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### Schooling Expectations

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# Schooling Expectations

James Boyd White

*On the evening before graduation the University of Michigan Law School holds a convocation for all the students receiving honors, ranging from the top grades in particular classes to the top awards we give for scholarship, character, and public service. The students attend with their family and friends. The piece that follows is a part of the talk given in May 2004 to such a convocation.*

As you face the future that now awaits you, it is fair to ask: How has your experience at the University of Michigan Law School prepared you for it? What have you learned? Not just a bunch of legal rules and principles, not even the mastery of sets of cases, but, as the cliché has it, “to think like a lawyer.” But what is that? What have you actually learned?



Let me say something of what I think you have learned.

You have learned first of all that there are always at least two sides to a case or argument. However clear your own initial response may be when a question is put to you—say about prayer at high school graduations, or whether price advertising by corporations should be protected by the First Amendment, or whether a state should be free to prohibit homosexual relations between consenting adults—you know that there are arguments the other way; and you also know that it is not your task merely to answer these arguments, but to consider them and learn from them. Perhaps the heart of legal education is learning that on a great many issues, including the most important and vital, reasonable and decent people differ profoundly; and that law itself can be a way of respecting and living with such differences.

You have also learned that the lawyer works through to a conclusion not by abstract reasoning from general principles, not by the application of an ideology or system, but by imagining as fully as possible what can legitimately and persuasively be said on both sides of a question.

In discovering what can be said on each side of a question you have learned something else: to look outside of yourself, outside of your own ideas and experience, to the world. With respect to facts, for example, you know that any witness’s statement of what happened will be incomplete, riddled with conclu-

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sions, often self-serving; and that other evidence may well exist, other testimony from other points of view, that will complicate or undermine your first impressions. You have learned how to suspend judgment while you discover and reflect.

With respect to the law you have learned something similar: how to turn from the facts of the case to the world of law, a world of texts—statutes and cases and contracts and so on—to see what they say. The heart of what we mean by the rule of law is that any legal decider must turn to texts or documents that express judgments made by others that the decider is bound to respect. The idea of separation of powers is in this way built into the very structure of the legal process: the legislature, for example, can say what it wants; but always someone else will say what the text it produces is to mean.

You have accordingly learned how to discover the legal authorities that can be said to speak to a question; how to think and argue about whether, and how much, the present decider is bound to respect them; and how to think and argue about what these texts mean, how to interpret them—for they are often unclear, self-contradictory, or ambiguous. You have learned, that is, how to read the law.

The reading of the law is not simply a process of getting the main idea, or applying clear principles. You know that it is your obligation, as it is your art, to construe not just one legal text, but all that bear upon your case, and to do so in a way that makes sense of all of them together, as a coherent whole. In this sense you have learned to make the law, for it is only in the briefs and arguments and memos and contracts and judicial opinions that you and others write that the law can become real as an intelligible and coherent force in the world. Before you put it to work in compositions of your own, the materials of the law lie around you in pieces and fragments. You have learned, that is, to become writers as well as readers of the law.

I have said that in doing this you have learned to look outside yourself, and that is true. But I hope you have learned to look inside yourself as well, to your deepest instincts and your own experience. Your knowledge of life and of other people, your own experience of the world, will be important materials with which you will think as a lawyer. One of the wonderful things about law is that in every case the meaning of justice itself is at stake, and in the end there may be no better guide to justice than the promptings of your own heart.

You have learned, that is, not just a set of intellectual operations, certainly not just a set of rules, but something of what it means to think and live in a mature and whole-minded way.



But your education is not quite complete. I am your teacher after all, and I have you for another seven minutes, so let me offer you your last class at the University of Michigan Law School, a class meant to connect the past, present, and future.

First, I want you to think back to the moment when you decided to come to the University of Michigan Law School. What did you imagine that it might be like?

I cannot speak for any of you, of course, but let me suggest certain images that may have been in your minds. First, you perhaps thought law school would be a frightening experience, full of competition and abuse and fear, perhaps on the model of *The Paper Chase*. As for its intellectual content, you may have thought that this would consist mainly of learning the rules of law. The law is a set of rules governing human behavior, after all, and what would set you apart as a lawyer would be your knowledge of what those rules are. You would become a rules master. Or perhaps another version of your imagined legal education was deep thought about crucial issues; maybe you even imagined yourself with your chin in your hand, gazing out the window, pondering the nature of property or race or constitutionalism, with the hope that you would come to profound and novel conclusions which you could release to the world. Or perhaps you imagined yourself glistening with intellectual power, suavely mastering the mysterious language of the law.

