mushy side. He loved to talk informally with students, and would spend hours every day ensconced in the old cafeteria in the same chair, holding forth for the benefit of any and all who might stop by his table. If a student really wanted to learn civil procedure, Needham would tutor him or her endlessly.

When the board of directors came together in late August, I reported on my conversations with several candidates for dean. Various board members expressed the view that we had to announce appointment of a dean soon, if we wanted to avoid further negative publicity about the school. I agreed. After much thought about alternatives, we decided to offer the job to Roger Needham. He was already on the payroll. He had acceptable academic credentials.

Within a few days, Lou Smith had a letter from Roger, agreeing to take the job. We had a dean. All that remained was to make a public announcement.

Our son, John was attending a high school seminary in Newark, Ohio. He was due to return in the last week of August. Polly and I drove him back to school. On the way, we stopped at a Dutch Pantry restaurant somewhere near Bowling Green. We were disappointed with the meal. A soiled table cloth, dog eared menu, slow service and indifferent food left us happy to be out of there and back on the road. After a few miles, I turned to Polly and said, "You know, it's too bad about that restaurant. Somebody had a great idea for a franchise, but they allowed it to be run by people who either didn't care or didn't know how to make it work.""

We gossiped a bit about our luncheon experience, then fell silent for a long time. Finally, I blurted out what was really on my mind. "I think I am going to quit the court and become the dean of Cooley Law School."

In truth, I simply wasn't prepared to let go of the reins. I had guided the school through the turbulent pre-incorporation days. I had engineered the accreditation of the Board of Law Examiners. I had a dream for Cooley Law School, and I wasn't at all sure that Roger Needham could make it come true.

That night, Polly and I, sitting sleeplessly on the floor of a Howard Johnson motel, chewed over the import of what I was thinking of doing. What would it mean to our six children? Trading a seat on the state's highest court for a second hand desk in a scruffy store front law school was hardly conventional wisdom. We talked about the risks. We talked about the opportunities and the challenges. We talked about a future that was full of hidden promises. By daybreak, the die was cast. I would leave the court.

THE DIE IS CAST

The decision made in a Newark, Ohio motel room took on a life of its own when I returned to Michigan. People had to be told. The members of the board of directors. Our children. My colleagues on the court. The governor. All of these bases had to be touched before any public announcement of my resignation from the Supreme Court of Michigan was to be made.

Once I started talking to friends and fellow justices, however, the cat was out of the bag. I soon found myself inundated with phone calls from news media people looking for confirmation of the rumor that I was leaving the court.

The most persistent of the reporters was an old favorite of mine, Roger Lane, head of the Detroit Free Press Lansing bureau. He must have called me half a dozen times, cajoling me to comment on one rumor or another. I gave him a consistent "No Comment." Still, Roger was adept at reading between the lines.

On Wednesday August 29, 1973, my secretary, Marianne Farhat arranged for a press conference for Thursday at noon. I knew it was late for the morning Free Press deadline, but frankly, I didn't feel I owed the Freep a lot of consideration.

On Thursday I was awakened by a phone call alerting me to the lead story in the Free Press. It began with the words, "Justice Thomas E. Brennan, embroiled in a conflict of interest controversy, is resigning from the Michigan Supreme Court, effective December 31..." There were two other references to conflict of interest in the story, which went on to mention that I was unavailable for comment and reportedly playing golf on Wednesday.

Despite that rather negative eye-opener, I was in a euphoric mood. I was sure that I had made the right decision. At the press conference, I was surrounded by my wife and children — all except John, the Ohio bound seminarian. I began by introducing my family and quipping that nepotism is better than having unemployed relatives. Then I read my letter to Governor Milliken. In it, after announcing my resignation, I said,

"Being grateful to the people of Michigan for the confidence they have reposed in me, I feel compelled to detail the reasons for my decision.

"As you know, I have been instrumental in the organization and establishment of the Thomas M. Cooley Law School here in Lansing.

"It is the first new law school in Michigan in half a century. Over 200 qualified young men and women are now enrolled. They have invested their time and their resources to realize dreams of legal education and admission to the Bar.

"I feel a deep sense of responsibility to these students, and to thousands more like them who share similar dreams. They are the hope of the future for all of us. They will be the post-war, post-Watergate leaders of our state and our nation. We would deny them the benefit of our experience and the wealth of our heritage at our peril."

There were still some questions hurled at me about conflict of interest and nebulous charges of judicial impropriety. I was in no mood to be defensive. I told the media folks that around our house we thought that a conflict of interest was better than no interest at all. I wrapped up the session by suggesting that I might someday write a book, exposing all the inner secrets of the Supreme Court. I said it would be entitled "I Was a Teen Age Chief Justice."

As the news conference broke up, Roger Lane sidled up and handed me an envelope. He said it was just for my personal information. I took my family and my colleague John Swainson to lunch at Walnut Hills Country Club afterward. There, I had a chance to open Roger's envelope. Typewritten on his inimitable, old, worn down Underwood, it was Roger's byline story from the morning edition. Nowhere was the phrase "conflict of interest" mentioned.

An interesting sideline. Roger Lane later enrolled at Cooley Law School. He was in his sixties, and I believe the oldest person to graduate from the school. He subsequently was employed as a public relations officer for the Supreme Court, and served with distinction as a member of the board of directors of the Michigan Supreme Court Historical Society.

I left the court with the warmest of good feelings. Thomas M. Kavanagh, the chief justice I had opposed in the election of 1966, and helped to depose in 1967, was back in the center chair. He hosted a wonderfully convivial dinner party for the members of the court and their spouses in my honor.

In a brief ceremony after the call of cases in December, I came down from the bench, handed my robe to my secretary, and made a short parting statement to the court. I quoted Jefferson Davis, president of the Confederate States of America as he took leave of the United States Senate in 1861. It was a gracious speech in which he forgave any offense that might have been done to him and asked forgiveness of his colleagues for any hurt he may have caused them.

When I finished, Soapy Williams asked me if I was resigning or seceding. I replied that I hoped my new venture would be more successful than Mr. Davis'.

MORE FLACK FROM THE ESTABLISHMENT

In September of 1973, Cooley admitted its second class of freshmen; 150 eager and excited men and women, most of whom had aspired to attend law school for many years. Unlike the pioneers in the January class, they were not asked to sign an acknowledgment that they might not be able to take a bar exam upon graduation. We were approved by the Michigan Board of Law Examiners and that meant our graduates could sit for the examination in Michigan, whether or not we were approved by the American Bar Association.

But three weeks into the term, another monster came out of the woods. I received a letter from Dr. John Porter, Superintendent of Public Instruction, reminding me that the state board of education, in its resolution approving our articles of incorporation, had specified that we should not grant any degrees unless and until the school was inspected by the department of education. It seems that someone had called our catalog to the attention of the board. In it, we told prospective students that Cooley awards the degree of *Juris Doctor* to its qualified graduates. "Ah ha!" said the nay sayers. "Here they go again, pretending to be a real law school." Dr. Porter was writing to tell me that he had been mandated by the board to investigate this supposedly false claim we were making.

True enough, in the resolution approving our charter, the board had specified that it was doing so "... with the understanding that no degrees may be conferred by the school prior to a full inspection by the State Board of Education or its appointed agent, and a determination by the State Board of Education that the school has operated in full conformity with the prospectus of the incorporators ..."

Dr. Porter mentioned that he was in the process of selecting a five-member committee to inspect and evaluate the law school, and asked me to shed some enlightenment on why we were telling people that we were going to award J.D. degrees.

Of course I knew about the troublesome language in the board's resolution. It was a bit of skillful politics by some of my supporters on the state board, intended to soften the impact of outright approval of Cooley. But I also knew that whatever "understanding" members of the board may have entertained when they voted approval of the articles of incorporation, the bottom line was that they did in fact vote for approval. And the very fact of our incorporation authorized us to grant degrees.

My answer to Dr. Porter was a nice bit of lawyer talk. I have no doubt that it confounded our opponents and gave John Porter some ammunition with which to defuse the rising angst of his board members.

"It was our understanding, and I am certain the Board shared the view, that a formal inspection of the law school would be made by the Department of Education before any degrees would be conferred by the school.

"In fact, MCLA 450.177 requires the State Board of Education to cause a visitation of every educational corporation in Michigan at least once every three years. It is therefore, the statutory obligation of the

State Board of Education to cause this visitation to occur sometime before June of 1975. This, of course, is one full year before our first class will have completed the required course of study for graduation in June of 1976.”

I can't resist observing here that in the thirty years since then, the State Board of Education has never even hinted at conducting another inspection of Cooley. I have no doubt that the Department of Education does not have the resources to meet its statutory obligation to visit every educational corporation every three years. The result is that it only inspects when public pressure or politics dictate.

I insisted that the statement in our catalog was correct, that the applicable statute, MCLA 450.175, empowered our board of directors to award such degrees as the nature of the institution warranted. Then I hammered the point a little more:

"I cannot conclude that it was the intention of the State Board of Education to impose a condition precedent: that is, to prohibit the granting of degrees without the express prior approval of the State Board of Education. Such action would have amounted to a renunciation of the previous words of the same resolution which expressly approved the articles of incorporation for filing.

"The more logical view of the June 13, 1972 resolution, and the view of it which is entirely consistent with the statutes and the charter of incorporation is that which I have earlier expressed: that is, that the State Board of Education recognized its statutory obligation to cause a visitation to be made within three years, and that the board fully intended and still intends that such inspection would take place before any degrees are granted.”

With a little help from a beleaguered Dr. John Porter, we dodged that bullet at the next meeting of the State Board of Education. But a full blown inspection was obviously on its way. As soon as I posted my reply to Dr. Porter, I fired off a request to Millard Ruud, Consultant to the American Bar Association's Section on Legal Education asking him to put the wheels in motion for an inspection by the ABA.

As long as we were going to be under a microscope, I figured we might as well have lots of eyes peering through the lens.

THOSE UPPITY WOLVERINES

Flying home from an annual meeting of the American Bar Association some years ago, former University of Michigan Law School Dean Theodore St. Antoine found himself sitting next to the Honorable James L. Ryan, a Judge of the United States Circuit Court of Appeals for the sixth circuit.

In the course of their amiable conversation, the topic of the Thomas M. Cooley Law School came up; understandably, since Judge Ryan was and is a very close friend of mine and for a number of years served on the board of directors of the law school. In a moment of unguarded candor, Professor St. Antoine confessed that the establishment of the Cooley Law School was the greatest disappointment of his tenure as dean at U of M.

And so it must have been. In November of 1973, Ted St. Antoine wrote to the members of the state board of law examiners:

"I did not wish to interject a jarring note that would clash with the good consensus and the good fellowship of our November 2 meeting. But the problem of the Thomas M. Cooley Law School remains with us, and if the Board of Law Examiners is as concerned with the quality of legal education in the State of Michigan as I hope it is, the Board must continue to wrestle with this problem."

He went on to say that he was skeptical about Cooley's ability to provide a sound legal education and urged the state board to withhold its approval until Cooley was ready for accreditation by the American Bar Association.

Coincidentally, just six days later, Prentiss M. Brown, Jr., son of a former United States Senator from Michigan wrote a scathing letter to Roy Profitt, a professor at the U of M Law School, whose duties included soliciting contributions from alumni. After acknowledging that he had received an excellent education at Michigan, Mr. Brown complained that the university's exclusive admissions standards had denied his two sons the opportunity to attend their father's alma mater. To emphasize his displeasure, Mr. Brown stated that he was withholding financial support indefinitely.

He pointed out that the U of M was admitting less than ten percent of its applicants, and that his son Stephen had enrolled at Cooley. He said that if anything were to have come out of the Michigan Law School concerning Cooley, it should have been offers to help. The attack on Justice Brennan and the law school, in Mr. Brown's words: "...made me feel sick, not only because my boy is going there, but because here we have a great university, renowned in all the world, and it allowed itself to get into this gutter-sniping dialogue when it should have been just the opposite, that is, a great educational institution helping out this fledgling professional school get a start to train young people in the law."

No doubt the hand-wringing concern in Ann Arbor about the quality of legal education at Cooley was alleviated somewhat when our first contingent of graduates took the bar examination in February of 1976 and passed at a higher rate than the University of Michigan's graduates.

The year 2000 was an exciting time to be alive. Y2K, as it was called, augured all kinds of changes in addition to updating our computers. It was an occasion for people to think about where we were, where we had been and where we were going. For me, it was my seventieth year. I had to own up to my own mortality, and more imminently, my status as a senior citizen.

I was concerned about the future of Thomas M. Cooley Law School. I had felt such a responsibility to the students, to the staff and the faculty; it was hard to admit that I was not indispensable. What would happen to Cooley after I was gone? The Detroit College of Law, after which I had largely modeled Cooley, prospered as a free standing school for more than a hundred years, but was ultimately subsumed by Michigan State University. Dickinson School of Law, another long-standing independent was taken over by Penn State. Affiliating with a university was a frequent topic of conversation among Cooley's various constituencies.

I never liked the idea of affiliation, but if it was likely to happen after I left, I decided to take a stab at it myself. And what university would I talk to? Through the years I had many exploratory conversations with Michigan State University presidents. The last was with Peter McPherson about the time he was dickering with the Detroit College of Law. He suggested I visit with Dr. Lou Anna Simon, then MSU provost, who has since become Peter McPherson's successor. She made it clear that State wanted a very selective law school to compete with the University of Michigan.

So who should I talk to? Oakland University? Western? Central? Grand Valley? We had reason to believe that all of them would welcome an overture from us. None of them seemed appropriate. Cooley is a national, indeed an international institution. Only a world class university would do. Then it hit me. Why not U of M? We had an 84 million dollar campus in downtown Lansing, right across the street from the capitol. It would give the university a dominant presence only a chip shot from the legislature.

I arranged a secret meeting with University of Michigan President Lee C. Bollinger. He was a former dean of their law school. I thought he might cotton to the idea of having two law schools.

I should have known better.

THE ABA COMES TO TOWN

Millard Ruud, the University of Texas professor who served as the American Bar Association's consultant on legal education resigned to become the executive director of the Association of American Law Schools. One of his last acts as consultant was to appoint an inspection team for Thomas M. Cooley Law School. The team consisted of Dean Robert Boden of the Marquette University Law School, and Professor Mary Oliver, librarian at the University of North Carolina. We were notified of the appointments in November of 1973. Their visit was scheduled for December 16, 17, 18 and 19.

I was, of course, totally unfamiliar with the process of academic inspection. But it seemed pretty obvious to me that these two people were very important to us, and I made up my mind to treat them like royalty. So on one of the last evenings of their visit, I arranged a dinner party at the Cave of the Candles, a campy underground bistro in East Lansing. The guest list was a Who's Who of the Michigan legal community, from the governor and the Supreme Court to the deans of the state's other four law schools, to bar association dignitaries to the members of the Cooley board of directors.

Despite a lot of polite but chilly declinations, we mustered a goodly crowd of somebodies, including the Honorable Thomas M. Kavanagh, Chief Justice of the Michigan Supreme Court and Mrs. Kavanagh. It was to be one of Agnes Kavanagh's last social events. She died of cancer shortly afterwards. Dean Boden and Professor Oliver were gracious in every way. Interested in what we were doing and what we planned to do, understanding of the difficulties of a start up law school, complimentary of the things we had already accomplished.

By mid January 1974 I had the visitors' report. It found that the Thomas M. Cooley Law School was operating in full conformity with the standards of the American Bar Association with the exception of thirteen items. Good news and bad news. Full compliance, yes. But not until the thirteen problems were solved. Thirteen substantive problems. Thirteen big problems. In short, the team concluded that we had to:

- find the money to acquire a law library, including non-legal references
- find a way to provide financial aid to students
- clarify our retention policy
- adopt an attendance policy
- hire six full-time faculty members and a full-time dean
- provide adequate salaries for full-time teachers, including fringe benefits
- hire secretaries for the faculty
- adopt a definition for faculty ranks
- adopt a policy on academic freedom and tenure
- acquire an adequate physical plant
- provide private offices for faculty
- provide sufficient seating in the library
- alleviate the crowded administrative quarters

It was a daunting punch list. But it was understandable and doable. I was about to become the full-time dean. We were negotiating to buy the Masonic Temple. The policies they wanted us to adopt could be approved at a single meeting of the faculty.

Over the next weeks, I obtained signed employment contracts from six teachers: Bob Krinock, Roger Needham, Fred Abood, Joe Reid, Mark Letterman, and Bob Ransom. By the end of January, when we were to meet the accreditation committee at the ABA meeting in Houston, I submitted a forty-one page document addressing all of the inspection teams' concerns.

And so Bob Krinock and I went to Houston with high hopes that we would come back with provisional accreditation for the school. It was not to be. In the years since 1974, I have come to realize that educational institutions make a very big thing about accreditation inspections. They usually occur only every seven years and stimulate reams of paperwork, hours upon hours of meetings, and much hand wringing and fretting by administrators and trustees.

But we were novices, outsiders, non-educators. So hardly had we returned from Houston when we found ourselves the subject of another inspection; this time by a committee appointed by the state board of education. It began as a four-person committee, but when Dr. Margery Mix, Assistant Dean of the State University of New York Law School was called home for a family crisis, only three were left: Case Western Reserve Dean Lindsey Cowen, Chicago John Marshall Dean Noble Lee, and Notre Dame Professor Edward Murphy.

They came on February 12 and 13, 1974. Six weeks later, their report was on my desk. I could feel my heart pounding as I read the first line: "In the opinion of the committee, the Thomas M. Cooley Law School is currently operating substantially as is outlined in the Prospectus dated June 13, 1972." What followed was a detailed discussion of our physical plant, our academic program, our library, our faculty and staff and our financial condition. On every point, the committee found that we were up to snuff or about to be. I was delighted. The accreditation inspection season had begun, and we were batting .500.

HILARY, TRINITY, AND MICHAELMAS

I was not an educator. I was a lawyer and a judge. Everything about the educational enterprise presented itself to me as a new, untried proposition about which I had to make up my mind.

For example, take the matter of semesters. According to the American Bar Association's book of standards, a semester consists of fifteen weeks of classes. OK. Fifteen and fifteen is thirty. There are fifty-two weeks in a year. What happened to the other twenty-two weeks?

For as long as anyone can remember, schools are closed down in the summertime. I understand that the original reason for it was that the boys and girls were needed at home on the farm during the planting, growing and harvest times. Or maybe it was that before air conditioning, students were just too uncomfortable in stuffy classrooms.

Whatever the reason, the educational establishment from kindergarten through graduate school takes the summer off, or at least dials down the programs to truncated 'summer school' offerings.

It made no sense to me. In no other enterprise would the managers allow facilities to lie fallow and employees to be idle for 22 weeks of the year. Bob Krinock and I began to work out the details of a year-around schedule. Instead of two fifteen-week semesters with a long summer vacation, we outlined three fifteen-week terms, divided by short two-week breaks.

I wanted Cooley to be a professional school. I wanted our students to learn about the antecedents of our legal system; to have an appreciation for the history of the common law, to feel a part of the ancient and noble profession. And so, I decided that the three terms would be named after the terms of the English Courts of Common Law: Hilary Term, beginning in January, Trinity Term, beginning in May, and Michaelmas Term, beginning in September. I told the students and the faculty that lawyers work all summer long and so do judges. They might as well get used to it. In any case, they had seven weeks of vacation every year, and that was more than most working people get.

The year-around schedule allowed us to do something else. We could cut back on the load each student was carrying. Instead of two semesters of fifteen credit hours each, they could take three terms of ten hours each, and still graduate in three years. This was a critical aspect of Cooley's program. It meant that our students were technically taking a part-time program. They could have a full-time job, go to school and still finish in three years.

But as we noodled out the three-term schedule, we confronted another problem. How do you populate a year-round law school? Here again, tradition said that new classes were only admitted in September. That's just the way it was. I could see no reason why we couldn't admit a new class every term. To distinguish them, we named each class after a deceased Supreme Court justice. It was another way to connect our students with the history of the law. Names like Cooley, Campbell, Christy and Graves revived the glory and celebrated the contributions of another era.

Since the day division only used the classroom from 8 until 10 in the morning and the evening division only used it from 6 until 8 at night, we had an empty classroom from ten in the morning until six at night. Why not an afternoon division?

And so began the unique Cooley matriculation scheme; three new classes every year, three divisions in session every day, three annual terms of school. We could, in fact, conduct the program for two years before we would have to add a second classroom. Day division freshmen could attend from 8 to 10 am and day division juniors from 10 until noon. The afternoon and evening divisions could also have early and late sessions. In short, we devised a system that allowed us to conduct classes 12 hours a day, 45 weeks a year.

It was and is, a grown-up educational program, intended for busy people who are serious about their education. Our standard ten-credit hour load had another benefit. We wanted to have a school of opportunity. We wanted to let every qualified applicant have a chance to succeed. It meant that right from the beginning, we were admitting many students whom other law schools were rejecting.

I insisted that the LSAT (the Law School Admissions Test administered by the Educational Testing Service) was really a kind of souped-up IQ test that rewarded quickness as much as basic intelligence. A modest score on the LSAT doesn't mean that the student is unqualified, or can't learn the law. He or she may take a little longer to master a subject, but when you know it, you know it, no matter how long it took to learn. I always used the homely analogy of filling a swimming pool. It can be done with a fire hose or a garden hose. Either way, it gets just as full.

Our philosophy envisioned a wide front door and a narrow back door. Give lots of people a chance to succeed, but make sure that no one graduates who has not measured up to a demanding standard of professional competence. It was a very old fashioned idea, but in 1974 it sounded like a radical departure from the norm.

And with unfamiliar names like Hilary, Trinity and Michaelmas, we would have a lot of explaining to do for the ABA.

THE WHITE YEARS BEGIN

In January of 1974, Indiana University Professor and former Dean James P. White took over as the consultant to the American Bar Association's Section on Legal Education and Admission to the Bar. His style was quite different from that of his predecessor.

He was new on the job. One of his first decisions was to transfer the consultant's office to Indianapolis. Whether because of that fact or due to the amount of travel he was doing, there was often a gap between the date of his letters and the date on which we received them. Jim White was cordial enough, but he had an implacable way of communicating that left no room for negotiation or compromise.

On May 13, 1974, I received a letter from Professor White informing us for the first time that a second inspection of our law school would be made. He enclosed the original of a previous letter apparently written seven weeks before, on March 28, but never mailed. That letter notified us of the results of the Houston meeting of the accreditation committee in February, another seven weeks previously. The committee had denied accreditation, referring to the 13 exceptions set out in the January inspection report.

We thought we had answered all 13 objections. We had a dean. We had hired the six professors. We adopted the attendance policy and the tenure policy. What else did we have to do? Professor White's letter said that he would plan another inspection during the first or second week of June. That made no sense to me. The council's resolution said that I was to appear before the accreditation committee at its July meeting in Chicago. There was no time for another inspection visit.

I called Jim White and urged him simply to ask Dean Boden and Professor Oliver to return for an update of their prior report. He insisted that couldn't be done, saying that it was customary to have a second inspection and that it was not the practice to send the same team. I urged him to appoint inspectors immediately and to instruct them to write their report while they were in Lansing, so that we could prepare our response in time for the July meeting. He promised to set up a visit on June 9, 10 and 11. That visit fizzled because he neglected to name inspectors.

Finally, after many phone calls to members of the council and the accreditation committee, Jim White named inspectors for a June 27, 28 and 29 visit. The team was chaired by Lindsey Cowan, Dean of Case Western Reserve Law School, who had just previously chaired the State Board of Education's evaluation of Cooley. He was joined by Alfred Meyer, Dean of Valparaiso University Law School and Professor Jon Schultz of the University of South Carolina.

When the team adjourned and prepared to leave Lansing without drafting a report, I was surprised. I called Jim White. He promised that the report would be ready in time for the July meeting in Chicago. As late as July 12, we still had no report, but on that date, Bob Krinock flew to Cleveland and obtained an unofficial copy from Dean Cowan. The official copy of the report was mailed out on July 17 and landed on my desk in Lansing two days after we returned from the Chicago meeting.

After eight pages of dealing with the specifics of library, physical plant, faculty and the like, the report concluded with these ominous observations:

"Finally, it should be noted that the Cooley policy with reference to the ABA standards is to achieve minimum compliance, and Dean Brennan has stated that the school will do whatever is necessary to accomplish that goal. But Standard 105 provides that "an approved school should seek to exceed the minimum requirements of the standards." Members of the team are of the opinion, based on Dean Brennan's comments, that he does not share this aspiration and indeed may question the relevance of the standards for the conducting of a sound program of legal education. Apparently the Dean espouses a philosophy of legal education which is at odds with at least the underlying assumptions of the standards. He has begun a law school (1) which will operate around the clock (three full-time divisions meeting morning, afternoon and evening) and around the year (three 15-week semesters); (2) which will admit entering classes three times a year; (3) which will be staffed predominantly by a part-time faculty; and (4) which will have no affiliation with a university."

The report went on to say that Cooley was planned as a different law school, an alternative to the traditional approach to legal education, and suggested that we might make application for a variance from the standards.

It was, to say the least, a most unlawyerly conclusion. Standards are standards. The very word means a measurable requirement, something you can be said to do or not do. A bright line for compliance versus non-compliance. It is gibberish to have a standard that requires a school to exceed the standards. Is it supposed to ratchet up the requirements by 10 percent across the board? Or double? Does one dean now mean two deans? Six professors mean seven? A tenure policy mean two policies? What nonsense!

Not one of the five complaints with which the team concluded their report were violations of ABA standards. Nor were they even alleged to be. The gist of their objections was that Cooley was not like their schools, and I was not one of them.

It was an attitude we were to hear expressed many times over the next thirty years.

FRUSTRATION IN CHICAGO

Back in 1971 when I initially proposed to start a law school, my former law teacher, Stanley Beattie, mentioned the name of Harold Gill Reuschlein, founding dean of the Villanova School of Law, suggesting that he would be a valuable resource. Now, in the summer of 1974, I was to encounter Professor Reuschlein for the first time. He was then the chairman of the accreditation committee of the Section of Legal Education and Admission to the Bar of the American Bar Association.

The accreditation committee and the council of the section would meet during the ABA's annual meeting in Chicago during the week of July 17. We assiduously prepared leather bound agenda books for each of the committee members, embossed with their names. Or so we thought. On arriving at the meeting, I discovered that we had neglected to prepare a book for one person, Harold Reuschlein, the chairman!

Of course, we had an extra book which we gave him, but it was obvious that the slight to the chairman was a much larger negative than the embossed books for all the others would offset.

Our meeting with the accreditation committee began as all accreditation meetings seem to begin; with an hour long wait outside the door. When we were finally invited inside, there were ten people around a large table. I took a chair, and on invitation, launched into a description of the qualifications of our teachers, since the fact that we had not hired teachers from other law schools seemed to be a sticking point.

When I finished, I was asked some leading questions which pretty much told me what the committee were thinking. Didn't I have problems functioning both as president and dean? Why did I think practicing lawyers would be better teachers than experienced law teachers who had never practiced? How many of our students had full-time jobs? And what did I have to say about the inspectors' comment that I didn't buy into the ABA's philosophy of legal education?

After an hour of this sort of adversarial banter, we were dismissed. No clue as to when we would hear about their decision. No mention of what would happen next. We hung around outside the door for the rest of the day and all of the following day, Friday, July 19. The executive director and the president of the Association of American Law Schools were allowed into the committee room, but we were not. No representative of Cooley would be in the room when they acted on our petition for approval.

At 6:30 that evening, I tracked down Jim White, who told me that the committee had not recommended provisional accreditation; that it had passed a three-page resolution, then being prepared. Within the hour, I had a copy of it.

I got back in Jim White's face. I had learned through another source that Cooley Law School was on the agenda of the Council of the Section of Legal Education the following morning. Was that true? Yes, Professor White confirmed that we would have an opportunity to go before the Council, if, after reading the accreditation committee's resolution, we still wanted to. I read it, and I wanted to.

That night, I called my friend Jim Brickley, then Lieutenant Governor of Michigan. I thought he might add a little weight to our presentation. One of Cooley's first teachers, he had a Master's Degree in Law from New York University. Once again we cooled our heels outside the meeting room for over an hour. When the summons came, we found ourselves sitting in chairs that lined one wall of the room, addressing a table ringed with Council members and a few others.

One member of the council stands out in my memory. Soia Mentschikoff, a graduate of Columbia Law School and the first woman partner in a major New York law firm, was a visiting professor at Harvard Law School even before women were admitted there. Moving on to the University of Chicago Law School, she met and married academic icon Karl Llewellyn. Later in 1974 she would become President of the Association of American Law Schools, and Dean of the University of Miami School of Law.

