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AN EXTENSION OF LEGAL EDUCATION—A PROGRAM
DESIGNED TO SATISFY IMPORTANT NEEDS AND
FOSTER EXPERIMENTS IN INTEGRATION
WITH THE SOCIAL SCIENCES

Reynolds C. Seitz*

In the May, 1946, issue of this Journal the present writer contributed an article¹ with the primary intent of establishing that a realistic legal education offered to those mentally equipped to absorb it an outstanding vocational training for life.

Accepting the challenge presented by the fact that social-economic change has made it impossible for the young man who enters law school to chart with accuracy his after law school employment, the writer undertook to show that come what may a legal education properly conceived and administered would enable those with the right mental qualifications to achieve success and satisfaction in a great number of fields of endeavor.

Specifically it was suggested that a realistic teaching technique working through a forward looking curriculum would develop to a high degree the power to do effective thinking, form relevant judgments, discriminate among values and communicate thought. For support for the assertion that such power was fundamentally desirable reference was made to the well reasoned and then current *Report of the Harvard Committee on General Education in a Free Society*.²

This discussion submits once again the great merit of the liberal education component in law teaching.

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¹ *A Legal Education as Vocational Training for Life*, 34 Ky. L.J. 227 (1946).

² Harvard University Press, 1945.

It has the further and primary objective of bringing out that legal training can meet another particularly urgent need.

The need is that of individuals working in the areas of social and political science and certain of the fields of journalism to have an understanding of the position of law as a positive instrument for promoting and securing all the basic values of the community

Or to put the matter in another way, this article will present the value of legal training as a means of satisfying the needs of the groups named to appreciate the role of law as a principal means of controlling social environment and as a contrast to naked power.

In view of such merit in legal education, the proposal is made that the law school should enlarge its service by offering a special program designed to reach those with mature minds who have the need described, but, because they have selected another profession, do not feel that they can devote three or four years to legal education.

Very important groups that would fall within the class which would be serviced by the program would be teachers of social studies and many writers and editors.

It is recognized at this point that there will probably be an immediate reaction on the part of many readers which will take form in the question—"Why should a professional law school concern itself with training those who definitely do not want to become part of the profession?"

An answer to this pertinent query must be given in a very logical manner.

Before, however, it is possible to set forth such reasoning it is necessary to disclose the broad outline of the suggested program and to further clarify its need and merit.

It is proposed that the special program should, as a minimum, consist of three courses. Preferably at least three hours a week for a semester should be devoted to each course.

To focus attention upon its primary intent one course could be called, *Law as a Form of Social Control I*. The subject matter would be made up of materials from such fields of law as contracts, torts, and family, property and criminal law.

Another course named *Law as a Form of Social Control II*, so called for purposes of again emphasizing the objective, would

depend upon such areas as constitutional law, administrative law, labor law and trade regulation to furnish the background for investigation and discussion.

The third offering could be descriptively titled *Jurisprudence*. Its contents will be brought out hereafter.

The title *Law as a Form of Social Control* does much to indicate the emphasis and method of treatment in two of the courses.

In Course I materials from the areas indicated would be used to bring out the balance between rights and duties. Effort would be consciously away from the direction of presenting the student with a mere accumulation of information.

Certain fundamentals of the law of contracts, torts, property, crimes and domestic relations would, of course, be dealt with. But the purpose would always be to show the role which law plays in the functioning of society. There would be no attempt to drill those enrolled in a detailed accumulation and variation of rules.

In order to acquaint students with the way in which law grows and develops a selected list of actual cases would be assigned for reading. Guidance would be given in the technique of analysis of upper court opinion. It would be shown how courts construct or modify legal doctrine.

But the purpose would always be to present the work of the courts as a form of social control. The pace will be slow enough to make possible the accomplishment of the goal. Ample time will be given for discussion. Especially will opportunity be given to the question of whether a holding is socially desirable.

Carefully planned lectures would be used to make of the material read and discussed a coherent whole.

As an incidental but nevertheless valuable outcome of Course I members of the class should get a fair working knowledge of the art of reading and understanding legal cases.

Since law is constantly developing and the part which it plays as a form of social control should be of continuing interest to a great many people who are not members of the legal profession, it is worthwhile to initiate training in the reading of court decisions. Furthermore, such introduction will make it easier for the student to take up the work of Course II.

