

# NEW LAW SCHOOL BUILDING . . . A YEAR OF DECISION

By ROBERT A. STEIN

By now, it is likely that every lawyer in Minnesota is aware of the proposal for a new University of Minnesota Law School building. With persistent regularity, if not complete success, the proposal has been presented to the Minnesota Legislature in 1969 . . . and in 1971 . . . and in 1973.

Like Tennyson's "Brook" the proposal seemed destined to go on forever. However, it is now becoming apparent that 1974 is shaping up as a critical year of decision for the new building proposal and, therefore, for the future of the University of Minnesota Law School.

## History of Proposal

The origin of the new building proposal was the adoption by the Law School faculty in 1967 of a long range plan for the development of legal education in Minnesota entitled *The Law School in the Decades Ahead*. From the outset the Law faculty recognized that an educational program should be developed first, and then a facility should be designed to accommodate that program. That legal education program was translated into space requirements in 1968, and the Regents of the University first requested planning funds from the 1969 session of the Minnesota Legislature. In that session, \$80,000 was appropriated for the schematic planning. Law School alumni contributed an additional \$25,000 for this purpose.

In early 1970, the architectural firm of Parker Klein Associates, Architects, Inc. was retained to design the new law building. After extensive discussion with the Law School faculty and students and visits to several recently constructed law schools, the architects proceeded to develop a schematic plan for a new Law School building, to be located on the West Bank of the Minneapolis Campus. This phase was completed in early 1971.

Both houses of the 1971 Minnesota Legislature passed differing appropriations for the detailed planning phase, and the conference committee

resolved the differences with a so-called "sum sufficient" appropriation:

In the event that the legislative building commission determines in favor of constructing a new law school building or an addition to the present building, the commissioner of administration is directed to transfer to the board of regents from the higher education facilities contingent account an amount approved by the legislative building commission for working plans and drawings. Laws, 1971, Ch. 963 § 8 (2) (8).

The Legislative Building Commission interpreted this language as a charge to investigate and evaluate all possibilities of expanding the present law building by utilizing existing buildings surrounding Fraser Hall as alternatives to a new building. This charge was rigorously pursued, and funds were allocated to develop and cost out several plans for expansion of the present law building by connection with adjoining buildings and remodeling of the combined structures to accommodate the proposed program.

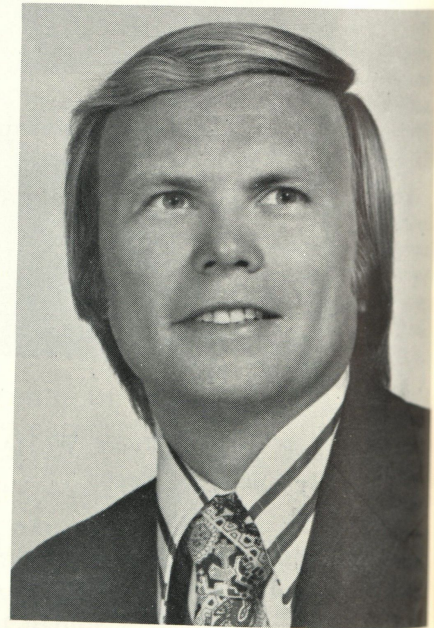
After several meetings, at which these plans were considered in detail, the Legislative Building Commission rejected all these alternatives on grounds of programmatic inferiority and cost — the remodeling costs were nearly equal to or exceeded the cost of a completely new facility. In December 1972 the Legislative Building Commission responded to its 1971 charge and again recommended appropriation of funds for working plans and drawings for a new Law School building.

In the 1973 session of the Minnesota Legislature, the new Law School building proposal was referred to subcommittees in both houses for study and recommendation. In the House of Representatives, the proposal was referred to a "Law School Task Force" in the Education Subcommittee of the House Appropriations Committee.

The Chairman of this Task Force is Representative Ray W. Faricy,

St. Paul. Other members of the six-member group are: Representative Harold J. Dahl, Howard Lake; Representative Peter X. Fugina, Virginia; Representative Rodney N. Searle, Waseca; Representative James C. Swanson, Richfield and Representative Raymond Walcott, Minneapolis.

The House Task Force recommended an appropriation for working plans and drawings for a new Law School building. The House approved this recommendation and passed a bill appropriating an amount for this purpose. In the Senate, the proposal was considered by the Education Subcommittee of the Senate Finance Committee, chaired by Senator Jack Davies, Minneapolis.