Professor Mentschikoff, for all her erudition, simply could not understand Cooley's three divisional, year-round academic program. Or at least she pretended not to. For nearly forty-five minutes, she grilled me with mumbo-jumbo questions that confused our terms with our divisions, our courses with our classes, and our unique three-semester academic year with typical summer school education.

I kept my cool, at least ostensibly. But inside, I was madder than hell. I had, for more than a dozen years, listened to lawyers argue their cases. Some very top advocates. I saw a lot of obfuscation and question-begging in the courtroom. I had plenty of experience with the give and take of an appellate court, both with counsel in the courtroom and with other justices in the conference room. I had never heard a more partisan, closed-minded, performance than she gave that day.

For a woman with such stellar credentials, her conduct was bush league, to say the least. I would soon learn that Soia Mentschikoff was only one of the good ol' boys who drove the ABA accreditation bus anywhere they damn well wanted to.

BEHIND CLOSED DOORS

On Saturday, July 20, 1974, The Council of the American Bar Association's Section of Legal Education and Admission to the Bar met at a hotel in Chicago and considered the application of the Thomas M. Cooley Law School for provisional approval.

Cooley was then a year and a half into the business of educating law students. Our first class of 76 students, the Cooley Class, was admitted in January of 1973; a second class, named for Justice James V. Campbell consisting of 150 students came on board in September of that year. Two more classes were organized in January and May of 1974 respectively, bringing the enrollment over 500. With another group of freshmen waiting in the wings to enroll in September, Cooley was about to surpass a student body of 700.

The genius of our three-division, three-semester program was that we would eventually have nine classes matriculating at any one time; three freshman classes, three junior classes and three classes of seniors. At each level, there would be a morning, afternoon and evening division section.

Now if every Cooley student were taking the standard curriculum of ten credit hours per term, we would be teaching a total of ninety credit hours. And if each full-time professor were teaching ten credit hours per week, we could deliver the entire curriculum with nine full-time faculty members. Moreover, if the seniors were being taught by part-time instructors (sitting judges and practicing lawyers) we would only need six full-time professors to carry the load.

On top of that, the ABA accreditation standards only required that the majority of the program be taught by full-time faculty. So all we needed was a minimum of 46 credit hours to be taught by full-time faculty, a little less than eight hours a week for each of our seven full-time teachers.

On Saturday evening, I was asked to meet two representatives of the council for breakfast the next morning. Professor Charles Kelso, of Indiana University Law School, who was then the chairman of the section, and Professor Paul Haskell of Case Western Reserve were assigned to share with me some of the concerns of their colleagues on the council. I was to bring documentation on the teaching loads of our faculty.

Bob Krinock, the former FBI agent who was my assistant dean, overheard Professor Haskell telling someone that he was surprised to hear me say that Cooley was located in Lansing. He thought it was in Detroit. This despite the two-inch thick briefing book we had supplied to him and the other council members.

On Sunday morning, I had the documentation. I was prepared to do the math again at breakfast, and if I couldn't persuade them that we had enough full-time professors, well, I'd just promise to hire some more people, hoping they would give me a number I could live with. But the discussion over coffee took a curious turn. They didn't seem as worried about how many teachers we had as they were about the fact that I seemed to be able to hire more teachers without a meeting of the faculty or the board

of directors. The council, they said, didn't like the ease and speed with which I seemed to be able to comply with their requests!

They went on to tell me that I had a reputation for being anti-intellectual, somehow disdainful of law school pedagogues who had no experience in the practice of law. I assured the gentlemen that I bore no malice toward any man, though admittedly I was not enamored with pseudo-intellectuals or educational elitists.

Nothing was heard from the council until much later when Bob Krinock and I had left for Lansing and called Jim White from the car. He told us we had been turned down, and that our application was referred back to the accreditation committee for further consultation. We were to report back at the mid-winter meeting in February, 1975.

Some days later, we were informed in confidence about the actual proceedings of the council that Sunday afternoon. It was a comedy of inept decision making. First, a motion was made to accept the recommendation of the accreditation committee. That motion was seconded and voted on, but failed to achieve a majority. Only two members were in favor. A motion was then made to grant Cooley conditional provisional approval. Of course there is no such thing as conditional provisional approval. Conditional and provisional are redundant. But the motion was supported and discussed at length before being withdrawn.

Then a new motion was made simply to reject our application without giving any reason. A vote was taken, resulting in a tie. The chairman broke the tie by casting his vote against the motion. Once again, a motion was made to grant Cooley conditional provisional approval and once again there was an extended discussion. Then a substitute motion was proposed. But the makers of the original motion refused to accept the substitute, so they voted on whether to permit the substitute motion to be made. That vote carried, with four dissenters, whereupon a substitute motion was made referring the matter back to the accreditation committee. That motion was adopted.

Cooley was in its infancy, and I was dean, president and czar. I thought the whole process would have been amusing, if it had not been so disappointing. But then, I had not yet had the pleasure of attending a full-scale law school faculty meeting.

ACADEMICALLY SPEAKING

I loved Bob Krinock. He was probably six foot three, had an infectious laugh, was unpretentiously bright, loyal to a fault, never late, completely unflappable and always dressed and groomed as he had been trained to do when working in J. Edgar Hoover's Federal Bureau of Investigation.

We traveled all over the country during the early seventies when Cooley's accreditation was at issue. Well I remember many long evenings at supper or bellied up to the bar when we would share impressions of the people we were dealing with; their attitudes, responses and the nuances of everything they did and said.

Bob had one curious peccadillo. He could never seem to pronounce the word "academician." It always came out "acamedician." He said it so often; it began sounding right to me. He said it often because; it seemed that the source of most of our difficulties lay in the perception that we, the dean and faculty of Thomas M. Cooley Law School, were not truly academics.

None of our faculty had prior experience teaching in other law schools. I was a judge, not a professor. In truth, our plan for Cooley was that it was to be an educational arm of the legal profession, rather than a law department of an educational institution. In an era when most university affiliated law schools fancied themselves as social policy laboratories, expounding new theories of law and training future political leaders and critical scholars, we were talking about preparing men and women to represent individual citizens and business organizations in their day to day affairs.

We wanted our people to know where the courthouse was, how to get there, and what to do when they got inside. Our mantra was 'practical scholarship in the law.'

The suspicion and disapproval of the academic community was patent. Charles D. Kelso, a professor at Indiana University School of Law, was then the chairman of the American Bar Association's Section of Legal Education and Admissions to the Bar. He presided over the council of the section, the 18-person body which would make the final recommendation for approval to the ABA's House of Delegates. Traditionally, the House rubber-stamped the council's actions.

After the parliamentary standoff at the council's meeting in Chicago in July of 1974, professor and chairman Kelso undertook to clarify the council's reticence to approve Cooley. He wrote and on August 1, 1974, sent to me a meandering 12-page memorandum, entitled "Reflections on the Standards and the Thomas M. Cooley School of Law."

His inversion of the law school's name was only the first flaw that caught my eye. The paper was rank with misspelling and typos. Had it been the work of a first-year law clerk when I was on the bench, it would have been summarily returned with appropriate marginal and interlinear notations.

But if the form of his memo warranted a 'D', the substance deserved an 'F.' One example of his jumbled double talk:

“It is also the case that an attorney whose practice calls for him to deal, say 90% of his time with people and 50% with books, can overlook the fundamental importance of his own organized understanding of legal principles and field interrelations and his skill in being able to use classifying systems, research skills and understandings of how law develops to find the law.”

As I read it, I wondered how an attorney whose practice takes up 140% of his time could manage to get any sleep. Maybe that’s how some lawyers are able to bill more hours than there are in a day.

Kelso eventually got down to brass tacks. This was his convoluted description of the attitude of the body of which he was chairman:

“The Council perceives, in my opinion that the school has not appeared to be sufficiently aware of the risks involved in seeking to accomplish the goal which it has chosen as its own. It has not adopted policies and programs, and has not recruited a person or persons whose experience indicates that he or she or they can be counted on to help remedy, in his or her or their teaching and influence on other faculty members, the risks which the school’s goal, (and the youth and inexperience and size of the faculty) creates.”

By page eleven, he was on a roll:

“Accordingly, the Council is concerned about whether the school has any mechanism (including people) by which to conduct a meaningful self-evaluation on a continuing basis that will take adequate account of the potential for educational strength and weakness which experience indicates is present in attempting to carry out the educational goal and philosophy stated by the school to be its own?”

Then came this bottom line:

“As the Council reviews the faculty, including the dean, it does not find a clear indication of this potential.”

I called it ‘gobble de goop.’ Bob Krinock said he was just another ‘acamedician.’

DISPELLING THE WHITE FOG

On August 5, 1974, I received a letter from ABA consultant James P. White officially conveying the bad news that Cooley's application for provisional approval had been sent back to the accreditation committee. I replied immediately.

"Dear Dean White:

We have received your letter of August 1, 1974, which sets forth the resolution of the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association, adopted on July 21, 1974.

Your letter does not, however, address itself to the mandate of Rule 1(8) of the Rules of Procedure for the approval of law schools.

That sub rule requires the Council, through the consultant, to report to the dean,

"... setting forth wherein the school fails to meet the standards and Council interpretations ..."

Your letter makes no attempt to inform Cooley Law School "wherein it fails to meet the standards."

Rather, your letter states that the inspection report expresses the concerns of the Council, and then calls our attention to 12 separate sections of the standards, which are simply transcribed verbatim from the printed standards.

The 12 standards recited in your letter are not related to the inspection report.

For example, you call our attention to standards 201, 203, 205, 206, 207, 209, and 210.

The inspection report, at page 9, says:

"Standards 201 through 211 concern generally the organization and administration of law schools. The team believes that the Thomas M. Cooley Law School meets these standards..."

Now if the inspection report says we meet the standards, and if the inspection report expresses the concerns of the Council, why do you call our attention to these standards?

The Board of Directors, officers, faculty, and students of Cooley Law School are firmly committed to full compliance with the ABA standards. This commitment was made known to Professor Millard Ruud, Consultant on Legal Education to the ABA, when he visited us over a year ago, and has been constantly reiterated since that time.

Cooley Law School has now been inspected on three different occasions by a total of six deans, two head librarians, and one professor.

With respect to its physical plant, its library, its faculty, its administration, and its academic program, Cooley has been found in compliance with all applicable standards of the American Bar Association.

The Council has now chosen, without stating its reasons, to withhold provisional approval for Cooley Law School at least until the mid-winter meeting in February, 1975, thereby postponing for Cooley students the equal protection and benefit of certain federal laws relating to student financial aid, and certain state laws and court rules relating to admissions to the bar.

In its home state of Michigan, Cooley Law School already enjoys the recognition and approval of the State Board of Education, the State Board of Law Examiners, the State Bar of Michigan, and the encouragement of the Supreme Court, the Court of Appeals, and the leaders of the legal profession, including the State Delegate to the American Bar Association.

We invite you to come to Lansing and visit Cooley Law School. The members of the Council and its accreditation committee are also being invited to visit the school.

If you believe that still another inspection team should be appointed, and still another inspection report prepared, I urge you to nominate the inspectors at an early date so that their work may be completed in an orderly and timely fashion.”

I sent copies of my exchange with Dean White to 46 people, mostly Council members and accreditation committee members. I invited them to come and see us.

There was no rush to our front door, but in November, Jim White and Millard Ruud did come to Lansing and they met with our board, faculty and students. I thought perhaps the ice was melting. On November 19, 1974 I wrote Jim White thanking him for visiting us, and summarizing the progress I thought we had made. My letter concludes by saying that we had agreed on January 12 through 15, 1975 as dates for a further inspection of the school. I added a reminder that Rule 1(6) provided that the inspectors be agreeable to the school.

It was to prove a sticking point over the coming weeks.

A CLACKING DISTRACTION

The feelings of optimism and good will that were generated by Jim White's visit in late 1974 were soon dissipated. He insisted that there would have to be another inspection of the law school before our request for provisional approval could be reconsidered at the February mid-winter meeting of the American Bar Association.

His reason? "It's our policy."

O.K. If there must be another visitation, why not simply ask the last inspection team to return and update their findings?

"It can't be done."

"Why not?"

"It's our policy."

I asked for a copy of the published policies of the Council. Not possible. They are being revised. I reminded the good Professor that the rules of the ABA Section of Legal Education and Admission to the Bar required that the Council's interpretations and policies be published.

Yes, he knew that. But they still weren't available.

About this time, I decided that I needed to talk to a lawyer. No, I wasn't looking to sue anybody. I just wanted to sit down with somebody who was experienced in the practice of law as opposed to the world of legal academia. Somebody who would understand the process of negotiation. Somebody who could and would make a decision and stand firm on a commitment to accredit the school upon proof that we had cleaned up whatever punch list of requirements remained on the table.

I set up a dinner meeting in at a hotel near O'Hare Airport in Chicago with two men I thought would listen: Sharp Whitmore, a lawyer from Beverly Hills, California who had served for many years as the liaison between the Council and the House of Delegates of the ABA, and Richard Nahstall, a Portland, Oregon attorney, who was the Chairman-Elect of the Section of Legal Education and Admission to the Bar.

It was a meeting I shall never forget. I believe that I hosted the dinner. I can't remember what we ate, though I'm sure it was to their liking. Conversation during the meal was mostly small talk, and as we sipped on coffee, I began to make my pitch. I tried to convey a sense of urgency and frustration. We were barely a year away from graduating our first class. We had been inspected and reinspected *ad nauseam*.

Wasn't there something that reasonable men of good will could agree upon to bring this seemingly interminable process to a conclusion?

My dinner companions sat and stared at me in stony silence. Every time I paused, asked a question, or invited a comment, the icy quietude was punctuated by the incessant clack, clack, clack of two spoons in Dick Nahstoll's left hand being pinched together. Over and over. For more than an hour. Every word I spoke had to compete with his hostile clacking. At one point, I stopped and simply stared at the spoons in his hand, hoping he would see how annoying it was. I have no doubt that, later, they had a good chuckle about frazzling the judge with the old clacking spoon trick.

As trying and unproductive as the dinner was, its conclusion spiked my blood pressure even more. Sharpe Whitmore off handedly observed that the Accreditation Committee would be meeting on January 16 and the Council on January 18 to consider the accreditation of law schools.

I was shocked. The Section's rules called for the Council to meet at the annual and mid-winter meetings of the ABA. Jim White and I had agreed on January 12 through 15 as the dates for the visit. It was my impression that the first opportunity for us to be considered was in February. Now the committee was meeting a month earlier. There would be only 24 hours for the inspectors to prepare their report.

I fired off a letter to the consultant quoting from previous correspondence on August 6, September 27, October 11, and November 19 in which I had urged prompt appointment of inspectors.

In due course I received a letter naming the new inspection team. Unfamiliar names. I dug up their curriculum vitae. I read some of their writings. Academic elitists all. I called Jim White. I quoted the Council's procedural rule which stated that the inspectors were to be agreeable to the school. I told him the people he proposed to send were not agreeable.

As autumn inched toward winter, I was growing impatient. On December 9, I wrote Jim White a letter expressing my concern that we were heading for another hurry-up inspection report for the February meeting. Before I could mail it, a letter arrived from his office again assuring me of his good intentions. So I called him on the phone. He came up with four names.

A CAUSE TO CELEBRATE

On January 2, 1975, I received a letter from the American Bar Association's Consultant, James P. White, suggesting three persons for the upcoming reinspection of the law school: Professor Peyton Neal of Washington and Lee, Dean Harold Wren of Richmond, and Dean John Murphy of Saint John's University School of Law in New York.

Their appointment was too late for a visit and report to be completed before the January meeting of the Council. We would not be considered until the mid-winter meeting of the American Bar Association, scheduled for February in Chicago.

Dean Murphy chaired the inspection team. Under his leadership, the members went about their work in a business-like and professional manner, producing a report which concluded in these words:

"The current team is of the opinion that the exceptions and possible exceptions specified in earlier reports about the Thomas M. Cooley Law School have been either eliminated or substantially improved to the point where their elimination is imminent and that the Thomas M. Cooley Law School is organized and operated in substantial compliance with the Standards of the American Bar Association."

The words were music to our ears. This time there should be no vacillating, no equivocation, no double talk and delay. The bottom line was there for all to see. There could be no basis for the Accreditation Committee or the Council to ignore the flat out conclusion of the inspectors.

Still, I was wary. I began to accumulate information of the processes and procedures of the House of Delegates, the 600 or so member governing body of the American Bar Association. It was their resolution, after all, which would officially recognize Cooley as an approved school. Would it be possible to override a negative decision by the Council? How would we go about it?

Fred Beusser Jr. was the State Delegate from Michigan. Wally Riley was in the chair to run for the presidency of the ABA. I bent their ears and tapped into their contacts. It would be a tricky and delicate bit of maneuvering to get the matter on the docket of the House if it did not come up as an agenda item on the report of the Council. And even assuming that we could get a hearing, how could we educate 600 delegates about our cause and its merit? Surely there would be an enormous inertia favoring acquiescence in the decision of the Council.

I determined to take our petition public. I had a family contact with a major Chicago advertising firm. Don Mahlmeister had married my first cousin. He was bright, energetic, and willing to jump into the fight. Together, we drafted a full page advertisement detailing the Cooley story and urging ABA delegates to do what was, under their own rules and consistent with every precept of decency and fairness, the right thing.

Don called his contacts at the Chicago Tribune and alerted them to the possibility that we would be coming in at the very last minute to buy the ad. The Accreditation Committee would meet Thursday and Friday, February 20 and 21. The Council would meet on Saturday and the House of Delegates would convene on Monday and Tuesday of the following week.

It wasn't until late Friday afternoon that we received a copy of the Accreditation Committee's report. It rather grudgingly recommended provisional approval for Cooley, while still expressing concern over some of our policies.

Time was running out. We had to make a "go-no-go" decision about the Tribune ad by the close of business on Friday, and do it without knowing what the Council would do the next day. All along, the Council had been more difficult than the Accreditation Committee. Cooley President Jack Coté, Phil Marco, Chairman of Cooley's Board of Directors and Associate Dean Bob Krinock were with me at the Palmer House Hotel. We decided to scrap the ad, and summon reinforcements from Lansing.

I contacted Carl Schwedler, President of Cooley's Student Bar Association, and urged him to get up a delegation of students and come to Chicago immediately. By sun up on Saturday, Carl was in the lobby of the Palmer House with Student Bar Secretary Richard Shoemaker, Law Student Division Representative Jim Woodworth, Student Bar Senator Mike Makulski, and Marshall MacFarlane, editor of *The Pillar*, Cooley's student newspaper.

After the usual delays, time and room changes, our delegation was seated in a large meeting room where twenty-odd members of the Council listened to our presentation in near total silence. I felt the lack of argumentative questioning was a nod to our students. Afterwards, our intrepid band assembled in the bar off of the hotel lobby and waited while Krinock, Schwedler and MacFarlane, prowled the upstairs corridors in search of news about the outcome.

Finally, Bob Krinock appeared flush with excitement. The Council had voted to recommend provisional approval for Thomas Cooley. He heard it directly from the Consultant and the Chairman of the Accreditation Committee, neither of whom extended a hand in congratulations.

That they stayed in character only heightened the delight of our celebration.

DEAN ... AND/OR ... PRESIDENT?

One of the ‘concerns’ expressed by the American Bar Association about Cooley Law School was the fact that I was serving both as President and Dean. Being rooted in the governance structure of the typical university, they saw the President as the source of money for the law school and the Dean as the decision maker with respect to spending.

If I was both Dean and President, who did I fight with? And conversely, who fought with me? They seemed to find it inconceivable that the Board of Directors, the administration and the Dean and faculty could all be on the same page.

In early January, 1975, I wrote to the Board:

“I do not believe there ever was a conflict of interest between my roles as dean and president. Our school, being a corporation organized and existing solely for the purpose of operating a law school, never needed more than a single chief executive officer.

“A dean is customarily the chief academic officer of each of the colleges within a university. The ABA and others are accustomed to the notion that every law school has a dean. Indeed, ABA standards require that the school have a full-time dean, and specify many of his powers and duties.

“When it was suggested that the ABA was concerned over my dual role, I saw no reason for the matter to be a stumbling block to accreditation. Looking to the model of such institutions as the Detroit College of Law, where G. Cameron Buchanan, a practicing attorney, is president, and John Abbott is dean, it seemed to me that it is entirely possible to divide the offices without detriment to the school.”

My memorandum went on to point out that, while ABA standards required that a law school be governed by a board, they limited the authority of the board to “establishing general policies” and vested total operational authority in the “dean and faculty.” Thereupon I expressed an opinion that surely separated me from the mainstream of American legal education:

“I confess that I am not altogether pleased with this concept. I see it as a rule that law schools are to be run by law teachers, and only generally guided by the representatives of the profession and the public who serve on the governing board.

“I believe this leads to inbreeding of law school administration; pressure to spend money on projects which primarily benefit teachers; a complete rejection of any cost-benefit analysis of new schemes and programs; and the flowering of an attitude that the duty of the board is to raise money for the educators to spend without any corresponding control over the nature of the expenditures.

"It proceeds from the supposition that only law teachers can decide what is good legal education; that the dean and faculty are the 'experts' and the governing board is merely a source of support for the school and for them.

"Too many American law schools are now completely operated by their faculties. The faculties have gained control over the selection and retention of their own membership, and over the selection of the dean as well.

"If Cooley Law School is to fulfill its intended mission of providing legal education which is responsive to the felt needs of the practicing bar, the sitting judiciary, and the consuming public then it is imperative that the Board be representative of their interests, and that the direction and operation of the school be kept in the hands of persons immediately responsible to the board."

I concluded by suggesting that I continue as dean, that I report to the board, and that an unpaid, volunteer president be chosen from among board members. I appointed a nominating committee which returned with the names of Phil Marco as Board Chairman, and Jack Coté as President.

Interestingly, the issue of a combined deanship and presidency seems to have exhausted its importance on me. Some years later Tom Reed served as President and Dean of South Texas School of Law and Leigh Taylor is designated Dean and Chief Executive Officer of Southwestern University Law School, which has no president. More recently, Cooley's Dean, Don Leduc has been elected my successor as President and he holds both positions without complaint from the American Bar Association.

Which is as it should be. The ABA has no standard on the subject. I have no doubt that the Bar's complaint about me was merely another incarnation of the old "proprietary school" issue; the discomfort they felt because I was the founder of the school, the unspoken suspicion that I had too much to say about its governance, and was or might somehow be using the school to line my own pockets.

Perhaps because of the *Free Press's* negative campaign against me in 1973, I was perceived as a lightning rod for public criticism. That attitude reached right into the Cooley boardroom. Early in 1975, I sought an increase in my salary. I had agreed to work for Cooley for the same salary I had been receiving at the Supreme Court, \$42,000 a year. That was the compensation I had obtained for the court when I was Chief Justice in 1970. So by 1975, I had not had a raise in five years.

I asked for \$72,000. The board choked collectively. They appointed a committee, deliberated and delayed. As the months went by without action, I simply told them that I would bill the school for my services at an hourly rate, like any other lawyer. That arrangement continued for nearly the rest of 1975.

The board members were all my friends, and I'm sure were looking out for what they conceived to be my best interests. But the bottom line, as I saw it, was that my biggest liability was me.

LOCKING HORNS AGAIN

As 1975 began, I felt pretty good about Cooley Law School. We had achieved provisional approval by the American Bar Association in near record time. Our first class, named for Judge Cooley himself was in its final year. In January of 1976 we would conduct our first commencement exercises.

I suppose I had assumed that once the law school was provisionally accredited, we would be more or less members of the club; that the severity and skepticism with which we had been evaluated would dissipate; that the rite of initiation having been fulfilled, the hazing would cease.

Had I been more suspicious, of course, I might have seen some ominous message in the fact that, concurrent with our provisional approval, the ABA had adopted a new policy requiring annual reinspection of provisionally approved schools. Previously, the rule merely said that a provisionally approved school had three years in which to achieve full approval, apparently leaving it to the school to set up a reinspection when they felt ready.

So it was that while we were preparing for the inaugural Cooley graduation, renovating the sixth floor auditorium, drafting a script for the ceremony, looking for a distinguished speaker, and designing and purchasing academic robes, a letter arrived from Jim White announcing the names of four persons selected to reinspect Cooley Law School.

The Chairman of the inspection team was University of Denver Law Librarian Alfred Coco. The other three were Henry Ramsey, Jr. then a University of California law professor, later to become a federal judge, Robert R. Wright III, Dean of the University of Oklahoma Law School, and William Sumner, an Atlanta lawyer. They would prove to be the most hostile visitors we ever had.

The inspectors arrived on campus on Sunday, November 9, 1975. Associate Dean Bob Krinock, Head Librarian Peter Kempel and I entertained them for dinner at the Machus Red Fox restaurant on West Saginaw. The conversation was cordial, but guarded. I met with them briefly for coffee the next morning. It was to be the last chance I had to talk to them before the exit interview. Characterizing a group of student leaders with whom a luncheon had been arranged on Monday, as 'handpicked,' they randomly recruited a cohort from the corridors and invited them to the motel for a beer-and-rap session. These students made a strong impression on the inspectors, their only concerns being that they felt the grading policies were too strict and they wanted to be able to take courses at other law schools in order to avoid professors whom they regarded as too tough.

On the evening of November 11, 1975, Bob Krinock and I met with the inspection team for an exit interview. During the course of that meeting, we heard a number of startling and troubling comments. They criticized our faculty employment contracts. They said we weren't paying our teachers enough; that we would have to pay more than the established schools in order to woo experienced professors away from other law schools. They insisted that we needed to hire faculty with experience in other law schools. They said we needed more teachers, claiming that as a new school, our student teacher ratio should be lower than the national norm. They didn't like our curriculum, which they described as

too rigid. They said no other law school has so many required courses. Despite the fact that the ABA standards explicitly leave the division of authority between the dean and faculty to the discretion of each institution, they complained that I had too much power and the faculty too little.

Professor Ramsey chimed in to say that in his view the school was “too much of a Brennan dictatorship.” They expressed the view that my salary was higher than the average law school dean.

Before the meeting was over, the inspectors made it clear that they felt their mission was to conduct a ‘*trial de novo*’ respecting our accreditation. Dean Wright stated that he would not have voted to provisionally approve Cooley in the first place.

True to form, the process of consideration of the inspectors’ report was irregular. Professor White had originally set November 25 as the deadline for the team’s report. Chairman Coco flatly stated that the committee could not meet that deadline. On December 4, a “rough draft” of the visitors’ report landed on my desk, along with the news that the report would be considered by the council on December 10 in San Antonio. I hastily prepared a responsive letter and sent Bob Krinock to Texas to deliver it to Jim White. In it, I wrote:

“Time does not permit a detailed response to the report in this letter. But, taken as a whole, the report is subjective, superficial, inept, contradictory and riddled with inaccuracies.

“One glaring shortfall will serve to show what the report is like. Its discussion of the library consists of three sentences!

“On this skimpy basis, the Council is asked to overturn the scholarly, workmanlike Murphy report which devoted over ten pages to the evaluation of our library.”

Bob hand delivered my letter to the ABA consultant in the lobby of the La Mansion Hotel. While opening the letter, Jim White casually told Bob that the Cooley report would not be considered at that meeting because Professor Coco had called him on Monday to say that the report was incomplete.

Of course, nobody had bothered to call us.

GRADUATION DAY

The first commencement exercises at Thomas M. Cooley Law School took place on Saturday, January 18, 1976. Sixty seven students from an original class of seventy five received their diplomas.

We had spent one hundred thousand dollars refurbishing the auditorium on the sixth floor of the Temple Building. Fred Graham, then a reporter for the New York Times assigned to cover the United States Supreme Court was our guest speaker.

I had a sense that it was an historic occasion. My remarks to the graduates still ring with the significance of the day.

“In this the 200th year of the independence of the United States of America, we – all of us here this afternoon – have given our community, the state and the nation unique and exciting evidence that the spirit of the colonial revolution survives among us.

“Benjamin Franklin wrote glowingly of a country where land was cheap; where opportunities abounded; where the professions were open to all who would learn; where craftsmen eagerly welcomed apprentices; a place where a spirit of optimism and the expectation of future growth so permeated the thinking of people that the stifling protectionist customs and laws of Europe were utterly rejected.

“The Frenchman Chastellux said much the same thing, ‘You have no real poor. You are so surrounded by resources that even those with little wealth look expectantly to the future. But, he said, ‘perhaps you believe in equality merely because for practical purposes, you already have it.’