But this I am confident was not your experience. I assume that your legal education here was in the event more boring than you expected, but at the same time more interesting—nowhere near as terrifying, but a lot harder work. And as I have just been saying, this work did not consist only in learning rules or having deep thoughts, but was much more confusing, and much more important than that, especially when you learned that both facts and law were uncertain, highly arguable, and in the process discovered that many of your own certainties were not so secure after all. Perhaps you came to see that in learning law you were remaking yourself and your own values, perhaps the deepest challenge that life offers.

If I am right, then, law school was not what you expected: in some ways it was a disappointment, in others the reverse of that. But to say that your original expectations were not quite right is not to say that there was anything wrong with you. This is the nature of life. You needed to bring your expectations, imperfect as they were, to the experience that would qualify or modify them. We all do this, all the time. Your expectations were schooled by your experience.

I want you now to think of another moment, the present moment, in which you look forward to your future in law practice or some other field of life. Many of you who are graduating have taken jobs with firms or offices at which you have already worked, last summer or the summer before; others will go to firms or offices that are really new to you; others will be clerking, a brand new experience based on a brand new set of relations; still others have not settled on your next step. But you all have ways of imagining your futures.

What are they? What do you see as you look forward to the next two or five or twenty years? Again, I cannot speak for you, and you each have your own imaginings. Neither you nor I can know what your life in practice will really be

like, but I am confident that it will be different from whatever you imagine. Even if you are going to a firm for which you worked last summer, you will find that it is different to be there as an associate—they are no longer recruiting you!—and different, more completely than you can imagine, to be a young partner. Your responsibilities will be different; your role in the firm will be different; your relation to your clients, and to the young lawyers then in the firm will be different; everything will be different.

But this may not entirely surprise you, for one thing that you may have learned from your experience of law school is that your present expectations, however carefully shaped, will in some respects inevitably be wrong or misleading. And what this tells you is important, perhaps the central lesson of any education worthy of the name: to be alert to learn what you can about the reality of your experience when it happens; to be ready to change your expectations accordingly; to be one of those, in short, upon whom in Henry James's resonant phrase "nothing is lost."

I would now like to ask you to shift your attention one last time, to the future, and to an imagined interview with a client. Let us say that he faces a lawsuit, or seeks to plan his estate or build a company or sell a patent; or that he wants to make a contract or end a marriage; or that he seeks recovery for a physical injury. What is to be your role in talking to him? Simply to tell him what the law is?

What I want to suggest is that your client is in fact situated much as you were when you first came to law school, and as you now are as you look to your future: he has a certain set of expectations about what the law is, and what you can do for him; and these expectations will necessarily be imperfect.

This means that a central part of your task as a lawyer will be to help your client shape his expectations to his experience as it comes to him. You need to teach him that the contract you draft cannot tie the other party down in every possible contingency, because not every contingency can be imagined; the divorce he seeks will indeed end his marriage, but it will not erase the time he has spent with his wife and, at least if he has children, it will not end but reconstitute the relation he has with her; if he recovers a substantial award for the injury he has suffered, that will help meet his economic needs, but it will not remove the injury or the suffering or the disability if there is one. And in all of this, however good his cause or just his case, no lawyer can guarantee success. Such are the hard facts of your client's situation, and part of your task will be to bring him to recognize them.

Of course your client needs her expectations; they are the ground of hope and action; but hers, like yours and mine, will always be imperfect; they need to be schooled by her experience. To help her face this fact is part of your job.

I am suggesting, that is, that the practice of law can be a continuation of the education you have begun here, as you put to work the lesson you have learned about the nature of human expectations, and as you help others learn that lesson too. You will become an educator; this may in fact be your most

important and meaningful role; and in doing this you will establish the deepest connections between what you have done here at Michigan and what you do at the center of your professional life.

Having been taught, you will teach; this is a life full of promise, uncertainty, hope, and challenge. May you fare well.