Course II would concern itself for the most part with government regulation and control over business and the individual. Basic problems would come from the fields of constitutional law, administrative law, labor law and trade regulation. The attitude of the courts would be studied. Much supplementary material from the law review, political, and social science fields would be introduced. The ultimate question would always be the desirability of the regulation or restraint.

The final course in the program would be the one entitled Jurisprudence.

According to one authority,³ jurisprudence is that part of the law that all intelligent laymen can know and understand without thereby becoming lawyers. Or to put it in another way, jurisprudence is a term used to cover the basic problems and assumptions of law. It is whatever we talk about when we discuss law in terms that apply to more than one field of positive law.⁴

In the jurisprudence course students will be permitted contact with the thoughts which great minds have expressed as to the role which law should play in the control of society

The brief outline of course content permits return to showing the need for the program.

This can perhaps be done best by specifically discussing the need which two groups already mentioned have for the type of training suggested. The groups are social study teachers and journalists.

Social study teachers have as a major goal the building in young minds of a respect for democracy

It is self evident that workable democracy cannot be taught by those who do not have a wide knowledge and alert approach in respect to the constantly changing and developing socio-economic-political scene.

A respect for democracy cannot come as a result of focusing attention upon mere maxims and dogma. It must be taught functionally And it cannot be so taught unless the teacher has a realistic background.

The writer's own past experience as a public school administrator, and a quantity of testimony—both written and oral—

³ Kalven, *Liberal Education, The Case System and Jurisprudence* 14 U. OF CHI. L. REV. 215 (1947).

⁴ Kalven, *supra*, note 3.

of many educational authorities indicates that oftentimes social study instructors do not have a firm enough grasp of fundamental principles and a vivid or practical enough understanding of the changes necessitated by a growing background of life.

Their existing knowledge is apt to be so narrow in scope as to prohibit realistic thinking about social problems. Or it may be so disorganized as to cause them to accept as true and worthwhile all new social philosophy simply because it is new.

An illustration may serve to clarify the statements in the immediately preceding paragraphs.

It would seem that little argument would be necessary to establish that social study teachers—especially in our secondary schools and universities—should have a thorough appreciation of the role of Boards and Commissions in our democracy

Such teachers, for example, ought to be in a position to answer such questions as the following

1. Have you read widely enough to know the basic boards and commissions which are functioning in our country today?
2. Do you have any more than the merest superficial knowledge about the functions of the most important boards?
3. Do you thoroughly understand why boards and commissions grew up in this country?
4. Do you thoroughly understand that the doctrine of separation of executive, legislative, and judicial powers does not forbid the properly set up board or commission?
5. Do you know that the doctrine of separation of power provided for a balance of power and only prohibited the delegation of the essence of executive, legislative and judicial power?
6. Do you know what techniques need to be employed to prevent the delegation away of the essence of power?
7. Are you cognizant of the fact that at times some boards and commissions have been conducting their affairs by using techniques and procedures which should have no place in a democracy? Can you illustrate?
8. Are you aware of the fact that abuses are not inherent in the board and commission set up?
9. Are you able to explain and evaluate leading suggestions for reform in the board and commission area?

10. Do you understand and are you capable by example of bringing out that the procedure which the boards and commissions should follow can be and needs often to be different depending upon the particular *type* of task being performed?

11. Do you realize that the future growth of boards and commissions may dictate to a very large extent the future of democracy?

12. Can you realistically show that in some areas we do not need board and commission control if we have voluntary cooperation and self-discipline?

13. Can you give examples to bring out the areas where voluntary cooperation and self-discipline cannot be expected to solve the problems involved?

14. Can you give examples to illustrate the great value and service rendered by boards and commissions through their informal techniques, that is, those services performed in settling controversies before they have reached the quasi-judicial stage?

15. Are you able to intelligently discuss and explain the control which the courts should exercise over boards and commissions so as to insure justice and not destroy the efficiency of the administrative tribunals?

If teachers cannot answer the questions, it is submitted that there is established a need for the type of program outlined.

Course II would provide the answers for the specific questions raised.

Other questions, just as significant as those used for illustration, could be devised to bring out the need for including all the indicated materials.

It should be apparent that many writers and editors would benefit just as much as teachers from the type of training specified. Indeed the pronouncements by leading practitioners and school of journalism educators as to the background needs of those who intend to make journalism their profession will support the assertion.