“Then Chastellux asked a troubling question. ‘Now sir, let us suppose that the increase of your population may one day reduce your artisans to the situation in which they are found in France and England. Do you in that case really believe that your principles are so truly democratic that the landowners and the opulent will still continue to regard them as their equals?’

“That troubling question posed the issue that was still in doubt 87 years later when Abraham Lincoln stood at Gettysburg and called the Civil War a test of whether a nation dedicated to the proposition that all men are created equal could long endure.

“And that question presents the issue again for us in this bicentennial year. Can the American Dream of human equality continue to exist when all the land is occupied, and all the frontiers have been crossed, and all the natural resources are so exploited and depleted that even the water and the air must be guarded against waste and destruction?

“Is our belief in equal opportunity for every person to be replaced by a determination to manage the lives of people as though they were trees or lakes or barrels of oil?”

Then, after a few words of warning about monopoly in the professions and elitism in academia, I addressed the graduates directly:

“My dear young friends, you are graduate lawyers today because in 1973 you dared to become revolutionaries. Surely you would have preferred not to fight. Just as the colonials unsuccessfully entreated George III to be reasonable, many of you sought admission to other established law schools in vain.

“And perhaps there was a sense of almost exasperated desperation as you very literally pledged your lives, your fortunes and your sacred honor to a new, untried, indeed a non-existent law school.

“You stood together through the long Valley Forge winter of 1974 and crossed the Delaware last year to win the national accreditation you deserved.

“Today is your Yorktown. We surrender our hearts and our admiration to each of you. You have fought the good fight and you have kept the faith. You have proven to a cynical world that the day of creativity and adventure has not darkened. And you have astounded the dubious with the achievement of your purpose.

“Because of you, America is a little bit more a land of opportunity today. Because of you the door to the great and learned profession of the law is opened a little wider today.”

Then I finished with this admonition:

“If in future years you should perchance be troubled by the quicker sounds of younger footsteps following you on the path of your chosen career and if you should hear shrill and frightened talk about an oversupply of lawyers — I urge you to remember where you came from.”

Now, thirty years later, more than ten thousand Cooley graduates are practicing law in courtrooms as far flung as the island of Guam in the Pacific. Our pride in that first class was not misplaced.

NO LET UP

The euphoria of the first graduation didn't last long. On February 2, 1976, I received the official copy of the Coco team's inspection report. I immediately poured over it, making marginal notations whenever prompted by a spike of my blood pressure.

The thirty-nine page document was rife with innuendo, misstatements, false assumptions, and arrogant accusations. Concluding that Cooley was not in compliance with ABA accreditation standards, the inspectors took it upon themselves to pronounce a death sentence for the school. On page 33, they concluded:

"This institution has a fatal long-term budgetary flow [flaw?] which appears unlikely at this time to allow it ever to aspire to any more than a marginal operation as a private law school. Unless it can obtain substantial additional resources, it will not be in a position to provide a sound legal education. Its most pressing financial needs, as pointed out in the report, are for faculty, library, physical plant, retirement of debts, student aid, and special functions such as placement and CLE. [Continuing Legal Education] The litany of needs is long, and the report details out each area."

Their animosity toward me was palpable. After noting that my salary was higher than most law school deans, they opined:

"We are concerned that Cooley might be non-profit in the legal sense without being non-profit in a educational sense."

Whatever that might be. They added:

"We must state that, to our knowledge, no other institution is so heavily controlled by its dean."

Of course, they had to concede that under ABA rules, the division of authority between the dean and the faculty was entirely optional for each school. Still they thought it a point of criticism that I was so much in charge.

One of the inspectors' recommendations sounded an ominous note:

"In reference to consultants, the school should invite consultants experienced in legal education to advise the administration and faculty about matters such as curriculum, programs, faculty recruiting, etc."

That bit of advice echoed a not-so-subtle suggestion by one of the inspectors, made privately to a member of our board of directors that he was available to consult with the school for a reasonable fee, plus expenses.

As negative as the Coco team's report was, it did not recommend lifting our provisional approval. The conclusion was:

"We hereby recommend that full ABA approval be denied at this time; that provisional approval as granted by the ABA [in] February 1975 continue provided substantial effort is demonstrated by Cooley on or before the next scheduled ABA inspection, that it has corrected most of the deficiencies written in this team's report."

I fired off a four page response on February 5. In it, I addressed, item by item, and page by page, the false statements, misleading comments, baseless innuendos and unsupported opinions which riddled the report.

I concluded by renewing a request that Jim White had denied previously. I wrote:

"We would hope that next year's inspection team will be more impartial; and to that end, we will insist upon an invitation being extended to our State Board of Law Examiners to participate in the visitation as required by ABA procedural rules and HEW criteria."

The participation of any state agency having jurisdiction over a law school in its accreditation inspections was expressly required by ABA rules. That didn't faze Professor White. He blithely informed me that the requirement only applied to the state of New York, even though there was no such restriction in the rule. It was an explanation better suited to dialog from Alice in Wonderland than to a communication between two lawyers.

On February 24, Jim White sent me a copy of the final draft of the Coco Committee's inspection report. Despite my detailed objections and corrections and thirteen pages of similar protests from our faculty, not a word of the report was changed. Jim White's letter went on to say that the report had been routinely considered at a February 11-15 meeting of the Accreditation Committee and the Council of the Section of Legal Education.

I thought it curious that, while he referred to meetings of the committee and the council some ten days before his letter, he made no mention of what, if anything, had been decided. I suppose I just assumed that 'routine consideration' would probably result in routine adoption of the recommendation of the inspection team.

In dealing with the ABA, I experienced many surprises. This time, I was in for a real shock.

A SHOCKING RESOLUTION

On March 25, 1976, more than five weeks after the meeting of the American Bar Association's legal education Council, a ten page letter from Consultant James P. White landed on my desk announcing the action the ABA had taken. The letter was addressed to me and to Jack Coté, who was then president of the school.

As was his custom, the Consultant began by reminding us that the American Bar Association is the official accrediting organization for legal education as recognized by the United States Department of Health, Education and Welfare. That officious tone permeated the rest of the letter, as he quoted verbatim the resolution adopted by the Council and recited, word for word, the provisions of one ABA standard after another.

The bottom line, which left me shaking my head in disbelief, was that the Council had determined that Cooley was not in substantial compliance with the standards of the American Bar Association for approval of law schools and that unless we were able to convince them that we had eliminated all of their 'concerns' they would initiate a proceeding under Rule IV to take away our accreditation.

I took pen in hand immediately. Copies of my answer were directed to every member of the Council and the accreditation committee as well as our board of directors and faculty. After reminding Professor White that the Thomas M. Cooley Law School had been provisionally approved by unanimous vote of the ABA's House of Delegates on February 25, 1975, I wrote:

"I'm sure it must be obvious to you that fundamental considerations of fairness and administrative and procedural due process of law require that any action which is proposed to take away vested rights of our students must be based upon a change of circumstances occurring subsequent to February 25, 1975.

"Nowhere in your letter of March 23, 1976, or in the Council resolution which you have quoted, or in your extensive verbatim repetition of the language of the Standards have you mentioned or suggested that there have been any changes in the status of compliance of Cooley Law School with the American Bar Association Standards which have occurred subsequent to February 25, 1975."

The action of the Council, I told him, should be reconsidered, unless they could cite some retrogression by the law school. Jim White wrote back, saying that we would have the opportunity to respond in writing with regard to the deficiencies shown in the Coco team's inspection report prior to April 15, 1976 and if we didn't resolve things satisfactorily by then, the matter would go on the accreditation committee's next agenda to decide whether to hold a Rule IV hearing to revoke our approval.

His letter, dated April 8, arrived on April 12, three days before the deadline. I answered on the 12th:

"Your letter of April 8 still fails to clear up our concern. We understand perfectly well that we are entitled to a hearing before the Council considers any recommendation for removal from the approved list. That is not the point."

After reminding him that Rule IV speaks of a failure to "maintain" and not a failure to "achieve" compliance with ABA standards, I argued that the rule is aimed at schools which have declined in quality, and was not a vehicle to reconsider approval already granted. Then I said:

"The inspectors you sent here came with the mistaken notion that nothing that had gone before was binding on them. They specifically informed us that their visit was a '*trial de novo*.' I quoted ABA Rule III(3).

"A provisionally approved or fully approved school is expected to maintain the qualitative level which justified its approval ..."

I insisted that we were entitled to be told clearly and in what particulars we had failed to maintain the qualitative level that justified our approval more than a year before. Then I concluded:

"It is simply unacceptable to say that a new regime has taken hold of the Council; a regime which disagrees with decisions made in the past.

"We recognize that there are some on the Council who believe that independent, professionally oriented law schools should be forced to affiliate with universities and dilute their professional emphasis with interdisciplinary programs and a wider philosophic approach to the law. But we believe that this view is a matter of opinion on which men of good will and sound judgment may differ."

They apparently didn't think so.

BACK ON DEFENSE

Facing a threat that Cooley Law School would be summoned to a hearing to show cause why its provisional accreditation should not be revoked, I wrote a six-page letter to Consultant Jim White contesting each of the ten so-called 'deficiencies' alleged against us.

It was a daunting task, largely because the litany of complaints were vague, non specific, and unsupported by allegations of fact. For example, the first claim was that Cooley had not demonstrated that it had a program consistent with sound educational policies. The standard quoted, number 103, required that a school demonstrate that it has a program consistent with sound educational policies "...by establishing that it is being operated in accordance with the standards."

In other words, they were saying that we were not in compliance with the standards because we had not demonstrated that we were in compliance with the standards.

How can you answer that?

I pointed out that the law school had been found to be in compliance by the ABA House of Delegates a year before. I pointed out that eighty-two percent of our graduates had passed the bar exam in February of 1976, a passing ratio equal to that of the prestigious University of Michigan.

What else could we do? What else could I say?

The second claim was that we did not have the resources necessary to accomplish the objectives of our educational program.

More nonsense. In three years time, we had accumulated assets in excess of a million dollars, consistently operated the school in the black, and graduated students who passed the bar and entered the profession. We were meeting our objectives.

They claimed our faculty were not involved in scholarly research and writing. I replied that one professor alone had written six books and edited over 400 other titles.

They said we didn't have enough faculty. I answered that we had more than twice the minimum required number of full-time faculty members.

They complained that our faculty did not have the major responsibility for the development of the educational program. I responded that Standard 205 requires academic policy to be set by "the faculty and the dean" and that Standard 207 provides that the allocation of authority between the dean and the faculty is a matter for determination by each institution.

Their sixth allegation, I branded as “ludicrous.” They said we did not maintain conditions adequate to attract and retain a competent faculty. I pointed to the ABA’s own statistics to show that Cooley’s faculty salaries were tied for the third highest in the nation.

I branded their seventh claim as more double talk. While conceding that we had enough law books in the library, they said we didn’t have enough other kinds of books to make up for the fact that we were not affiliated with a university. And this despite the fact that our school was just down the block from the Lansing Public Library.

Number eight was, as I declared, “... so blatantly false that it is difficult to comprehend how it could be advanced in good faith.” They claimed that we didn’t have a full-time librarian! Peter Kempel was one of the first people I hired at Cooley. He was a lawyer, and had his Master’s Degree in library science. He had been employed as a law librarian at the University of Detroit. He was a full-time employee of Cooley and indeed held tenured faculty status. His job was to build the Cooley library, and he had taken us from ground zero to 63,000 volumes in less than three years.

The ninth claim was that we did not have adequate office space for part-time faculty. I answered that we had just acquired an 80,000 square foot building, which placed us among the largest law school physical plants in the country. There was, I said, plenty of room for offices.

Their final beef, that we didn’t have enough seating capacity, was also without substance. We had always provided study places for more than 40% of our students, as required by the standards. I finished by saying:

“...we have learned, despite your failure to inform us, that the accreditation committee is scheduled to meet in Washington, D.C., on or about May 18 and 19. We perceive that it is your intention once again to consider the status of Cooley Law School without permitting us to be present or to be heard.

“This course of action does not bespeak an effort to assist Cooley Law School or to encourage our advancement and growth. On the contrary, your upcoming unannounced meeting appears to be but one more episode in a long continued policy of obstructing the creation of new law schools, discouraging law school growth and limiting the number of young men and women who are able to enter the profession of law.

“The American Bar Association has no right to use its accreditation process as a means of providing protection for its members from the competition which might come from new lawyers. Just the opposite is true. The American Bar Association ought to see that the torch of learning is passed freely and generously to the next generation.”

CALLED ON THE CARPET

The meeting of the ABA's accreditation committee in Washington, D.C. on May 18 and 19, 1976 was another one of those clandestine, closed door sessions at which they liked to make confrontational decisions.

My six-page defense was hand delivered to Consultant Jim White by Bob Krinock on the eve of the meeting. Copies were also delivered to each member of the accreditation committee.

Within hours of the concluding session on May 19, Harold G. Reuschlein, Dean of the Saint Mary's University Law School in Texas, and Chairman of the ABA accreditation committee wrote to me and to Phillip Marco, Chairman of the Cooley board of directors notifying us of the action taken by the committee.

"NOW, THEREFORE BE IT RESOLVED, that the Chairman of the Board of Trustees and the Dean of the Thomas M. Cooley Law School are hereby notified, pursuant to Rule IV, Rules of Procedure for Approval of Law Schools by the American Bar Association, that a hearing shall be held as soon as possible after the expiration of 30 days after the date hereof to determine whether the Thomas M. Cooley Law School is in substantial compliance with the Standards, and, if not, what steps should be taken."

His letter ended with a chilling reminder that if our law school were removed from the list of approved schools, our graduates would not be eligible to take the bar examination in almost every state, and with the added warning that they intended to get the matter of Cooley's ouster before the House of Delegates "at the earliest practical date."

Reuschlein's letter arrived on May 24, 1976. Looking back, I am amazed by the number of things that were on my plate at that time. I was about to become a candidate for the Republican nomination for the United States Senate. In just three days, on May 27, 1976, my forty-seventh birthday, my campaign committee would file some 20,000 signatures with the Michigan Secretary of State petitioning to put my name on the August Primary ballot.

Needless to say, I was in no mood for aggravation from the American Bar Association.

My May 25, 1976 reply to Dean Reuschlein was short and to the point:

"Your letter of May 19, 1976 was received here on May 24, 1976.

"You make reference to a letter to me dated April 8, 1976 from E. Clinton Bamberger, Jr. No such letter was ever received by me.

"Your letter purports to give us notice "pursuant to Rule IV" of the Rules of Procedure for Approval of Law Schools.

“Your attempt to give us notice as required by Rule IV is fatally defective for two reasons:

“First, Rule IV requires ‘a notice for a hearing on a certain date.’ You have not given us a certain date for a hearing.

“Second, Rule IV requires the notice to come from the Council. You write as Chairman of the Accreditation Committee, and you refer to a resolution of the Accreditation Committee. There is no suggestion of Council authority for the purported notice.

“Incidentally, I see that your letter refers to a Sub-Rule (2a) of Rule IV, authorizing the Chairperson of the Council to appoint a Hearing Commissioner.

“This Sub-Rule is not part of the published Rules circulated by the Council. We would appreciate being informed when this new rule was adopted and what other rules have been adopted which have not been published as required by the Standards.”

Two days later, Bob Krinock got an ‘oops’ letter from Jim White to the effect that Dean Reuschlein’s reference to a Bamberger letter was intended to refer to a letter he, White, had sent to me on April 8.

Of course, the Board of Directors and the faculty of the law school were up in arms over the decision of the ABA to try to take away our provisional approval. Peter Kempel, our head librarian was particularly incensed, as the Coco report had all but claimed that we had no librarian at all. He wrote directly to Jim White, and I backed him one hundred percent.

In July, I received a form letter from the Consultant’s office:

“This past year your law school was reinspected on behalf of the American Bar Association. I am writing this letter to seek your suggestions in helping us in the further improvement of the program of reinspection. ***I would appreciate very much receiving your candid and confidential comments on the effectiveness of each member of the team that visited you on our behalf. In addition, I would appreciate receiving your candid suggestions as to ways in which we can improve the reinspection program.”

Sure you would, Jim. Sure you would.

THE OLIPHANT COMMISSION

On Wednesday, September 1, 1976, at 9:20 A.M., the American Bar Association's Rule Four hearing commission convened at the Thomas M. Cooley Law School.

There were three commissioners; the Chairman, Professor Robert E. Oliphant of the University of Minnesota Law School, Professor Frances Farmer, the head librarian at the University of Virginia Law School, and John E. Nolan, Jr., an attorney from the District of Columbia. In addition, Dean James White, the Consultant to the ABA Section of Legal Education and Admission to the Bar, was in attendance as consultant to the Commission.

We had decided that we would treat the Commissioners as quasi judicial officers. The old Red Room, which stretched across the West end of the sixth floor of the school building was outfitted as a courtroom. The Commissioners were to be seated on a raised platform in the center of the room. Counsel tables and a witness chair were set up before the tribunal. A court reporter was retained. We were ready.

Professor Oliphant began by stating that the hearing was to be closed and that there would be no sworn testimony. I took immediate exception, and the Chair ruled that we could allow anyone we wanted to attend, and that if we wanted our witnesses to testify under oath, that was our privilege.

At the outset, I pointed out that Cooley had been provisionally approved by the House of Delegates of the American Bar Association in 1975, and I insisted that since vested rights of our students were at stake, the law school was entitled to due process of law before any decision to withdraw our accreditation could be made.

That due process, I pointed out, involved essentially three things: an impartial tribunal, an objective standard against which we were to be measured, and a fair opportunity to be heard.

Chairman Oliphant then assured us that the Commission would be interested in dealing with each of the concerns expressed by the Council in Jim White's March 23, 1976, letter to me, and that it would want to hear our position on all of the claimed deficiencies detailed in the Coco report.

The Chairman then listed some forty-one exhibits we had submitted, including a copy of the Standards adopted by the American Bar Association. We made it clear that we didn't want to be judged by the subjective opinions of the members of the Commission.

And so began our presentation. Bob Fisher and Bob Krinock, our two Associate Deans were sworn as witnesses and took the lead, calling on 17 witnesses who, step by step and paragraph by paragraph, answered every charge contained in the Coco report and the Council's letter.

Roger Imeson, lead partner of Danielson and Schultz, our certified public accountants, described our financial statements, pointing out that they were prepared in the manner required by the American

Institute of Certified Public Accountants. He patiently detailed the various items of asset and liability and explained them in simple terms understandable by anyone. Bill Schoettle, our capable controller, established his educational and experience credentials, and explained the Cooley budget process. Those two witnesses, along with Dean Bob Fisher, completely debunked the Coco report's assertion that Cooley's finances were questionable.

Lou Smith, then serving as President of the law school, took the oath and testified concerning our faculty and administrative salaries. He presented evidence of the other 14 independent law schools, all of which enjoyed ABA approval, and showed that Cooley's level of compensation was not only competitive, but was in fact higher than the average.

Jack Coté, a former President of the law school, testified that during the Coco team's visit, its chairman had suggested that Cooley needed to hire an educational consultant; that he, himself was available for such work and even mentioned the amount of his regular per diem fees. Jack made clear that we did not take kindly to such impropriety.

Peter Kempel, our founding librarian, defended his role ably, and along with Deans Fisher and Krinock completely refuted the reckless charge contained in the Coco report to the effect that Cooley did not have a full-time librarian. Professor Farmer opined that she didn't think that a head librarian should have any teaching duties. We reminded her that the Standards permitted librarians to teach, and while she held to her views, I was satisfied that she would not impose her personal opinion on us.

Phil Marco, our Board Chairman, and Barry DeVine, President of the Alumni Association added their important perspectives on employment of our graduates.

Finally, we treated the Commission to a parade of our senior faculty members; Roger Needham, Jack Rooney, Pete Jason, Ron Trosty, Don LeDuc, Elliot Glicksman, Bill Weiner and Quenda Story; every one of whom demonstrated professional competence, leaving no doubt about the quality of our teaching staff. Fred Abood spoke for our large cadre of adjunct teachers.

Responding to questions by Dean Krinock, each of them testified that the Coco team spent little or no time observing them in the classroom or engaging them in private conversations.

I was pleased to show Jim White our solidarity and determination.

A FAVORABLE VERDICT

By August of 1976, my excursion into the nether lands of partisan politics had run its course. The Republicans chose Ann Arbor Congressman Marvin Esch as their candidate for the United States Senate. I ran a distant second in the Primary Election.

As it turned out, the voters did me a favor. I was able to turn my undivided attention to the Rule Four hearing ordered by the American Bar Association to revoke Cooley's accreditation. It was scheduled for Wednesday, September First.

We had a good feeling about the Oliphant Commission hearing. The panel listened attentively to all of our testimony and they appeared to be interested in the numerous documents we offered in evidence.

But as the weeks went by and September morphed into October and October gave way to November, there was more than a little cause to worry about the Commission's report. After all, we had experienced so many disappointments and so much disillusionment in dealing with the American Bar Association. It wasn't hard to conjure up another frustrating scenario.

The transcript of the September 1 hearing consumed nearly four hundred pages of text. It took a while to prepare and still more time for the Commissioners to digest. It wasn't until December that the Commission's report landed on my desk.

By then, I had already been informed by Dean Jim White, the ABA's Consultant on Legal Education that Cooley was due for yet another inspection. I replied by suggesting that it take place near the end of March of the following year.

That exchange gave me some hope. If the Oliphant Commission was going to recommend revocation of our accreditation, why would they be talking about another routine re-inspection? Or was it possible that the next inspection would merely be staged to confirm a decision to put us out of business?

The answer came in a welcome missive from Professor Oliphant and his colleagues. Their eighteen page report was a complete vindication of our position, our program and our status as an approved law school.

While the Commissioners declined to point a finger of blame toward anyone, it was clear that they understood our pique over the way the Coco team had gone about their assignment. Quite pointedly, they observed that we had been told that the Coco team would not recommend decertification; that the first draft of their report did in fact recommend it; and that we had reason to distrust the ABA.

After a thorough discussion of what the Commission called the Coco report "mix up," the Commissioners got down to the nitty gritty issues or 'concerns' that had been alleged against us.

My heart jumped for joy as I read their conclusions.

"It was alleged that the law school does not have a program consistent with sound educational policies. The Commission was unable to find support for this allegation."

The Commission's report went on to find that we had adequate financial resources; that our faculty were in fact heavily involved in academic research and writing; that we did have a sufficient number of full-time faculty without administrative responsibilities; that our faculty did have responsibility for development of the academic program; that we did maintain conditions adequate to attract and retain a competent faculty; that there was no evidence to conclude that our library collection was insufficient; that our librarian, professor Peter Kempel, met the definition of a full-time librarian; that we had enough office space; and that we provided sufficient seating capacity for our students.

On point after point, the Commission concluded, that it was unable to find support for the ABA's allegations; that it found no evidence to support the allegations, or that the evidence was insufficient to justify the ABA's conclusions.

It was a high moment of satisfaction for me. The three Commissioners, Professor Robert Oliphant, Professor Frances Farmer and attorney John Nolan were, after all, appointees of the American Bar Association. Our opponents had picked the jury, but the verdict was all ours.

In January of 1977, our Board of Directors met and I reported in detail about the Oliphant Commission report. The mood in the room was euphoric. A motion was made and adopted that I should petition the American Bar Association for immediate full approval. After all, the Commission's findings seemed to dismiss all of the Bar's reservations about us. There was really nothing else for us to do.

In February of 1977, the accreditation committee and the Council met and received the Oliphant Commission report. In their usual grudging and negative fashion, they adopted a resolution which simply acknowledged that the Oliphant report was received, and there being no basis to revoke our prior approval, provisional accreditation of Cooley Law School was continued.

They gave no consideration to our request for full accreditation.

MY FRIEND LOU SMITH

Louis A. Smith was one of the three original incorporators of the Thomas M. Cooley Law School. I'm sure at the time he agreed to sign the articles of incorporation, he had no idea what demands would be made on his time, talent and resources over the next twenty years.

Despite his own burgeoning law practice, Lou always made time for Cooley. His financial generosity included the donation of a working oil well near Traverse City. By 1977, he had been chosen by the Board of Directors to be the president of the school, and he was deeply involved in the American Bar Association inspection that took place in late March of that year.

On March 31, he wrote to the Board:

"On Tuesday, March 29, 1977, Dean Brennan, Associate Dean Krinock and I had the opportunity to meet with the ABA visitation team. To refresh your memory, said team is comprised of the following:

Dean Frank Read of the University of Tulsa Law School

Dean Colin Gillis of the New England Law School

Judge Theodore Goodwin of the Ninth Circuit Court of Appeals

Professor Cameron Allen, a Librarian from Rutgers University Law School

"The queries made by the team regarding the Board and officers of the Thomas M. Cooley Law School focused in the general areas of function, roles and goals. After discussing such topics for an hour or more, Dean Read (an ostensibly friendly chap) asked if there were any questions. The following question was then put to the team, "How do you envision your role in the ABA accreditation process?" It was apparent that the team was not totally sure of their role, particularly regarding the propriety of a "bottom line," recommendation regarding approval (pro or con) and envisioned the team role as one of fact-finder. We impressed upon them the crying need for such a recommendation in that we are certain that Professor White *et al* will not on their own initiate full approval. Dean Read agreed to clarify the role of the team in this visit with Professor White and will notify us as to his instruction. He cautioned that White has taken the position that the team exceeds their authority when recommendations are made."

Lou felt that we should insist on a recommendation; that Judge Goodwin, particularly, would not be satisfied with a mere fact-finding role. He later quoted Judge Goodwin as saying that Cooley "... looks like a good old-fashioned law school." Lou did not view the team as a Trojan Horse.

On June 2, 1977, President Smith sent the Board members a copy of the inspection team's draft report, calling attention to its concluding paragraph:

"It is hoped that the above focus on all of the specific standards questioned in the Coco Report will aid the accreditation committee in its deliberations. One adjective has been overworked in this report, and that word is "unique." But the Cooley Law School is indeed a unique blend of the very traditional

and the very innovative. If this report has, in some way, enabled the accreditation committee to glimpse the unique character of Cooley Law School, its beginnings, its early growth, and its philosophies of legal education, it has been a successful endeavor on the part of the inspectors."

On July 20, President Smith reported to the Board that he and I, accompanied by Associate Deans Krinock and Fisher, had met with the accreditation committee at the Notre Dame Law School. His summary:

"Mr. Nahstoll, using the technique of 'paraphrasing out of context' attempted to posture the recent ABA inspection team report in an unfavorable light. Incredible as it may seem, Mr. Nahstoll concentrated not on what the report said, but what it did not say."

Lou told the Board that we had ordered a transcript of the meeting, which we would send to the members of the visitation team. We looked to them to rebut what we heard in South Bend.

Lou Smith's assessment was on the mark. On August 9, 1977, he again reported to the board:

"On Saturday, August 6, 1977, The Thomas M. Cooley Law School took, in my opinion, a great step toward full accreditation. With the aid of Federal Judge Alfred T. Goodwin, a member of the immediate past visitation team, Dean Brennan made an eloquent plea for full accreditation to the Council on Legal Education. The presentation resulted in a motion and second for full accreditation for The Thomas M. Cooley Law School! After much discussion, a 6-6 vote was tallied. The chair then exercised its option to vote and a final vote of 6-7 against full accreditation was noted.

"The Council has determined the only remaining questionable area re full compliance is whether or not 12 full-time professors at the Thomas M. Cooley Law School are sufficient."

Professor Tom Shaffer of the University of Notre Dame Law School was detailed to talk to us about the issue of student-teacher ratio. Lou Smith felt we were closing in on our goal. I hoped he was right.

STUDENT TEACHER RATIOS

The team of visitors selected to reinspect Cooley in 1977, chaired by Tulsa Dean Frank T. "Tom" Read, did a good job. Their comprehensive 31 page inspection report revealed that the visitors understood Cooley's unique tri-semester system. We expected their report to influence the accreditation committee favorably. We were disappointed. When Lou Smith and I went to South Bend to attend the accreditation committee meeting, we found an atmosphere of skepticism pervading the room.

How was it possible, they asked, for Cooley to teach 888 students with only 12 full-time faculty members?

Tom Read and his colleagues had spelled out our teaching assignments. They demonstrated that our full-time faculty were teaching all of the required subjects which consumed more than two-thirds of the entire curriculum. They confirmed that our teachers were assigned no more than six hours of class time each week, well below the eight hour ABA maximum. They acknowledged that our faculty were primarily responsible for establishing the academic program, and recognized that our faculty were indeed engaging in legal scholarship to enhance their teaching skills.