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Hennepin Lawyer

Other members of the 10 member subcommittee are: Senator Norbert Arnold, Pengilly; Senator Robert O. Ashbach, St. Paul; Senator John C. Chenoweth, St. Paul; Senator Ralph R. Doty, Duluth; Senator Mel Hansen, Minneapolis; Senator Jerome M. Hughes, St. Paul; Senator J. A. Josephson, Minnesota; Senator John L. Olson, Worthington and Senator Robert J. Tennesen, Minneapolis.

The Senate Education Subcommittee and the Senate Finance Committee did not recommend any funds for detailed planning of a new Law School building. The conference committee report reflected the Senate stand.

The explanation for the Senate action, according to Subcommittee Chairman Davies, is that the Senate Subcommittee desired additional study of the possible alternatives to a wholly new building. The subcommittee did not decide against expansion of the Law School into additional facilities. Indeed, the Senate Subcommittee recommended a special Law School appropriation, later passed by the Legislature, of \$520,000, for ". . . additional law students over planned first year enrollments for the 1973-1974 school year, and additional law students over planned first year enrollments for the 1974-1975 school year."<sup>1</sup>

Unfortunately, until the facilities issue is decided it is not possible to increase the admissions in reliance upon this appropriation. Nor is it possible to recruit additional faculty on the basis of an appropriation that is not certain to recur.

Senator Davies has requested, on behalf of the Senate Subcommittee, that the University study the feasibility of devoting other existing University buildings to Law School use—particularly the Walter Library across the street from Fraser Hall. Such feasibility studies are currently in process. Such studies in the past have indicated that remodeling existing buildings, including Fraser Hall, adequately to accommodate the Law School's needs in the decades ahead would be at least as costly as constructing a new facility and not nearly as functional.

#### Need for New Facilities

The 1967 long range plan for legal education in Minnesota succinctly stated the basis of the request for a new law building:

The present Law School Building is inadequate for our present program, let alone the plans proposed for the coming decade. *The University of Minnesota Law School in the Decades Ahead*, p. 98.

It must be emphasized over and over again that the principal reason for a new building is not a decision to expand the size of the student body of the Law School from its present size of approximately 700 to approximately 1,000. Rather, a new Law School building is essential because the present facilities are totally inadequate for a continued program of high-quality legal education for the present student body of 700. The expansion issue arises only after the need for new facilities is recognized, and the question of the size of those facilities is addressed.

With no relief available, the critical conditions of 1967 have worsened into the nearly intolerable current situation:

1. 712 students and 35 faculty members are now crowded into a building designed for 450 students and 21 faculty.

2. A critical state has been reached in the Law Library, one of the best law school library collections in the country and a priceless state asset. To make room for essential current additions, the sub-basements have been jammed full of books and a substantial portion of the collection has been moved to other buildings. The antiquated stack construction which permits no fire prevention installations threatens our great library collection with a completely unacceptable fire risk. Space shortage has nearly paralyzed library service functions.

3. Inadequate faculty offices hamper the recruiting of top faculty. Many faculty work in substandard basement rooms. New additions to the law faculty will be housed outside the Law School, inconveniently remote from their colleagues and the Law Library.

4. For 712 students only 326 seats are available for study and research in the library. This violates the minimum accreditation standards for even the weakest law school, which call for seats for at least 65 percent of the student body. We can provide seats for only 46 percent.

5. The classrooms designed for

mass lectures are inadequate for the discussion and problem-solving approach used in law classes today. The audio and visual deficiencies seriously handicap classroom instruction. Exceptionally poor ventilation throughout the year adds to the difficulties.

6. The overcrowding has produced a congestion that nearly immobilizes traffic within the building during class changes. Student lockers now line the hallways and stairwells. Students who are not able to get into the overcrowded lounge or library eat and study on stairways and in halls, further adding to the congestion.

7. Efforts to extend and improve clinical-type training are crippled by the lack of small study rooms or other work space where students may work together in small groups to discuss their problems, practice their presentations and negotiate their differences. The privacy critical to interviewing clients, preparing witnesses for trial and conferring with associates is nowhere available. There is literally no place for these essential aspects of clinical training at a time when we are seeking to improve and expand training in practical skills.