The program would surely fall within the limits of the type of training for journalism presented as necessary by the Com-

mittee on Freedom of the Press in its recent report on *A Free and Responsible Press*.⁵

In the words of the committee, "The kind of training a journalist needs most today is not training in the tricks and machinery of the trade. If he is to be a competent judge of public affairs, he needs the broadest and most liberal education."⁶

Use of the materials of the type described, if skillfully gathered, integrated and presented, would effectively develop the ability to do intelligent thinking concerning public affairs.

Superior training would be given in the processes of logic. Ability to draw sound conclusions from premises would result.

A realistic approach to the subject matter would build the kind of thinkers who can not only note facts but whose mind can also progress to implications. Furthermore, the experience would give the journalist the important skill of so undertaking complex situations that he can make relevant judgments and discriminate among values.

Enough has now been done by way of outline of subject matter and delineation of need and merit to permit returning to the promised effort of answering the query, "Why should a professional law school concern itself with training those who definitely do not want to become a part of the profession?"

Here are the answers.

The undertaking of the program affords the law school an outstanding opportunity in the field of public relations. Since, as Simpson and Field have pointed out in the *New York University Law Quarterly*,⁷ no large profession has handled its own public relations so badly as the bar, the opportunity should not be disregarded.

The law school would be able to acquaint an important segment of the public with the fact that "law is a part of life, a thing of service. Law would begin to regain its rightful station

⁵ University of Chicago Press, 1947.

⁶ The chairman of the committee was Robert M. Hutchins, an ex law school dean and now chancellor of the University of Chicago. Vice-chairman was Zechariah Chaffee, professor of law at Harvard. Two other law professors also served on the committee—John Dickinson of the University of Pennsylvania (General Counsel Penn. R.R.) and Harold Lasswell of Yale.

⁷ *Social Engineering Through Law*, 22 N. Y. U. L. Q. REV. 145 (1947)

as a liberal art, as a humanity, as the very focus and balance wheel of men's lives together."⁸

Writing in the *Boston University Law Review*,⁹ Dean Harno of the University of Illinois College of Law comments that "law is a vast creative and dynamic force for the maintenance of a free society and the promotion of human welfare." Lawyers should, therefore, said Harno, be equipped for the "responsibility to educate the public on its (the laws) content and ends, on its propitious qualities, and on its very essentiality to the well being of each individual in society"¹⁰

By undertaking to give the type of instruction heretofore discussed the law school can directly educate an important part of the public. Indirectly through the medium of those enrolled, such as teachers and journalists, a great many more people will become informed about the role which law can and should perform in society

The program would provide the law school with a splendid chance to experiment with techniques for the integration with legal training of knowledge from the fields of social science.

Ever since Dean Pound's exposition of 1912, entitled *Scope and Purpose of Sociological Jurisprudence*,¹¹ the importance of such integration has been recognized by forward thinkers in the field of legal education. Recent years have seen a number of forceful articles on the topic.¹²

In spite, however, of recognition of the worth of integration, techniques of accomplishing it have been difficult to work out.

The proposed program is significant because it would give an atmosphere which would be most favorable for experimentation in the proper use of social science materials.

⁸ These are words used by Professors Llewellyn and Patterson of Columbia University in arguing for a required course in jurisprudence in the law school, 9 AM. L. SCHOOL REV. 582 (1939). It would seem even more important from the public relation angle for the people outside the legal profession to have an appreciation of the role that law plays in society.

⁹ *Disciplines in the Training of a Lawyer*, 22 B. U. L. REV. 254 (1942).

¹⁰ Harno, *supra*, note 9.

¹¹ 25 HARV. L. REV. 489.

¹² Lasswell and McDougal, *Legal Education and Public Policy: Professional Training in the Public Interest*, 52 YALE L.J. 203 (1943), *Integrating Law and Other Learned Professions* (a symposium), 32 VA. L. REV. 695 (1946), Vanderbilt, *The Idea of a Law Center* 23 N.Y.U.L.Q. REV. 1 (1948) Simpson and Post, *Social Engineering Through Law*, 22 N.Y.U.L.Q. REV. 145 (1947) are examples.

The atmosphere will exist because the law school will be completely freed from any responsibility for the development of combative skills and the influencing of judges.