Still the raw numbers kept the committee clucking about what they conceived to be our inadequate faculty. Eight hundred eighty-eight students! Only twelve professors! How was it possible?

Back in the late 1950s and early 1960s, when the American Bar Association's control over law school accreditation was taking hold, the Council adopted a minimum standard for student-teacher ratios. They said that an approved law school must have at least one full-time professor for every seventy-five students. By 1977, they had repealed that clear line standard, and replaced it with a fuzzy requirement that a school should have "a sufficient number of full-time teachers to fulfill the requirements [of the ABA standards], and meet the needs of its academic program."

On August 6, 1977, the accreditation committee met and resolved to send Notre Dame Law Professor Thomas L. Shaffer to see me and convey the sense of the committee that Cooley needed to hire more teachers. His message was that the ABA wanted us to meet a 35 to 1 student teacher ratio.

Once again we were confronted with a requirement that was nowhere to be found in the standards or the interpretations of the standards. I wrote to Judge George Leighton, Chairman of the ABA's Council on Legal Education, and asked for an explanation. Two weeks later, I received a three-page reply from Jim White. Without telling me what ratio was satisfactory, he pointed out that student teacher ratios of 40:1, 39:1, and 38:1 had been found not in compliance with the standards.

Lou Smith was a practical lawyer, skilled in resolving disputes, particularly between management and labor. He asked the crucial question: Could we afford to hire enough teachers to meet the ABA's demands? I conceded that it was possible, especially if we could convince the ABA that our students

were almost all 'part-time' students within the ABA's definition. For student-teacher ratios, they counted a part-time student as only two-thirds of a full-time student.

Thus our enrollment of 888 would equate to only 591 full-time students, requiring just 17 professors to meet a 35:1 ratio.

Because of our unique, year-round program, our students typically took ten credit hours a term, all of which were offered in a specific four hour period, either morning, afternoon or evening. By matriculating in nine consecutive terms, they were in residence for more than the 120 hours required of part-time students. And they had large blocks of time each day to permit them to be gainfully employed.

Of course there were always a few students at Cooley who accelerated their schedules, pushing to graduate in as little as twenty-four months intensive study. They had to be identified and required to sign affidavits affirming that they were not employed more than 20 hours a week.

Professor Shaffer reported to the accreditation committee in November that we would have 20 full-time teachers by January, 1978, bringing the ratio below 35:1.

The accreditation committee would meet in San Antonio on November 11; the Council would meet in Miami in mid-December.

Professor Shaffer didn't think it was wise for us to go to San Antonio. We weren't invited. The committee's agenda was full. Still, we were nervous about letting the committee meet and discuss Cooley without at least making ourselves available to set the record straight. Bob Krinock and I flew to San Antonio.

We were completely shut out. All we got for our trouble was a belated apology from Jim White for having failed to see our messages or find a moment to see us.

On December 12, 1977, President Louis A. Smith reported to the Cooley Board of Directors that we had attended the Council meeting in Miami, that we were closing in on accreditation, but that we faced another, "mini" inspection before the February 1978 ABA meeting.

The long saga was playing itself out. All we could do was wait and hope.

REMEMBERING NEW ORLEANS

In the aftermath of the terrible destruction wrought by hurricane Katrina along the northern coast of the Gulf of Mexico, it is difficult to conjure up the memories of our trip to New Orleans in the winter of 1978.

Back then, the city whose name is now synonymous with tragedy and human suffering was a prime convention destination; a town full of fun, food and frolicking visitors to the French Quarter.

The mid-winter meeting of the American Bar Association was held in New Orleans that year, and among the thousands of lawyers from all over America was a hope-filled contingent from the Thomas M. Cooley Law School in Lansing, Michigan.

By then, I fully expected that Cooley would win the final approval of the Bar. Unlike the nail-biting, hair-pulling agonies of previous American Bar Association meetings, this was to be a celebration. I invited our entire Board of Directors and their spouses to join us on the trip, and I told the men to bring their tuxedos.

Lou Smith, the President of the school and his lovely wife Karen were among the first to accept. I was particularly pleased that he would be there. I well remembered the rejoicing that followed our opening session five years before. On that night, board members and their guests repaired to the old Lansing City Club on Grand Avenue, in whose Rathskeller we dined after the opening ceremonies. On that occasion, Lou stood and offered a toast to Thomas M. Cooley, after which, mimicking a scene from some long forgotten movie, he turned with a flourish and tossed his champagne glass into the fireplace. It was such a brash and heady gesture that I was moved to repeat it. Before the evening was over a half dozen toasts had been offered and an equal number of champagne flutes had been shattered against the andirons. Lou picked up the tab for the broken glassware. I knew he would be great fun in New Orleans.

It didn't take long. Hardly had Polly and I settled into the hotel room, when there came a knock on the door announcing that Cooley's President had arrived. He burst through the door delivering a hilarious monologue about accreditation committee members and their curious proclivities, and the tone for the week was set.

Oddly enough, I don't recall the details of the actions taken by the accreditation committee or the Council of the Section of Legal Education and Admission to the Bar during that week. Suffice it to say that the critical deed got done; Cooley Law School won the full accreditation of the American Bar Association; rubber stamped, as customary, by the unanimous vote of the 600 members of the House of Delegates.

To say that we were euphoric is to put too small a name on it. We were ecstatic, giddy, wildly pleased with ourselves. And we were in a mood to celebrate.

We prowled up and down Bourbon Street. At one point, lunching to the saucy beat of a jazz quartet, Phil Marco, our Chairman, struck up a conversation in the men's room with movie actor David Wayne who was working on location at the time. That led to a spate of lavatory humor. Later, while our wives waited out front, Lou Smith, Bob Krinock and I tipped a bouncer to throw us unceremoniously out of a saloon. Whereupon the ladies left us to go shopping for gag gifts to be presented to the men at dinner.

For dinner, I had reserved a private room at the Commander's Palace, one of the Crescent City's most elegant eateries. There were twelve of us: Phil and Marilyn Marco, John and Laurabeth Fitzgerald, Jim and Mary Ryan, Bob and Sharon Krinock, Bob and Marian Fisher, Lou and Karen Smith, and Polly and myself.

This time, though many toasts were offered, no glasses were thrown into the fireplace. There was, however, a great good humored ceremony in which Polly Brennan, Sharon Krinock and Karen Smith presented their gag gifts to each member of the board. And, of course, there were many heart felt, impromptu speeches.

Our little band of true believers had come a long, long way. Looking back, I marvel at our youth, our optimism, our Chutzpah. We had begun with a dream, with words on a piece of paper, with ideas and promises. Now there was a law school. There were a thousand students, dozens of employees, two buildings, and a growing library.

Most of all, our existence was now recognized by the prestigious national association of our fellow lawyers.

More than a hundred years before, Thomas M. Cooley had been the president of the American Bar Association. Despite his preeminent position in the legal profession, and his sterling reputation as a legal scholar, writer, teacher and jurist, Cooley was unceremoniously dumped from the Michigan Supreme Court by the voters in a failed reelection bid, largely because of the opposition of the *Detroit News* against whom he had ruled in a libel case.

Now this larger than life lawyer was back on the front page, back in the national limelight. He had returned as the embodiment of practical scholarship in the law. He had come back as the patron saint of working men and women for whom the opportunity to seek a law degree was an open road to the American Dream.

At long last, Judge Cooley had come home to stay.

THE END OF AN ERA

The accreditation wars were not really over, of course. Cooley's full approval by the American Bar Association was accompanied by the adoption of a new procedural rule which required newly approved schools like Cooley to be reinspected in three years, rather than the traditional sabbatical or seven-year inspection cycle.

Still, a three-year lull was a welcome respite. It gave me the opportunity for the first time in five years, to take a deep breath and look around at my life and my career.

From the beginning, I had been the dean and the chief operating officer of the law school. I had come to academia from the judiciary. A trial judge is king in his courtroom. I had been a trial judge. Later, as chief justice, I was the head of the third branch of government, accustomed to giving orders and making decisions.

Nothing in my experience prepared me for the shared decision making culture of the academy. I ruled by edict. I drafted the script for the graduation ceremony. I organized the Society of Graduation Marshals and selected the members. I picked the graduation speaker. I hired professors, and when necessary, gave a few of them their walking papers.

I created a system of grade appeals, unique in the nation, by which students could seek review of their exam answers if they felt they were unfairly marked.

I like to think that my tenure as dean was marked by a benign sort of paternalism. For example, when our controller, Bill Schoettle asked if he could charge students a \$20 fee for bouncing tuition checks, I declined. It seemed to me that if a student was bouncing checks he or she was in dire financial straits and didn't need a punitive fine on top of other troubles. Instead, I instituted a policy by which check bouncing students were required to prepare and file in my office an affidavit fully explaining the reasons why they had issued a check without sufficient funds in the bank. I felt the exercise would be good practical training in the drafting of legal documents, and I suspected that students would see the affidavit as a greater deterrent than the \$20 fine. I was right.

My relationship with the faculty was of a similar stripe. Early on, I decided that we should have a system of faculty compensation which avoided the possibility of strife. It seemed to me that a full professor of law ought to live in the same neighborhood, drive the same type of car, and enjoy the same lifestyle as a circuit court judge. So I initiated a policy which came to be known as the 'tie bar.' Full professors were paid at the level of the judges. Associate and assistant professors were paid a percentage of that salary. Some years the judges didn't get a raise. Some years they got big raises. In thirty years as CEO of Cooley, I never heard a complaint about academic compensation.

Of course, I expected the faculty to work as hard as judges, too. No long summer vacations. And deadlines had to be met. The legal profession, not the academic world was to be the milieu in which our school functioned.

I dictated the schedule for reporting grades to the registrar's office by faculty members. By and large, the faculty complied. On the one occasion when my deadline was labeled too onerous by a certain professor, I invited him to bring the cardboard box containing his exams down to my conference room. Then I summoned the entire faculty, seated them around the conference table, and together we corrected the exams in a few hours.

Needless to say no one on the faculty wanted to do that again, so exams were graded seasonably thereafter.

In the early years, the faculty were just happy to be teaching, and were content to leave all the administrative business to me. But as time went by, and the parade of ABA inspectors passed through our doors, and our faculty began to attend meetings of the American Bar Association and the Association of American Law Schools, and the numbers of professors grew, and the faculty itself was organized into a faculty conference with a chairman and a secretary, that contentment began to wane.

By 1978 faculty meetings at Cooley were becoming more like faculty meetings at all the other law schools. Highly intelligent men and women, accustomed to having the floor in their classrooms and brimming with opinions and ideas about which they are eager to articulate at length have a way of extending discussion and decision making to the outer reaches of my attentiveness.

The Cooley Board of Directors met three times a year, in January, May and September. The May meeting was the annual meeting at which officers and directors were elected. At the meeting of Saturday, May 13, 1978, I tendered my resignation as dean of the law school, requested that I be granted a sabbatical leave, and nominated Associate Dean Robert E. Krinock to be my successor.

At the same meeting, J. Bruce Donaldson was chosen president of the school and I was elected vice president. Unfortunately, nothing was said about who was to be the CEO.

OUR SECOND DEAN

Bob Krinock was introduced to me by Mike Devine. Mike had served as my law clerk when I was first elected to the Supreme Court. Later, when I was appointed chief justice, Mike undertook the duties of my chief of staff.

The Detroit riots of 1967 had left the criminal dockets in Wayne County a shambles. Literally thousands of cases were pending. Some defendants, unable to make bond, were lingering in jail for more than a year.

We determined to undertake a crash program to clean up the mess. Mike suggested I talk to Bob Krinock, an FBI agent then working in Chicago. Bob had attended the University of Detroit High School and had gone on to take his law degree at the U of D.

He turned out to be just the man for the job. Together we reopened the old Recorders Court Building, recruited District Court Judges from all over Wayne, Oakland and Macomb counties, and doubled the effective size of the Detroit Recorders Court. Bob did a marvelous job of cajoling, nudging, and motivating the various local government officials into cooperation.

That was in 1970. Over the next eight years, Bob Krinock and I became the very closest of friends. He was my appointee, my protégé, my squash playing partner, my traveling companion, my confidant, my body guard, and my drinking buddy. Not that there was ever any disrespect or over familiarity on his part. Bob always called me ‘judge.’

When John Swainson and G. Mennen Williams, two former Democratic governors, were elected to the Supreme Court in 1970, I knew that my tenure as chief justice was at an end. Bob graciously tendered his resignation, taking a job as a governmental relations specialist for Wayne County.

We stayed in touch over the next few years, and when I started the law school, I urged Bob to return to Lansing and work with me at Cooley. He did, and from 1973 until full accreditation was achieved in 1978, we traveled all around the country attending meetings and drumming up support for Cooley.

Bob had an easy, contagious, sometimes outrageous, sense of humor. In many ways, he was like a fun loving teenager. His friends had long since dubbed him “Crazy Krinock,” usually shorted to the nickname “Craze.” His father was a long time squash professional at the Detroit Athletic Club. Once, during one of our spirited squash matches at the old YMCA in downtown Lansing, I broke one of Bob’s front teeth with my racquet. The loss of the tooth was not nearly as troubling to him as the fact that he had to go to the dentist to get it fixed. Bob didn’t like going to the dentist. His explanation: “I can stand anything but pain.”

Not long after that incident, Bob introduced me to his mother and dad who had come up to Lansing for a visit. His mother eyed me warily. “Are you the man who broke my son’s tooth?” she asked.

Before I could answer, Bob's dad intervened. "He should have gotten out of the way," he announced sternly, and I got a sense of where Bob learned his manly code of personal responsibility.

Nominating Bob Krinock to be my successor as dean of the Thomas M. Cooley Law School came almost automatically. He had been with me from the beginning, had served on the board, had helped devise the year around academic calendar, had supervised the clerical staff, and managed the faculty.

Unfortunately, we never really detailed what his appointment was to mean to both of us. Quite properly, he expected to be the dean in the same sense that I had been the dean. He was decisive, respected, self assured. He shared my vision of what kind of a law school we had created. But I'm also sure that he had some dreams and aspirations of his own. I'm certain that he wanted to put his own fingerprint on the history of Thomas Cooley Law School. Properly so.

At first, I intended to play a limited role. I bought a little house in East Lansing, and outfitted it as an office. I didn't want to have a physical presence that would overshadow Bob's administration. Nevertheless, I still considered myself the chief executive officer of the school. I thought of Bob as the chief academic officer, in much the same way as deans of university law schools are described. Having been his boss for so many years, I guess, I just assumed that Bob would continue to defer to me, at least on important matters.

Not surprisingly, our relationship changed over the next two years. We spent less time together. He was busy at the school. It was a time of faculty ascendancy. He had his hands full trying to accommodate the new mode of faculty governance. When I read in the paper that Cooley Law School intended to purchase the old drive-in bank property from the state of Michigan, I realized that, if I was to continue as Cooley's CEO, I had to become more active in corporate decision making. By September of 1978, my sabbatical was effectively over.

507 SOUTH GRAND

By the late 1970s Cooley was bursting at the seams. True, our year-around, three-divisional system made it possible for us to teach nearly 1,200 students with only a few classrooms, but a student body of that size generates a lot of office work. And our offices were overcrowded.

For some time, we had talked about the possibility of acquiring the vacant lot which adjoins the Temple building on the North. It had been a drive-in bank operated by the old Michigan National Bank. The bank itself was on the northeast corner of Allegan and Capitol. Across the street, on the southeast corner, the bank had constructed an office building, known as the Stoddard Building, named for Howard Stoddard, a principal organizer of the bank. The two buildings were connected by a tunnel under Allegan Street.

Sometime before 1979, the bank had sold the Stoddard building to the State of Michigan, which had converted it to offices for the members of the state senate and their staffs. The vacant drive-in was part of the deal. It was promptly turned into a parking lot for senate staffers. It still is, at this writing, more than thirty years later.

Several overtures from Cooley to senate leadership were met with cool reactions. I thought that they had foreclosed any negotiations.

Bob Krinock thought otherwise, and hoping to galvanize some support among senators, leaked a story to the *Lansing State Journal* to the effect that we were interested in the property. While it didn't cause any senators to get on the bandwagon, it got my attention, and I was soon back downtown getting involved in Cooley's space problems.

Bob had rented the little building at 507 South Grand, in which we had conducted our first classes, to the Lansing Community College. It was a good source of income to us and an accommodation to a sister educational institution. But by 1979, LCC had vacated the building. It was empty. We needed space.

And so it was that 507 South Grand became the Administration Building. Brother Ray Brennan skillfully designed offices for staff on the first floor and built a large, elegant office for me on the second floor.

My sabbatical was over. I was back at Cooley full-time, but no longer involved directly with the day to day academic operations. I succeeded Bruce Donaldson as president of the school. My job was to think about the big picture.

I needed to develop a vision for the future of Cooley. We were not part of a university. We were not a public institution entitled to taxpayers' support. How could we be assured that the law school would survive the vicissitudes of the market place?

One avenue I thought worth exploring was to look at all of the other free standing law schools in America. How were they doing? And how did they do it?

There were, at the time, fifteen such independent law schools. Some, like Brooklyn Law School, John Marshall in Chicago, and Southwestern in Los Angeles were among the largest colleges of law in the nation. Others, like Detroit College of Law and the Dickinson School of Law in Pennsylvania, were among the oldest. I visited them all, spoke to their deans, saw their physical plants, learned about their histories and their missions. I went to the new ones then seeking accreditation: Vermont, Franklin Pierce, Delaware, Midwestern, Antioch, International, Potomac.

Some did not survive. Others, like DCL, Dickinson and Midwest have been subsumed by universities.

Somehow I concluded that a feasible road to economic stability lay in the creation of a nonprofit conglomerate, of which the law school would be but one entity. The leading entity, to be sure, but still only one of several related nonprofit enterprises. It seemed to me that we could diversify, just as major corporate businesses do, thus having our eggs in several baskets, as it were.

Among the first of these endeavors was the incorporation of the Cooley Lawyers Credit Union. I had had some experience with credit unions during my law practice years. I had seen the credit union movement grow, and I had witnessed a number of credit unions become major financial institutions.

The lawyers of Michigan, as an economic group, did not have a credit union. There were upwards of 20,000 lawyers in the state. I envisioned a strong, thriving financial institution with close ties to Cooley.

And so we did it. Started a credit union. Organized a board of directors consisting mostly of Cooley graduates. We hired a manager, and encouraged our students to open accounts.

Not all of my ideas are winners. As promising as the notion may have been on paper, in practice, it failed to deliver. I had to take much of the blame, since I was involved in the hiring decisions. We ended up with a manager who somehow concluded that her job was to honor every check our students wrote irrespective of how much money they had in their accounts.

After she was replaced, the credit union operated in a crisis mode for a couple of years, until we were able to morph it into the State Employees Credit Union, a multi-million dollar financial institution which proved to be a safe harbor for our members.

Another of my initiatives was the Legal Careers Institute. That was a school for legal secretaries and paralegals which I put together with the encouragement of Ken Wiebeck, a former administrator of Davenport College who had come to work for us in an administrative capacity.

We had the perfect person to head up the Institute; my former secretary, Marianne Farhat. But that's another story.

MARIANNE

When I was elected to the Michigan Supreme Court in 1966, my predecessor, Otis Smith, called to request that I retain his secretary, Mary Lou Shepard. I was delighted at the recommendation. Mary Lou had been with the court for longer than Justice Smith, having previously worked for Justice North.

Mary Lou was herself a lawyer. She studied under Judge Leland Carr, an Ingham County Circuit Judge who conducted classes in his courtroom every evening. In the 1920s and 30s, it was possible to take the bar examination without attending a law school. Mary Lou was a gem, and made my transition to appellate work very smooth. When, after my term as chief justice, Mary Lou decided to retire, I knew that I would have to find a very special kind of person to take her place.

Leo Farhat was a leading Lansing lawyer, and a very good friend of mine. So was his brother Norman. They recommended that I interview their sister, Marianne, who was then a fixture at one of the major downtown firms, an organizer and past president of the Lansing Legal Secretaries Association, and a long-time member of the board of that organization.

I don't know how old Marianne was at the time. Younger than I, to be sure, but still not a kid. Never married, she lived for her job and her family. She adored her nieces and nephews, spoiled them rotten, and occupied a place of reverence and awe in the Farhat family as the beloved, 'Aunt Marianne.' When I left the court to assume the deanship at Cooley, Marianne agreed to come with me. Her contribution to our success in those early days was significant.

To say that Marianne was a big woman is to put too simple a name on it. She was clinically overweight and I always thought it was related to her personality and disposition. She was the classic workaholic. She never, and I mean never, left my office without every scrap of work assigned to her being done. And done to perfection.

She worried about me. How I was perceived. How I was regarded. What I did. Where I went. Whether I was on time. Whether I was prepared. She may have been a closet snacker, but I don't recall ever seeing her eat at her desk. Indeed, she rarely went out for lunch, rarely ate any lunch at all. Her disposition was mercurial. She could be as sweet as honey one minute, and as biting as a dash of tabasco the next.

She could flash the smile of the angels at some disheveled young law student seeking an audience with the president. And she could snap at a member of the school's board of directors who had the audacity to call me when I was writing a speech.

Eventually, she became a problem, not because of anything she did, but because of her value as an employee. When I brought her with me to Cooley, I promised that she would not have to take a pay cut. Supreme Court secretaries are well paid, and maintaining parity with them meant that Marianne was making a salary comparable to our middle managers at the school.

What to do? I resolved the matter by making her our director of admissions. She took to the job just as she had taken to her secretarial work, putting in long hours, leaving no stone unturned, no file left until tomorrow to be reviewed. She had natural leadership ability. She was decisive. On the other hand, she was not much given to compromise or conciliation. She was right, she knew she was right, and if you disagreed, you were wrong. Plain and simple.

Unfortunately, the job of director of admissions must interface with the faculty admissions committee, and with the dean. Marianne was intensely loyal to me, and expected me to be on her side whenever some point of difference with faculty members or other administrators came up. She tested my peace keeping skills more than once.

When the idea of the Legal Careers Institute was proposed by Ken Wiebeck, I immediately thought of Marianne as the logical director or dean. She was an experienced legal secretary, she knew most of the lawyers in town, she had a motherly way of taking young people under her wing, and she had very high standards of professional skills and conduct. I was sure she would encourage her charges to have a solid work ethic.

Our plan for the Institute was to place all of our students into internship positions at local law firms right from the beginning of their studies. Many lawyers and law firms were interested in the program and eager to accept our students. After all, it was free help, even if our people were novices, able to perform only the most ministerial tasks.

The program worked rather well. An initial class of about twenty students was recruited, put through a rigorous program and actually graduated. I believe that almost every one had a job when they graduated. Two events led to the demise of the Legal Careers Institute. One was the death of a carful of our students in a tragic auto accident.

The other was the sudden, unexpected and untimely death of Marianne Farhat.

One footnote: The Legal Careers Institute had a solitary male student. Upon graduation, he didn't have a job. I hired him to work in our admissions office at the law school. Today, more than twenty five years later, he is the deputy director of admissions at the law school. His name is Tony Alvarado.

GETTING COMPUTERIZED

In these days of IPOD, Blackberry and Bluetooth, it is hard to remember what 'getting computerized' meant back in the 1980s.

Bill Schoettle, our controller, had the only machine that we called a computer. All the clerical staff used typewriters, most of them electric, to be sure, but still they were just good old-fashioned, word processing typewriters.

Bill's contraption was a thing made by IBM called a System 34 or System 36. It was about the size of a kitchen stove. There was no monitor. It produced a seemingly endless roll of green paper on which was printed what we now call a spread sheet.

The only thing the machine could do was batch processing; that is to say, it could print out all the students grades for the term. You couldn't just look up one student's grades.

Jack Des Jardins, a member of our board of directors, was chairman of a small company which was manufacturing personal computers. He convinced me that PC's were the wave of the future, and I bought several for the school. I proudly presented one to my secretary, Cherie Beck. After about a week of frustration, she asked me to take it away and bring back her old, reliable IBM Selectric typewriter.

I quickly realized that just dumping hardware on the staff wasn't going to do the trick.

What to do? Somehow, I had to find a way to use these fancy new gadgets. Driving through Okemos one afternoon, I noticed a store called Software City. I decided to go in and browse.

It was like shopping in China. I had no idea what all the technical jargon meant. Finally, I asked for some help from the sales clerk. Not wanting to tell him who I was, or what I really wanted, I told him I was the secretary of a bowling league, and I wanted a way to keep track of the names, addresses and phone numbers of the bowlers along with their weekly scores and bowling averages.

"No problem," said the clerk, and he pulled down a box labeled, "Nutshell." I told him that if he could show me how to use it, I would buy it. After a short, effective demonstration, I was out the door with \$200 worth of software and a determination to get Cooley 'computerized.'

And so we began a process that governments, businesses, schools, and colleges all over America were spending literally billions of dollars to accomplish. We were 'getting computerized.' We were doing it on the cheap.

Nutshell was what was known in the trade as a flat filing system. It was, for all intents and purposes, an electronic 3 by 5 card file, on which data could be stored, sorted, and retrieved. I remember the reaction of Sherida Wysocki, our able registrar, when I first proposed to begin keeping student

records on Nutshell. The hub of the registrar's office was a rotating kiosk on which were kept the 'blue cards.' This was a card file bearing the names, addresses, phone numbers, and other critical information about every student who ever attended Cooley.

The blue card was the *sine qua non* of matriculation at Cooley.

When I told Sherida that I wanted to put all that data on computers, and do away with the kiosk, she turned pale with fright. There was absolutely no way I was going to replace her precious blue cards with some unreliable, unknown, untried, and unintelligible electric hocus pocus.

Undaunted, I began to input data myself. I would go down to the registrar's office when the staff went home and work often into the late evening and the wee hours of the morning and on Saturdays and Sundays typing student information and setting up the screens that would display and manipulate the data.

Eventually, I was able to persuade Sherida that Nutshell worked by showing her that it was easier to type blue cards on the computer than on a typewriter. The kiosk stayed for another couple of years, but in the meantime, an electronic data base was being created.

In those early days of software development, changes came fast and furious. It wasn't long before Nutshell was replaced by Nutplus, a relational data base. Soon, I was designing applications for the admissions office and the controller.

Unfortunately, the Nutplus system never reached the sophistication needed for networking among multiple computers. We devised what was known in the trade as a 'sneaker' network, meaning that data was transferred from one computer to another by putting on your sneakers, and running from one desk to another carrying a floppy disk.

To be sure, Nutplus worked. It worked a lot better than the pre-computer days. But there came a time when we realized that we needed a networked system. Following my practice of trying to solve problems through the do-it-yourself approach, I immersed myself in a data base called Paradox. I tried to introduce it in the admissions office, and Stephanie Gregg, our dean of admissions, God bless her, put up with the stress and inconvenience of trying to change systems on the fly. It didn't work.

But our luck didn't run out entirely. One day I stumbled across a data base called Filemaker. It was able to support a network. It turned out to be a great-grandson of Nutshell. We were able to make the transition rather easily. Getting computerized was a big learning experience for me. It turned me into what my niece called a 'data base junky.' Not a usual avocation for a CEO.

THE WIND BENEATH MY WINGS

Bette Midler's popular love song ends with the phrase, "Thank you, thank you, thank God for you, the wind beneath my wings."

I always listen to that song with appreciation. I relate to its message. I don't know whether the general public, or the Cooley Law School community, for that matter, have any real idea of how much the law school owes its establishment and success to the lady I was fortunate enough to marry nearly sixty years ago.

Pauline Mary Weinberger Brennan is a very special human being. I am fond of telling her that she is the best person in the whole world. She demurs appropriately. I don't think she has any notion of how important she has been in everything I have tried to do over the last half century.

Her involvement with the law school always went well beyond listening, advising, suggesting, critiquing, and cheering.

I've already recounted how she encouraged me from the start, when nobody thought starting a law school was even a rational idea. And I've told the story of how she manned the registrar's desk before we had any regular employees.

In the early 1980s Polly came back to work at Cooley. This time she undertook a special assignment: organizing and conducting a national oratorical contest to identify and recruit students who had public speaking skills.

It involved traveling to colleges and universities, conducting competitions among students who hoped to win scholarships to law school.

Later, when too many students competed, she poured over video tapes and selected finalists who came to Lansing to give their speeches for a panel of Michigan judges and justices.

The oratorical competitions were conducted for several years, and produced a number of stellar performers who went on to excel in moot court competitions in law school. Beyond the actual winners, the contests were a means of promoting Cooley among undergraduate pre-law students, and it was an effective way to get our story out around the country.