8. The Law Review and Legal Aid Clinic have been forced out of the Law School into other buildings. This discourages consultation with faculty members, so essential to these educational processes, and hampers quick access and reference to the Law Library.

9. Implementation of expanded seminar training in which small groups of students and faculty explore subjects in depth is greatly handicapped by lack of seminar rooms.

10. The civil service staff has been squeezed into the tightest possible areas. In the Dean's office, eight secretaries are located in a very small space in the same room with the reception area and service desk. In the faculty stenographic pool, seven secretaries are located in two substandard basement rooms with low ceilings and half windows.

The need for improved facilities for the Law School has been recognized by all who have investigated the situation. The University Administration, the Regents and, indeed, the legislators on both Subcommittees have all concluded that the Law School cannot continue in-

1. Laws, 1973, Ch. 768 § 11(9) (g).

definitely under the present intolerable conditions. The remaining unsettled issue is what form those improved facilities should take.

#### Size of Proposed Law School Building

The proposal is to build a new facility for a Law School student body of 1,000. The question has been raised from time to time whether the demand for legal education and for legal services would support such an increase in the size of the student body.

As a starting point in responding to this question, it must be emphasized again that the primary basis for the new building proposal is the inadequacy of the present facilities for a student body of even the present size. The Law School must have new facilities. The size of those new facilities is a secondary issue.

After considerable study, the Law School faculty recommended that the new facility be designed for 1,000 students. This would be distributed between classes as follows:

- First year.....360 students
- Second year.....320 students
- Third year.....320 students

Such an expanded student body would produce 320 law graduates per year, as compared with 220 graduates per year resulting from the present student body of approximately 700 students, or 100 more lawyers per year. Furthermore, until new facilities are available the student body will remain at its present size. Even if 360 students are admitted to a new Law School building in the fall of 1977, it would be 1980 before a larger number of lawyers are graduated.

An expansion of the Law School student body would appear to be mandated by the explosive increase in the demand for legal education. Minnesotans in unprecedented numbers are applying for admission to law school. At the University of Minnesota Law School, the number of applications increased from 221 in 1961 to 1,776 in 1972. While the number of applications has decreased somewhat this year as the admission probabilities and a non-resident quota became more widely known it remains at a high ratio of five applications for each first year seat. Again this year, the academic credentials of the entering class were higher than the year before.

The Minnesota experience is of a national trend. For example, year approximately 122,000 people took the Law School Admission Test seeking a place in a total nation-wide first year class of 36,000 students. Various explanations have been offered for this increase in law school applications.<sup>2</sup>

The increase in the total population, in the number of students pursuing post-graduate education, in the number of women and minority students entering the legal profession and the general commercial applicability of law training undoubtedly all have had some effect.

It is possible, of course, that the demand for legal education may continue to increase at recent rates in the future—or may even decrease as opportunities reopen in some of the other presently over-crowded fields. However, the present demand for legal education, in Minnesota nationally, so far exceeds the available number of seats in Law School that the demand could decrease one-half and still far exceed the number

<sup>2</sup>. That Burgeoning Law School Enrollment, A.B.A.J. 146 (1972).

ber of students that could be accepted.

It is extremely unlikely that the demand for legal education could decrease so sharply as not to support a highly qualified first year class of 360 students at the University of Minnesota Law School.

A separate, but related question is whether the future demand for legal services will be large enough to support an additional 100 Law School graduates beginning in 1980. The Law School faculty has studied this question and concluded for several reasons that the economy of the nation and Minnesota would be able to absorb such an increase. This conclusion was reinforced by the recently released report of the American Bar Association Task Force on Professional Utilization. Their report unanimously concluded:

There is no conclusive evidence to indicate that there are now or are likely to be in the foreseeable future more legally trained men and women than can be satisfactorily and productively employed.

\* \* \*

No limitation or restriction ought to be placed on the number of qualified individuals entering the legal profession by arbitrarily restricting the number of places in law schools or unnecessarily raising bar admission standards.<sup>3</sup>

On the basis of its studies, the law faculty concluded that it would be wasteful in the extreme to design a new Law School facility for a student body of less than 1,000 students. Indeed, the decision to limit the student body to 1,000 students in the face of the extraordinary demand for legal education is more difficult to explain. That decision was based on the conclusion, reinforced by experience elsewhere, that it would be difficult to provide the high quality legal education we envisioned with a student body larger than 1,000 students.

