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A LEGAL EDUCATION AS VOCATIONAL TRAINING FOR LIFE

REYNOLDS C. SEITZ*

The return of World War II service men in larger and larger numbers to colleges, universities, and professional schools has prompted the writer to undertake the discussion suggested by the title. Although time spent in reflecting upon any phase of education or any part of an educational program is always justifiable, there is today a particularly significant reason for such endeavor. The man who has interrupted his education or career to spend time in the service of his country is surely entitled to a type and kind of education which will be of distinct vocational benefit to him.

The fundamental purpose of this article is to bring out in the clearest fashion the fact that, if legal education is properly conceived and administered, the person who has the capacity to absorb its training will most definitely receive a very superior vocational equipment.

The task assumed is not that of presenting a wholly pioneering type of work. The writer has drawn a great number of ideas from reading the contributions of many brilliant forward-looking thinkers in the field of legal education. The greatest difference between this article and many others which have appeared on the topic of legal education is to be found in the fact that this discussion has undertaken the responsibility of estab-

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lishing that a legal education affords a very broad and outstanding vocational training for life.

The indicated intent might convey the impression that the writer is merely championing as "best" a branch of education in which he has an interest, for it is known that men interested in various fields of education tend to look upon their particular division of learning as that most fundamental in providing career training. The mathematician will often point with pride to the great need for the development of abstract thinkers and then conclude by extolling the ability of his specialty to develop men with such traits. The scientist—flushed with the remarkable discoveries in his field—many times offers reasons to establish the basic importance of his department of subject matter. Some even select ten or a dozen good books and make a strong case to prove that their study will supply the best possible mental foundation. In this connection, the words of Robert Maynard Hutchins, Chancellor of the University of Chicago, as they were published in his recent article naming the ten greatest books, appear quite impressive. Chancellor Hutchins said:

"What would happen if all people of this country were to read, discuss and understand the 10 greatest books of the Western world? We might at last have a community in the United States and be prepared to take our part in a world community."

Indeed, if the title of this article were to stand without explanation, it would be quite reasonable to feel that it was meant to suggest that legal education offers the "best" equipment for future success in a great number of careers.

In actuality, there is definitely no desire to set forth any expression concerning the "best" or "most adequate" type of educational training. It is felt that the existence of many varying factors places such discussion within the realm of pure speculation.

The title of the article merely represents an attempt to indicate that a realistic legal education will offer to those mentally equipped to absorb it an outstanding vocational training for life. As has already been pointed out, the emphasis upon such objective is dictated by the contemplation that thousands of young men will soon make decisions regarding their entrance into the various law schools of the nation. If it can be demonstrated

\footnote{Chicago Daily News, December 5, 1945.}
that a legal education will train these young men for life, then there need be no worry that an investment in such education offers maximum benefits.

The corollary to the concluding statement of the preceding paragraph is that, if a legal education does not so train, it has doubtful merit. The support for such assertion rests upon 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. It has been quite generally recognized that the law student of today faces a different future than his predecessor in the hey-day of the individual client representation. Legal literature is replete with references to the fact that the law student—in spite of the best available guidance—frequently cannot determine in advance of graduation whether he will find his career in private practice, government service, or business. Some of the more frank statements have carried the admission that in some number of cases the student cannot even be certain that he will find employment in an occupation or business which will permit him to make direct use of his legal knowledge.

The situation is such that there is clearly indicated the need for the law schools to furnish a type of education which will indeed afford broad vocational training for life—whether life means the private practice of law, government service, corporation legal endeavor, or business activity of a type not directly connected with legal effort.

This discussion undertakes the central task of demonstrating that legal education can meet the challenges with which it is presented. Analysis of some of the leading techniques which are in use or have been suggested for use makes possible the outlining of a method of procedure which is calculated to insure the development of the specialized skills required of those working directly with the law while at the same time affording a completely adequate and even very superior foundation for success in a variety of vocations which do not require direct use of a knowledge of law.

If the principal effort is successful, the law school will gain stature as a very important division of the university. Its standing will rest solidly upon an ability to provide insurance against the vocational contingencies and uncertainties of the future.
Inasmuch as the study of law is initially undertaken through the use of the case book procedure, it is appropriate to devote first attention to an evaluation of such method in a plan of legal education which has the ultimate objective of building a broad vocational base.