Things at Cooley were changing in the early 80s.

Bob Krinock had resigned as dean in May of 1980. The board granted him a sabbatical leave in appreciation for his excellent service, and he returned to teaching full-time at the end of the year.

The board felt it was time for us to recruit a dean who was a member of the club. We had achieved our full accreditation, but the first re-inspection was already on the horizon, and we felt it was important to show the American Bar Association that Cooley could function in the mainstream.

Polly and I became a tag team search committee. That's the way things were done back then. More than one faculty member was hired after a restaurant meal with the Brennans. Ron Trosty at the Essex House in New York. Keith Hey, our third dean, after a dinner in Dayton, Ohio. Keith was, at that time, the deputy dean at the University of Dayton Law School. He was a big, comfortable Iowan, with excellent academic credentials, and his wife, Donna, was a charming and ambitious partner. We felt Keith would impress the ABA. He had taught at Washburn University Law School and at Georgetown University Law Center. He had served as an Associate Dean at Temple University. In addition to his undergraduate and *Juris Doctor* degrees, he had earned a Master's degree in law at Georgetown.

But academic credentials do not always translate into long lines at the box office. In its early years, the vast majority of Cooley students came to our law school because of its location. They were typically older men and women who had ties to mid-Michigan, who had always wanted to go to law school, but who had been deterred because of the long commute to the Detroit area.

As the school approached the end of its first decade, our enrollment began to decline. The backlog of mid-Michigan applicants dried up. We decided that Cooley had to become a national institution. There was plenty of reason to do so. We had stumbled onto a special mission in legal education. We had become, because of our unique, year-around school year, a haven for working men and women who needed to be employed full-time while earning their degrees.

We took a full-page ad in *Time* magazine. It featured yours truly, a telephone to the ear, inviting law school applicants to call and inquire about scholarships. I don't know if that advertisement or the oratory contests or the aggressive work of our admissions office made the difference, but by the end of the decade, Cooley had become a truly national law school, with students from almost every state in the union matriculating in every new class.

About that time, my life partner retired again. She would be sorely missed by the clerical staff downstairs. In a way, Polly was their union steward. Every new personnel policy had to get her approval if I was to implement it without sacrificing my happy home life. By the time she left, Polly had placed me in the capable hands of her former secretary, a bright young lady named Cherie Hadden. The two of them conspired to keep me on the right track from then on.

COPING WITH DECLINE

When I was organizing Cooley Law School, I sought the advice and counsel of two men for whom I had high regard, and who I thought would give me solid advice.

One was Charlie King, the long-time dean of the Detroit College of Law. The other was Noble Lee, dean of Chicago's John Marshall Law School. They were both strong leaders, and the independent law schools over which they presided were well established and prosperous.

Noble Lee's office had the look of moving day. There were books, files, papers and artifacts everywhere. He invited me to push some of it aside to make a place to sit down. He was a fascinating man, with a long history in Chicago politics and law. His father had founded the law school in 1899. He had succeeded his father as dean.

I toured the school and was impressed. I asked Dean Lee how they had come to acquire such a facility. In his pixyish way, he mentioned that the physical plant was only a part of the school's assets; that it had accumulated a large investment portfolio as well.

Dean Lee convinced me that an independent law school, prudently managed, could succeed and prosper. He was generous in his advice and his tone was encouraging. He had a long history of battling the American Bar Association. Looking back, I suspect he welcomed a new compatriot.

Charlie King was less colorful, but equally sanguine. I asked him whether he thought an independent law school in Lansing could survive. He thought it could, but counseled that law school education is counter cyclical. When economy is good, law schools decline; when hard times come, law schools prosper. When a bachelor of arts will get a good starting salary at Procter and Gamble, law school applications dry up.

And so it happened at Cooley. After the stagflation years of the Carter administration, during which Cooley became a national institution with an enrollment of over 1,200, the era of Reaganomics dawned, and Cooley experienced its first major enrollment decline.

By the early 1980s our student body had shrunk to just over 900, a stunning 25 percent decline.

Concerned faculty members came to me and urged appointment of one of their own as Dean. Keith Hey, always a good soldier, agreed to step aside, and Don LeDuc assumed the deanship.

I recall a faculty meeting at about that time when the crisis in enrollment was on everyone's minds. I outlined to the faculty the four steps I thought were available to us to cope with the decline. I put them in rather pedestrian terms, but the choices were pretty obvious to me.

I said we could do any combination of four things: Trim the Sails; Pray for Rain; Sell the Farm; or Go to the Whip.

By trimming the sails, of course, I meant that we had to cut our expenses. It meant a hiring freeze and the delay of a number of pet projects. Don LeDuc's background was in part with state government, and he was familiar with government budget cuts and the myriad ways in which the bureaucracy managed to survive with smoke and mirrors. Economizing was our most effective strategy.

Praying for rain was my way of describing the process of trolling for gifts and grants. Grantsmanship was never my forte, nor was I particularly adept at fund raising. Whenever I attended a seminar for collegiate and university development officers, I invariably brought the house down when I asked if anyone had a suggestion about how to get donations to a law school. One wag suggested that we might get a substantial grant if we promised to close the school. So, while I still hoped for help from donors, I was not exactly sanguine about the potential.

I didn't want to sell the farm. That would mean turning the law school over to some other educational institution. I felt that if we were ever to make such a liaison, we should come to the table from a position of strength and not needy supplication. Bailing out would have threatened our employment practices, cost us jobs, changed our educational philosophy. It was too high a price to pay.

So that left us with the most promising strategy; Go to the Whip. By that I meant doing what we do best and doing it better and doing more of it. Like the college basketball team that reaches the final four with a run and gun style of play, I felt we should do what we do best and what had brought us to the position of success we had already enjoyed.

And what was that?

It was to be the biggest and the best. It was to offer the opportunity for a quality legal education to as many qualified students as wanted the chance to become lawyers. It was to have a wide open, welcoming front door and a narrow, demanding exit door, separated by three years of uncompromising professional education.

That was our mission. It had brought us from the modest upstairs room at 507 South Grand Avenue to a fully accredited, thriving institution of higher education. It would serve us well in the years that followed.

A CHALLENGE IN D.C.

In the spring of 1979, I went looking for the Potomac School of Law.

Some time previously, I had stumbled upon the startup independent law school. It occupied a single office on the second floor of Southeastern University, a small, private college in Washington, D.C. It was founded by a man named William Hurley.

Hurley has had quite a speckled career in American legal education. In addition to Potomac, he has surfaced as an organizer or principal in at least four other law school embryos located in such diverse places as Missouri, Minnesota, Nevada, and Wisconsin.

None have survived.

I was in the nation's Capital for some bar or judicial business early in 1979, and remembering Hurley's one room operation; I looked in the phone book and discovered that the Potomac School of Law was now ensconced in the Watergate, the upscale hotel-office-restaurant-shopping complex whose name had become synonymous with political intrigue and skullduggery.

I caught a cab. There, on the ground floor and in the lower level, I found Hurley's dream. Only it wasn't Hurley's anymore. Potomac's founding president and dean had been bought out by the founder of New Hampshire's Franklin Pierce College, a Dr. Frank DiPietro, a year or so before.

What I walked into was a rather typical scenario of the kind of tuition-funded, startup school which the American Bar Association despises. I had seen it at the Delaware School of Law, where the founder, an eccentric professor named Alfred Avins, came under siege by students, impatient for accreditation, who thought that cutting the tires on their dean's car was the quickest route to ABA approval. I had experienced it myself at raucous, hostile, student bar meetings in the days before Cooley was provisionally approved.

By 1979, Potomac had been in business long enough that its first class would soon graduate. In fact, a few had accelerated, only to discover that the sole avenue open to them was to sit for the bar exam in Georgia. The mood of the student body was ugly. A bulletin board outside the registrar's office carried the chilling announcement that an attorney named Peter Lamb had been consulted with an eye to bringing suit against the school.

I introduced myself to Dean Maurice B. Kirk. I chatted with some students and staff. Then I went to see Peter Lamb. What emerged was a picture of a law school with high hopes, but no real clue about what lie ahead. The school had never actually asked the American Bar Association to schedule an inspection. Kirk, DiPietro, and the board of directors, a rather impressive collection of well intentioned, civic minded, community leaders, seemed convinced that affiliation with an accredited college or university would work an immediate infusion of money, and instant American Bar Association approval.

I told Peter about Cooley; about how we had achieved accreditation through perseverance and hard work; about how our three-semester plan kept the coffers full. And I told him that I envisioned partnering with other independent law schools; that we could all profit by the economies of scale; that size and strength would beget prestige and recognition.

Peter Lamb brought me to a student bar association meeting, and I pitched the students. In response to some of their questions, I said that Cooley might be interested in taking over at Potomac if the students supported the idea.

The next step was to approach the board. I think DiPietro eyed me with some suspicion, and rightly so, as it turned out. But he invited me to attend a meeting of the board at which I outlined a proposal that Cooley would take over the management of Potomac, at no cost, and attempt to put the school on the same accreditation track we had followed.

The board's reaction was less than enthusiastic. At the time there was still hope that the New York Institute of Technology would take over the school. Within a few days that overture had played out, as did another from a local Catholic college. Another board meeting was scheduled for August 16. I had a commitment in Lansing, but couldn't muster support for another date. I wanted to be there, and didn't think they would act favorably in my absence.

Still, some board members were beginning to see Cooley as Potomac's only hope. One of them was a very bright and responsible businessman named Bob Schmidt. A lawyer with many friends in college and professional football, Bob was married to radio personality Arthur Godfrey's daughter Patricia, and became president of the Wireless Cable Broadcasters Association.

Bob and I met in his office at 5 p.m. on Tuesday, August 7, 1979. He showed me a list of Potomac's accounts payable. With a few items like back rent and an overdue bank note that were not on the list, we concluded that the school was more than \$400,000 in debt. I told Bob that I was not about to proceed unless there was evidence that the Potomac board had, in fact, agreed to the Cooley take over.

We decided that we needed to get a majority of the board, seven members, to sign the Cooley contract. Within minutes, we were in my rented car, heading to the Maryland restaurant where board member Jack Long was dining with his family.

This fellow Schmidt was my kind of guy.

VENI, VIDI, VICI

If you've been reading these articles, and following my roller coaster years of confrontation with the American Bar Association, you may wonder why I have flashed back to tell the tale of the Potomac School of Law. I can only say with Casey Stengel, or whomever, that it was an experience of *déjà vu* all over again.

My new friend, Bob Schmidt, and I were busy during the evening of August 7, 1979. Our first stop was at a Maryland restaurant where board member Jack Long, a suburban fence manufacturer, was having dinner with his family. It took a while to convince Jack that the Potomac School of Law was in dire straights, but we did.

Our next stop was at the apartment of Marilyn Lowney. Marilyn was one of three original incorporators of Potomac. She was an associate of Bill Hurley at that time. On this summer evening, she was entertaining another gentleman. She signed the contract without much fuss.

Alice O'Donnell held an important office in the Federal Judicial Center. She was well regarded among the D.C. Bar, and respected by her fellow board members at Potomac School of Law. It was nearly 11 p.m. when Bob and I arrived at her northwest Washington apartment.

Alice was keenly aware of the significance of her association with Potomac. She was concerned about the status of the school, and the negative impact it could have on her reputation in the district. She strongly supported what Bob Schmidt and I were doing. The next morning, at breakfast, student board members Jim Otway and Fred Burke added their signatures to the agreement. We had a majority.

I proceeded directly to the school, met with Dean Kirk, showed him the signatures on the contract, and told him that I intended to take charge. I asked him to call a special meeting of the faculty, so that we could discuss the situation and I could seek their support. Kirk said he would try to get as many professors together as were available. We agreed to meet again later in the afternoon.

I then went to see Dr. DiPietro. I showed him the signed agreement, and he made a copy of it for his files. He then asked me what I intended to do. I said that it was my intention to ask him for his keys to the law school, and all of the books and records, including the checkbook and all cancelled checks. I told him that I wanted him to invite the staff to his office and introduce me as the new president of the school. Then, I wanted him to assure me of his cooperation with respect to the upcoming audit of the school.

He replied that he would refuse to do any of these things without direct orders from the Board of Directors. I asked him if he would agree to a telephone poll of the board to see what their intentions were. He refused. I then asked him if he would make himself available later in the day for a board meeting if a quorum could be mustered. He said he would be available.

I immediately checked into the Watergate Hotel, and got busy on the telephone. Within an hour, I had reached all but three members of the board of directors and arranged an emergency meeting for two o'clock at the school.

I sat in on the board meeting. Paul Thomas, Potomac's legal counsel was there. DiPietro had his own lawyer. My counsel, Jeff Petrash, was also present. DiPietro exhibited a set of corporate bylaws which provided that notice of a special board meeting had to be given two days in advance, and in writing.

While the bylaws also permitted waiver of the two-day notice, it was clear that Dr. DiPietro, Dr. Winstead, and Col. Kenny would all refuse to waive notice of the meeting. So, counsel advised that no valid board action could be taken.

Undeterred, we decided to hold a special meeting of the executive committee, most of whom were present. There was no two-day notice required. Alice O'Donnell chaired it; and under her gavel, the executive committee ratified the contract with Cooley, appointed Bob Schmidt treasurer, and directed that no financial commitments be made by the school without Bob's approval.

I then went over to the classroom where faculty had been hastily summoned. I apologized for the impromptu convocation, and tried to give them an overview of the critical financial condition of the school. I told them that I thought a number of difficult but important decisions would have to be made rapidly if Potomac was to be saved.

The faculty listened, politely, cordially, but without any reaction or comment.

So I went down to the bar and had a drink with Bob Schmidt, Paul Thomas, and Jeff Petrash. It had been a good, if ambivalent, day's work.

Back in my room, I found a bottle of champagne and a box of candies with a note from the hotel manager. I called to thank him. It turned out he knew who I was and why I was there. I told him that there was little hope of any payments toward the substantial arrearage in Potomac's rent, but that as long as I was president of Potomac, the current rent would be paid, and paid on time.

I think he appreciated my candor.

A LETTER TO THE CHAIRMAN

On August 10, 1979, I wrote to Lee Corcoran, Chairman of the Board of the Potomac School of Law. Corcoran, then executive assistant to the United States Secretary of Agriculture, had not attended the aborted emergency board meeting on August 8. I wasn't sure why.

After pointing out that the school was \$400,000 in debt; had less than \$5,000 cash in the bank, and that its directors' liability policy had lapsed for non payment of premiums, I issued this caveat:

"Under the critically emergent conditions, any board member who fails or refuses to attend the meeting of the board thereby preventing a quorum and frustrating corporate action would be especially vulnerable to suit."

The rump board meeting had decided to call a proper meeting for August 16. I had a previous commitment and couldn't attend. So my letter detailed for the chairman a number of steps which I thought the board should take on the 16th.

First, the school had no official corporate minute book. There was no way to determine what actions had been taken by the board, when they were taken, and by what vote. I recommended that Jeff Petrash of the firm of Dickinson, Wright, et. al., be named corporate secretary, and that he be directed to reconstruct a minute book as nearly as possible from whatever records he could find.

As far as I could tell, Potomac board meetings, in contrast to Cooley's, were conducted in an open forum atmosphere, without agendas or parliamentary discipline. I recommended that Paul Thomas, of the Herrick and Smith law firm, be appointed legal counsel to the school; that he be requested to attend board meetings and advise members of the legal consequences of actions taken or failures to act.

I reminded the chairman that Monday, August 20, was registration day at the school and that something like two or three hundred thousand dollars might be paid in by students as tuition for the upcoming semester. If that money is commingled with general school funds, I warned, it would be reachable by a swarm of irate creditors, leaving Potomac unable to meet payrolls and other current operating expenses.

I recommended that a trust account be established at Riggs Bank into which all advance tuition would be paid, and that the trustee be directed to release only such funds to the school as were earned by the actual conducting of classes.

My letter went on to suggest that members of the board might be exposed to civil liability if they failed to adopt a budget and authorize the school's officers to incur expenses within budgetary guidelines. I proposed that the president be instructed to prepare a budget for the fiscal year beginning September 1st, and that a special meeting of the board be convened on Tuesday, September 11, 1979 to consider and act upon that budget.

I urged Corcoran to put before the board a proposal for a bond issue in the amount of \$1,500,000. The bonds would be in \$500 denominations; they would bear interest at a market rate, which would be paid in monthly installments; that each year, 10% of the bonds, chosen by lot, would be retired; and that the bonds be used to pay past obligations of the school and provide working capital. Then I wrote:

“The management agreement, which you sent to me, has been signed by six other members of the Potomac Board and by myself for Cooley Law School. I am assuming that the Potomac Board will, in furtherance of that agreement, elect me to membership on the board and name me chairman, president, and chief executive officer of Potomac School of Law on August 16. If that action is not taken, I will consider the agreement null and void, both as to myself and Cooley Law School.”

I then concluded:

“One final matter. I expect that the issue of compensation for the current president of Potomac will be raised and considered at the August 16 meeting.

“The members of the board are better able than I to judge the value of Dr. DiPietro’s services to the school since January. He has certainly tried. I am given to understand that he has drawn \$2,500 per month during this time. While there was no board authorization for such withdrawal, I do not feel that \$2,500 is an inordinate amount. If the audit verifies that this, indeed, has been the amount he has drawn during 1979, I would recommend that the board ratify his action and confirm such draw to him as compensation for his services.

“The payment of an additional sum in recognition of past services is presently impossible by reason of the insolvency of the corporation. The use of unearned tuition trust funds for that purpose could very well be considered a criminal act under present circumstances.”

I then recommended that the board adopt an appropriate laudatory resolution and present it to Dr. DiPietro, and closed by saying:

“I will be playing golf in the Walnut Hills Country Club Annual Member-Guest Invitational Tournament from Wednesday, August 15 through Saturday, August 18. My secretary will be on vacation. I can be reached through the Cooley switchboard, or at my home number.” Copies of my letter went to both Potomac and Cooley board members.

HELLO MR. SHERWIN

Sometime during the week after August 8, 1979 a new player made his entrance on the Potomac School of Law's Watergate stage. His name was Irwin Sherwin.

Sherwin was a Florida jeweler who spent his summers in the upscale mountain resort town of Blowing Rock, North Carolina. His son was a student at Potomac.

By the time the board of directors convened on August 16, Sherwin had met with board members DiPietro and Winstead as well as student bar president Rudy Gannascoli and had made a boastful proposal that he would personally pledge approximately \$100,000 to the school, and in addition, he would guarantee the school's credit in the approximate amount of \$1,000,000.

With Sherwin, money was no problem. His conversation was spiked with references to wealthy patrons who bought his jewelry, and who, he assured his listeners, could put Potomac on a solid financial base in the twinkling of an eye, with little or no effort.

Of course, this was exactly what the students wanted to hear. It was exactly what DiPietro and Winstead wanted to be able to report to the board. It became known as the "Sherwin Proposal," and was contrasted with the "Brennan Proposal," my offer to undertake to manage Potomac as a Cooley satellite.

The August 16 board meeting got underway at 9 a.m. Eleven of the thirteen board members were present. Board Chairman Lee Corcoran and my friend Bob Schmidt were the only absentees.

Alice O'Donnell, vice chair of the board presided. In rapid succession the board dispensed with a formal agenda, went into executive session, and passed a resolution directing the president to renew the director's liability insurance policy and pay the first annual premium, which he was authorized to do without concurrence of the treasurer.

The board then invited David Boone, attorney for Irwin Sherwin, into the meeting. Student bar president Gannascoli was also admitted to the room. Boone outlined Sherwin's offer in broad terms, insisting that Sherwin was serious and that he was financially capable of making substantial gifts to the school.

Gannascoli reported that the students favored the Sherwin proposal over the Brennan proposal by a wide margin. He also reported on a relocation initiative called the H Street proposal, which the board received favorably.

The meeting recessed at 12:20 p.m. and reconvened three hours later. This time, Irwin Sherwin himself was invited in, along with his son, Louis, and his attorney, David Boone.

There ensued a rambling discussion about ABA accreditation and Sherwin's proposal, during the course of which, Sherwin insisted that he could put the school on its feet financially, and assure its approval by the bar. Then he left.

After adopting a resolution that fall semester tuition payments be segregated into a separate trust fund, the board invited Jeff Petrash into the room and asked him where the Brennan proposal would stand if the board did not act favorably on it during the meeting. Jeff said he didn't know, but would try to contact me to find out.

Jeff couldn't reach me. The board then adopted this resolution:

"RESOLVED, that the board agrees in principle with the general proposal made by Mr. Sherwin to aid the school financially by making a pledge in the approximate amount of \$100,000 to the school and by making available to the school his guarantee in the approximate amount of \$1 million;

"FURTHER RESOLVED, that counsel for the school be, and he hereby is, directed to prepare, in conjunction with Mr. Sherwin and his counsel, a specific contract specifying the mutual responsibilities and commitments of Mr. Sherwin and the school;

"FURTHER RESOLVED, that the board be reconvened at the call of the chairman at the earliest opportunity to vote upon the specific agreement negotiated by counsel."

The board then considered and defeated two motions to ratify actions taken by the executive committee on August 8, 1979.

Finally, the board resolved as follows:

"RESOLVED, that Cooley Law School be advised that the board has neither accepted nor rejected its proposal at this meeting, and that the board does not consider its proposal inconsistent with the Sherwin proposal."

Innocuous as that resolution sounded, I thought it was a setback for DiPietro and company. His goal was to present Sherwin as an alternative to Brennan, and the board wasn't buying it.

Now the only question would be whether Irwin Sherwin and Tom Brennan could work together. I have always believed that in business affairs the golden rule controls:

He who has the gold, makes the rules. If Mr. Sherwin was prepared to write a big check, I was prepared to listen to him.

ELECTION DAY IN WASHINGTON

Bill Schoettle and I flew to Washington on the morning of Friday, August 24, 1979. We checked in at the Watergate Hotel.

Bill was the Controller at Cooley; the money man. He had come to us originally as part of our CPA's audit team. He knew all about making a law school function financially. I wanted him to help evaluate the fiscal mess I was sure we were getting into.

At 1 p.m., we met with Jeff Petrash at his office. Paul Thomas, counsel for the school, was also there. In a few minutes, Irwin Sherwin arrived, his counsel, David Boone, in tow.

We chatted for a while, feeling each other out. It was my impression that Sherwin was quite happy to have a basis for getting involved at Potomac without having to front any money. I suspected that he was being used by the DiPietro-Winstead forces as a desperate last straw to keep me out.

Without much trouble, Sherwin and I agreed that we would be willing to work together. I saw him as exuding a blustery self confidence, but inwardly cautious about making any real commitment. I had a hunch that he was buying into the traditional Potomac fantasy; get some big donors, affiliate with an existing college; and accreditation will come quickly and easily; and that he thought finding donors and merger partners would be a piece of cake.

But I didn't think he would stand in the way of Cooley style management. We shook hands and left separately for the meeting at Potomac.

The board was already in session when we got there. Bill and I went to our rooms and waited for the phone to ring. At about 4 p.m. we were summoned to the meeting.

There was a brief parliamentary skirmish. A motion was offered and seconded that Sherwin be elected to the board and also as chairman, and that I be elected to the board, and also as president and CEO. Colonel William R. Kenny, a DiPietro supporter, attempted to separate the two elections. His motion was defeated 7-4, and the combined election was approved unanimously.

Chairman Lee Corcoran, who had supported me on the Kenny motion, then submitted his resignation, which was accepted with regret, but sincere appreciation for his service. Whereupon, the new chairman, Irwin Sherwin, accepted congratulations all around, and promptly left to go home. It was about what I had expected. The rest of the meeting was businesslike and conducted under the leadership of Vice Chair Alice O'Donnell.

Jeff Petrash was elected secretary of the corporation, at a compensation to be determined by the president. He was directed to gather up the records and assemble a corporate minute book.

I was authorized to retain legal counsel; directed to prepare a budget; to create a trust fund for unearned tuition; and authorized to obtain a \$100,000 line of credit from the bank.

Sherwin, Winstead and Schmidt were named to a fund raising committee, and I was asked to convey to the student body the news about the board's actions and invite all students to return for the fall semester.

On the following Monday, at my request, Jeff Petrash went to the Watergate and met with the Potomac clerical staff. He assured them that no one was going to be fired, and that we intended to meet Thursday's payroll. On Tuesday, August 28, Cooley's Dean, Bob Krinock, and I flew to Washington, and went directly to the law school.

We met with Dean Maury Kirk until lunch time. Bob and Maury continued our session over lunch, while I went to eat with the auditors from Peat, Marwick, Mitchell & Co. They felt they could have some numbers for me before the September 11 board meeting. Back at the school, Jeff and I put together the Thursday payroll, getting the bank to agree to honor the checks.

Later, Bob and I had a brief evaluation session regarding Dean Kirk. We agreed that he lacked leadership ability, passed all issues on to the faculty, and blamed all problems on his predecessor.

That evening, I visited some of the classes, told them what was going on; told them that Potomac's greatest asset was the student body; and asked for their support.

The next day, I got a nice letter on law office stationery from a student who enthusiastically offered to organize a "face lifting crew" to spiff up the school. I was to hear a lot more from that student in the years to come.

SEPTEMBER ON THE POTOMAC

In September of 1979, I assumed the presidency of the Potomac School of Law. Among my first tasks was to take physical possession of the president's office and the check book.

The office did not live up to the posh ambiance of the Watergate complex, but it was adequate. The check book was a disaster. On the day I took over, Dr. DiPietro's record showed the school as being more than \$9,000 overdrawn at the bank. I very soon found out that the registrar was sitting on an additional \$7,000 check to the IRS for withholding taxes.

One of my first acts was to summon the faculty into an emergency meeting. I wanted them to know the truth about where we stood and what I was planning to do about it.

About six professors showed up. A seventh arrived late, explaining that she had to take her cat to the hospital. It struck me that she was not exactly into the crisis mode.

I told the faculty that, in order to operate in the black, I was going to have to recommend to the board that two faculty positions be dropped, unless they could agree to cut payroll by \$13,000 by increasing faculty teaching loads. I explained the Cooley tri-semester system, recommended changes in the September term schedule, and urged the enrollment of new classes in January and May.

I recommended some specific changes in teaching assignments, and showed that they would not violate ABA maximum teaching loads. The meeting ended on a somewhat aggressive note sounded by the lady with the sick cat, who insisted that the faculty vote before implementing my suggestions.

I told them that I had a luncheon engagement, and that I would leave them to take whatever action they believed appropriate.

The lunch date was with the enigmatic Bill Hurley, Potomac's founder, first dean and president. He never showed up. Back at the school, I discovered that the faculty had voted to adopt the Cooley schedule, for the upcoming semester at least.

I spent the rest of the afternoon supervising members of the staff who were enrolling students for the September term. I found that the manner of handling checks and bank deposits was disorganized, and I began to doubt the competence of the registrar.

Apparently, there had been a culture at Potomac which allowed students to matriculate on a pay-as-you-go basis. I insisted that every student who signed up for a class either pay the tuition or sign a promissory note agreeing to pay it on a weekly basis.

I later discovered that many of the notes were not signed. The registrar insisted that it wasn't her job to get them signed. I told her that it was her job, if she wanted to keep on working at Potomac.

The next meeting of the board of directors was scheduled for the evening of September 11, 1979. Early that day, I was to meet with creditors of the school. While the auditors had not yet completed their task, I had put together a preliminary list of creditors. It totaled more than \$400,000.

When I arrived at Potomac on the eleventh, I found a certified letter in my mail box. It was a summons and complaint from Bill Hurley, who was suing the school for upwards of \$48,000 in consulting fees and severance pay. I called the lawyer whose name was on the pleadings, and I told him of the compromising plan I proposed to submit to creditors that afternoon. He insisted that he come over before the meeting.

While his lawyer was in my office, Hurley called to speak to him. I think he had the idea that by threatening me, he could walk out of the office with a large settlement check. I held fast; told him there was no money. I said I was disappointed in his hard line, and the fact that his client had stood me up the week before. I told Hurley's lawyer that continuation of the lawsuit would invite a countersuit blaming Hurley for the state of things at Potomac. On that note, he left.

The creditors' meeting was amicable if not very conclusive. I explained that the school was insolvent; that we had three choices, Chapter 7 bankruptcy, Chapter 11 reorganization, or an out of court creditors composition. I said that I preferred the latter as the least expensive for all concerned. I proposed that we acknowledge all outstanding debts and issue bonds in payment which would bear interest at 10 percent and be redeemed at 10 percent per year.