The training suggested should not be offered to any but mature students. Indeed it would seem that for the most part the courses should be open only to those at the graduate level.

A class composed of students with a good basic background in many areas of social science and considerable experience with life will contribute to an atmosphere which invites efforts at integration. The group can contribute much to a testing of legal rules in the light of social wants.

Any success at integration will be another effort which will make for good public relations. This is strikingly brought out in the article *Law and Social Sciences* by Simpson and Field written as part of a symposium entitled *Integrating Law and Other Learned Professions*.¹³ The authors stress that a proper integration of law and the social sciences "would permit law to emerge from the mysterious wrapping in which it is now encased so as no longer to be a source of amazement and bewilderment to the laymen, but rather the source of that justice it aspires to promote. The average citizen (would no longer) feel that law is no concern of his at all, but a scholarly ritual in the keeping of high priests."

In connection with the steps taken toward integration the law school could seriously consider the use of properly qualified senior or graduate students from their professional school to assist in working up useful materials. It might even want to invite such students into the class group in order to stimulate a more lively discussion. Or such students might be employed as leaders in a small group if the class was broken up for the purpose of studying and reporting upon some particular problem.

If law students were so used it might be found that their endeavor would be quite as valuable to themselves as is the present efforts of students on law reviews and in legal clinics.

The emphasis which has been placed upon the liberal education value of legal training of the type recommended and the service value to particular classes such as teachers and journalists may cause some to wonder why the program could not better

¹³ 32 VA. L. REV. 695, 855 (1946)

be offered by a liberal arts division, school of education, or school of journalism department of a university

The program could be offered by any one of the divisions named if the right sort of instructors were employed for the effort. Indeed the writer is presently teaching a modified form of the proposed plan at the Northwestern University Medill School of Journalism. The class is made up of graduate students and workers in the field who are particularly qualified to absorb the instruction.

If the law school would not undertake to sponsor the course outlined, the need for and values which would come from the instruction are so great that the other indicated departments in the university should take up the work of presentation.

The program has been suggested as one particularly suited for the law school to offer because benefits already described will come to the school, and because the school has already available or could perhaps more easily attract the kind of faculty members necessary to insure the success of the effort.

The matter of faculty selection is of paramount importance. Only the most skillful legal educator can do the kind of stimulating job required. Especial care must be taken against abstract discussions which lose meaning and, therefore, would cause the classes to deteriorate into nothing but verbal exercises.

The law school will have the advantage of being able to attract to the program students from various departments of the University who have need of the training. If a school of journalism or school of education offers the training it will draw for enrollment almost entirely from its own department. If a liberal arts department is the sponsor, it might not draw the proper enrollment because it would not demand the same respect in the legal field as would a law school.

One further objection to law school sponsorship of the special training outlined may be raised by some who claim that such political science courses as constitutional and administrative law already do much to accomplish the goals desired.

There is no doubt that when handled by competent men such courses do a great amount of good. Facts indicate, however, that there are thousands of teachers, journalists, and others who are not exposed to such courses and have need of the training suggested by this article.

The program described herein has the advantage of integrated presentation at a time in the careers of many individuals when they can easily be shown the great need for and value of the training.

In short, there is the same reason for the law school offering the proposed curriculum as there was for the School of Business of the University to offer its highly successful *Executive Program*. In spite of the existence of the regular courses at its School of Business, the University presented the *Executive Program* with the idea that it would be of particular interest to graduates from colleges of liberal arts and sciences, graduates of engineering and other technical schools and graduates of law schools.¹⁴

And now that the answers have been given to the query, "Why should a professional law school concern itself with training those who definitely do not want to become a part of the profession?" this discussion moves to a conclusion.

It remains to be said that if the law school makes the program available it should undertake to give its need and value wide publicity. It is only by doing so that it can stimulate the interest of the great numbers who will get maximum benefit from the training.

The success of the *Great Books Program* sponsored by the University of Chicago and other institutions is due to a large extent to the wide publicity which has been given its goals. So too has the *Executive Program* of the University of Chicago benefited because of the promotion given its objectives.

It is submitted that the need and merit of the recommended offering is so fundamental as to warrant any aid and all efforts which a law school takes to make it available and well known.

¹⁴ Announcement of the Executive Program of the University of Chicago School of Business (1948)

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