Because the reported cases are as much the tools of the lawyer as are algebra and calculus the instruments of the insurance actuary, it is impossible not to recognize that the student lawyer must learn how to read the decisions and extract the proper meaning therefrom. Competence in the technique of analysis of upper court opinion, in the distinguishing of decisions, and in constructing, modifying, or criticizing legal doctrine will logically grow out of an intelligent training in the reading of cases. Although materials can and should be worked out which will directly and actually teach accepted methods of extracting legal doctrine, the modern case book furnishes the beginning law student with the best possible means for securing the early practice necessary in connection with learning how to read decisions and come to logical conclusions concerning their import.

There is still another reason justifying the use of the case book as a primary aid for instructing the beginning law student. In the early period of a law student's career, the case book method of instruction has the psychological advantage of gaining and holding maximum interest and attention. The factual background, the outlines of the argument, the contentions of the parties to litigation, and the reasoning of judges expressed in concepts and principles, as all such elements appear in the cases gathered together for classroom instruction, introduce to the average student different and more lively material than any with which he has previously come in contact. The inevitable results are most fortunate in terms of interest and attention.

The recognition of the usefulness of the case book does not obviate the necessity for decisions as to just what proportion of instruction should be based upon the case book method of procedure. That there is a real problem involved is brought out in the writing of many who are interested in legal education. One of the foremost thinkers in the field of legal education is Professor Karl Llewellyn of Columbia University. As a member of the 1944 Committee on Curriculum of the Association of American Law Schools, Professor Llewellyn approved in the report of the
Committee the very pointed comment that "interest begins to fade in the case book procedure by the early part of the second semester." Many others have shown a dissatisfaction with using the case book as almost the only prop during three years of law study. In 1933 Jerome Frank expressed the sentiment that "intelligent men can master that dialectical technique (of the case book) in about six months." An article in the April, 1945, Boston University Law Review quotes the 1931 opinion of Joseph H. Beale that the "case method does its best work in two years."

The quoted remarks concerning the use of the case book—conched as they are in terms of the time element—should not lead to the misconception that the student can be taught all he needs to know about the analysis of cases within six months to a year, or, at the most, within two years. The more realistic interpretation would be that the traditional method of case instruction reaches the point of diminishing returns within a period of time which is considerably shorter than the total period spent in study in law school. The need for some kind of education which will continue to give practice in case analysis will remain an objective throughout the law school term.

Overemphasis on the case book technique produces a variety of discernible consequences. As the case load is stepped up, the reading requirements may so cut into time as to influence some students to become mere reference chasers with rules and decisions always in the forefront of their attention. Other students may be completely confused by the antics of a teacher who appears to merely flash before his class one decision after another. Still other students may become so disinterested by the repetitious approach that they will develop the ability to get their case holding out of one of the readily accessible "canned briefs" which are always on sale. In general, too great reliance on the case book technique usually has the ultimate result of centering the stu-

3 Pound, Frank Vanderbilt, What Constitutes A Good Legal Education (1933) 7 Amer. Law Sch. R. 887.
4 Shattuck, An Adventure In Legal Education (1945) 25 Boston Univ. L. R. 88.
5 Beale, The Aims and Methods of Legal Education (1931) 7 Amer. Law Sch. R. 133.
dent’s attention on the acquisition of knowledge of facts and a mere accumulation of information. And this means that the student’s law education is not giving him an adequate vocational training for life.

The admission that over stressing on case book procedure produces effects which it would be desirable to avoid introduces the need for suggesting a plan of legal training which would bring about more favorable end results. Since—as has already been noted—the case book method does have an important value, any plan for improvement will use what is good in the case book technique, and suggest as changes or substitutions whatever seems best calculated to produce a better rounded graduate.