I urged them not to start lawsuits against the school. I told them that I had nothing to offer them except my personal word and commitment to do what was right. If they seemed satisfied with that, it may have been because they didn't have much choice.

Afterwards, with about an hour to go before the board meeting, Jeff Petrash and I dashed over to Pete Lamb's office, had a drink with him at the Irongate, and gave him the Hurley suit to defend on behalf of the school. With the board meeting only minutes away, the drink was imperative.

BUDGET SCHMUDGET

As secretary of the Potomac School of Law, Jeff Petrash sent a notice to board members of a special meeting to be held on September 11, 1979. Included was a proposed agenda which consisted of only three things: minutes of the previous meeting, a resolution authorizing signatures on the bank account, and a budget for the upcoming fiscal year.

Simple enough, I thought. But it was not to be so simple.

To begin with, board chairman Irwin Shirwin complained that he had not received the materials from me in the mail. I don't know how he got to know about the meeting without receiving the notice, but none the less, he was somewhat put off by my failure to give him an opportunity for timely preparation.

So before we even got into the business of the day, Warren Winstead announced that there were a number of faculty members and students waiting outside who wanted to be heard. Shirwin acceded, and we went into a public forum mode during which faculty and students complained about the tri-semester system, complained about cut backs in adjunct faculty that I had initiated, and represented to the board that I was refusing to honor faculty contracts.

The faculty demanded representation on the board. The students, who traditionally had two seats on the board announced that they had elected two new representatives. Fred Burke and Jim Otway, both of whom had supported me, were then excused and Rudy Gannascoli and Dennis Mark were seated.

Mark was friendly toward me. I had heard rumors to the effect that Gannascoli had been receiving some kind of financial assistance from Dr. DiPietro for his work on the so called H street project, so I viewed him with suspicion.

Without an agenda being adopted, the meeting simply drifted from topic to topic. The issue of student and faculty board seats inspired Chairman Shirwin to propose board membership for a Mrs. Bernard Castro, wife of a sofa manufacturing mogul, a Mrs. Peter Gudia, also reputedly very wealthy, and a Florida lawyer as well as a Florida psychiatrist, both of whom, Sherwin asserted would be potential large donors.

After a mild and ineffective effort by several members, myself included, to postpone action on these nominations, I jumped into the fray and offered three nominations of my own: DC Superior Court Judge Tim Murphy, and Cooley board members Lou Smith and Jim Ryan. All seven new members were approved, and we finally got around to the budget.

Curiously enough, despite all the furor, my tri-semester budget was approved with only one change; board members wanted to be reimbursed for their expenses. I thought it curious, if not amusing, that with all the talk about getting board members with deep pockets and high philanthropic motivation,

they wanted the insolvent corporation they were governing to pay for their parking, lunches and plane fare.

A few days after the board meeting, three significant documents landed on my desk at the Watergate; the financial statements prepared by our auditors, Peat Marwick and Mitchell, a letter from Dr. George Arnstein, secretary-treasurer of the District of Columbia Educational Institution Licensure Commission; and a copy of a story in the *Lansing State Journal*.

The audit came in much as I expected. The school was over \$400,000 in debt and its future as a going concern was officially regarded as doubtful. The Arnstein letter added another layer of crisis to the Potomac saga: its authority to grant degrees in the District of Columbia was scheduled to expire on September 22, 1979, only a few days hence.

Dr. Arnstein and his colleagues were willing to recommend a short term extension of the school's license, provided that we made it clear to the students that the license was in jeopardy, and that no inspection visit by the ABA was scheduled. Arnstein pointed out that my predecessor had been telling students that the ABA was coming to inspect in September, when in fact no request for an inspection had ever been made.

The State Journal story was written by John Teare a capital reporter I considered to be fair and professional. Its headline read, "Cooley founder now fosters law school in Watergate." The tag line was "Ex-Justice Brennan takes on D.C. legal establishment."

I think John liked the David and Goliath scent to the story. He portrayed me as a kind of educational gadfly, and emphasized the enormity of the challenge I was facing. What neither he nor I realized was that other newspapers might take a different tack, and the Potomac community, already whipped into a frenzy over my discomfoting initiatives, might not see it as favorable publicity.

Sure enough, within a few days the *Detroit News* published its own version of the story headlined "Brennan envisions chain of law schools."

It was accompanied by a picture of me, labeled: A Col. Sanders of law schools?

It is some small comfort that nearly thirty years later, my successors would achieve American Bar Association approval for the only two branch law schools in the nation.

COURTING THE AMERICAN BAR ASSOCIATION

On September 27, 1979, I wrote a letter to James P. White, Consultant to the American Bar Association's Section of Legal Education and Admissions to the Bar. This time, I was writing on behalf of the Potomac School of Law.

I called his attention to the rules of procedure for law school approval that were published in 1977, which required that an institution considering the creation of a law school should first embark on a feasibility study. The parameters of the study were outlined in the rule.

Pointing out that Potomac was incorporated and opened its doors in 1974, three years before the feasibility study requirement was in place, I told him that I could find no record of such a study having been made at Potomac, but in light of the fact that none was required when the school was launched, and in light of the very obvious fact that the school had actually been organized, and had sustained itself as an unaccredited institution for several years, and the further fact that it had graduated a number of students who had taken and passed the Georgia bar examination, I wondered if it would not be possible for him to waive the feasibility study requirement.

Seemed like a logical request.

On October 9, Jim White responded in his usual fashion. His five page letter read like it had been composed by a computer program. In the middle of the second page, I found these enlightening words:

"A law school seeking provisional approval must complete and furnish, prior to an inspection visit, the following documents:

(2) A comprehensive feasibility study which was completed prior to commencement of a program of instruction ..."

It seemed pretty obvious to me that any school started before the feasibility study requirement was imposed was effectively being told that it could never be eligible for ABA approval. A back-dated feasibility study was not good enough, apparently.

I was undaunted. As a matter of fact, even before Jim White's reply arrived, I had sent him another letter, this time formally requesting an accreditation inspection and enclosing the \$2,500 fee required by the ABA rules. In it, I referred to my request that the feasibility study be waived. I also represented that we would shortly be sending a completed faculty self study as required by the rules.

On that latter point, I was perhaps a bit too sanguine. The Potomac faculty had been charged by Dean Kirk, months before I came on the scene, to conduct a self study and reduce their findings to a written report which could be sent to the American Bar Association as part of the school's application for approval.

Nothing had been done on that score, and as near as I could tell, nothing would be done unless I lit a fire under the faculty.

Not that there was any want of flames emanating from the professors' offices. In addition to formal resolutions protesting the tri semester system, and demanding that all past and current contributions to faculty pension plans be fully funded, there were memoranda urging the board of directors to fire the president since he had lost the support of the faculty.

Looking back, I can't say that I ever really had their support.

I well remember a particular faculty meeting which extended into the evening hours during which, try as I might, I was unable to convince the faculty that there was not enough money in the bank to fund their take home pay for the rest of the current term.

I pointed out that the students owed over a hundred thousand dollars in tuition just for the current term, and that we had to collect at least \$4,000 a week if we were to meet the payroll to Christmas.

Several outspoken professors made it clear that in their view meeting the payroll was my job. I simply had to find the money and write the checks. I told them that reliance on windfall contributions from donors to meet the payroll was no way to run a successful law school. I pointed out that Chairman Shirwin, whom so many of them had expected to bail out Potomac had not even come forward with the nine thousand dollars he so lavishly had promised to prevent one of my first layoff proposals.

That was about as confrontational a meeting as it has been my misfortune to attend. It ended on a note that left me deeply saddened, and reinforced in my mind the very real difficulties that arise when personal economic welfare comes up against the viability of an institution.

The next day I learned that Professor Robert McMillan, a new member of the Potomac faculty, had suffered a heart attack in the parking lot on the way to his car. He was dead on arrival at the hospital.

CRITICAL MAIL

September 25, 1979
Thomas E. Brennan, President
Potomac School of Law
The Watergate
2600 Virginia Ave.
Washington, DC 20037

Dear Judge Brennan:

I am writing to you in reference to the knowledge that you are not considering inspection by the ABA this month, as we were promised. I am shocked. I understand your desire to fulfill certain ABA requirements before pursuing accreditation, but I have been understanding this concern for three years and have seen no progress.

The school seems to be a victim of "Catch 22." There is a need for financial support and donations, but who will do this for a losing cause? If I recall, during the school year '76-'77 the school sponsored a fundraising affair, at a prestigious Washington country club, and was not disappointed. Our faith in the school was at a high. We all rallied for Potomac, we were proud. How many times we told family and friends that Potomac was not accredited, and yet we were not ashamed!

Now there exists such a feeling of helplessness among your students. Your procrastination shows just how expendable you regard them. But there should be no martyrs for a commercial cause! A law school should be in the business of assisting in the pursuit of a legal career. Why go to law school if you can't practice law?

I implore you to act immediately so that, in our case, sitting for the Virginia Bar in February can become a reality.

Sincerely,

Mrs. George A. Weiner

I answered:

Dear Mrs. Weiner:

As you can see from the enclosed letter, a formal request for American Bar Association inspection was one of my first official acts since becoming the unpaid president of Potomac School of Law.

How soon the ABA inspectors come to visit Potomac will depend on the ABA itself. After five years of frustration and empty promises, the ball is now rolling. The process of accreditation has finally begun.

I came to Potomac less than 60 days ago.

In that short time, I have 1) prepared and had adopted the first actual budget that Potomac has had in years; 2) told the truth about Potomac to the students, the teachers, and the school's angry creditors; 3) eliminated an army of unnecessary paid consultants, paid advisors, and paid hangers-on who have been draining thousands of dollars from the school's resources; 4) reestablished credit with the landlord, and major book suppliers; 5) settled a \$113,000 lawsuit which threatened to close the school; 6) obtained a commitment to extend the license of the school granted by the District of Columbia, which was in jeopardy because my predecessor had falsely represented to the licensure commission that an ABA inspection visit was scheduled for September when in truth and in fact none had even been requested; 7) obtained the appointment of a permanent secretary for the school, and began the process of untangling its jumbled corporate records; 8) entered into negotiations for the purchase of a building as the permanent home for the school; 9) formally requested accreditation inspection by the American Bar Association; 10) donated to Potomac School of law approximately \$100,000 worth of my time, and the time of 7 persons on my staff at Cooley Law School, 4 of whom have flown to Washington on several occasions to assist Potomac personnel, and one of who, William Schoettle, is now serving Potomac as its acting controller, without pay.

We have done all this without hope or expectation of personal reward or gain. We are simply trying to help your husband and the other unfortunate students at Potomac who have been duped and disappointed for so long.

I think that my Cooley Law School colleagues and I are entitled to an apology from you, and that you will be fair minded enough to give your apology as much circulation as your criticism has received.

Then, let's all join hands and get the job done!

Sincerely,

Thomas E. Brennan

ONE LAST TRY

At 7 a.m. on Monday, November 5, 1979, Potomac School of Law Dean Maurice Kirk and I met with James P. White, Consultant to the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association, and Mr. Richard Nahstoll, Chairman of the Accreditation Committee, at the Williamsburg Lodge in Williamsburg, Virginia.

We spent approximately an hour and forty-five minutes over breakfast in conversation about Potomac.

I must say that, on the surface at least, our discussion if not entirely cooperative and agreeable, was amicable and civil. A far cry from my last face to face meeting with Dick Nahstoll in Chicago.

We began the discussion by Dean Kirk recounting the historical antecedents of Potomac and particularly his own involvement from 1977. Then I described my connection with the law school beginning in the spring of 1979. We then began to detail the current situation of the school. I spelled out the financial circumstances of Potomac in specific terms; the \$400,000 in debts; the uncollected tuition; pending lawsuits by Hurley and others.

We talked about enrollment and tuition levels, the size and qualifications of the faculty and the success of Potomac graduates on the Georgia bar examinations.

Dean White then asked how, in light of the financial picture of the school, it was possible for us to certify that the school was ready for accreditation. I replied that I had submitted a composition proposal to the creditors of the school, and I expected that by the time an ABA inspection would occur, the debt would be restructured as a manageable long term obligation.

We then asked whether there was any possibility of a temporary approval or a temporary candidate status, such as the regional accrediting agencies provide.

Nahstoll responded by saying that the accreditation committee already had a number of problem schools on its agenda, and he was reluctant to get involved with another one.

I told him that we sensitive to those concerns, and that we would be willing to have the American Bar Association appoint a committee, a receiver or a conservator to take charge of the school so that at least the students who had already invested so much time, money and effort might be able to complete their education.

White and Nahstoll agreed that such a procedure would not be possible. They said there was no shortcut to provisional approval, and the financial condition of the law school, standing alone, would be sufficient reason to deny provisional approval.

We then tried to explore other avenues, including the possibility of a merger with an existing accredited law school; specifically, Cooley Law School. White said that even if a merger were to be approved, the credits earned at Potomac would not be transferable.

We talked about the possibility of a Cooley branch in Washington. White insisted that a branch would be measured by the ABA exactly the same way as a free standing school and that no procedural shortcuts would be available.

We gave White and Nahstoll copies of the Peat Marwick audit. White took exception to a footnoted comment to the effect that the school had applied for ABA approval. He insisted that, there being no feasibility study and no faculty self study, he did not regard the application as technically complete.

From my perspective we did all we could do. I figuratively took my hat in my hand and begged the gentlemen for merciful consideration of the several hundred hopeful young men and women who had invested so much money, time and hard work in learning the law.

Nahstoll responded by telling the story of the Greek contractor in the movie, "Mr. Blanding's Dream House." He stands off in a corner of the property, holds up an old picture frame, and viewing the house through the frame, says, "If the beams were straight and the sills were crooked, I'd say, 'Fix it up.' If the sills were straight and the beams were crooked, I'd say, 'Fix it up.' But I say, 'Tear it down.'"

White was less allegorical. When I asked him what options he thought might be open to the Potomac upperclassmen, he said they could always sue the founders of the school for fraud in the inducement. I made it clear to him that the current, board, faculty and administration of the school were all acting in complete good faith.

Returning to Washington, I mused again over the complicity of the organized bar in the injury being done to Potomac students. Sure, Hurley was a dreamer; maybe a self serving one; sure DiPietro, Winstead and company were overly sanguine about getting the school approved. But didn't the whole fiasco really develop because the ABA refused to consider a new school until after it had been launched without their blessing?

My conviction that the American Bar Association was simply opposed to expanding opportunities for legal education was stronger than ever.

GOODBYE AND GOOD LUCK

By the middle of November, my situation at Potomac was no longer tenable. The faculty was demanding my removal. The students were of a similar mind. None of Irwin Shirwin's big money people had come forward with any money. While I had completed the drafting of a seventeen page feasibility study, there was still no sign of a faculty self study. Getting the ABA even to come in and inspect did not seem likely until well into 1980 if then.

The Board of Directors gathered at the school on Sunday, November 18, 1979. I read the following statement:

"Effective immediately, I hereby resign as President, Chief Executive Officer and member of the Board of Directors of Potomac School of Law.

I have also been authorized to and I do herewith, submit the resignations as members of the Board of Directors of Justice James L. Ryan and Mr. Louis A. Smith, and the resignation of Mr. William E. Schoettle as acting controller of Potomac School of Law.

I would like to offer a brief statement of the reasons which have compelled this action.

Potomac School of Law is an insolvent, unaccredited law school. Its enrollment has declined. It is in serious trouble.

I came here to help. I have served without compensation and without reimbursement of the very considerable expenses incurred by me and my staff.

I offered the one thing I felt competent to offer — the one thing I thought Potomac needed the most — hardheaded, realistic, decisive leadership.

I said that I thought that Potomac could be saved and that it could be accredited, but that it would take time, hard work, and the cooperation of the Board, the faculty and the students.

That cooperation has not been forthcoming.

Focusing on their own self interest, the upper-class students have insisted on quick remedies and the faculty has insisted on painless remedies.

This law school was started five years ago by a man named William D. Hurley, for purposes which Hurley himself never made clear.

In those five years more than 600 students have paid over three million dollars in the hope and expectation of graduating from an accredited law school.

In that time, faculty, students, and board members have permitted themselves to believe that ABA accreditation could be bought quickly, if enough money or credit could be found.

They have believed, because they wanted to believe, every rumor about wealthy patrons and sponsors, government give-away programs, and legal gimmickry.

They refuse to accept the truth about Potomac; that it has become an educational chain letter, offering images and illusions until each new wave of hapless victims is forced to participate in the scheme.

I hope for all of your sakes that my assessment of the situation is wrong.

There are many trusting, well-meaning people around this table and around this school. I have meant no harm or hurt to anyone. What I have done here was done for the common good as I perceived it to be. If my actions, my manner or my presence here have caused pain to anyone, I am sorry.

To my friends and supporters, I say thank you.

To my opponents, I say congratulations and good luck.

And to all of you, I say goodbye.

I left the meeting and went upstairs to my room in the Watergate Hotel. Student board member Dennis Mark came with me. We weren't in the room for ten minutes when a knock came on the door. I opened it to confront a smiling contingent of Irish board members; Judge Tim Murphy, Eugene Foley, Marilyn Lowney and Alice O'Donnell. They had just resigned from the Potomac Board. I invited them in for a drink.

About forty-five minutes later, another knock on the door announced the arrival of Bob Schmidt. He too, had quit the board. We all cheered. In all, a majority of the board was in my room. Perhaps we could have controlled the destiny of Potomac, but without the support of faculty and students, it would have been more than any of us were willing to do.

POTOMAC POST MORTUM

How the Potomac School of Law managed to limp through the year 1980, I shall never know, but by the spring of 1981, faced with a federal IRS lien of \$60,000 for non payment of withholding taxes, the school was officially placed in bankruptcy.

It had long since been kicked out of the Watergate. The Georgia Supreme Court had tightened the requirements for entry into the bar of that state, denying Potomac graduates the only avenue open to them to enter the legal profession.

Warren Winstead resigned the presidency quite suddenly in late 1980. Irwin Shirwin finally came up with some actual cash; a \$30,000 loan to the school, which he claimed was personally guaranteed by Winstead, whom he later sued for the money.

Hurley eventually obtained a judgment against the school for his severance pay. He later attempted to start a law school in Hudson, Wisconsin, to be called the St. Croix College of Law and when the St. Paul Pioneer Press wrote a scathing critique of his efforts, Hurley sued them, too.

The internal warfare at Potomac only heated up with the school's declining ability to meet its obligations. Professors threatened to withhold grades from their students in an effort to force the students to support their demands against the administration.

The school's only physical asset, its modest library, was in storage at the warehouse of the Virginia Van Lines being held there as security for the payment of some \$40,000 in moving costs, with additional storage charges mounting daily.

Curiously, student-initiated litigation was the one thing that didn't happen. Perhaps they just didn't have money for the filing fees. Or maybe they were disillusioned about the law as the ultimate dispenser of justice.

In addition to garnering a few lessons about fiscal responsibility, Cooley benefited by receiving a handful of Potomac students who were willing to start all over again as incoming freshmen.

A few of these had actually completed more than two years of study at Potomac. Still, under stringent ABA rules, we were unable to give them advance standing in our program.

One of the transferees was Dennis Mark, the Potomac student board member who resigned with me that fateful afternoon in November of 1979. Dennis and I had become good friends during my Watergate days. He was, as I recall, from somewhere around Philadelphia, as was his roommate, a loveable, mischievous fellow known to his friends as "the bear."

Dennis and the bear came to Lansing together and eventually graduated. The bear missed the commencement ceremony, however, because he and his father had tried to hit every saloon between Scranton and Lansing, and they fell off the radar screen somewhere around State College.

Another fascinating character among the Potomac contingent was the Potomac student who so generously offered to clean up the law school to impress the ABA visitors. His name doesn't matter. His story is worth telling. He had at least two years of law school under his belt when he came to Cooley. I expected that starting over would assure him a fairly easy time of it, with rather impressive grades.

Not so. To the extent that he thought he already knew the material, he committed himself to extra curricular activities. Possessed of a pleasing, ingratiating kind of charm, he won all kinds of friends in Lansing, and soon found himself enmeshed in the Student Bar Association and the Cooley Chapter of the ABA's Law Student Division.

What with meetings and conventions, seminars and work shops, he had little time for his studies. Soon enough, he was in my office, crying the blues because he was on probation. I don't know if he thought it would help, but he regularly showed up with gifts of Hungarian wine or some other gypsy delicacy sent by his sainted mother back east.

I seem to recall that his graduation from Cooley was delayed due to academic deficiency. Whether it was or not, I do remember that he failed the bar exam. Not once or twice. He failed it four or five times at least. I think he was engaged to a Lansing girl who would not set the date until he passed the bar.

One day he came to see me, distraught over yet another failure to pass the exam, and the break up with his fiancé. "Young man," I said, in my best fatherly tone of voice, "let's face it. God doesn't want you to become a lawyer. Why not just give it up, go sell insurance and live happily ever after."

With tears of determination in his eyes, he left my office, still insisting that he was meant to be a lawyer.

Two years later he called to tell me he was an assistant prosecuting attorney in New Jersey. I was sure that some day he would be president of the local bar association.

FLASHBACK TO THE U OF M

I cannot now be certain of the year; it must have been sometime in the early 1970s. Cooley Law School was just getting under way. I may have still been on the Supreme Court.

Professor Paul D. Carrington, a preeminent member of the University of Michigan law faculty invited me to come and speak to his class. He was teaching a course in legal education, and, of course, I was a hot property on that subject in those days.

I don't know what Paul expected would come out of my appearance. I had a lot of respect for him, and I thought he held me in some regard. I did not think he was trying to embarrass me in any way. I believe he sincerely wanted to expose his students to my somewhat off beat egalitarian views about legal education.

Frankly, I relished the chance to mix it up with the minions of legal educational elitism. Rather than stand at the podium and make a speech, I elected to roam about the room, engaging the students in Socratic dialog. It was pure fun.

I began by asking this question, "In the United States of America, who is entitled to study law?"

I saw a lot of quizzical expressions on a lot of faces.

It took a while, but eventually some brave soul raised a hand and offered an answer in the form of a question?

"Don't you have to have 500 on the LSAT?"

"Do the rest of you agree?" I was looking for more input.

There ensued a brief give and take in which various theories about who gets into American Law Schools were offered. I egged them on, suggesting each time that they had not quite found the right answer.

Finally, after a pregnant pause, one timid fellow near the back of the room offered this thought, "Can't anyone study law?"

"Bingo!"

I then reminded the assembled law students that Thomas Aquinas defined law as a rule of reason promulgated by proper authority. Promulgated means published, broadcast, announced.

Every citizen, I also reminded them, is presumed to know the law. Ignorance of the law is no excuse. Our constitutions require that legislative enactments and judicial opinions be published. Public libraries stock all kinds of law books. So do book stores. Anyone can buy them.

After that dissertation, my next question brought smiles all around the room.

“In the United States of America, who is entitled to teach the law?”

By now they are beginning to think like constitutional law students. They remember the first amendment. Freedom of speech. Of course, anyone can teach law, just as anyone can teach anything they feel the urge to teach. All they need is an audience.

“Now if anyone can study the law and anyone can teach the law, who, in the United States of America is entitled to assemble for the purpose of doing these things in concert?”

That question lead to a discussion of government regulation of the educational enterprise. Once again, the spirit of constitutionally protected liberty won out, and I had the students agreeing that those of us who had organized the Thomas M. Cooley Law School were perfectly within our rights to do so.

Now we came to the stickier part. “Who, in the United States of America is entitled to practice law?”

“Don’t you have to pass a bar exam?”

“Not necessarily.”

Silence. Finally, I gave them my answer. “Nobody.”

After all that constitutional right business, the students seemed a little taken aback. That’s when I launched into a speech about the privilege to practice law being granted by the courts. And how the courts decide whether to admit candidates to the bar. And how the courts have the power to decide who gets to take a bar examination and who doesn’t.

That led to more discussion about whether courts can be arbitrary in such matters, and whether they can delegate their power to admit lawyers to a private agency like the American Bar Association.

I don’t know if I made any converts that day, but it sure was fun to stir the pot in those hallowed halls.

HERE WE GO AGAIN

When Cooley was fully approved by the American Bar Association in New Orleans in 1978, our friends on the Council couldn't resist tossing out one more brickbat. They added a new procedural requirement to the effect that when a school receives full approval, its first sabbatical re-inspection would take place in three and a half years instead of the traditional seven years.

And so it was that we had yet another visit from the American Bar Association in 1981.

The visit took place on March 9, 10 and 11. The inspection team seemed friendly enough at the outset. It was chaired by Leigh Taylor, president and dean of Southwestern University, an independent law school like Cooley. Among the other members was Bill Wilks, dean of the Dickinson School of Law in Carlisle, Pennsylvania, another very old, very well-regarded independent college of law.

However sanguine our expectations, the visitors hewed to the ABA's long-standing negative outlook. On July 6, 1981, I wrote to Dean James P. White, Consultant to the American Bar's Section of Legal Education as follows:

"Dear Dean White:

The 90-page reinspection report enclosed with your letter of June 30, 1981, was delivered to me at my home over the holiday weekend.

Given that the accreditation committee will meet on July 10 through 12, and given that mail delivery should take two or three days, it is apparent that Cooley Law School has 24 hours to respond to any matters in the report which it feels inaccurately portray our school.

Dean Keith J. Hey set out this morning to attend a long-planned family reunion in Iowa. Thus the burden falls on me to protect the record.

Before doing so, I must comment on the patent unfairness of the procedure in this instance.

Your letter of June 30, 1981 invites us to submit: (1) correction of errors; (2) new materials; and (3) matters of disagreement "... for consideration by the Accreditation Committee when it reviews the report."

Indeed, Procedural Rule II (13) requires that a written inspection report be submitted to the chief executive officer and to the dean of the inspected school for confirmation of the accuracy of the facts stated in the report.

Moreover, Rule II (9) provides that the Council of the Section of Legal Education and Admissions to the Bar ... "shall not consider any evidentiary or other matter which has not first been presented to the accreditation committee..."

The new language of Rule I makes these factors even more important. That rule now reads that an affected institution may appeal an adverse determination to the council, but in the absence of such an appeal, the council "... shall act to recommend the resolution to the House of Delegates."

I went on to point out that their policies allow the accreditation committee to act without waiting for the school's reply, and that we had no right to appear before the accreditation committee in connection with any matter affecting the status of the school.

I then concluded:

" Taken together with the provisions of Rule III authorizing the chairperson of the accreditation committee to appoint a hearing commissioner and require a Rule IV hearing whenever "... evidence indicates conditions, practices or actions in possible violation of the standards ..." and considering the provision of Rule IV (6) that an inspection report shall be considered as evidence, it is abundantly clear that Cooley Law School would permit the conclusions of the Reinspection Committee to go unchallenged at its grave peril.

To put it succinctly and in terms familiar to lawyers, it appears that we might well be bound over for trial without a preliminary examination, based upon written evidence, to which we are required to respond in writing but given no time to do so.

I will attempt here to provide a written response within the severe limitations of time.

At the same time, I hereby request on behalf of Cooley Law School, an opportunity personally to appear before the Accreditation Committee at such time as the Reinspection Report shall be received and reviewed by the committee for any purpose whatsoever."

That said, I added nine more pages of corrections, comments, and contradictions of the inspection report. It was time to dig in again, and circle the wagons.

THE KEYScore SYSTEM

One of the many innovations I brought to legal education was a new way to decide who gets into law school and who doesn't.

By common agreement, all law schools require that applicants take the Law School Admissions Test administered by the Law School Admission Council. The test is a measure of acquired verbal and reading skills, and is officially recommended as one, but not the only, measurement of law school admission.

Legal educators have long harbored a love-hate relationship with the LSAT. On the one hand, they regard it as an important measure of the quality of a law school applicant. It is common for law schools to boast about the high average LSAT scores of their entering classes. On the other hand, especially if their average entering LSAT score does not put them in the top tier of elite schools, law professors often denigrate the LSAT, calling it culturally biased, and irrelevant.

We always required the LSAT as part of our admissions process. But like many schools, we had no objective criteria beyond the LSAT, so we read the applicant's essay and letters of recommendation, examined their extra curricular accomplishments, and pretty much guessed at whether they would do well in law school. Whether they admit it or not, that's the way many law schools do it.

