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THIRTY YEARS OF LEGAL EDUCATION

*Allan F. Smith**

"The temple reared by human hands is before us. It remains for it to be possessed by the spirit of human service for which these cloisters are a fitting habitation. Into it will be poured the labors of devoted teachers and scholars, the efforts of students, the support of alumni, and the co-operation of the profession; and out of it will come, in the fullness of time, an influence that will work mightily for the improvement of our law and its administration in the state and in the nation."¹

James P. Hall

A GENERATION of law students has moved through the University of Michigan Law Quadrangle since its dedication on June 13, 1934. The prophecy quoted above has been fulfilled, although the process of its fulfillment has not ended and will not end, for the process of law is indeed "an endless 'becoming.'"² Despite the difficulties of carving segments from that which is essentially continuous and unbroken, it seems appropriate to pause at this thirtieth anniversary of the Quadrangle and to observe the segment of time which separates the dedication and the present day.

To avoid myopic observation, one must note the historic setting. Founded in 1859, the University of Michigan Law School sprang from the vision of Augustus Brevoort Woodward, Chief Judge of the Territory of Michigan, 1805-1824, was fostered by territorial and state legislative enactment, was given life by an initial faculty composed of Thomas M. Cooley, James V. Campbell, and Charles I. Walker, was reared under the deanships of Campbell, Cooley, Kent, Rogers, Knowlton, and Hutchins, and was brought to maturity under Henry Moore Bates, whose twenty-nine year tenure as dean brought sweeping changes in legal education,

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¹ The words were written in 1925, in connection with the dedication of the first part of the Quadrangle. Hall, *The Next Task of the Law School*, 24 MICH. L. REV. 42, 49 (1925).

² CARDOZO, *THE NATURE OF THE JUDICIAL PROCESS* 28 (1921).

and spanned the period in which the Quadrangle was built. It was no fledgeling law school that occupied the new buildings, but an established institution of national reputation, already dedicated to the proposition that training, research, and public service go hand in hand in legal education. It was no narrow vision which peered from the inside of the Gothic windows, but a piercing gaze which saw the whole of society's structure as the proper point of focus for the legal educator. For twenty-one of the thirty years, Dean E. Blythe Stason guided the growth and development of the institution, expanding its horizons, enhancing its stature.

One may also note the spirit of the donor of the buildings, William W. Cook, whose will expressed his belief "that American institutions are of more consequence than the wealth or power of the country; . . . that the preservation and development of these institutions have been, are, and will continue to be under the leadership of the legal profession; . . . that the future of America depends largely on that profession; . . . and that the character of the law schools determines the character of the legal profession." It would be difficult to create a more challenging frame of reference within which to judge the first generation of activity. It would be folly to suppose that the task can ever be completed, but the folly would be compounded if the effort to respond were ever diluted or curtailed.

What, then, of the past thirty years, and what of the future?

I. THE INGREDIENTS

The period under observation has embraced World War II, the Korean conflict, a Cold War, new international organizations, prosperity and recession, tumultuous social change, and all are reflected in the history of the Law School. There have been poured into the Quadrangle the efforts of students. A student population of 542 in 1934-35 rose steadily until 1940, dropped sharply in the war years, reached an all-time record of 1,113 with the surge of returning veterans in 1947-48, fell again in the period of the Korean war, and resumed a steady growth which will bring more than 1,000 to the Ann Arbor campus in the fall of 1964. A policy of selective admissions has permitted growth in the intellectual quality of the student body, and a corresponding decline in academic attrition in the first-year classes. Today, more than half of Michigan's freshmen stand among the top thirteen percent of all applicants to the law schools of the country, as measured by the nation-

