

# A SEMINAR IN LEGAL EDUCATION

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We law teachers are slow to grant and act on two facts. The first is that we are teachers. We will gladly admit that we are lawyers, social scientists, scholars, jurists, philosophers—all of these. But teachers—hardly that! The second fact is that teaching, like other professional work, is itself worthy of study in the universities, the more so since it is a major activity of the universities. We prefer to conceal this fact under quips about teaching teachers of teaching how to teach, or remarks about the individuality of great teachers and the deadening effect of copying another man. A fault even worse than trying to follow a superior model is the belief that one cannot learn from others. That belief is a denial of education.

In 1935 the Columbia Law Faculty authorized a seminar in legal education which has continued except for the war years. It was created for graduate students who are already in law teaching, or desire to enter it, and for selected undergraduates with interest in law teaching. I was made its chairman.

The direction and method of the seminar had to be decided. The first decision was that the seminar would not seek to teach a particular doctrine nor confine itself to any movement in fashion at the time, but would cover a wide range. The decision was right, for the students are preparing for their independent development in an unpredictable future. The second decision was questionable. It was that the seminar would confine itself to legal education and would not go into the field of educational psychology. It was made because of my ignorance of the subject, because of the prejudices in the law schools, and because of the limited nature of the work done by educational psychologists on teaching above the secondary school. The third decision was that most of the meetings of the seminar would be led by members of the faculty, invited to discuss topics suited to the seminar purposes, and not by the chairman or the members of the seminar. This decision, too, was right, for in no other way could the members have had brought home to them so vividly the variety of personalities and methods which must be fused into a whole in a law faculty.

The seminar, then, has two purposes. The first is to give an acquaintance with some of the developments, problems, and points of view in legal education. The second is to force the members, each for himself, to make a useful synthesis of the field and to focus on the detailed treatment of some phase of it. To accomplish the first purpose we employ a reading list and the meetings of the seminar, led by other members of the faculty.

At the organization meeting a reading list is distributed and some comments are made on it. The list is made up almost entirely of law-review articles on legal education, though a few books have been added dealing

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with general university or educational problems.<sup>1</sup> At the same meeting there is turned over to the students material which will show them some of the things being considered and done in other law schools and in other university schools. This material includes the bulletins of about a dozen of the law schools on the move, and also proposals or reports on changes—as, in a recent year, the proposal at Ohio State of a Bureau of Governmental and Legal Research, McDougal and Lasswell's "Syllabus of Seminar in Law, Science, and Policy," Fuller's address on "Objectives of Legal Education," criticisms by Dr. Esther Lucile Brown, and reports on the Columbia School of Business.

Most of the meetings of the seminar are conducted by members of the law faculty. A core of topics has been built up and repeated. Professor Patterson discusses The Case System, its Assumptions, Advantages, and Shortcomings; Professor Powell, Preparation for Class and Presentation in Class; Professor Llewellyn, the Law Faculty as a Team. Professor Michael has usually discussed Ends and Means in Legal Education. Each year four or five other Columbia teachers discuss selected topics. In a typical year they may include Professor Jones discussing the course in Legal Method; Professor Berle, the organization of the field of corporation law; Professor Gellhorn, the Seminar in Governmental Administration; and Dean Smith, the committee on curriculum of the Columbia Law School. The method would obviously be impossible without the cooperation of the faculty. Almost every faculty member has at some time led the seminar.<sup>2</sup>

A man from another law school or from another faculty of the university is usually asked to discuss problems in his school. Among those who have given their aid are Professor Gregory of Chicago and Professor Hamilton of Yale, and, from other faculties of Columbia University, Dean Calkins, Dean Russell, and Professor Rogers. When time permits, members of the seminar are asked to discuss what they have done in their schools or are at work on in the seminar.

The second of the two purposes of the seminar mentioned above calls for work by the students. Each member is required in the first three weeks

<sup>1</sup>The headings of the reading list have been: I. The Case System; II. Progress and Developments in American Law Schools; III. Comments by Judges and Lawyers on Legal Education; IV. Comments by Law Teachers and Others on Legal Education; V. Comparative Legal Education; VI. Some Law Teachers; VII. Other Developments in Education.