Somewhere around 1979 or 1980, I decided to quantify those factors in addition to the LSAT score which we considered important in the admissions decision. Among these were post graduate degrees, scholarships, and the sponsorship of a member of the legal profession. I dubbed the process the Complete Evaluation Admissions System. The acronym was CEAS, and after we began talking about applicants' CEAS score, it soon became known as the keyscore system. It began with the applicant's LSAT score, to which we added points for a post graduate degree, for a scholarship, and for a sponsorship agreement signed by a member of the bar.

I thought the sponsorship agreement was a good idea. Every law school invited letters of recommendation. I thought they were pretty useless. I had written many myself during my days on the bench, and I knew that such letters were often written by a friend of a friend who hardly knew the applicant or remembered recommending him or her.

I felt that, if a lawyer really knew and cared about an applicant, he should be willing to agree to maintain a meaningful relationship with the student, perhaps providing a place for the student to study, or periodically meeting with, and advising the student. Having an interested sponsor, I thought, would auger well for the student's chances of success in law school.

Similarly, eligibility for a scholarship should help a student. If nothing else, being relieved of some of the financial burden of a legal education ought to permit the student to spend more time on the books, and less time working to pay tuition.

Certainly, earning a master's or other post-graduate degree creates a presumption that an applicant is capable of doing graduate level work. Giving points for a post-graduate degree made sense to me.

You can imagine my surprise when the 1981 ABA inspection report devoted twenty pages to our admissions system, concluding that our keyscore program "appears to have a racially discriminatory impact."

I disputed the conclusion vigorously. I pointed out that our minority enrollment compared favorably with the Detroit schools, even though Detroit's minority population was over a million, and Lansing's was under 20,000.

When Dean Hey responded to the ABA inspection report, he attached a letter from Claude Thomas to the ABA's Jim White. It read:

"Approximately two weeks ago, I became aware of the American Bar Association inspection team report on Thomas M. Cooley Law School dated March 9-11, 1981. Of particular concern to me, as a black member of the Michigan bar, judiciary and graduate of Thomas M. Cooley's first class in January 1976, was your analysis of the school's admissions program and conclusion that the program has a "suggested adverse impact upon minority groups."

"I was admitted to Cooley Law School's first class in January 1973. At the time of my admission, there existed no CEAS (Complete Evaluation Admissions System.) However, some time around my senior year or shortly thereafter, but before the CEAS was implemented, the then Dean, Thomas E. Brennan, met with me, explained the new admissions program and asked me if I thought the program would be helpful in increasing minority enrollment. My answer was "yes" then and I still maintain that position. I have known President Brennan for almost ten years and, in that time have come to know him as an individual strongly committed to fair and equal treatment of minorities. In fact, when President Brennan discussed the idea of the new admissions program with me, the very thought he had in mind was to provide a means whereby a minority student with less than the stellar academic background required by many other law schools, could obtain a legal education that he or she might otherwise be denied."

In the years since 1981, Cooley has achieved the largest minority enrollment of any law school in America. Whatever the American Bar Association may now complain about, that issue is off the table.

DEMANDS FOR CONFORMITY

One consistent theme that always ran through the communications and actions of the American Bar Association's accreditation committee was its insistence that Cooley restructure itself in the exact image of the typical American law school.

A letter from consultant Jim White in November of 1981 listed nine specific demands:

- 1) That we give our full-time faculty control over planning and goal and policy determination. This despite the fact that the ABA's own standards as well as the statutes of the state of Michigan vested policy making authority in the board of directors.
- 2) That we turn over faculty recruitment to the full-time faculty. We gave that job to the dean, as permitted by ABA Standard 207.
- 3) That the full-time faculty be given authority to employ new faculty members. Again, not required by their own standards.
- 4) That the full-time faculty is given authority to make promotion and tenure decisions of their own members. At Cooley, the board of directors made promotion and tenure decisions on recommendation of the dean, again as permitted by standard 207.
- 5) That the full-time faculty be given authority to determine the law library's budget priorities. Again, this was done by our board as permitted by the standards.
- 6) That the full-time faculty be given control over library acquisition policy. Under ABA standard 604, library acquisitions are decided by the dean, the law librarian and the faculty. To cut out the dean and the librarian would violate the standard.
- 7) That the full-time faculty be given the power to recruit and select the dean. This was a demand utterly without support anywhere in the standards. At Cooley, the board of directors chooses the dean, a system entirely consistent with the ABA standards.
- 8) That the school give the full-time faculty more time off, more compensation, and more expense allowance for non-teaching activities. This demand ignored the fact that Cooley's faculty were among the highest paid in the nation.
- 9) That Cooley hire more full-time faculty members. This demand came in spite of the fact that Cooley's faculty was then the largest in Michigan.

I thought at the time, and still believe, that these demands were in large measure intended to undermine me as president of the school. The inspection team had again raised the tired and unfair criticism that some members of the board, presumably the president, had a financial interest in the school. They based this on the fact that I was drawing a salary and getting my expenses paid by the school.

While they knew, or certainly should have known that financial interest, as that phrase was used in the American Bar Association's accreditation standards did not include earned compensation or actual expenses, it was clear to me that the whispered accusation that I was somehow profiting from the school's operations still had legs within the legal education community.

I suspected that they were trying to divide the Cooley community, or at least generate an anti-administration sentiment among the full-time faculty.

In that endeavor, the ABA had the benefit of their preeminent stature within the legal community. The highest courts of every one of the states of the American union had designated the American Bar Association as the official arbiter of quality legal education. Its credibility among law students, law professors, and the public at large could not be overestimated.

The presumption always was that in any dispute, the ABA was right and whoever disagreed with them was in the wrong.

We always had a major public relations problem when the ABA challenged our accreditation. If all a person knew was that Cooley's accreditation was in jeopardy, the assumption was that we were doing something we should not have been doing. We were assumed to be at fault.

That is why, despite constant warnings from Jim White that his communications to me and mine to him were confidential and not to be shared with anyone other than the official family, I always made it a practice to file our correspondence with the ABA in the Cooley Law Library, where any student, employee or other interested party could see it.

It doesn't make for easy reading. Jim White's letters were always ponderous, repetitious, and full of quoted regulations. Mine were typically defensive and angry.

There were always some who thought we should appease the ABA. I was not about to grovel. We were right and they were wrong.

A LIBELOUS ACCUSATION

The American Bar Association's accreditation committee simply would not let go of its accusation that our admissions system was discriminatory.

The March 1981 inspection report claimed that giving admissions points for a master's degree discriminated against minorities because minorities were underrepresented among people holding master's degrees.

"So what?" was my answer. Minorities were underrepresented among holders of bachelor degrees as well, and yet every law school required a bachelor's degree as a condition of admission. And every law school asks about post-graduate degrees on their application form. Why do they ask, except to affect the admissions decision?

We felt that giving bonus points for a master's degree was more likely to favor applicants who needed to bolster their LSAT score in order to be accepted. This meant that it was a self-help opportunity which especially benefited minorities.

They made the same type of argument about sponsorship agreements. They said that giving bonus points to an applicant who was sponsored by a lawyer discriminated against minorities because there were fewer minority lawyers available to act as sponsors.

After listing many black judges and lawyers who enthusiastically sponsored candidates for admission to Cooley, I wrote:

"Not only are minority lawyers interested and willing to sponsor candidates for admission, but non-minorities are equally anxious to help minority candidates.

"The sponsorship agreement provides a sensible approach to the problem of affirmative action. It does not create different numerical score levels to accept certain races or ethnic minorities. It does not indulge in the haughty arrogance of the "special" programs of lowered standards and racially segregated tutoring which have proven so unsatisfactory in other law schools.

"Every student at Cooley knows that he or she was accepted on a colorblind basis, and that he or she is measured by a colorblind, anonymous grading system, and that the diploma he or she will receive will be as real and well-earned as any other.

"There are no second-class applicants, second-class students or second-class graduates at Cooley."

We gave bonus admissions points to applicants who had scholarships, too. The ABA agreed that a student who had financial help should have a better chance of success in law school. But they insisted

that this factor also discriminated against minority applicants, claiming that minorities are less likely to win scholarships than non-minorities.

We told them that the truth was exactly the opposite. There were several scholarships available exclusively for minority students, and these clearly were not biased against minorities.

We didn't ask a candidate's race on our application. We did however, ask if they would like their application called to the attention of persons or organizations which affirmatively assisted various named minorities.

We didn't have many scholarships based purely on academic attainment. In any case, students who might qualify for academic scholarships typically wouldn't need bonus admissions points to be accepted at Cooley.

I pointed out to Jim White in a November 1981 letter that the allegation of racial discrimination was libelous. Our admissions brochure spelled out that Cooley did not discriminate on the basis of race, creed, color, religion, age, and so on. To say that we discriminate was to say that we lied in our publication.

White responded in early December, telling me that he would bring my letter to the attention of the accreditation committee at its next meeting, then scheduled for May 5-7, 1982.

I was incensed. I wrote him immediately spelling out in no uncertain terms that his conduct was actionable. Not only was he going to let the charge of racial discrimination linger for five months before calling our response to the attention of the committee, but he also copied his letter to me to John E. Bauman, Executive Director of the Association of American Law Schools, for the apparent purpose of adversely affecting our application for membership in his organization.

I concluded by saying that I didn't want to rattle the sword of threatened litigation. That would be for the Cooley board of directors to decide.

Then I rattled it anyway, saying:

"You should be aware that the loss to Cooley Law School and injury to its reputation caused by the publication of this false accusation may well be aggravated by a deliberate refusal to reconsider and retract for a period of five months."

WEASEL WORDS FROM WHITE

My accusation apparently got somebody's attention.

I had charged the American Bar Association with publishing a libelous claim about the Cooley Law School admissions system. Their accreditation committee report clearly stated that we were guilty of racial discrimination.

I threatened suit. I told them that publishing such an accusation would damage our school, and letting several months go by before considering a retraction only made matters worse and would increase our civil damages.

On January 12, 1982, Jim White, the ABA legal education consultant replied to my letter of December 11, 1981.

He took great pains to deny that the accusation of racial discrimination had been published, listing the names of those to whom he had sent copies of the committee's report, and insisting that they were all persons "involved in the evaluation process."

They weren't. He knew very well that John Bauman, Executive Director of the Association of American Law Schools, was not a member of the committee nor was he otherwise involved in the evaluation of Cooley Law School. And sending the letter to Bauman was the only publication I had cited.

I was still shaking my head over that bit of obfuscation, when the next paragraphs of his letter literally made me chuckle.

"You ask that I rescind a portion of the action of the Accreditation Committee. As Consultant on Legal Education to the American Bar Association, I do not have the authority to vacate or modify any action of the Accreditation Committee with regard to any law school.

"I have discussed your letters with Council Chairman Schaber and Accreditation Committee Chairman Dickinson. The Committee does not take action with respect to any school by correspondence, but only acts during scheduled meetings of the Committee. In light of the additional information you have provided, we have polled the Accreditation Committee with respect to clarification of the intent of the Committee's action with respect to the second sentence of Accreditation Committee Finding (3) (d) as contained in my letter of November 10, 1981. A majority of the members of the Committee have replied in the affirmative. Thus, restructured Finding (3) (d) will read as follows:

(3) Cooley appears to be in violation of the Standards, and published Interpretations thereof, in the following particulars:

(d) The School maintains and enforces an admissions process which gives significant weight to personal and financial support of candidates for admission by individual lawyers [Standards 304(c) and 501]. The Committee cites particularly the reinspection team's exhaustive discussion of the issue."

First he says there's nothing he can do about the committee's action. Then he says they never take any action except during a regularly scheduled meeting. Then, viola! He somehow finds the authority to poll the committee, and they somehow find the ability to act without a meeting!

Of course what they ended up doing and saying was typically obscure and meaningless. We are now being told that we are in violation of the standards because our admissions officers give weight to the candidates' references and supporters. You could study the ABA Standards until you were cross-eyed without finding a single word suggesting that there is anything wrong with doing that.

In typical fashion, however, the committee's retreat from the accusation of racial discrimination was not absolute. White's letter continued with this bit of weaseling:

"The language 'This process discriminates against groups which are poorly represented in the Bar [Standard 211] and, taken with a level of enrollment from minority groups which is at worst 7/10 of one percent and at best 4.25 percent, in a state where the percentage of minority groups in the population is 11.2 percent, also indicates inadequate attention to and possible frustration of the purposes of Standard 212.' will be placed on the agenda of the Accreditation Committee at its April, 1982 meeting so as to give consideration to your correspondence and position. We invite your submission of any additional information which may bear on this question."

The bottom line: We've taken the accusation of racial discrimination out of our last letter, but we are still threatening to accuse you of racial discrimination unless you can talk us out of it before April.

CHANGING OF THE GUARD

One of the frequent criticisms leveled against the Thomas M. Cooley Law School by the American Bar Association in the school's early days was the notion that we did not have enough faculty governance.

They seemed to feel that I, as president, had too much to say about how the school was being run. Candidly, I thought that strong leadership, whether it was exercised by me or someone else, was a good thing. Faculty members are all very intelligent people. They are often given to pontificating in the classroom. It's what they do. It's what they get paid for.

When they do it in a meeting among their colleagues, however, the atmosphere becomes ponderously analytical and frequently indecisive. One commentator wryly noted that the reason faculty meetings become so argumentative is because there is so little at stake.

If I was not a great fan of formal faculty governance, however, I was not indifferent to the opinions of faculty members. Most of our people viewed their vocation as teachers rather than administrators. They were content to leave the administration to the president and the dean. When they did have something to say about governance, I tended to listen.

In the spring of 1982 a small delegation of senior faculty members came to see me. They wanted a new dean. I was surprised. From my perspective, Keith Hey was doing a fine job. The professors who came to see me had no personal complaints against Keith. They liked him well enough as a person and as a colleague.

The gist of their message was that Keith's primary qualification for the job was the fact that he brought traditional academic credentials to the job; his profile was one that we had all thought to be just what the ABA wanted. In short, the faculty had expected Keith to be the lubricant that would end the friction between Cooley and the American Bar Association.

It had not turned out that way. We were still in the accreditation frying pan.

The delegates who came to see me insisted that they spoke for the majority of the faculty. The faculty, they said, was sick and tired of ABA criticism, and they wanted an academic leader who could more vigorously and, they felt, more effectively speak on their behalf.

It may also have been, although they didn't actually say so, that they felt I was *persona non grata* with the accrediting authorities, and that a different voice should be raised on behalf of the school.

The senior faculty members who came to see me were all friends of mine. They were among our very best teachers, and I had the highest respect for them and their judgment. Still, I felt that such an important decision needed more input, so I called a number of other professors to take a reading. I became convinced that the faculty as a whole had lost confidence in Keith, and I told him so.

To his everlasting credit, Keith Hey took the news stoically. He was, and is, a good soldier, and a team player who puts the good of the institution first. Besides, he was and is a fine teacher who enjoys the classroom environment and the opportunities for research that full-time teaching affords.

Still, I would not have accepted his resignation if it would have thrust Cooley into a period of lapsed or uncertain academic leadership. I was no fan of the ponderous process of conducting a decanal search. I had seen other law schools stagnate under temporary deans while faculty search committees mulled over lists of candidates for the job.

Fortunately, as I spoke privately with members of the faculty, it became clear that there was a strong sentiment in favor of appointing one of our own people as the next dean. I liked that idea. We were a unique school with a special mission. Naming someone who understood Cooley, what made it work and why it would survive and prosper, was important to me and to the faculty.

And the name that kept coming up was Don LeDuc.

A graduate of Kalamazoo College and the Wayne State University Law School, Don had a successful career in public service before joining Cooley's faculty. For seven years a member of the Michigan Corrections Commission, Don was also a special attorney in the United States Department of Justice, assigned to the Organized Crime Task Force in Detroit.

I first met Don when, as Director of the Office of Criminal Justice Programs, he funneled federal funds to Michigan courts during my tenure as chief justice. Bob Krinock and I had recruited him over a cocktail in Washington, D.C. during a meeting of the Association of American Law Schools.

On May 15, 1982, the Board of Directors appointed Don LeDuc Dean of the Thomas M. Cooley Law School for a two-year term. It would turn out to be an historic choice.

VISITING FAULT FINDER

In most European countries the secondary education system consists of the gymnasium schools and vocational schools. The gymnasium has nothing to do with indoor sports. It is the name for a school devoted to classical preparatory education. It is the prelude to the university.

Typically, students in Europe are tested when they are between ten and fourteen years of age and those test results determine whether the child will go to a gymnasium or a vocational school. In most cases, a person's life choices and opportunities are unalterably fixed by the results of those tests.

In America, all children attend high school. Whether they go on to college or university will depend on many factors. None are foreclosed by testing done in their early teens.

As democratic as the American educational system may be, there are many people who wish to impose rigid criteria for post-secondary and professional education, offering such opportunities only to those deemed most 'qualified' based on standardized testing.

These are the people who believe that only the 'brightest and the best' should be admitted to law school. 'C' students need not apply. I always thought it ironic that C students could become United States Senators, or even President of the United States; they could become bank presidents, members of the board of directors of major corporations, scientists, inventors of computer software. Whatever. Indeed, in America, C students can ascend to any level in society to which their perseverance, hard work, luck, skill and brains might take them.

Except they can't be lawyers. To the American Bar Association, the simple statutory qualification of 90 hours of post secondary education is not good enough to permit enrollment in a law school. Stellar undergraduate grade point averages and better than median scores on the Law School Admissions Test are the *sine qua non* of law school admissions according to the ABA.

In the spring of 1982, the Accreditation Committee of the Section of Legal Education of the ABA decided to send a fact-finder to the Thomas M. Cooley Law School. Ostensibly, his assignment was to examine our admissions system to determine whether we were discriminating on the basis of race as the committee had previously intimated.

Steven Smith, dean of the University of Louisville, was named. He spent three days on our campus in June and filed his report in October. When I saw his report, I wrote a memo to Dean LeDuc:

"The Fact Finder's report, enclosed with Dean White's letter of October 1, 1982, is more fault finding than fact finding. It is heavily laced with Dean Smith's personal opinions and largely based upon his unsupported assumption about what is and what is not "justified" in legal education."

I went on to detail Smith's nitpicking. Our terms of school were too long. Our student LSAT scores had not improved since we were accredited. We didn't have enough students with exceptionally high

LSAT scores. Our admission system was different from most other law schools. We should have more professors. We should pay our faculty more. We admitted too many students. We favored the rich. We discriminated against minorities.

No mention was made in his report of the fact that the rate of passage by Cooley graduates on the Michigan Bar Examination was over 84%, a level comparable to the so-called prestige schools.

On October 15, 1982, Dean LeDuc wrote to Jim White expressing his puzzlement over the fact finder's report and its subjective observations. He concluded with this reflection:

"I fear that we are about to begin another chapter in our unfortunate relationship with the Committee. I sincerely desire to put the past behind us. I request the opportunity to meet with the Committee on November 5-7. Please let me know if this is possible and, if so, at what time I should appear."

Dean LeDuc was invited to appear before the committee, and he did. On November 8, 1982 Jim White sent us the Accreditation Committee's latest action letter, reflecting the results of its November meeting. They wanted us to 'do something' about the practice of giving consideration in our admissions process to financial support by sponsors. They also demanded that we reduce our student teacher ratio to 30:1.

On December 9, Don wrote to Jim White informing him that we had changed our sponsorship agreement to eliminate any reference to financial support, and on December 28 he again wrote to White asking to be heard at the Committee's April meeting on the subject of student/teacher ratios.

I was delighted. If Don LeDuc could keep getting himself admitted to the committee's closed-door deliberations, perhaps the accreditation wars would be over. Or so I told myself.

RULE IV ONCE AGAIN

In 1976, Cooley Law School underwent what is known as a Rule Four hearing. It's the proceeding used by the accreditation committee when they want to try to decertify an approved law school.

The 1976 hearing came only a year after we had been provisionally approved by the bar. We won that contest hands down, as the four commissioners unanimously found in our favor on every point at issue.

After that victory, things seemed to improve. We achieved our full and final accreditation by the ABA in 1978.

Sadly, however, the attitude of the powers that be had not changed. In April of 1983 we received another one of Jim White's action letters this time reporting on the decisions of the accreditation committee at their April 1983 meeting. They had heard from the Investigator they had sent in 1982 and they had heard from Dean LeDuc.

Still, they weren't satisfied. Unless we reduced our student teacher ratio to 30:1, they threatened to convene another Rule Four hearing.

Don and I discussed their demands. He thought that hiring three more teachers would bring us down to the required ratio, and while we both agreed that there was no published standard requiring a 30:1 student teacher ratio, we also agreed that nothing was to be gained by further confrontation.

So we hired three more teachers and Dean LeDuc wrote to the chairman of the accreditation committee in June informing her of that fact.

Case closed? Not quite. On August 31, 1983 we received another ponderous epistle from Jim White, this one announcing that we would in fact, be subjected to a Rule Four hearing to take place either on October 21, 1983 or November 11, 1983 before Dean Peter Winograd of the University of New Mexico Law School.

Winograd was a certified elitist; Brown University A.B., Harvard University J.D., and an L.L.M. from New York University. He had been an Assistant Dean at both NYU and Georgetown Law Schools. He was also thoroughly credentialed as a member of the legal educational establishment, through his involvement in the Law School Admissions Council, The Association of American Law Schools, The American Law Institute and most extensively the American Bar Association's Section of Legal Education and Admissions to the Bar.

In short, Peter Winograd could not be expected to look very kindly on a non-university law school, teaching practical legal scholarship to a student body made up of a cross section of average college graduates.

Dean LeDuc replied to Jim White promptly. He pointed out that we had employed three additional professors, bringing our student/teacher ratio down to 29.99:1. He reminded White that he had so informed Justice Wahl, chairman of the accreditation committee of that fact by a letter sent on June 24, 1983. Noting that his letter of June 24 had never been acknowledged either by White or by the committee, he went on to say that the three new faculty members were already teaching classes in the September term.

And why, LeDuc asked, wasn't his letter of June 24 listed among the letters and documents to be considered by Peter Winograd, the Rule Four hearing officer? Did the committee think the size of our faculty was irrelevant to the student/teacher issue? How indeed could a student/teacher ratio be calculated except by dividing the number of students by the number of teachers?

Our Dean was on a roll. He took White to task over his description of the Rule Four hearing.

"Your letter indicates that the proceedings are 'relatively informal' and conducted 'in accordance with normal rules and practices for administrative hearings.' I taught administrative law for seven years and in the past have conducted hundreds of administrative hearings, including license revocations. If your hearings are relatively informal, they cannot be conducted in accordance with normal rules and practices for administrative hearings. You state that 'testimony is not under oath.' Normal administrative practice, especially where license revocation or decertification is involved, requires sworn testimony..."

He concluded with a flat rejection of Jim White's purported notice of a Rule Four hearing:

"Your letter is not in compliance with [the provisions of Rule Four] in at least two particulars: first, there is no notification of the school's 'apparent deficiencies;' and, second, there is no notice of a hearing 'on a certain date.'

Don sent me a copy of his drafted letter. That same day I sent him this memo:

"Thank you for an advanced copy of your letter. I would not change a single comma. I approve not only its content, but its sassy tone."

DODGING THE BULLET

All through 1983 and most of 1984 Cooley Law School lived under the threat of a decertification hearing by the American Bar Association. We were informed in April of 1983 that there would be a hearing before September 15th of that year.

We protested that the notice was not in accordance with the bar's own procedural rules.

In August of 1983, Jim White again told us that we would be subjected to a Rule IV hearing, this time to be convened either on October 21 or November 11. Again, we protested that the notice was deficient.

Undaunted, the ABA wrote us still another threatening letter on November 3, 1983, this time announcing that the hearing would take place on January 20, 1984 or January 27, 1984. Equally undaunted, we replied that they had still failed to set the hearing for a date certain as required by their rules.

The January dates came and went. Instead of a hearing, we were favored with yet another summons, this time setting the date of April 6, 1984 for the hearing.

It never happened. Dean LeDuc doggedly supplied Jim White with memoranda and statistics. He pointed out that we were due for our regular sabbatical reinspection in the fall. He finally persuaded the accreditation committee simply to consolidate their Rule IV hearing with the required seven-year site evaluation.

And so it was that in November of 1984 the Thomas Cooley Law School was visited by yet another distinguished committee of scholars and educators. Chaired by the University of New Mexico's Law School Dean, Peter Winograd, the team consisted of Washburn Law School Dean Carl Monk, Dean Claude R. Sowle of the University of Miami School of Law, Professor L. Harold Levinson of the Vanderbilt University School of Law, and Roger Jacobs, Law Librarian at Notre Dame.

On November 10, 1984 the inspection team met with several representatives of the law school including Dean LeDuc and me in what is commonly called 'the exit interview.' On November 15th I sent a memo to the members of our board of directors and to the faculty in which I summarized the comments made by the inspectors during that interview, and I invited reactions from our people.

I tried to recount in some detail just what the visitors had said. Their observations were, after all, being offered in a spirit of helpfulness, and I thought our faculty might find them of particular interest.

Among the more interesting comments were several made by Professor Harold Levinson. He felt that "too much stuff" was being taught at Cooley. By 'stuff' he meant to tell us that we were requiring our students to learn too many details. He cited one instance in which the minimum age of a United States Senator as provided in the U.S. constitution was asked on an examination.

Professor Levinson thought such things were trivial; that such minutia can be learned by students in a commercial bar review course; that law school should concern itself with larger, more theoretical matters. He regarded what we were doing as the 'trivia' approach to legal education.

He went on to say that there is no need to teach the details of Civil Procedure in law school. This information, he insisted can be learned by reading the court rules. Levinson claimed that there was too much emphasis on Michigan law. Course syllabi were too long, in his opinion, and our faculty and students work too hard on the details. "Knowing the stuff," he repeated, is not a function of law school.

Roger Jacobs, the Notre Dame law librarian, echoed Levinson's views. He felt that out-of-state students would be bored with the details of Michigan procedure and that teaching Michigan law and Michigan court rules was a misplaced effort.

Cooley's guru of civil procedure, Professor Roger Needham, favored me with his reaction to their opinions. "Obviously, they are grossly ignorant about procedure," he wrote in a November 21st memo, which continued:

"I could give a long answer, in which I would point out that one cannot understand 'procedure' without being able to function within a system of procedure; and the various reasons why Federal Procedure does not provide an appropriate model. But I prefer the short answer, a substitute for my right arm extended, fist out, and middle finger erect:

- A. "I know more about legal education than any of these gentlemen, having survived in a more selective and demanding market. [Continuing legal education.]
- B. I know more about Civil Procedure than all of them put together.
- C. I rejoice in tenure and academic freedom. Therefore:
- D. I propose to continue to teach civil procedure with reference to the Michigan rules then current, until such time as I begin to take "Legal Educators" seriously — whereon I will consent to being led away, quietly, to a home."

As I read Roger's memo, I thought it was probably better for Cooley's relationship with the American Bar Association that Dean LeDuc was our academic spokesman rather than Professor Needham.

NIGHT SCHOOL STUDENTS

The American Bar Association has had a long and sordid history of elitism. Persons of African ancestry were excluded from membership until the middle of the 20th century. Equally exclusionary, though more subtle, was the bar's bias against part-time legal education.

In the early 1900s, night school was seen as the place where the uncultured masses could gain undeserved entry to the ancient and learned profession of the law. Part-time legal education, the leaders of the bar felt, invited the working classes, the foreign born, the ghetto bound, to become lawyers. The conventional wisdom of that time was that economic need fostered unethical conduct. Night school lawyers were often perceived as money grubbing, ambulance chasing, unscrupulous shysters. Even today, law schools which operate evening divisions are sometimes branded as mere trade schools.

One way to discourage part-time legal education was to require a longer period in residence. Presumably night school students were slow learners. The bias took some curious forms. The State of New York, for example, required four years of study rather than three if classes were scheduled after four o'clock in the afternoon.

The ABA's Council on Legal Education took a different tack. It required four years of study unless the student devoted substantially all of his time to the study of law. That definition was more of a goal than a standard. It was nearly impossible to apply to a given student. Clearly a law student had to eat and sleep and needed some time for recreation and the ordinary activities of social living. So the Council adopted a black letter rule: anyone who was gainfully employed for more than twenty hours a week was considered a part-time student, and had to study law for four years rather than three.

The rule limiting gainful employment echoed the bar's bias against the working class. One could be occupied more than twenty hours a week in many other ways. Only gainful employment was banned. You couldn't have a job. You couldn't earn money as an employee. You could work any number of hours as a volunteer. You could own your own business or spend eight hours a day managing your investment portfolio. You could mother a brood of six children, or run for public office in a round the clock political campaign. But you couldn't work twenty-one hours a week for a paycheck.