The law faculty decision to recommend facilities to accommodate 1,000 students appears to have been endorsed by the special Law School legislative appropriation in 1973. Also, the original planning appropriation in 1969 specified the design of a new Law School for 1,000 students.

Also confirming the Law School faculty's judgment about the size of the new facilities is the experience at

William Mitchell College of Law. William Mitchell increased its enrollment from 368 in 1969-1970 to 671 in 1972-1973. This year, William Mitchell received more than 1,450 applications for its first year class and admitted 306 beginning students for a total enrollment of approximately 838. William Mitchell's current entering class and total enrollment thus exceed the size of the entering class (250) and total enrollment (712) of the University Law School. In addition, a third Law School in the Twin Cities, Midwestern College of Law, was established last year and is now in operation.

#### Amount of Building Request

The proposed new Law School building will cost \$12.5 million, of which \$11.5 million is requested from the State. Alumni friends of the Law

School have agreed to raise the remaining \$1 million through private contributions.

Larger cost figures have been mentioned from time to time in the past. Continued inflation has made even those figures obsolete. However, the lower cost figure was produced by the painful elimination of many functional areas originally included in the proposed plans and by some building redesign.

Space limitation prohibits a description of the exciting new programs in legal education which the proposed new facilities would make possible. That subject must await a future article.

(Continued on page 8)

<sup>3</sup>. American Bar Association, Report of the Task Force on Professional Utilization, p. 6 (1973).

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## Current Status of Proposal

The critical conditions in the Law School physical facilities cannot continue indefinitely. The University Administration, Regents and Legislative Committees are agreed on that point.

The Regents of the University have recently designated the new Law School building as the University's top priority for new facilities. Regent Fred Hughes has been appointed as a Regents' Committee of one to lead the effort to secure the new building.

The Subcommittees in both Houses of the Legislature have indicated a willingness to consider and take decisive action on the Law School proposal in 1974. The coming year could

well be the year in which the course of legal education in Minnesota for the next generation is charted. We must be ready for this challenge.

## Conclusion

The University of Minnesota has long been recognized as one of the truly outstanding law schools in the country. All Minnesota graduates take pride in the reputation for excellence which the Law School enjoys. Indeed, Minnesota graduates are direct beneficiaries of that well-deserved reputation.

The continued excellence of the University of Minnesota Law School cannot be taken for granted. Its future quality is seriously threatened by inadequate physical facilities.

Last year the Law School was inspected for accreditation by a distinguished committee of the American Bar Association and the American Association of Law Schools, composed of Dean Theodore J. St. Antoine, University of Michigan Law School; Professor David H. Vernon, former Dean of Iowa University Law School and Albert E. Jenner, Jr., distinguished member of the Illinois bar. They wrote to President Moos

The University of Minnesota Law School is one of the truly fine law schools in the United States. Its faculty is outstanding; its student body excellent; and its library collection one of the best in the country. It borders on the tragic that the School is unable to function at full potential due to the adverse physical conditions under which faculty and students must work. While the three of us are not familiar with every law school in the country, one or more of us has visited and is familiar with every law school in the country with which Minnesota might wish to compare itself — the Big Ten Schools; plus Chicago, Berkeley, UCLA, Stanford, Harvard, Yale, Columbia, Virginia, Duke and Texas. There is no doubt in our minds that in terms of physical facilities, Minnesota must rank a distant last among these schools.

\* \* \*

Something must be done soon. As individuals who know and admire the University of Minnesota Law School, we urge that everything possible be done to alleviate the wretched physical conditions under which students, faculty, and staff are forced to function at present. The Law School cannot continue to maintain its status as one of the truly excellent law schools in the United States if it is required to maintain itself in its present surroundings. Outstanding faculty members will be lost. Innovative educational programs will not be available to the students because of the absence of appropriate space. Unless action is taken quickly, we fear that the University of Minnesota Law School is in danger of becoming "just another law school."

That is our challenge. We need your assistance. Will you help us?

## Your President Reports

As some of you recall, Chesterfield Smith, President of the American Bar Association, was in Minneapolis recently conducting the "ABA Caravan," which consisted of himself, James Fellows, President-Elect, Bert Early, Executive Director, and Alan Kurland, ABA Director of the Section on State and Local Bar Activities.



