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LEGAL EDUCATION IN PERSPECTIVE†

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Perhaps the role of any law school can best be viewed in relation to law schools and legal education in general. Despite the discreditable conduct of a few lawyers, our profession has never before been as attractive to bright young people. We are all generally aware of the "explosion" in law school applications. There are 151 American Bar Association approved schools with a total enrollment for the 1973 term of 106,100. This is nearly double the enrollment of ten years ago.[1] Both total enrollment and first year enrollment have increased in each of the past ten years, except for a minor dip in 1968. And it is reported that as of October, 1973, there was not a single unfilled seat in the first year class of any approved law school.

Even more dramatic is the acceleration of Law School Admission Test (LSAT) candidates. The number taking law board tests in 1973 was 121,300—a 300% increase over the past decade. The academic qualifications of candidates for admission also has steadily improved, as every admissions committee knows and as is demonstrated by the steadily rising test scores. In short, the competition to enter law school is intense both quantitatively and qualitatively.

This competition now comes from two relatively new sources: women and minorities. Women comprise 15.6% of total enroll-

† This article is condensed from a speech delivered to the students and faculty of T.C. Williams School of Law and to the Richmond Bar Association at the University of Richmond on March 13, 1974.

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1. Ruud, *That Burgeoning Law School Enrollment Is Portia,* 60 A.B.A.J. 182 (1974).

ment—nearly nine times the percentage in 1963. Minority group enrollment also has become significant. While negligible only a few years ago, minority student enrollment for 1973 totals 7,600, a 12.9% increase over the preceding year. This representation, long overdue, is one of the more welcome recent developments.

Thoughtful people are asking whether society needs, and will support, the rising tide of new lawyers. The question is by no means frivolous, and the answer is unclear. Estimates of the number of lawyers who actually practice their profession range from about 350,000 to 400,000. This includes lawyers in private practice, in government service at all levels, on law school faculties, and, in the legal departments of corporations, unions and other large entities.

During 1973 some 25,000 new lawyers were admitted to the bar. Although some eventual tapering off is anticipated, it is estimated that over the next three years the annual increments to the bar will be at least 28,000 per year. These are large numbers in relation to the present total, and already there are some reports that the market for young lawyers is weakening.

It may be true that the pipeline to the larger law firms is being filled, but corporate legal departments, government, public firms and other less conventional positions continue to afford expanding opportunities. Erwin Griswold, former Dean at Harvard and recently retired as Solicitor General, sees no lessening of demand:

> The bona fide need for legal services in our society is almost unlimited and our problem is not too many lawyers, but a question of organizing and facilitating our means for delivery of legal services so that we can best take care of the needs of persons who want to utilize a lawyer.[2]

Whether society benefits from so much litigation may well be questioned, but no one can doubt that the demand for legal services is burgeoning. There are many reasons for the increase in litigation. They include the vast areas of litigation opened up by major legislation such as the several civil rights acts, the welfare laws and more recently environmental laws and regulations. Federal and state bureaucracies, inevitably in a complex society, now impose pervasive

2. Griswold, *In Praise of Bar Examinations*, 60 A.B.A.J. 81 (1974).

regulation of activities formerly encompassed by laissez faire and free enterprise. Indeed, the Supreme Court—in a noteworthy effort to give greater meaning to the ideal of "equal justice under law"—has itself expanded significantly traditional concepts of due process and equal protection of the laws.

Quantitative growth is by no means the only evidence of change in the law schools. We also are in a period of intensive reexamination of goals and methods. The traditional goal of American legal education has been to train young lawyers as professional generalists who serve society in the avoidance and resolution of social conflicts. In a society governed by the rule of law, the lawyer's function, in his various capacities, is to make the system work with fairness and reasonable predictability. Stated with this generality, the goal of legal education is likely to remain essentially the same. The ferment and demand for reform concern primarily curriculum, methods and time span.[3]

The traditional mode of legal education stressed the analysis of appellate cases and the "Socratic" method of teaching these cases.[4] This familiar method is still predominately in use. Appellate opinions form the basis for analytical deductions and policy evaluations. The mental discipline imposed by a competent professor is especially rigorous for the first year student. The current movie, "The Paper Chase," presents the tribulations of a first year law student in a fascinating manner under the traditional mode of legal education.

