ALEXANDER H. FREY: STIMULATING TEACHER, ESTEEMED COLLEAGUE AND DELIGHTFUL COMPANION

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It is hard to imagine what the Law School would be like today if Alexander H. Frey had not become a permanent member of the faculty in 1932. Since then, so much has happened in legal education that is now taken for granted that one needs to be reminded how different the situation was in most law schools a generation ago. That was a time when the twentieth century winds of change were beginning to have their effect on legal education. Many law teachers were dissatisfied with the controlling emphasis which traditionally had been placed upon the logic and dialectics of the law as distinguished from its social role. A new emphasis was being given to the relation of law to the social sciences, to the policy choices inherent but often not expressed in the judge's formulation of a rule of law, and to empirical study of the legal system in operation. This shifting emphasis had its impact on *what* was taught in law schools and, even more important, on *how* it was taught.

It was as a champion of this new outlook that Alec Frey came to Pennsylvania and, ever since, his influence has played a major role in determining the nature of the curriculum as well as the character of the faculty. A few years after his arrival he published in the *University of Pennsylvania Law Review* a call for a fundamental reconsideration of the organization of the first year curriculum.[1] He urged that the failure of law school curricula to reflect the interrelation between law and such other fields as economics, sociology and political science was due in part to the presence among the required first year subjects of a number of courses, such as agency, contracts, and torts, which "purport to assemble supposedly common legal factors from widely diverse transactional fields." [2]

"The conventional procedure in such courses," he wrote, "is to evolve or induce a general principle from a variety of specific situations

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[1] Frey, *Some Thoughts on Law Teaching and the Social Sciences*, 82 U. PA. L. REV. 463 (1934).

[2] *Id.*

which may be, and usually are, quite unrelated factually. Not infrequently the facts of these illustrative cases are connected with fairly well-defined economic or social institutions, such as banking or taxation or the family. But since neither instructor nor student can pretend to expert or detailed knowledge of all these fields, the problems are of necessity divorced from their factual background and only the abstractions of legal theory are investigated—a practice which completely ignores the conception of law as a social science." [3]

Professor Frey contended that "[t]hese abstract courses are objectionable not merely because they omit any intensive study of the institutional background of the specific disputes dealt with, but also because they are unsound pedagogically" [4] in that they present a distorted view of the certainty in law and slight the study of human institutions as fields of fact. He urged that a number of courses, in which the legal problems discussed would focus upon a single economic, politic or social institution, be introduced into the law school curriculum.

Although his proposal for reorganization of the first year curriculum has not been adopted, the evolution of legal education has certainly been in the direction he espoused. Far greater emphasis is placed today upon the factual considerations back of legal doctrine and more attention is given to training the student to understand those considerations. This is evidenced by the increase in specialized courses, the greater attention to non-legal materials and the presence of economists, sociologists and psychiatrists on law school faculties.

Alec Frey has contributed more than his share to the formulation of the curriculum at Pennsylvania. He introduced a legal method course in the first year, and a course in labor law when that subject was frequently ignored in law school programs; he was a pioneer in the teaching of civil rights; he combined partnerships and corporations into a single course, and produced one of the first casebooks on business associations, a book which through several editions has been widely used throughout the country.

But Professor Frey's philosophy of legal education has always placed primary emphasis on the method of instruction rather than the subjects taught. His teaching technique has been a constant challenge to the verbalism of the black letter rule. He has regarded overemphasis on legal abstractions as similar to "raising a child on a diet of proverbs." [5] It has been said that his arrival on the teaching staff was like "a breath of fresh air." This assertion recently brought forth

[3] *Id.*

[4] *Id.*

[5] *Id.* at 468.

the following comment by one of his early students (himself an experienced law teacher and now a distinguished practitioner):

"I concur, though I suspect that, in its impact upon most of the students, the 'breeze' was more like a tornado." In the classroom, "there was Alec, always looking far younger than his years, and certainly younger looking than most of my classmates (he was often mistaken for one of the younger students), asking a million questions and seldom purporting to give us any answers. These questions at the time compounded confusion upon ignorance. It was widespread that he advocated the 'functional' approach, but few of us knew what it was all about. Eventually, however, we knew that here was a stimulating teacher who was making us think for ourselves, and who was showing us by indirection the real, though often unidentified, considerations which led to specific decisions. The fact is that he, more than any other law teacher I ever had, has influenced my thinking and teaching in law school, and his ideas have been of inestimable value to me in my practice, even though my cases are outside the direct area of his courses."

Unlike most progressives, Professor Frey has never lost his enthusiasm for reform. "When there is a choice between the status quo and change, one should choose change for at least it offers the opportunity for improvement." This has been his philosophy within the Law School as well as without. No member of the faculty has ever been more inclined to question accepted postulates or more willing to attempt new approaches with such inexhaustible zest. When the law faculty was largely reconstituted after the decimation of the World War II years, he played an important role in attracting to Pennsylvania able young teachers who have since established national reputations.

Alec Frey's contributions to the University have by no means been limited to the Law School. In 1951 a small group of leading professors from various divisions of the University met to discuss the creation of a new organization for the expression of faculty views on matters of general University concern. The group was entirely informal but the result was a draft of a constitution for the University Senate which, after some modification, was approved by the University Trustees. The "Founding Fathers" of the Senate had even less conception of what their creation was to become than did the historic Founding Fathers of 1787. The place of the Senate in University government as well as its methods of operation were largely determined by its original officers, led by Professor Frey, the first chairman. The Senate has exercised an influence in the direction of University affairs, quite beyond that envisaged by its creators; this is due in large part to

the organization and precedents established by its first chairman, who displayed in this capacity, as he has in all others, complete courage and candor.

These professional accomplishments have been combined with qualities of great personal charm—an infectious laugh, a Puckish sense of humor, an inexhaustible store of apt stories, and a capacity for stimulating conversation enriched by a creative imagination. These and other qualities make Alexander Hamilton Frey a stimulating teacher, an esteemed colleague, and a delightful companion.