Some important observations set forth in the brilliantly reasoned Report of the 1944 Committee on Curriculum of the Association of American Law Schools suggests the need for one very important shift in emphasis from a technique which depends primarily upon case book instruction. The Report makes the very significant point that much current case instruction has slowly come to slide away from one of the major virtues of earlier case instruction—the virtue of simplicity of the thread of teaching and of training in a very few by-product skills at a time. The observation is made with telling effect that the subject matter of cases of the “eighties” and “nineties” called for much less of the student’s labor and attention than do the cases of today. The consequence was that the student had much more energy to devote to a mastery of the all important ability to reason to logical and coherent conclusions. In times past it was possible for classroom purposes to reduce each field of law to a severely limited number of fixed and unchallengeable bases for determining all policy questions. These principles were few and sharply phrased. Their continued use provided a constant training in thinking and in argument from familiar premises.

Today the overuse of the constantly more crowded topical case books fairly overwhelms the student with a constant accession of new and more complex materials. His attempts to reason and organize all too often are abandoned in favor of the effort to stuff his mind with innumerable holdings of various courts.

The wastefulness of such endeavor is easy to demonstrate. The student who may, at the examination after the completion of

* Supra, note 2.
some course taken in the first or second year of law school, remember seventy-five to ninety per cent of the holdings which he catalogues will a year or so later be unable to pass a bar examination unless he has again restuffed his mind with a high percentage of court decisions.

The legal education which has as a goal the furnishing of vocational training for life obviously will need to give attention to something more important than encouraging the mind to become nothing more than a sort of filing cabinet for facts. Major attention will need to be devoted to methods which train students to think effectively, to make relevant judgments, to discriminate between values, and to communicate thought.

The trend of discussion in the last few paragraphs has pointed rather definitely toward the first step which must be taken in order to set up a plan of legal education which will accomplish the purposes just outlined. Initial effort must be in the direction of a return to simplicity in the pattern of instruction. There must be a focusing of endeavor upon training in a few skills at a time, and a playing down of attempts to drill a student in every detailed variation of every rule of law that he may conceivably encounter in practice. There must be much less concern over the matter of whether the student has secured all the information that someone has decided is necessary, and much more emphasis upon whether the student has an understanding of what he has learned.

In terms of specific techniques, the first efforts at legal education may not appear—and in many individual instances may not be—much different from those employed under the traditional case book method of teaching. Students will begin their law study with a reading of cases in course case books. The difference—in instances where such difference exists—will be that the instructor will have definitely organized the case material around a selected number of main divisions of the subject matter. Omissions will be planned—not settled by accident or mere shortage of time. The instructor will deliberately avoid exploring every channel provided by the book at his disposal. His conscious selection of major areas of emphasis will allow thorough analysis of the cases to be discussed. The pace will be such as to permit work with words in all their shadings so as to develop the real art of reading cases. Time will be devoted to clarifying
factual backgrounds so that judicial pronouncements can be more fully appreciated. The areas studied will be kept at the number which will enable the student to discern with sufficient sharpness ultimate holdings. Decisions on the ground to be covered will also take cognizance of the fact that full understanding comes best when the student has time to ponder and think through the varying contentions and arguments which are presented in each case.

During the first semester, the student will, to a very large extent, be occupied with the very important task of learning how to read the cases which appear in the course book. As the student moves into the second semester of his law school course his training in reading cases will continue but greater recognition will be given the fact that the pondering and thinking through process is greatly aided if students have the time to read law review articles, good texts, law institute volumes, and other materials which make reference to the particular phase of subject matter under contemplation.

Additional aid and encouragement to the pondering and analysis of problems will be given through the lectures of a clear thinking mind. Teaching by lecture, if carried to an extreme, is a mistake. If, however, lecturing is handled wisely, it has some real advantages. Lectures will be of value to the student when the subject matter is handled in such manner that the student sees how the lecturer analyzes, criticizes, interprets, and passes judgment upon a decision and fact situation or how he reasons out the philosophy which influences judicial thinking.

The time allotment for the thinking through process will be a real allotment. The outside reading assignments cannot be so heavy as to result in nothing more than another means of overwhelming the student. The reading lists will be thought out with the definite objective in mind that the quantity of material will be such as to enable the student to read at a pace which will permit realistic "thinking" and "pondering" over the matters under discussion.