A plethora of ideas for reform are addressed not merely to method but also to some major structural changes. Many proposals have received much attention, such as: first, clinical education and experience while in law school; second, specialization, commencing perhaps in the second year; third, interdisciplinary curriculum changes, bringing in the social sciences; and fourth, structural changes such as reducing law school to two years and eliminating

3. *See, e.g.*, PROCEEDINGS OF ASSOCIATION OF AMERICAN LAW SCHOOLS, PART I, TRAINING FOR THE PUBLIC PROFESSIONS OF LAW (1971).

4. The founder of the casebook system was Christopher Columbus Langdell, who became Dean at Harvard in 1870. It has been said that although the modern law school physically has a new look, "We are all living in a house . . . modeled after the one Langdell built." Stolz, *Clinical Experience in American Legal Education: Why Has It Failed?*, 1 A.B.F. RESEARCH REP. (1970).

the present requirement of three to four years of prelaw college education.

But perhaps a word of caution is appropriate. Reforms, however attractive and useful, should not divert us from the fundamentals of what have proved to constitute a sound basic legal education. As Edward H. Levi, President of the University of Chicago, has said:

> . . . [l]aw schools deserve their distinction because of their dedication to the application of structured thought, with precision and persuasion, to complex human problems and transactions.[5]

The development of a capability for such thought, with the skill to apply it precisely and persuasively, requires the rigorous intellectual discipline which is the core of the casebook, "Socratic" method of teaching.

Clinical experience and specialization are important, but they should not lead to the sacrifice of traditional standards. We must not become so wedded to inter-disciplinary studies that we foresake the discipline that inheres within the law. And surely we must not allow the ultimate need for specialization to supplant the initial training of a lawyer as a generalist, with the capability of applying structured thought to the increasingly complex problems of our society.

Throughout the life of this republic, the legal profession has provided leadership in government at all levels. Indeed, one of the three branches of our government, the judicial branch, is conducted solely by lawyers, and the other two depend significantly on participation by members of the legal profession. Nor is the influence of our profession limited to government and to legal counseling. Lawyers tend to become community leaders. They also profoundly affect policy decisions of clients who are leaders in business and labor. In the shaping and changing of law school curricula, we must never overlook this broader, societal role of the profession.

This is especially true at a time when people tend to think of the world and its problems in terms of the stereotypes and images seen daily on their television screens, accepting, with little or no thought

5. Address by Edward H. Levi, "Education and Legal Education," delivered at the University of Pennsylvania, May 15, 1969.

of their own, whatever is presented with sufficient repetitiveness and appeal. Indeed, the favorite newscasters prepackage and predigest for most of us what we think we know about current history. Dr. Levi has pointed out that

> [i]t is not necessarily the real world made available to the individual by the media, but someone else's conception of it, telling him not only what is said to go on but defining for him, in lieu of the real thing, what his reactions are.[6]

Or, putting it differently, the need has never been greater for the traditional legal training in analytical skill, in wholesome skepticism of mass thought, and in capacity to reason and think independently.

Nor must the law schools overlook their responsibility to emphasize and instill the moral and ethical values of our profession. On the whole, law schools have discharged this responsibility well. Most young graduates enter the profession with a respect for our basic ethic: A widely shared tradition of professional responsibility, and of independence, courage, and intellectual honesty.[7] In view of recent events, perhaps a renewed emphasis on the ethics and professional responsibility of lawyers would be especially appropriate.[8]

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6. *Id.*

7. Stolz, *supra* note 4, at 76.

8. *See In re* Spott, 34 Ohio St. 2d 241, 298 N.E.2d 148 (1973). The Ohio Supreme Court recently upheld a state law requiring prospective law students to provide information as to moral fitness as a prerequisite to law school admission.