ally administered Law School Admission Test. Mr. Cook's desire that "admission [be] a privilege and a prize"³ has not been ignored. The intellectual challenge which comes from minds with diversity of background has been preserved, and today's student body comes from 45 states, the District of Columbia, and 17 territories and foreign countries. Its members hold bachelor's degrees from 215 colleges, and its graduates are sought by employers across the nation—in private practice, in judicial clerkships, in corporate counsels' offices, in government. It is not surprising, when one considers the extent to which governmental activities have expanded in the past 30 years, that 21 members of the 1963 graduating class are employed in Washington with 12 different agencies of the federal government. Simultaneously, and in spite of national demand, the needs of Michigan for professional services have been fulfilled, and nearly 3,000 alumni practice in this state. It is significant that of the 1963 graduates, 96 took the Michigan bar examination. Of these, 14 came originally from without the state and 38 received their undergraduate training in schools outside the state. It is the state of Michigan, therefore, which reaps the greatest harvest from the maintenance of the high-quality training.

The curriculum of the Law School has reflected society's change. There was no National Labor Relations Board in 1934. There was no United Nations, no North Atlantic Treaty Organization, no Federal Rules of Civil Procedure, no Atomic Energy Commission, no Robinson-Patman Act, no Social Security Act, no Disarmament Agency, no satellite communications. The Securities and Exchange Commission was created in 1934. Administrative law was in its infancy; the subject of taxation was largely concerned with state revenues, state constitutional limitations, double taxation, and the like; and estate planning was a subject of only speculative interest. Zoning of municipalities into areas of use restriction had been constitutionally approved only seven years before, and the idea that land developers might be required to plan for adequate recreational area was hardly formulated. Condominium was a term known only to students of comparative law. Today, the Michigan Law School curriculum contains extensive offerings in all these subjects, designed to equip graduates with the skills and the information needed for enlightened client counseling and for community leadership. The Law and Institutions of the Atlantic Community, two seminars in International Organiza-

³ Cook, *A Letter to the Lawyers' Club*, 24 MICH. L. REV. 34 (1925).

tions, a seminar in Atomic Energy Law, Unfair Trade Practices, Regulated Industries, two courses in Labor Law, a seminar in Collective Bargaining, a course in Securities Regulation, a course in Workmen's Compensation Law, a seminar in Land Utilization—all these titles, and other new ones, now appear in the 1964 catalog. They provide a graphic demonstration of the continuing interaction of law and society, and measurable proof of the capacity of the Law School to respond to current needs.

The labors of devoted teachers and scholars have infused the Quadrangle. In numbers, the faculty has grown from 21 in 1934 to a staff of 39 full-time professorial appointees, 4 part-time teachers, and 4 instructors in 1964. Only Hobart Coffey, Director of the Law Library, has served on the active staff for the full period. But the roster of 1934 is a roster of distinction. Dean Henry Bates served until 1939, succeeded by Dean E. Blythe Stason, whose leadership continued until 1960. Their names, together with those of Aigler, Sunderland, Goddard, Durfee, Waite, Grismore, Shartel, Leidy, James, Dawson, Blume, Simes, Tracy, and Yntema, all members of the 1934 faculty, are engraved in the history of legal education, on the pages of legal scholarship, and in the minds of lawyers throughout the nation. Their successors, the present staff, provide continuing distinction in many fields of the law. Their casebooks are widely used in legal education; their services are utilized by state and national committees concerned with the improvement of the administration of justice; their research brings light and organization to murky fields of controversy as well as knowledge significant to the proper solution of human problems; and their zest for the teaching process each year challenges the intellectual growth of a new group of students.

Scholars of the world have moved through the Quadrangle. Visitors from throughout the United States, from Europe, from Asia, from Australia, from Africa, from South America and Canada, have lectured, taught, and studied in Ann Arbor, enriching the understanding of students and faculty alike, contributing to the ferment of thought from which are distilled the ideas which guide society's growth.