It needs, of course, to be pointed out that the success of the approach we are discussing is greatly dependent upon inducing the student to actually do the reading necessary to building a true understanding of the particular areas of law which are
being subjected to study. The better and more conscientious students will be quick to appreciate the opportunity afforded. A certain percentage of students—who perhaps have never been trained in the value of library research—will need to be encouraged to realize that a law education cannot be secured by confining reading to the four corners of a case book. The classroom instructor must accept the responsibility for determining whether the outside reading is being done. The man adept at encouraging intelligent classroom discussion will have no difficulty in fulfilling the responsibility. One technique which could be used by way of stimulation would be to assign to a student or a group of students the task of covering certain outside material and contributing an analysis of the reading to the class group. Such procedure would make it possible for the class to become acquainted with a considerable range of thinking. There is certainly no reason why everyone in the entire class has to read exactly the same references on a reading list.

When the student reaches the second year, the techniques of instruction will noticeably change from those in use where the case book method is enshrined as the only and best method. The first year will have thoroughly introduced the student to the problem of the nature of legal concepts and legal principles, to their slippery character, and to the process by which they are applied. Emphasis will have been given to the elements of uncertainty and unpredictability. All of the first year training, if done in an effective way, will have resulted in building an appreciation of the true meaning of the judicial process, and will make unnecessary a following of "traditional" case book procedure in the second year. It will be possible to do considerable combining of material and condensing of method so as to permit time for significant and vital training in research and legal argument (in both the written and spoken form).

Even though it is true that the courses in the second year (and even in the third year) have a different "feel" from the subject areas covered in the first year, there seems to be no reason why combining and condensing cannot produce worth-

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7 A very descriptive phrase used by Katz in connection with the discussion on the four year curriculum as reported in the 1939 Handbook of the Association of American Law Schools.
while results. A capable instructor will still have time to develop the 'feel' for various fields of the law.\textsuperscript{8}

The curriculum for the second year will provide opportunity for some such work as preparing a real brief based on an actual record, the writing of notes on assigned or selected topics,\textsuperscript{9} the drafting of statutes, and the participating in moot court (and at some schools in legal clinic endeavor). The work will revolve around areas of the law in which the student has already built a foundation in connection with his course work. Labor will be done under the close guidance and supervision of a faculty member (in a large school a graduate student could help out). Frequent group and individual conferences will be held. A high standard of accomplishment will be insisted upon. Ample time will be allowed for painstaking development and correction.

The importance of selecting problems which will permit building on a foundation erected in connection with courses previously completed needs repetition. Such method of development gives the student a basis from which to start, and permits effort to advance at a practical pace. Furthermore, such approach enables a student to gain through practice a better mastery of many of the matters touched upon during the period of the course. And, in gaining this better understanding, efforts are not concerned primarily with an accumulation of knowledge for its own sake. Rather, efforts are centered on knowledge for its bearing upon the problem which the student has under consideration and is endeavoring to solve.

The conference is very important to the success of the methods which have been outlined in the paragraphs just preceding. The attitude of the faculty with regard to conferences is even more important than that of the students, since the students are affected by the views and actions of the faculty. If a conference is to be something other than a small class exercise the methods employed by the instructor must be adjusted to

\textsuperscript{8}See \textit{supra}, note 3, for Vanderbilt's comment on the need to develop the "feel" for the various courses in the curriculum.

\textsuperscript{9}The value of practice in legal writing is very well summed up by Shattuck in his comment that, "Many an editor has told me that his law review training was worth not merely more than any one of his law courses, but more than all his second and third year classes together." See, \textit{An Adventure In Legal Education} (1945) 25 \textit{Boston Univ. L. R.} 88.
the function which the conference is designed to perform, namely an understanding of how to go about solving the problem at hand in a logical and orderly fashion. Teachers whose only conception of the purpose of teaching is accumulation by the student of a certain amount of information are not the persons to conduct conferences.