<sup>2</sup>Among the topics discussed have been the following: The Course on Torts, by Dean Smith; The Field of Trusts and Estates, by Professor Powell; Constitutional Law in the Law School Curriculum, by Professor Dowling; Comparative Law Work in the Law School, by Professor Jervey; Development of Skills, by Professor Llewellyn; Taxation in the Law School, by Professor Magill; The Work of the Legislative Drafting Bureau, by Professor Chamberlain; A Law School Course in International Law, by Professor Jessup; The Course in Legal Factors in Economic Society, by Professor Hale; Law School Admission Methods and Tests, by Professor Jacobs; The Field of Security, by Professor Hanna; A First Year Course in Legal History, by Professor Goebel; A Course on the Legal Profession, by Professor Cheatham; Three Different Methods Used in Giving Three Courses, by Professor Handler; Roman Law in an American Law School, by Professor Schiller; Placement of Law School Graduates, by Professor Gifford; The Course in Criminal Law, by Professor Wechsler; A Reorganization of the Law School Curriculum, by Professor Hays.

to write a short paper describing the main weaknesses of the law schools and stating the features of legal education he would like discussed. At an early meeting I submit an outline of the major phases of legal education and bring to bear on it the complaints and suggestions which the students have made. In this way the students may acquire a helpful organization of the field, tentative for them though it is.

The members write term papers. Effort is made to find subjects enlisting their interest and having future usefulness for them. The papers have covered almost the whole scope of legal education, beginning with pre-legal education and selection for admission to law school, ranging through problems and courses of undergraduate law school teaching, on to graduate work and post-graduate professional training. The papers are ordinarily turned over to a student for circulation or else put on reserve during the following term.<sup>3</sup>

So far as I can tell, the seminar has been useful. It has had the strong interest of its members, and a dozen or so of the papers written in it have seen law review publication. The undergraduates have almost uniformly made the comment, "Why didn't our teachers let us know earlier what they told us in the seminar? It would have given added interest and value to the courses we had with them." The comment supports my belief that one of the things lacking in most courses is explicitness with the students on what we are seeking to do with them.

Among the similar developments I know of, two certainly deserve mention here. During one of the war years when the seminar was not given there were several graduate students at Columbia who desired to consider some of the problems of legal education. Under the leadership of Professor Clyde W. Summers of the University of Toledo they initiated a system of visiting the classes of several of the faculty members and then going to the offices of these men for a discussion of their purposes and methods.

Another development is a true faculty seminar in legal education. Professor Frank Newman returned to the University of California School of Jurisprudence to teach. At his suggestion, as others have informed me, there was organized a group of six or eight members of the faculty who visit one another's classes in turn and then discuss and criticize the methods

<sup>3</sup> The subjects of the term papers one year, for example, were: A Seminar on Public Control through the Anti-Trust Laws, with Special Application to the Building Industry, by Edgar Barton; Lessons from English Legal Education, by M. E. Bathurst; Factors Affecting Method and Objectives of Smaller Law Schools, by Benjamin F. Boyer; The Seminar in Legal Education, by Eugene Buchanan; The Trend Toward Integration of Nonlegal Materials with the Traditional Subject-matter of the Law School Curriculum: Some Background, by Brainerd Currie; Teaching Local Law, by Richard W. Efland; Accounting in Legal Education, by Robert Hanes Gray; Legislation—An Essential Course in the Law School Curriculum, by Nelson Grills; Student Opinion Concerning the Academic Year at Columbia Law School, by W. S. Jones; The Procedure Curriculum in a Period of Reform, by Roy W. McDonald; A Seminar on the Entrance into and the Exit out of the Public Utility Field, by Donald Marshall; The First Year at Columbia Law School—Inspiration or Ossification, by Dean Moorhead; The Course in Legal Factors in Economic Society, by James T. Ramey; A Proposed Pre-Law Course for the Undergraduate Curriculum, by Jerry S. Williams.

used. It takes unusual broadmindedness and tolerance to make such a seminar go.<sup>4</sup>

To return to the Columbia seminar, it is not necessary to discuss here the weaknesses of the plan followed so far or the numerous alternatives which the reader might well propose. This year Professor Harry Jones will be chairman, and he will take a fresh look at the possibilities before selecting a plan.

<sup>4</sup>For other heterodox ways in which faculty members have learned from one another, see ESTHER LUCILE BROWN, *LAWYERS, LAW SCHOOLS AND THE PUBLIC SERVICE* 117-118 (1948).