Ernst Rabel here produced his monumental treatise on Comparative Conflict of Laws. The Cooley lecture series, sponsored by the faculty, has brought Frederick Lawson, H. W. R. Wade, and D. Seaborne Davies from England, Philip C. Jessup, William Prosser, John Dawson, Zechariah Chafee, Henry Rottschaefer,

Willard Hurst, and David Cavers from law faculties of the United States, and has provided a forum for Burke Shartel, Hessel Yntema, E. Blythe Stason, Lewis Simes, and Paul Kauper of the Michigan faculty. Professors Hamson and Lawson from England, Ulmer, Zweigert, and Rupp from Germany, Gorla and Bernini from Italy, Dando and Abe from Japan, are among the foreign visitors who have taught in recent years in Hutchins Hall.

A library of 90,000 volumes was moved into the Legal Research Building when it was first occupied. Today, developed under the masterful guidance of Hobart Coffey, the library contains more than 325,000 volumes and is a resource of extraordinary worth, serving students, practicing lawyers, and research scholars.

The alumni of the Law School have provided support, both intellectual and financial. Although a formal Committee of Visitors is an organization of recent origin, there has been no lack of informal dialogue between the educators and the practicing bar, to the end that the two branches of the profession may work in constructive harmony. Large numbers of alumni have given freely of their time to speak to the student body, to provide critical evaluation of the educational program and the product of the school. Substantial endowments for student financial assistance have been established by alumni, and in recent years an annual giving program has brought financial muscle to provide those extras which make for excellence in program and operation. Our effort is in part aimed at this objective: that no student in the Law School shall be forced to discontinue his education for financial reasons. Although this has taxed our every resource, plus those of the University, and those we can find outside, the objective has been achieved. The comparative expenditures in the Law School for student assistance are revealing: in 1934, less than 5,000 dollars; in 1963-64, 303,000 dollars.⁴

II. THE INFLUENCE

If one turns from the ingredients which have been poured into the Law Quadrangle to examine the spirit which pervades it and the influence which has flowed from it, the prophecy of Mr. Hall seems clearly justified. The spirit of human service has occupied the Law School and has infected its inhabitants. Here is found a

⁴ Historical note: among the individuals awarded prizes in 1933-34 were Frank E. Cooper (Class of 1908 Scholarship) and Russell A. Smith (Coblentz Prize). Both are now members of the Law School faculty.

faculty which pursues with single-minded purpose the task of training young men and women in the rigorous discipline of the law. Here is found a faculty which acknowledges an obligation to produce not only the skilled advocate, the able craftsman of the law, the business counselor, but also men and women with the breadth of vision that enables them to see their role as creators of human institutions which will bring order and justice to society. Here is found a faculty which seeks knowledge and which seeks, by precept and example, to instill a spirit of inquiry and service.

One may ask: Where is the proof? So abundant is it that it is hard to single out the demonstrative items. The first measurement must surely be taken from the graduates. If viable germs of the spirit of service are in the air, some graduates must succumb. The thirty-year period shows graduates serving as judges at every level of the federal court system, at every level of court in Michigan, and many other states. United States senators and congressmen, commissioners of federal agencies, United Nations officials, officers, mayors, councilmen—all these may be found among the graduates, engaged in preserving, modifying, and creating the institutions within which our complex society moves. One may observe that in the thirty-year period, the governor's chair in Michigan was occupied for 14 years by graduates of this Law School. In the same period, 19 graduates served as President of the State Bar of Michigan, one as President of the American Bar Association, one as President of the American Judicature Society, and three as Chairman of the House of Delegates of the American Bar Association. And one should not forget the local organizations, the civic clubs in many communities, the volunteer services that often supplement officialdom, where lawyers' hands are often busy.

But human service is not limited to public service. Indeed, the basic mark of the profession is service to mankind. The skills of the lawyer as client counselor, mediator, and business adviser are required at every level of society's operation. The peaceful settlement of disputes is a matter of prime concern to all citizens, and it is clear that Michigan's graduates have contributed greatly to the performance of this function. As individual practitioners, as members of law firms, as corporate counsel, they have provided professional services of quality in nearly every community in Michigan, as well as elsewhere. In court and out of court, they guide conduct in directions calculated to bring about harmonious economic and social activity. This is the job for which they are trained, and it has been well done.

