

THE LAW SCHOOL OF THE FUTURE *

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MY REMARKS will be based upon the view of the citizen observer. I know of no better way to indicate my views on the law school of the future than to point up the shortcomings of today and suggest ways and means to correct the difficulties.

I hold the conviction that the one agency of the educational world more responsible than any other for the welfare of this nation and universal welfare is the law school. The law schools must answer to posterity for a large part of the responsibility for what has occurred in this country and what is now taking place internationally. Perhaps that statement may be considered a rather harsh one, but I am sure that many of you are as apprehensive as I about present-day trends and conditions.

Certainly, those who have served in responsible positions with state and national governments have observed the good and bad influences of the law school, and will agree that in too many instances the product is not acceptable. Too often, our experiences tempt us to say that about the only governmental philosophy taught in the schools is the wrong kind of philosophy. It is unfortunate that the sound and capable teachers are prone to leave the task of indoctrination to the wordy disciples of ultra-liberalism. To an even greater extent, the professional economists have reflected the same sort of training.

As a member of Congress for several terms during the so-called "New Deal" era, I watched the Washington braintrusters closely and with keen interest. It is no exaggeration to say that they came with a plentitude of theories and no experience. They seemed utterly incapable of understanding the practicalities of government.

The law school of today is groping under tremendous handicaps not of your own making. The raw material which comes to you is too often untrained. Your students are not sufficiently grounded in history nor in the philosophy of the governments of the world. You are confronted with fiscal problems on every hand. You do not have the funds to permit the employment of the best in instruction. You are overcrowded to the extent that personal influence in character development and in instruction is almost nonexistent. You are working under

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physical conditions that make it impossible to do the job that you would like to do and that you and I know should be done. Too often the net result is a product deficient both in academics and the law.

More important, your graduate is seldom thoroughly grounded in the fundamentals which made this country great and in a knowledge of the mistakes which resulted in the collapse of other nations. Notwithstanding this handicap, your graduate is turned loose on the public as an important cog in the civic life of the community, as a potential legislator at both the state and national levels, and as a public official. He is the man to whom a large part of our citizenship will look for opinion, and he will influence the convictions of the public to a great extent.

The net result of it all is a sort of hit-or-miss government which is directing the destinies of America and controlling the future of many other nations. I point to these deficiencies not in a spirit of criticism, but for the purpose of emphasizing the course which I feel should be followed in the future. Considering the difficulties under which you are working, it must be admitted that you have done and are doing a good job. If, by retaining the best of what we now have and pressing unceasingly for improvements, we can assure finer citizenship and public officials and a brighter future for the country, your efforts will have been justly rewarded.

I entertain some pretty definite views about education generally. The present system needs overhauling. Here in Florida we have devoted several years of effort and painstaking study to the general problem. We have completely revised the elementary and secondary school systems, the revision growing out of recommendations submitted by outstanding experts drawn from all over the country. Our state aid to education has been increased several fold and the qualifications of our instructional personnel improved. If we exercise unceasing vigilance and see to it that these improvements are extended and refined each year, you may depend upon better trained youngsters when they apply at the colleges and universities and upon a finer citizenship when they have matured. Care must be taken to guard against waste and against crystallization at the top.

Our institutions of higher learning have had their share of attention. Millions of dollars have been expended in the improvement of the physical plants, salaries for faculty and personnel generally have been increased substantially, and, all in all, we feel that genuine progress has been made. But, even so, we have accomplished about half the job. We should continue the improvement of the plants, further raise the qualifications for faculty positions, and improve on the courses of instruction.

The privilege of and the responsibility for education rest with the states. So long as they can meet the needs, there is no great likelihood that the Federal Government will move into the field. There is no place in higher education for either federal assistance or intervention and, with few exceptions, the state should do the job in the secondary schools. There may be a few states that fall short of the financial ability to provide training, but those exceptions should be treated as such and not used as an excuse for the Federal Government to move into that field generally.

Education in America should not be regimented. Neither should education within a state be regimented. Liberty—I believe the educational term is “academic freedom”—must be preserved if we are to grow. But academic freedom means more than irresponsible fulmination on nebulous theories. It is the task of the institutions of higher learning and, especially, of the law schools of America to see that complete freedom is exercised by those who have the training and the background which authorize them to speak authoritatively on any given subject.

There is a perfectly sound reason why most of the strange ideas have developed in institutions of higher learning. To begin with, they are institutions of learning and the natural haven of the thinker. It is there that those who think in the abstract, and too often without qualifying experience in practical affairs, gather.

The fallacy of the theories the braintrusters brought to Washington in the Thirties was that those theories represented the product of the classroom, untried in the crucible of practical experience. Those theories may have been fairly good from the academic standpoint, but, before application, they should have been tempered with practicality.