Cooley Law School posed new challenges for the ABA. We operated not two divisions, day school and night school; we offered three divisions; morning, afternoon, and evening. Our students were studying twelve months of the year and graduating in less than four years. By our count, only a small handful of Cooley students were full-time. These we required to certify that they were not employed more than twenty hours a week. All the rest of our people we counted as part-time.

This dichotomy took on significance as the accreditation committee focused on student teacher ratios. On that issue, the accreditors were playing hide the ball. First they wanted us to have a ratio of 30 to 1. Then 29 to 1 wasn't good enough. What exactly was enough, they wouldn't say.

The push for lower and lower student teacher ratios was driven by the bar's perception that our student body needed help. In the 1980s the Law School Admissions Test was scored on a scale of 200 to 800. The median was 500. Cooley had many students with LSAT scores in the four hundreds.

At one point Don LeDuc and I went to an accreditation meeting in Sacramento. I gave the committee my 'four hundred club' speech. In it, I detailed the successful professional lives of dozens of our graduates whose LSAT scores were below the median.

And so the battle raged. For purposes of student/teacher ratios, a part-time student was counted as equal to two-thirds of a full-time student. Could we count students as part-time even though they took as many as fourteen credit hours in a term? They had no rule against it. Still some committee members wanted to impose a fourteen hour definition of full-time study. When they tried to do so, other schools balked. They backed down.

But the committee still wanted to apply the rule to Cooley. They argued that our student body was too much at risk; our LSAT scores were too low; we needed more teachers than other law schools because our students needed more help.

It was a phony argument. Student/teacher ratios never had anything to do with class size. A large research faculty with light teaching loads was fine with them. Sheer numbers of warm bodies on the faculty payroll; that was the goal.

In the end, the economy solved our debate. Baby boomers buying cars and houses, aided by the policies of Reaganomics created a plethora of good paying jobs for college graduates. No need to go to grad school. No need to get a law degree if you can start next week at Proctor and Gamble for forty thousand dollars a year.

Law school applications nationally went into the dumper. Cooley took more than its share of the hit, as out-of-state students found schools closer to home eager to accept them.

Our enrollment shrunk by 25% from over 1,200 to less than 900. The Thomas M. Cooley Law School was in for some very tough years. It would be a time of testing for all of us.

THE J.C. PENNEY BUILDING

The Cooley Law School library, begun so inauspiciously in the basement of the old Masonic Temple was bursting at its seams by the mid 1980s. Through a generous \$100,000 gift from the Gannet Foundation brokered by Professor Bob Fisher, we were able to expand the library to include most of the first floor as well.

The expansion involved creating a separate staircase connecting the two floors within the library space. We also installed a dumbwaiter to move books between the basement and the first floor.

Still, the facility was unsatisfactory. It was crowded, of course. The home made tables were sturdy enough, but they were hardly state of the art. And the place was noisy. The entire library staff was stationed just a few feet from the study area, and the bustle of catalogers, reference clerks, and counter personnel mingled with the comings and goings of the students to mount a continuing buzz in the main reading room.

We knew we needed more space. We didn't have to be told by the American Bar Association, though of course, they told us, and told us.

I was always on the alert for opportunities to acquire real estate in downtown Lansing. One property that intrigued me was the old J. C. Penney store on the northwest corner of South Washington Square and Kalamazoo Street. The building had been vacated by the owners some years before. Like so many properties in the center of American cities, it just sat there, a mute reminder that the suburban mall had stolen the hearts and pocketbooks of the buying public.

The building had been acquired by the Granger Construction Company. I negotiated a purchase price of \$700,000. We would employ Granger to do renovation work. At this point, however, there was no plan for remodeling. And there was no money. We paid the purchase price in cash, and agreed to pay Granger on a piece work basis as work progressed.

Granger put a plywood construction fence around the building and removed the inoperative escalator between the first and second floors. Then we ran out of money, as the law school recession of the '80's took hold.

For the next several years, the Penney's Building was an albatross around my neck. It became a source of gossip among the local bar. Indeed, I recall receiving a letter from an attorney whose office faced the building across Washington Square. When was that eyesore going to be finished? Even the shoemaker on the Northeast corner added his two cents to the criticism when I went to get my shoes repaired.

At one point, during a faculty meeting at which budgetary constraints were being discussed, Bob Fisher suggested that the Penney's building could be sold to finance the faculty tuition remission benefit. I didn't receive that idea very warmly. To me, it was like burning the furniture to take the chill off of the house.

At the annual meeting of the Cooley board of directors in May of 1988, then chairman of the faculty conference, Professor Elliot Glicksman, made an impassioned plea for the board to drop plans to use the Penney's building as the law library. In doing so, he was speaking for the majority of the faculty. He argued that the convenience of being able to consult library resources between classes was critical. Students and faculty, he insisted would not go out in the rain or brave winter snows to use the library.

To counter his argument, I obtained a map of the Michigan State University campus. Then I had a map of downtown Lansing made to the same scale. By laying the Lansing map over the MSU campus, I was able to demonstrate that the Penney's building was substantially closer to our classroom building than the Michigan State library was to most of the university's classrooms and offices.

As the decade of the 1980s came to a close, I was grateful for the increase of faculty governance in at least one particular. The process of planning and consultation, committee meetings and solicitation of input from all interested stakeholders stretched out the time needed for drawing and approving the final architectural plans for the new library until, in the early nineties, our revenue stream had improved to permit construction to resume.

The rule in those early days was simple. The board of directors generally approved any construction project we could pay for out of surplus earnings. We had long since negotiated a termination of our contract with Granger. They were not about to wait four or five years for the job. So when there was enough money in the bank, I cut Ray Brennan loose to begin the construction of the library.

We did it with typical aplomb. I called the media and announced that there would be a window breaking ceremony; our version of the classic ground breaking. On the appointed day, with appropriate flourish, I threw a sledge hammer through one of the plate glass windows in the front of the old J.C. Penney's building.

It made one heck of a bang. I always wanted to do that.

A SAD DAY

In April of 1986, Polly and I rented a condominium in Palm Harbor, Florida for a spring vacation. While we were there, our daughter, Marybeth and her boy friend, Jim Hicks, came down for a few days. Jim took the occasion to ply me with a six pack and ask for my daughter's hand in marriage. I readily gave my blessing and their visit became a celebration for the four of us.

A day or so later, however, the mood abruptly changed. Jim and I were on the tennis court when Marybeth came running breathlessly from the condo with tragic news.

Bob Krinock had died of a heart attack.

I was devastated. Bob Krinock dead? How could it be? He was barely forty years of age, had never been sick, had never complained of chest pains or other symptoms, had never giving anyone cause to be concerned about his health.

We flew home immediately, of course. At Cooley Law School, I found a community of co-workers and colleagues as stunned and heartsick as I was.

The funeral was enormous, befitting a man taken in the prime of life, and leaving a young widow and four children without their breadwinner. Almost to a man, Bob's many friends considered him their best and dearest friend. He was not just popular, he was beloved.

A month after Bob died, at the annual meeting of the Cooley board of directors, a commemorative resolution was adopted. It was decided that appropriate memorials would be established so that Bob's name and his contribution to the Thomas M. Cooley Law School would be preserved.

The faculty was particularly determined to honor Bob Krinock's memory. They established a lecture series which has prospered through the intervening decades. The Krinock Lectures have become one of the most prestigious and important academic exercises at Cooley and has hosted an impressive list of distinguished guest speakers and visitors to the school.

From the beginning, Cooley's classes were named for deceased members of the Michigan Supreme Court. We made an exception for Bob Krinock, and decided to name the September 1988 class the Krinock Class.

The untimely death of our second dean somehow seemed to epitomize the mood of 1986. It was a time of shrinking law school enrollments, uneven bar examination results, and generally dispirited days. In my annual report to the board of directors, I spoke of "shadows dancing on the wall" and recited a litany of our financial and academic woes, concluding with reference to a "gnawing sense of frustration, discouragement and demoralization which nibbles at the edges of our concerns, diminishes our vitality and distracts us from doing our jobs."

I told the board the same thing I had previously set before the faculty. We had four options: trim the sails, pray for rain, sell the farm, or go to the whip. As always, my choice was to go to the whip. Keep doing what we have been doing, but do it better and better.

I emphasized that going to the whip meant believing in our mission, embracing our mission, and marshalling our energies to accomplish our mission. And so it was essential that we all know and agree upon what it is that we were trying to do.

I defined our common purpose in these words:

“The mission of the Thomas M. Cooley Law School is to provide an accredited, affordable, accessible, nationally recognized and ethically oriented, professional program of practical scholarship in the law to as many qualified students as possible.”

Those last six words were controversial; both between Cooley and the ABA and internally among some of our own people who wanted to cap our enrollment and try to ratchet up the LSAT scores.

The turning point came with the Krinock Class in the fall of 1988. It was the largest class in the history of the law school at that time. I always felt that Bob Krinock himself was our patron saint steering applicants to our doors.

In September of 1991, I told the graduates of the Krinock Class that Bob and I talked often about what we hoped would come out of Cooley, and we agreed that the true measure of the success of an educational institution was the same yardstick by which we measure the success of each graduate:

“That they struggled and persevered through good times and bad; that they accepted responsibility for themselves and tried to be of service to others; that they were loyal friends and honorable foes; that they gave honest effort to those things in life which deserved their dedication; that, when they fell, they got back up again, and again, and again; so that in summing up their lives it could be said of them that they did all they could do; they gave their best; they stayed the course; they paid their dues; they kept the faith.”

Today there are thousands of lawyers in America whose careers and whose lives testify to the vision which Bob Krinock and I shared.

A QUESTION OF STYLE

I was never an orthodox manager. I had very little regard for organizational structure. We never published one of those charts that shows who reports to whom. As far as I was concerned, everybody worked for Cooley.

I assumed that as president, I was welcome anywhere on campus, and I frequently got involved in the nitty gritty of peoples' job. Most folks took my overtures pretty well. If they thought I was interfering, they kept their complaints to themselves, knowing that in due course, I would go away and bother someone else.

The introduction of the Nutshell data base was a prime example of my hands-on style. I had read a book by a guru of corporate success which described a system called 'skunk works.' Originated during World War II at Lockheed Martin and named for the fictional moonshine still in Al Capp's cartoon, Li'l Abner, a skunk works was a team of people assigned to a particular task. They operated outside the corporate organizational box. No rules, no protocol; everyone contributed to the project however they were able. It was a style later associated with the burgeoning computer software business; CEO's of the Bill Gates generation, wearing blue jeans and working side by side with their employees.

While I never succumbed to donning blue jeans, I did get involved in inputting data in the Registrar's office, and with the patient cooperation of Sherida Wysocki, the Registrar, we developed a workable electronic filing system for that important office.

That led me to look into the operation of the Admissions office. The Admissions office had migrated to the school building from its location in the administration building and was located across the lobby from the Dean's office. Cynthia Kruska, the Assistant Dean for Admissions was a competent person with excellent academic credentials. She worked well with the Dean, who required detailed statistics about the numbers and quality of our applicants.

Unhappily, all of her reports had to be laboriously prepared by hand. There was no data base in the admissions office. The solitary computer, an early PC, had only word processing software and the form letters it produced had a habit of kicking out one blank page for every printed page.

I visited Dean Kruska on several occasions and tried to persuade her to use the software we had installed in the Registrar's office. No doubt I came on too strong. In any case, every time I stopped by her office, I would shortly get a call from Dean LeDuc urging me not to interfere with his staff.

Dean LeDuc and I had a number of conversations after that, but never agreed on changes in the admissions office. Understandably, Dean Kruska felt uncomfortable, and tendered her resignation.

That's when I decided to move the admissions function back to the administration building and hire someone to run the office. I advertised for the position of Director of Admissions. I didn't see the need for an academic title.

One of the applicants was a tall, attractive woman named Stephanie Gregg. She was then employed at a local advertising agency. I knew her employer, and had dealt with his firm. We met over breakfast and I was impressed with her enthusiasm and moxie. She had minimal academic credentials, having completed only two years of college, but I thought she would bring a sales and marketing approach to the admissions process. And that was what we needed.

Our enrollment was down. We had lost 25 percent of our student body. Law school admissions officers, even in those days of shrinking applicant pools, had a way of acting like academic gatekeepers rather than salesmen. I wanted aggressive marketing, and I thought Stephanie could do it. She would work directly for me, and I would install the data base which would tie into the Registrar's system.

Of course, she would also be working for the Dean and the faculty admissions committee. It would not be easy to take orders from so many bosses, especially when there would be differences of opinion about who should be admitted and how many students we should have.

I sent her to see Dean LeDuc. She reported that he was less than enthusiastic. I told her not to worry, that he would expect her to do a good job and would judge her fairly and reasonably. So she came to work at the Thomas M. Cooley Law School.

That was twenty years ago. Being decisive if not impulsive, I have made a lot of mistakes in hiring through the years. Stephanie was not one of them. Today, Cooley is the largest law school in the nation. Its brochures and other marketing materials are without equal. The welcoming atmosphere of the admissions office earns high praise from applicants and students.

Stephanie has grown in the job, completing her baccalaureate work at Michigan State University and assuming a position of leadership among her colleagues from other law schools in the national association of law school admissions officers. More importantly, she has earned the respect and affection of the Dean and the faculty at Cooley.

She is no longer the Director of Admissions. She is now the Assistant Dean of Admissions. Things are back to normal on Capitol Avenue.

ALMA MATER

The do-it-yourself tradition at Thomas M. Cooley Law School survived its growth and success.

One afternoon then Director of Admissions, Stephanie Gregg came into my office and excitedly announced that a celebrity was applying for admission. The song writer, David Barrett, apparently had decided to augment his musical career with a law degree. I confessed that I didn't know Barrett; was not familiar with his work.

Tolerant of my ignorance, Stephanie informed me that among other works, Barrett had written the composition which was played annually during the NCAA basketball championships. As a sports fan, I was familiar with the strains of "One Shining Moment" which traditionally caps off the season of March Madness as it accompanies pictures of celebrating college basketball players cutting down the nets after the final game.

So Barrett was indeed a real song writer. I asked Stephanie to introduce him to me if he should come by the office in person.

Sure enough, a few weeks later he was in my office. After the usual pleasantries, I got down to business. Cooley, I told him, did not have an Alma Mater song. Every school should have an Alma Mater song, I said. Would Mr. Barrett be willing, as a fledgling member of the Cooley community, to write the music?

He said he could do that. Well, if he would write the music, I said, I would write some words. It was a good humored exchange, one that both of us probably regarded as somewhat of a spoof.

Still, the more I thought about it, the more I thought it was a good idea. So one day, when I was driving north on highway 127 to some meeting or other, I started thinking about words for a song. By the end of the day, I had them well enough in mind. Two verses, a bridge, then another verse.

Here's the way it looked:

Thomas Cooley, Alma Mater,
Mighty temple of the law;
Where first we sought the face of justice,
Full of wonder, full of awe.

Thomas Cooley, Alma Mater,
Reservoir of truth sublime;
Where first we tasted sweetest reason,
Learning wisdom grows with time

We came to you in Michaelmas
Different as the Autumn trees,
And working grew in friendships through
Quiet snowbound Hilaries
We'll say goodbye to Trinities
Treasuring our memories

Of Thomas Cooley, Alma Mater,
As we wear your white and blue,
We proudly sing your highest praises
Thomas Cooley, Hail to You.

It wasn't a composition likely to win a Grammy, but I thought it carried a message that emotionally hyped, graduating law school seniors might endorse.

In due course, I received a disc from David Barrett. Eagerly, I plugged it in and played it. What came out was lovely piano music, but I could not distinguish a melody which might be sung by a choral group. I thanked David, who, in the meantime had decided not to pursue a career in law, and I sent him an honorarium for his trouble.

So there I was with words and no music. Undaunted, though unschooled in such things, I went home and began plunking out melodies on the piano. I didn't know the names of the keys, so to identify which ones I was plunking and in what order I plunked them, I made a chart and assigned each key a number.

Eventually, Polly helped me make one of those musical fences and we perched notes on and between the lines in a format that would be recognized by the musically literate.

I then showed it to the choirmaster at Saint Thomas and he recommended a graduate student at Michigan State University who would be able to soup up my little ditty into a full blown piece of music. In a few weeks, I had in my hands the sheet music for the Cooley Alma Mater in four-part harmony.

It so happened that about that time a group of Cooley students, augmented by Professor John Rooney's basso profundo, had organized a chorale. I invited them to sing the *Alma Mater*.

I shall never forget the evening when it was first performed at our home in East Lansing. It gave me shivers. It is still played at every graduation. It's my 'One Shining Moment.'

BOARD MEMBERS

The Thomas M. Cooley Law School is a nonprofit corporation governed by a self-perpetuating board of directors. From the earliest days, I wanted the school to have a board which would truly govern; one which would set the policies and appoint the major officers. And I wanted a board which would represent the legal profession; practicing lawyers and sitting judges; men and women who understood the practice of law and the relationship of our profession to the community at large. It was to be a board which would bridge the gap between the academic world and the real world, one which would assure that the mission of practical legal scholarship would be preserved and advanced.

We set about to achieve this goal by establishing a board consisting of both judges and lawyers. We tried to recruit a judge from each of the levels of the Michigan judiciary: a District Judge, a Probate Judge, a Circuit Judge and one jurist each from the Court of Appeals and the Supreme Court.

In addition to myself, Supreme Court Justices who have served on the board include Michael F. Cavanagh, James H. Brickley, John W. Fitzgerald, James L. Ryan, and Dorothy Comstock Riley. Court of Appeals judges Harold Hood, Richard M. Maher, Roman S. Gribbs and Cooley's own Jane Markey have served as well. A number of Circuit Judges have given their time and dedication to the work of the board. Jack Warren from Ingham County was among our first members. Charles Farmer from Wayne County was the first African American on the board. James E. Meis also of Wayne County, Jeffery Martlew from Clinton and Beverly Nettles Nickerson of the Ingham Circuit Court have served Cooley with distinction.

Donna Morris, Judge of Probate from Midland County was a long-time board member whose association with the Strosacker Foundation in her home community brought Cooley its largest single financial contribution. Benjamin Gibson, was a Cooley professor and board member who went on to become a Federal District Judge in Grand Rapids.

I was especially pleased and proud to welcome Thomas E. Brennan, Jr., Judge of the 55th District Court in Ingham County to the table as a member of the board of directors. Like many other board members, Tom was a graduate of Cooley, having taken his degree with the Marston Class in 1978. Another District Court Judge, Brent V. Danielson, a graduate of the first Cooley Class was elected to the board in 1989. Judge Danielson succeeded me as chairman in 2002.

Only three non lawyers have served on Cooley's board: Russell Swaney, president of the Detroit Economic Club, Forrest Evashevski, businessman and one-time University of Michigan football great who later coached at the University of Iowa, and John R. Desjardins, a financier from East Lansing.

The list of distinguished members of the bar who have sat at the board table over the years is long and impressive. Lou Smith, one of the three original incorporators served in several capacities; board member, president, and board chairman. Phil Marco of Harbor Springs was the first chairman. Bruce Donaldson and Jack Côté each did a term as president in the early days. Stanley Beattie, who taught me at the University of Detroit Law School served during the 1970s, as did Bob Fisher and Bob

Krinock. Lawrence P. Nolan was always a stalwart and generous board member. He was among the first Cooley graduates elected to the board. I had always hoped that the board would eventually be populated entirely by graduates of our law school. Through the years we recruited some of the most able, successful Cooley alums.

G. Michael Stakias was recruited by Larry Nolan. Mike graduated in the first class and has gone on to be a top investment banker in New York City. Also from the Big Apple, Anthony H. Gair was a partner in a highly regarded Wall Street firm founded by his father. Michael B. Rizik Jr. launched his own thriving law firm in Flint. Fred Headen was a legal advisor to the state legislature. James J. Vlasic another Marston Class graduate, is a principal in a major Detroit firm. Dale A. Robertson was an executive at Michigan Blue Cross Blue Shield. Paul Hillegonds was Speaker of the Michigan House of Representatives. Angeline Dvorak was a college president, and John Carras practices law in Midland.

It was not only an honor to serve with these people. It was a real thrill for me. They were examples of the best, most accomplished products of our school. Just to listen to them talk about their lives; the remarkable things they were doing, the circles in which they moved, the cases and clients they dealt with; and to think that they were the end result of the sputtering little store front law school we had called into existence two decades before; the whole experience was unforgettable.

I always felt that the board members treated me with respect and deference, but I never wanted colleagues who would rubber stamp my ideas. And they most assuredly never did. It has been the glory and strength of the law school that its board has always put the interest of the school, its students and faculty at the top of the agenda. Discussion and debate at board meetings was always candid and forthright.

As the chief executive officer of the school, my administration was continuously scrutinized and evaluated by the board of directors. That was their responsibility as fiduciaries of the nonprofit educational corporation. I understood their sincere motivation and appreciated the objectivity of the decisions they made, even when I didn't agree. I never expected to be immune from criticism. And I wasn't disappointed.

BIOLOGICALLY SPEAKING

When the reporter from the *State Journal* called and asked if he could interview me about the law school and the state of the legal profession, I readily agreed.

We lawyers always suffer from negative press. The abundance of lawyer jokes only reflects the underlying hostility to our profession which permeates so much of American thought. I welcomed the chance to put in a good word for the bar.

It isn't easy to recruit students, or solicit contributions when people think that a law school is akin to a pariah factory. At the time, there was an additional public relations problem; recent publication of statistics showing that lawyer income was declining and magazine stories about disillusioned young associates leaving prestige law firms for other pursuits.

The interview was wide ranging. The reporter simply turned on a small recording device and we talked. Mostly I talked.

Among other things, I discussed what I called the feminizing of the legal profession. When I was in law school nearly sixty years ago, there were only three women in my class. As late as 1973 when the first Cooley class was organized, only a handful of female students were enrolled.

Much is made of the oversupply of lawyers, I told the reporter, but in fact the actual number of male law students has not increased in the United States in fifty years. The difference is in the dramatic increase of women law students and women lawyers. The distaff side now represents at least half of the students and perhaps as many as a third of the profession.

This sea change has had many subtle influences on the legal profession, not the least of which shows up in statistics about the economics of law practice, I said. Then I pointed out that many female lawyers take sabbaticals from the practice to raise their families. In addition, they often prefer shorter hours in order to be home when their children come in from school.

It's a simple matter of biology, I said. It's the women who have the babies, and the stronger biological impulse to nurture. I gave some examples, like the Cooley alum who graduated first in her class, made partner at a prestigious Lansing firm, then simply quit to have a child and be a stay at home mom. When you multiply that scenario by thousands, you begin to understand why average lawyer income has declined.

As we talked, I made it clear that the women lawyers were every bit as competent as the men. In fact, it had been our experience, and that of most other law schools, that women applicants generally presented somewhat higher LSAT scores and undergraduate credentials than their male counterparts.

True to the apparent axiom of the fourth estate that the best reporting is that which generates the most controversy, the *State Journal* story charged that I had laid the decline in lawyer income to the biological differences between men and women.

Quite understandably, the women lawyers took umbrage. I was soon inundated with mail claiming that I had inferred that women lawyers were not as good as men; that they didn't work as hard, that they were not as productive or worthy of the same hourly rates as male lawyers.

Fortunately, the reporter kept the tape and when I insisted that the full text of my comments be published, the newspaper issued a correction which mostly assuaged the onslaught. Of course there were still a few who thought of me as a Neanderthal, Roman Catholic, father of six who likes to keep his wife in the kitchen or the laundry, barefoot and pregnant.

They just don't know me. Or my wife.

When I was Chief Justice, the women lawyers petitioned for a ruling on whether it was appropriate for them to wear pants instead of skirts when appearing in court. I had no idea. I went home and asked Polly who said of course it was, assuming the pants were 'dress' as opposed to 'casual.' I didn't know what that meant, but the lady lawyers seemed to be very satisfied with that guideline.

The first full-time employee of the law school was a young woman just out of high school, named Marylynn Curtis. She proved to be an extremely capable administrative staffer, who ably performed many duties over the years. Eventually, she and her husband, Cooley graduate John Bain, started their family. Marylynn was torn between a job she loved and her new baby. It was a time before 'cottage industry' and 'home office' had become common job descriptions, but we agreed on an arrangement that allowed her to work at home. It proved to be a win-win situation.

My three daughters all took the LSAT at my insistence. None of them chose to go to law school, however. Still, I was able to convince my secretary, Cherie Beck, who was a *de facto* member of the Brennan family, to continue her education at Cooley, and eventually it was my great pride and pleasure to preside at her graduation.

Women lawyers are good lawyers. Biology has nothing to do with the quality of a lawyer's work. Of course, there are biological differences between men and women, but as the French might say, "*vive la difference.*"

ENOUGH FOR NOW

Although I have retired as president of Thomas M. Cooley Law School, I continue to be a Professor and Dean Emeritus. A couple of years ago, Dean LeDuc asked me to write some articles for the *Jackson Legal News*, as he had been requested by that publication to provide some legal content.

The result was a series of essays. This is number eighty, and the last, at least for now. I have enjoyed the opportunity to reminisce and to revisit those good old days. The memories are sometimes quite vivid, sometimes jogged into focus as I rummage through old files on the second floor of the Temple.

I am conscious that what I have written has an autobiographical flavor. Most of it is generously sprinkled with the first person singular. The temptation to boast when I speak or write of the Thomas M. Cooley Law School overwhelms me. Launching the school has been the proudest achievement of my life, and so many people have been so generous in their commendation, perhaps I can be forgiven for letting the kudos go to my head.

Still, I am keenly aware that I was only one of many, many people who brought Cooley into being and made it the magnificent institution it is today. I have mentioned a few of them in these early chronicles. Others, like Dean Mike Cox, Controller Bill Robinson, publicist Terry Carella, and a host of able faculty members and administrators are part of what may best be described in the words of Paul Harvey as “the rest of the story.”

It should not fall to me to be the one who writes it. The history of Cooley Law School has not been experienced by one man alone. It should not be written by a single pen. My perspective is admittedly clouded by self interest. Other voices should be heard.

And there is much to tell. The opening of the law library building, the acquisition and reconstruction of the Cooley Center, the inauguration of weekend classes, the celebration of the millennium, accreditation by the North Central Association of Schools and Colleges, and more recently the opening of branch campuses in Oakland County and in Grand Rapids are but a few of the stories that remain to be told.

Oh yes, and one more; the retirement of the founder.

When I stepped aside as president at the end of 2001, I was 72 years of age. I had stayed too long. The board of directors had to pry me out of my chair. It wasn't pretty. But I must confess that my bruised ego was more than adequately assuaged by the outpouring of affection and gratitude that came with retirement. The faculty presented me with a lavish purse, intended to finance some long delayed travel. It sent Polly and me on a cruise to Alaska, with enough left over to provide a whirlwind trip to the big apple to catch up on Broadway.

And then there were the letters, two bound volumes of them. Embossed with the flattering title "A Promise Fulfilled," were hundreds of messages from Cooley alumni, expressing their appreciation for the opportunity to study law and to fulfill their dreams of becoming members of the bar.

Rereading those letters from time to time is an exercise in bolstering my self image.

More importantly, those letters validate the mission I envisioned for the Thomas M. Cooley Law School. Over and over again, they speak of opportunity afforded, doors opened, chances given. Over and over they recount the sacrifices of men and women who had to work to pay for their legal education, mature people who gave up secure employment and moved long distances to Lansing, determined students who refused to be discouraged by the rejection of other law schools or by disappointing admissions test scores.

In letter after letter the demanding academic program is described; how it was lamented in student days and appreciated after graduation. Many told of blossoming self confidence, personal growth, broadened horizons, new and bold aspirations all attributed to the Cooley experience.

And the letterheads afford stark proof of their successes. Named partners in law firms, trial and appellate judges, prosecuting attorneys, corporate executives; they have done well for themselves and reflected honorably on their alma mater.

Perhaps most heartwarming are the expressions of personal and professional values which pepper the pages of those two treasured volumes. These Cooley graduates are good people, decent people, honorable people. I respect and admire them.

I'll end these writings with a story. Some years ago, I was walking through the concourse of the Newark airport when a young man stopped me. He was returning from a vacation with his wife and two-year-old son. He was a Cooley graduate who told me that he had a fine position in New York State government. He introduced me to his wife, and to his little boy, telling the lad that I was the man who had helped his daddy to become a lawyer. As we parted, the little fellow looked up at me, and in the most endearing baby talk said, "Goodbye. I wove you."

I have felt that message many times in my life. To be loved is an inestimable gift, which is only enjoyed when it is returned. And so it is.