A second measurement may be taken from the faculty activities, the scope of which may be indicated by even partial reference to the past year. One may first note the contributions of the faculty within the University itself. Its members serve on the Senate Advisory Committee for University Affairs, as chairman of the Committee on Student Publications, on the Board in Control of Intercollegiate Athletics, on the Executive Committee of the Institute of Social Research and the Center for Conflict Resolution, on the Board of the Center for the Study of Higher Education, and a number of other committees. Within the state of Michigan, Professors Charles Joiner and William J. Pierce are currently working with the legislative and executive branches of the government to assist in the massive legislative revision needed in the state to bring the laws into conformity with the new state constitution. Professor Kauper served as Chairman of the State Bar Committee on Condemnation and locally with the committee studying problems of school integration. Professor Steinheimer, after providing the research needed for legislative consideration of the Uniform Commercial Code, assumed the chairmanship of the State Bar Committee on the Code. Professor Joiner serves on the Committee on Civil Procedure. Professor Julin, in cooperation with the University's Television Center, completed a series of twenty television programs designed to bring to laymen an understanding of the law and its administration. Professors Reed, Hawkins, Steinheimer, and Watson were particularly active in lectures with the Institute for Continuing Legal Education. I serve with the Board of Commissioners of the State Bar of Michigan.

Such activities are not restricted to Michigan. Professor Bishop is editor-in-chief of the *American Journal of International Law*. Professor Emeritus Yntema serves similarly with the *American Journal of Comparative Law*. Professor Kennedy is reporter for the Advisory Committee on Bankruptcy Rules of the National Judicial Conference. Professor Cramton is reporter for the Committee on Rule-Making Powers of the National Administrative Law Conference. Professor Oppenheim just completed a year as Chairman of the Antitrust Section of the American Bar Association, and Professor Cooper as Chairman of the Administrative Law Section. Professors Polasky and Julin serve as editors of the *Newsletter* of the ABA Section on Real Property, Probate and Trust Law. Professor Wright is a consultant to the Internal Revenue Service, and he and Professor Polasky are co-directors of an important tax study being conducted by the American Bar Foundation. Professor Stein

is consultant with the State Department. Professor Joiner serves on three committees of the American Bar Association, including the Standing Committee on Professional Ethics. He also is chairman of the Special Committee on Uniform Rules of Evidence for Federal Courts, a member of the Advisory Board of the *American Bar Association Journal*, a member of the Board of Governors of the American Law Student Association, and the Joint Committee for Effective Administration of Justice.

Within the Association of American Law Schools, the Michigan faculty has played an active role. Professors Kadish and Conard are recent members of the Executive Committee and both have chaired significant committees. Numerous others have served on Round Table Councils for annual meetings, and have contributed to developments in teaching materials and teaching techniques.

Is it not fair to say that the Quadrangle's influence has been felt in the University, in the Bar, and in the councils of legal education?

A third measurement of service may be taken with reference to service to the profession. In 1934, law schools were little concerned with continuing legal education. Graduation marked the end of formal training. But legal developments now come too rapidly to permit reliance upon leisurely self-education. Steadily, since 1946, service to the profession has been enlarged. In 1960, the law schools at Michigan and Wayne State University, in cooperation with the State Bar of Michigan, created the Institute of Continuing Legal Education, to provide systematic post-graduate instruction to lawyers, designed to sharpen their professional skills and equip them to provide better service to their clients. In its first three years, the Institute offered programs throughout Michigan, attended by nearly 12,000 lawyers, covering 904 hours of instruction, with a total investment of 210,000 lawyer-hours in attendance. Books designed for the practitioner have been published and made available to the profession.