I am not sure that I know just what the remedy is. The present dangerous trend toward unfettered liberality would be of no particular significance if we could be assured that all of the students would mature mentally. It is the boring from within which destroys. The teaching of truth and facts, whether political, religious, or sociological, cannot injure mature students so long as those facts are presented fairly. If we could be sure that our students would all grow up mentally and emotionally, I would have no objection to a Communist's teaching in the university provided he is known to be a Communist and would present his views as a Communist. But unfortunately a small percentage of the students in institutions of higher learning never mature. As an illustration, look at the sorry spectacle recently publicized in Washington. I dare say most of those who have been charged are in themselves fairly decent individuals, but we find them hanging out on some emotional limb without the ability to get their feet on the ground. The university

must not only have academic freedom—that freedom must be accompanied by academic ability and academic integrity. The secret subversives, the pseudo-pinks must give way to capable, forthright, mentally honest instructors who will teach the pure and unslanted truth.

When we contemplate the law school of the future, I think of one which has the whole-hearted support of the public. When we recognize how much the right kind of law schools can mean to the country and to the world, there will be no reluctance in that support. The country is looking forward to the law school that works with students who have been trained to think and who have been selected by a stern weeding-out process before admission to the professional classes. It is obvious that the student who has spent four years in pre-legal training and still is unversed in English literature, history, and economics represents a poor risk for the law school.

As I visualize the law school of the future, I see dormitories and dining rooms so arranged that the students and certain members of the faculty may live and eat together as a community of mutual interest. Work done under such conditions will enable the student to absorb the ethics and the spirit of the law.

The ideal school will have classrooms arranged and equipped for small classes—say six to twelve students—with lecture rooms large enough to take care of the exceptional needs which will occur from time to time. The library facilities should be so designed and arranged as to encourage earnest and interested research and study. However zealous a student may be, he is still human, and his inclination to follow the easy road should be used in such way as to encourage him to do more and better work.

The present-day method of grading students leaves much to be desired. In your school of the future I rather think the system will be changed. The way the grading is now done puts a premium on shallow, scintillating brightness and quickness of tongue, and penalizes the student who is earnestly endeavoring to do the job. The brighter the student, the heavier should be his load. Present-day schools are geared to the dull. The fact that many of our best lawyers, judges, and citizens stem from that group of so-called "dull" students should convince us that the brighter students have been damaged in the making. If they were required to work as hard as do the less bright, we should enjoy the true benefits of brilliance.

Some fair portion of each day should be assigned to constructive work. The poor, the average and the bright mind should be treated alike—not alike in the assignment but alike in the time required to do the assignment. A given daily load which would require the average student to

spend three hours in the study room may require the brighter members of the class to devote only an hour to the work. That results in an unduly large amount of time for recreation and encourages laziness and the "getting-by" way of living. The country needs the advantage of the better minds and they should be put to work.

The method of grading should be changed to recognize effort as well as results. That sort of thing is not possible now because, with your classes of thirty or fifty or seventy, the instructors cannot know the student or know his work. They probably see him once a week and hear him once a month. With small classes there would be an intimate relationship between the professor and student. The instructor would know his student personally, would know how his mind works, and could be quite certain whether he is working or loafing. And when the policy is established that a loafer, whether he passes a subject or not, is eliminated, we will find an ever-increasing quality of product.

Then the small class becomes more than desirable in another way. The law schools must insist upon a higher degree of mental integrity. That phase of the work cannot be stressed under present conditions because the classes are too large. Of course, if a student is found cribbing or otherwise engaged in some moral turpitude, action is taken, but that is not what I am talking about. I refer to and stress mental integrity. Unless the candidate for a degree is basically and mentally honest, the law school should not permit him to graduate. The student who graduates from the law school of the future will be grounded in honor and will know that insincere promises made to secure a client or to secure ballots for public office are just as dishonest as robbing a bank or stealing chickens. He will see through the froth and know the fundamentals of personal and professional integrity.

Unfortunately, under the conditions which prevail today, with large classes and great student bodies, the lack of personal relationship between the faculty and the student is inevitable. The opportunity to determine how the man thinks and what he thinks is not there. You can do no more than guess that the student is dealing squarely with himself and with you. He may have taken a short cut which makes it possible for him to submit a paper which, on its face, is worthy, but whether it is his paper and reflects his training and ability is a matter of conjecture.

I cannot emphasize too much the influence of law schools on the affairs of this state and the nation. For the most part, the people who are directing the affairs in Florida, the Legislature which makes the laws for the state, are lawyers. There are more lawyers in high places in the national government than there are members of any other group. Lawyers predominate in the Congress. The responsibility rests upon the

profession to see that its membership is composed of good timber. The law school of the future will not only be an institution designed to impart some learning of the law but, also, it will be an institution created for the purpose of grounding students in the foundation stones of government, in logic, psychology, and ethics. It will develop the ability to analyze and see through, and to despise sham and hypocrisy. That type of institution can be founded and developed when the public realizes its importance and evidences its willingness to pay the cost.