The emphasis, which this article has directed by way of criticism of any efforts at legal education which results in encouraging the learning of a mere accumulation of facts, now leads with logic into another phase of the general discussion of legal education as a vocational training for life. Those who have thought at all about the problem of legal education have come quickly to the realization that something should be done by way of integrating social science with a study of law. One of the most forceful expressions concerning the need for such integration can be found in the remarks of Professor Frederick K. Beutel before the American Association of Law Schools Meeting in the winter of 1939. Professor Beutel pointed out:

“There is a lot of technique, of course, in manipulation. There is no end to which a case can be divided and subdivided and the dictum of the court can be worried about, but those things aren’t important socially any more. The important problem is the great problem of social adjustment; we have our problem of legislation, our problem of administration. I sat in a few conferences in Washington involving some of these problems. In one particular conference I turned to one of my colleagues and said, ‘Have you seen anything here that vaguely resembles what we do in law school?’ He had to admit that there was no resemblance... A lawyer should be a social engineer. All the things he works with have changed, but we go merrily along, assuming somehow that what helped grandpa solve legal problems in court will be enough to help grandson in a totally different environment.”

In spite of the general agreement for the need of integration of social science within the law school training, no theory for unification has won general acceptance. One of the forward looking plans has been suggested by Jerome Hall in the Harvard Law Review. It is called the 2-2-2 plan and provides for two years of college training, two years of law training, which would

11 Hall, A 2-2-2 Plan For College—Law Education (1942) 56 Harv. L. R. 245.
bear resemblance to the freshman and sophomore years in the forward looking law schools, and two concluding years which would be divided half and half between college subjects and law subjects. For example, in the last two years students may take corporations and corporation finance, labor law and labor economics, taxation and economics of taxation, evidence and psychology, or constitutional law and political science. Hall’s plan provides for instruction by two separate faculties. His theory is that introducing subjects all along the line would only increase disorganization. Hall postpones his training in social studies and other fields related to law until the last two years because he feels that by that time the student has the maturity to appreciate the subject matter content, and that he will, after two years of law, be better able to view the problems in relation to their connection with law.

It is not necessary to approve the 2-2-2 plan in all its details in order to appreciate its contribution to a plan for legal education which will furnish vocational training for life. There is indeed definite need for law schools to utilize the social sciences and their methods to illuminate the law. A plan set up for such purpose should be orientated and directed by some legal problem. Until we have definite experience under the 2-2-2 plan it would seem that most schools should devote the third year of law school to intensive efforts at integration between law and social science. It would seem feasible to have a member of the law faculty handle instruction without the necessity of dividing the instructional task with men from other faculties.

Such a plan would not be of radical proportions. In the 1941 volume of the American Bar Association Journal, Professor Katz described a plan in use at the University of Chicago which enabled a student in his senior year to devote half his time to the integrated study of such things as anti-trust laws and labor law in the light of the theory of prices and wages, and depression problems tied in with bankruptcy and corporate reorganization.

It is, of course, true that one year of intensive effort at integration would not make available the time afforded under the 2-2-2 plan. It may be, however, that it would be more practi-

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What Changes Are Practical In Legal Education (1941) 27 A. B. A. J. 759.
cal to allow the student to get his foundation training in social studies in his pre-law years. Instead of allotting the second year in the last unit of the Hall plan, it might be more realistic to encourage the student to embark upon a program of adult education after his graduation in law and after he has definitely embarked upon a particular career.

Up to this point attention has been directed almost entirely to discussion concerning methods of teaching. Such approach was conscious. A legal education cannot produce desirable outcomes if teaching method is not forward looking. The stress upon method does not, however, mean that no attention need be given to the problem of what courses to teach. In the light of much of what has been said, it would not seem possible that a school could avoid giving adequate and realistic instruction in such fields as administrative law, labor law, legislation and taxation. A great deal of careful thought would need to be given to the problem of what material could most profitably be integrated with law courses in the senior year. Reflection upon course placement would suggest that students could profit if fundamental training in business organizations and constitutional law were offered in the first year as support for many practical courses of the second and third year.

No particular mention has been made concerning the teaching of courses in procedure. The underlying philosophy of the general approach which has been outlined would suggest that the study of the work of courts and administrative bodies should be clarified by practice in the use of forms, by the drawing of motions and pleadings, and by the preparation of evidence and trial or other briefs.