Edward J. Schwartzbauer

Minneapolis was the site of a regional meeting of the Caravan, which was attended by presidents, presidents-elect and executive directors from the Upper Midwest. The Caravan was a unique opportunity for those of us who were able to attend to share ideas with other bar officers and executives concerning common problems and to consider as well the relationship between state and local associations and the ABA.

For the second time during my short term as President of your association (the first was at the National Conference of Bar Presidents in Washington, D. C. last August), I was proud to discuss and hear discussion of our precedent-setting program in Hennepin County for the arbitration of fee disputes between attorney and client.

As you know, our three-person arbitration panels consist of two laymen and one lawyer. Reports from our Fee Arbitration Committee indicate widespread satisfaction with the operation of the plan from attorneys and clients. We seem to have found a way to resolve fee disputes without the unpleasantness of a lawsuit, and without requiring members of the public who have, or think they have, a legitimate complaint about a fee to pay one lawyer in order to resolve a dispute with another. Some other bar associations seem to be surprised that we allow any "grievance" procedure to be influenced by laymen.

The State of Michigan reports that its current legislative situation is much like Minnesota's in that there

are fewer and fewer lawyers in the legislature and that as a result, the positions of the bar are not being given fair consideration. Michigan's response has been to borrow a tactic from the medical profession and has formed "LAWPAC" (Lawyers Political Action Committee).

LAWPAC solicits funds from members of the bar and uses those funds to contribute to legislative campaigns. Those of you who would favor such an idea for Minnesota are encouraged to communicate with me or with Gene Halverson, President of the State Bar Association. My personal view is that a prerequisite to the establishment of any such program is the development of a better mechanism for developing a consensus among our members on issues. Except on the rare occasion where the subject of proposed legislation is considered at an annual convention, we really have no convenient vehicle for ascertaining the views of our membership. Finding such a vehicle is not impossible, it seems to me, but deserves a good deal more thought from each of us.

At the Caravan, President Smith seemed concerned about the structure of the ABA and raised some thought-provoking questions which I pass on to you concerning its "representative" character. It is interesting that Minnesota has 5,481 members in its State Bar Association and 2,715 of these belong to the ABA. Four Minnesota lawyers are members of the House of Delegates. An evaluation of our ranking on a one-man-one-vote basis can be obtained by taking either the ratio of lawyers to delegates or ABA members to delegates and then ranking the states in terms of the number of lawyers or ABA members which each delegate represents. Minnesota turns out to be 45th on the list on either ranking; that is, 44 other states have relatively greater representation. Wyoming (with 449 lawyers and 3 delegates) is the best represented, with South Dakota (812 lawyers—4 delegates) second and Vermont (581 lawyers — 3 delegates) third. Part of the "under-representation," however, is due to the fact that many ABA delegates are not representatives of state or local associations, but rather represent ABA sections. In addition, former members of the Board of Governors and former officers continue to hold membership in the House of Delegates.

My own view is that we ought to

evaluate this structure on a pragmatic basis rather than on the basis of abstract principles. It seems to me that in recent years, the ABA has on the whole been quite progressive in the positions it has taken on issues involving lawyers and the administration of justice.<sup>1</sup> Those of you who disagree, however, are invited to tell me so. And those who desire to explore in greater depth the structure of the ABA are invited to call me for further information.

I do agree with President Smith on one of his suggestions, which was that local bar associations which are represented in the House of Delegates ought to take advantage of the opportunity they have to present suggestions for action to the House. As you know, the Hennepin County Bar Association annually elects a delegate to the House. When have we ever adopted a resolution for presentation by him to the ABA? If the ABA is going to adopt a resolution on a topic of public importance, such as the depoliticizing of the Department of Justice, why should the resolution always emanate from some ABA section delegate? Because Hennepin County does send a delegate to the House of Delegates, we are all part of the ABA. Therefore, if we want to prod it into action in a certain direction, why don't we make use of the representation that we have?

*Edward J. Schwartzbauer*

1. But cf. GOULDEN, THE SUPERLAWYERS 386 (Dell 1973): "The ABA is a caricature of what is wrong with Washington lawyers—domination by corporate interests, scant concern for the consumer, self-important pomposity. Whatever credibility the ABA has outside its own membership it doesn't deserve, and that is the most that can be said of corporate America's private legal club."

## EDITOR OF THE MONTH

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