A final measurement that may be taken is that of service to the world of ideas. The law teacher knows no time clock and is unhampered by the clamor of clients. His job is in part to explore ideas and develop new ones; to dissect problems and ascertain their causes; to perceive new relationships not only in human conduct but in abstract ideas. The impact and the influence of these ideas is sometimes immediate, sometimes delayed. Without attempting a complete catalog, one may note the work of Ralph Aigler and Lewis Simes in developing statutory reforms in land transactions;

the work of Edson Sunderland, Charles Joiner, and John Reed in developing procedural improvements at both state and national levels; the contributions of William W. Blume to legal history; the leadership of Hessel Yntema in Conflict of Laws and Comparative Law, including the development and editing of the *American Journal of Comparative Law*; the lucid analysis provided in the field of Restitution by Edgar Durfee, John Dawson, and George Palmer; the helpful insights into the problems of criminal justice developed by John Waite, Sanford Kadish, and B. J. George; the contributions of E. Blythe Stason, Samuel Estep, and William Pierce to the solution of problems arising in the peacetime use of atomic energy; the developmental work of Eric Stein in the Law of International Organizations; the continuing scholarly contributions of William Bishop in International Law, Paul Kauper in Constitutional Law, Russell Smith in Labor Relations, S. G. Oppenheim in Antitrust Law, L. Hart Wright and Alan Polasky in Taxation and related fields, Alfred Conard in Business Associations, William Harvey in Legal Philosophy, Frank Kennedy in Bankruptcy and Creditors' Rights, Spencer Kimball in Insurance and its regulation, Marcus Plant in Torts, Olin Browder in Property, and Roy Steinheimer in Commercial Law. One may also note the continuing and effective contribution of the *Michigan Law Review*, through which articles and student notes and comments of current significance have reached the legal profession. Surely these contributions manifest the dedication of the Michigan Law School to the spirit of inquiry and demonstrate its capacity for influence.

III. THE FUTURE

Although the past may provide reasonable grounds for pride, there is no room for complacency. The fierce conflicts which smolder at home and abroad, the rapid acceleration of new knowledge about man and his social institutions, and the extraordinary pace of society's change—all these demand a greater effort from those who mold the institutions and those who train the molders. One may surely anticipate that law schools and lawyers will be drawn more heavily into the realm of international law. The recent perceptive analysis of Philip Jessup⁵ shows the scope of the task remaining before we "stitch the world together," and it is a task of high priority. One may anticipate a wider and more intensive collaboration between law and the other disciplines of social, med-

⁵ Jessup, *Stitching the World Together*, *Saturday Review*, Feb. 1, 1964, p. 17.

ical, and physical science. Translating the insights of the humanist, the economist, the sociologist, the psychiatrist, and the physicist into terms of social action is peculiarly a task for the lawyer. The weighing of alternative values and the selection of that combination which will best mobilize our society, although routine business for the lawyer, is a task which is most competently performed only when the total available pertinent knowledge is laid upon the scales. This required synthesis of knowledge can be achieved only when the scholars of the various fields can and do communicate regularly and easily.

One may also anticipate a greater educational emphasis upon professional responsibility. It is not enough to know of the problems that face society. It is not enough to have access to the information available to mankind. It is essential, also, that a sense of obligation to serve be somehow implanted in the fabric of the lawyer and that a dedication to the improvement of the administration of justice be achieved.

The future holds problems for the Law School. The wave of students seeking legal education is clearly outlined in population statistics. It will break on the doorsteps of the law schools of this state in 1966, and the increasing flow will be continuous thereafter. Not only will this necessitate more facilities and staff, but it also means the development of new approaches to legal education, the development and utilization of training devices which will broaden the teaching capabilities of professorial personnel, and the institution of new course arrangements which will heighten the understanding of students of the legal system in which we operate.

It is to these ends that the law school of the future is committed.