The length of time it has taken to mark out a type of program and procedure which would furnish a sound legal education which will give vocational training for life may have obscured the real purpose of the article—the purpose of demonstrating that a logically conceived program will insure development of the specialized skills required of those working directly with the law while at the same time affording a completely satisfactory and, indeed, very superior foundation for success in a variety of vocations which do not require direct use of a knowledge of law.
Even superficial reflection about the program presented should convince that the vitality, breadth, practicality, and intensity of training could not but furnish the most superior background for one who has a mind capable of dealing with the abstractions of the law and of responding to training in logical thinking.

Some quotations from the brilliant Report of the Harvard Committee on *General Education in a Free Society*, although they concern the results that can be expected from an effective program of general education, are equally applicable to results that will flow from a good training in law, and serve to emphasize the strength which can be given to a general education by a training in law of the sort that has been portrayed.

The Harvard Committee says that one result that can be expected of purposeful education is the ability to do "effective thinking." The Committee then defines such thinking as: "Logical thinking: the ability to draw sound conclusions from premises." And, going on further, the Report states: "Logical thinking is the capacity to extract universal truths from particular cases, and, in turn, to infer particulars from general laws. More strictly, it is the ability to discern a pattern of relationships—on the one hand to analyze a problem into its component elements, and on the other to recombine these... so as to reach a solution... In moving toward a solution, the trained mind will have a sharp eye for the relevant factors while zealously excluding all that is irrelevant; and it will arrange the relevant factors according to weight... Effective thinking, while starting with logic, goes further so as to include certain broad mental skills. Thus, the effective thinker... is not satisfied merely with noting the facts, but his mind ever soars to implications... Furthermore, effective thinking includes the understanding of complex and fluid situations, in dealing with which logical methods are inadequate as mental tools... (and where it is necessary to use) thinking which is relational and which searches for cross bearings between areas."

Another result which the Harvard Committee says can be expected from meaningful education is the ability to "communicate." Communication, it is explained, is "obviously inseparable
from effective thinking" and the point is made that to "speak clearly one must have clear ideas" and "something to say."

Still other consequences which the Harvard Committee says will follow from a well thought out plan of education are the ability to make "relevant judgments" and to "discriminate among values." It is pointed out that one who can make relevant judgments has the "power to use a formula in the new concrete situations as they fleet past us," and that one who can discriminate among values has developed a fine sense of relative importance.

Reflection on the significance of the outcomes described in the Harvard Committee Report will serve to make apparent that a legal education so planned as to build firmer the foundations of a good general education can be justified on that ground alone. As equipment for a changing world there are no tools more valuable than "effective thinking," ability to "communicate," to make "relevant judgments" and to "discriminate among values."

But since legal education is specialized education it does more than merely build foundations firmer. If properly planned, it trains for the practice of law, it opens the way for entrance into the field of government or corporate legal endeavor, and it conditions for a great number of opportunities in the business field.

A realistic legal education does one more thing. It is of great value to those who may enter other professions besides the one for which it directly trains. It gives the journalist or the teacher that training in fundamentals of thinking and analysis, and that broadness of vision which is so lacking in the background of many in the writing and teaching groups.

As the discussion works its way toward the conclusion, some readers may be conscious of the fact that nothing has been said about the ability of an education of the sort described to insure that the student will pass a bar examination. It can be frankly admitted that if a bar examination continues to put emphasis upon testing for a knowledge of an accumulation of facts, then the program outlined will not be the most expedient which could be formulated. It is the writer's belief, however, that true edu-

bational progress should not be allowed to be impeded by outmoded attitudes of some bar examining groups. The solution is to work toward insuring an enlightened attitude on the part of the bar examiners. And until such an outlook can be developed it would seem that putting the student through quiz courses after his graduation would be preferable to abandoning an educational plan which has such great vocational merit.

The logical recurrence to the theme that legal education can afford an outstanding vocational training for life suggests that discussion can be brought to a close. If the facts herein stated have had their desired effect, there will have grown the conviction that a realistic legal training of the type indicated will furnish an outstanding vocational training for life. Students who are qualified to absorb the training need have no worry on the basis of an over crowded bar because they will have received an education which is broad enough to enable them to carve successful careers in a great number of fields. The professors of law who are forward looking and successful in stimulating students in the ways suggested can be happy that they are in one of the most challenging professions—a profession which does indeed “train for life.”